Direct Taxation

Question No. 31: Answer the followings:

(a)What are the factors to be considered for ascertaining substantial interest of a person in an organisation?

Answer: Sec.2 (32) defines substantial interest. Person who has a substantial interest in the company, in relation to a company, means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits, carrying not less than twenty per cent of the voting power. In the case of a non-corporate entity, a person can be said to have substantial interest if 20% or more share of profit is held.

(b) Define an Infrastructural Capital Company.

Answer: An Infrastructural capital company as defined in Sec.2(26A) of the Income Tax Act,1961, means such company which makes investments by way of acquiring shares or providing long-term finance to any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80 –IA or sub-section (1) of section 80-IAB or an undertaking developing and building a housing project referred to in sub-section (10) of section 80- IB or a project for constructing a hospital with at least one hundred beds for patients.[Sec. 2(26A)].

(c) Define Resulting Company.

Answer: Resulting Company vide Sec 2(41A) of the Income Tax Act, 1961, means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger.

(d) Define Capital Asset u/s 2(14).

Answer: Capital Asset u/s 2(14) includes property of any kind, whether or not connected with business or profession, but excludes:

(i) Stock in trade
(ii) Personal Effects
(iii) Rural Agricultural Lands in India
(iv) 6 ½ % Gold Bonds 1977; 7% Gold Bonds 1980 & National Defence Gold Bonds, 1980.
(v) Special Bearer Bonds, 1991
(vi) Gold Deposit Bonds issued under Gold Deposit Scheme,1999

where,

(i) **Stock in Trade means:** Raw material or Consumable stores used by the assessee In his business or profession.
(ii) **W.e.f. A.Y. 2008-09, Personal effect means** Movable property Including wearing apparel and furniture held for personal use by the assessee or any member of his family dependent on him but excludes:

(a) Jewellery	(b) Archaeological collections	(c) Drawings
(d) Paintings	(e) Sculptures or	(f) Any work of art.

(e) Define Accumulated profits for a company under liquidation.

Answer: Accumulated profits for a company in liquidation includes all profits of the company upto the date of liquidation.

Accumulated profits should include the credit balance of profit and loss account, general reserves, investment allowance, capitalized profits and profits of the year upto the date of distribution/liquidation.

However, provisions and reserves meant for specific liability, to the extent of the liability shall not be included. Provision for income tax, provision for dividend, reserve for depreciation do not form part of the accumulated profits.

- Securities premium is not accumulated profits.
- It may consist of exempted incomes, like agricultural income.
- It will include current profits and all profits of the company till the date of liquidation, subject to the exception provided therein.

(f)State the circumstances on which an Assessing officer refers to the Valuation Officer for determining the valuation of a capital asset.

Answer: An Assessing Officer, vide Sec.55A,shall have to refer to a Valuation Officer, to determine the valuation of a capital asset, under the following circumstances, and his valuation report shall be binding on the Assessing Officer:

(i) Where the value of the asset Is estimated by the registered valuer but the Assessing Officer is of the opinion that the value so determined is less than its fair market value.

(ii) In any other case, the Assessing Officer is of the opinion that

(a) The fair market value of the asset exceeds the value of the 'assets declared by the assessee either by more than 15% or by ₹ 25,000 (Rule 11AA); or

(b) The nature of the asset and other relevant circumstances are such that, it is necessary to do so.

(g)State the forms prescribed for submission of return of income under Income Tax Act,1961.

Answer: The relevant forms as prescribed for submission of return of income and their applicability are**:**

Form	Applicability
ITR -1	Return of Income for Individuals having salary and interest income and no other Income
ITR-2	Return of income for Individuals and HUFs having income from any source except from business or profession
ITR-3	Return of income for Individuals and HUFs being partners in Firms and not having Proprietary business or profession
ITR-4	Return of Income for Individuals and HUFs having Proprietary business or profession
ITR-5	Combined form of Return of Income and Fringe Benefits for Firms/AOP/BOI.
ITR-6	Combined Form for Return of Income and Fringe Benefits for Companies
ITR-7	Combined Form For Return of Income and Fringe Benefits For Charitable/Religious Trusts, Political parties and other Non-Profit Organisations

ITR-8	Stand alone form for Return of Fringe Benefits for persons who are not liable to file Return of income but are liable to file Return of Fringe-Benefits
ITR-V	Return of Income/Fringe Benefits transmitted electronically without digital signatures

(h)What is a 'Foreign Exchange Asset'?

Answer: Foreign Exchange Asset- means those "specified asset" which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange.

The following are the "specified assets":

(i) shares in an Indian Company (public or private)
(ii) debentures issued by an Indian Company which is not a private company ;
(iii) deposits with an Indian Company which is not a private Company, it may be even deposit with SBI or any other banking company;
(iv) any security of the Central Government ; and
(v) such other asset as the Central Government may specify in this behalf by notification in the Official Gazette.

(i) During the previous year 2010-11 a charitable trust earned an income of Rs.50,00,000 out of which Rs.40,00,000 was received during the previous year 2010-11 and the balance Rs.10,00,000 was received during the previous year 2012-13. To claim full exemption of Rs.50,00,000 in the previous year, state: What is the maximum amount which can be accumulated to be utilized for charitable trust or religious purposes as a later date.

Answer:

Total income earned		Rs.50,00,000
Accumulation allowed	@15%	Rs.7,50,000
Balance to be utilized during the year		Rs.42,50,000

Amount which may be deemed to be utilized because it has not been received during the previous year Rs.10,00,000

Therefore, amount to be actually applied during the previous year Rs.32,50,000 (i.e. Rs.42,50,000 – Rs.10,00,000).

(j) Define an oral trust.

Answer: An oral trust means a trust which is not declared by a duly executed instrument in writing [including any wakf deed which is valid under the Mussalman Wakf Validating Act,1913] and which is not deemed under Explanation 1 to be a trust declared by a duly executed instrument in writing. The trustees of such trust is assessable on such income as representative assessee [Section 160(v)]

(k) XYZ Research Foundation is a company established u/s25 of the Companies Act,1956. The Assessing Officer is of the contention that this company is subject to the provisions of Sec.115JB. Is the contention justified?

Answer: A company registered under section 25 of the Companies Act,1956, whose income is exempt under principles of mutuality cannot be brought within the purview of section 115JB. [Delhi Gymkhana Club Ltd. vs.Dy.CIT (2010)39 DTR 48 (Del) (Trib)].

(l) A trust was created for the benefit of minor child. The beneficiaries had no right to enjoy the income of the trust till they attain majority. Income was to vest in the beneficiaries only when they attain majority. The income was to get capitalized from year to year. The beneficiary was both parents, i.e. father and mother. The income of father was higher than income of the mother. Hence, A.O. had clubbed the income in the hands of father and also allowed a deduction of Rs.1,500. Is the action justified?

Answer: *Clubbing provisions are not attracted in respect of income from a trust for the deferred benefit of minor children. Hence, in this case, the income cannot be clubbed in the hands of the father during minority of beneficiaries. Hence, the action of the A.O. is not justified.*

(m) When is a transfer considered to be revocable?

Answer: *As per section 63, a transfer for the purpose of sections 60,61 and 62 shall be deemed to be revocable if:*

- *(a) It contains any provision for the re-transfer, directly or indirectly of the whole or any part of the income or assets to the transferor, during the life time of the beneficiary or the transferee as the case may be;*
- *(b) It gives the transferor the right to re-assume power directly or indirectly over the whole or any part of the income of assets during the life time of the beneficiary or the transferee as the case may be.*

The power to re-transfer must be to the transferor as himself and not in any different capacity and also not to anybody else. [Jyotendrasinghji vs.S.I. Tripathi and others (1993) 201 ITR (SC)].

To treat a transfer to be recovable there need to be actual re-transfer or exercise of the power to reassume; it is sufficient if there is a provision of the nature contemplated. [CIT vs. Raghbir Singh (S.) (1965) 57 ITR 408 (SC)].

(n) Mrs. A started the business in 2008. Her capital in the business as on 1.4.2009 was Rs.3,00,000. Mr.A (her husband) gifted a sum of Rs.4,00,000 to Mrs. A on 10.12.2009, which was also invested in the aforesaid business on the same date. She earned a profit of Rs.3,00,000 and Rs.5,00,00 during the previous years 2009-10 and 2010-11 respectively. Compute the amount of income to be clubbed in the hands of Mr.A, assuming Mrs. A had drawn Rs.30,000 out of profits for the previous year 2009-10 on 15.4.2010.

Answer:

Assessment Year: 2010-11 *i.e. previous year 2009-10, there will be no clubbing of income. In the previous year,2009-10, although the gift of Rs.4,00,000 was made by Mr.A and the same was invested in the business by Mrs.A, but there will be no clubbing of income in the hands of Mr.A as the amount of gift to Mrs. A was on 10.12.2009 and as such there was no investment out of the gifted money as on 1.4.2009, i.e. the first day of the previous year under consideration.*

Assessment Year: 2011-12

Amount invested as on 1.4.2010, i.e. first day of the previous year

= out of gifted money from her husband Rs.4,00,000 (+) own funds of Mrs. A Rs.3,00,000 (+) profit for the previous year 2009-10 (-) Drawings made out of profits

= 4,00,000 + 3,00,000 + 3,00,000 (-) Nil [drawings was made on 15.4.2010, i.e. after 1.4.2010, on which date, the investment remained unaffected with the amount of drawings, hence not considered]

Therefore, total investments= Rs.10,00,000

Profit to be clubbed in the hands of Mr.A = Rs. (5,00,000 x 4,00,000/10,00,000) = Rs.2,00,000

Question No.32

(a) Define Company.

Answer: 'Company' as per Income Tax Act, 1961, means:

(i) any Indian company; or

(ii) body corporate incorporated outside India under the laws of a foreign country; or

(iii) any institution, association or a body which is assessed or was assessable/assessed as a company for any assessment year commencing on or before 1.4.1970; or

(iv) any institution, association or body whether incorporated or not and whether Indian or non-Indian which is declared by general or special order of the Central Board of Direct Taxes to be a company. [Sec. 2(17)]

(b) Define a Domestic Company.

Answer: A 'Domestic Company' means —

a. an Indian company; or

(ii) any other company which, in respect of its income liable to tax under the Act, has made the following prescribed arrangements for the declaration and pay ment of dividends within India in accordance with Sec. 194 read with Rule 27 of the Rules:

(a) The share register of the company for all shareholders should be regularly maintained at its principal place of business in India, in respect of any assessment year, from 1st April of the relevant assessment year.

(b) The general meeting for passing of accounts of the relevant previous year and for declaring dividends in respect thereof should be held only at a place within India.

(c) The dividends declared, if any, should be payable only within India to all shareholders [Sec. 2(22A)]

(c) Define an Indian Company.

Answer: 'Indian Company' means a company formed and registered under the Companies Act, 1956. Besides, it includes the following:-

(a) A company formed and registered under any law relating to companies formerly in force in any part of India;

(b) A corporation established by or under a Central, State or Provincial Act;

(c) Any institution, association or body which is declared by the Board to be a company u/s. 2(17).

(d) A company formed and registered under any law in force in the State of Jammu and Kashmir;

(e) A company formed and registered under any law for the time being in force in the Union territories of Dadra and Nagar Haveli, Daman and Diu, Pondicherry and State of Goa.

In the aforesaid cases, a company, corporation, institution, association or body will be treated as an Indian company only if its registered or principal office is in India. [Sec. 2(26)]

(d) Define a Company in which public are substantially interested.

Answer: A "Company' is said to be a company in which the public are substantially interested, if-

(i) a company owned by Government or Reserve Bank of India or in which not less than 40% shares are held singly or taken together by the Government or the Reserve Bank or a corporation owned by the Reserve Bank; or

(ii) it is a company registered u/s. 25 of the Companies Act, 1956, i.e., companies incorporated for promotion of Commerce, Arts, Science, Religion, Charity and prohibiting the payment of any dividends to its members; or

(iii) it is a company having no share capital and it is declared by the CBDT to be a company in which the public are substantially interested; or

(iv) it is a company which carries on, as its principal business, the business of acceptance of deposits from its members and which is declared by the Central Government u/s. 620A of the Companies Act to be a Nidhi or Mutual Benefit Society; or

(v) it is a company which is not a private company and its equity shares are, as on the last day of previous year, listed in a recognised stock exchange in India; or

(vi) it is a company which is not a private company and its shares carrying not less than 50% of the voting power (40% in the case of Indian companies whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power)have been allotted unconditionally to or acquired unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by-

(a) the Government; or

(b) a statutory corporation; or

(c) a company in which the public are substantially interested or any wholly owned subsidiary of such company.

(vii) it is a company, wherein equity shares carrying not less than 50% of the voting power have been unconditionally allotted to or acquired by and were throughout the relevant previous year beneficially held by, one or more cooperative societies. [Sec. 2(18)]

(e) What is arm's length price? State the methods of computation of arm's length price.

Answer: Arm's length price means a price which is applied or proposed to be applied in a transaction -

(i) Between persons other than associated enterprises,

(ii) In uncontrolled conditions.

The arm's length price in relation to an international transaction shall be determined by any of the following methods as stated u/s 92C are :-

(i) Comparable Uncontrolled Price Method;

(ii) Resale Price Method;

(iii) Cost plus Method;

(iv) Profit Split Method;

(v) Transactional Net Margin Method;

(vi) Such other method as may be prescribed by the Board.

(f) What is a qualifying company?

Answer: Vide Sec.115VC of the Act, a company is a qualifying company if :-

(i) It is an Indian company;

(ii) the place of effective management of the company is in India;

(iii) it owns at least one qualifying ship; and

(iv) the main object of the company is to carry on the business of operating ships.

(g) Return of income for the previous year 2009-10 was submitted by R on 16.7.2010. the Assessing Officer wants to take the case for scrutiny assessment and serve the notice on (i)27.9.2011 (ii)31.10.2011. Is the notice valid?

Answer: (i) Yes, the notice is valid if served on 27.9.2011

(ii) No, the notice is not valid if served on 31.10.2011. It should have been served within 30.9.2011.

***(h)* State the consequence of failure to comply with notice u/s 143(2).**

Answer: The consequence of a default in complying with a notice u/s143(2), may entail an *ex parte* , best judgement assessment u/s144. Such a default may also attract penalty u/s 271(b) which has been fixed at Rs.10,000.

***(i)* State the consequences of failure to pay whole or part of self-assessment tax.**

Answer: If the assessee fails to pay the whole or any part of such tax or interest or both, he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid and all provisions of the Act shall apply accordingly. Penalty u/s 221 would be one of them.

(j) An Assessing Officer without giving a show-cause notice u/s144 , and executed an assessment thereby granting a refund. Is the action tenable?

Answer: The action of the assessing officer is bad in law.

(i) The A.O. cannot assess income u/s144 for an assessment below the returned income or cannot assess the loss higher than the returned loss

(ii) If the assessment u/s 144 is made without giving a show cause notice u/s 144 [except where a notice has been issued u/s 142(1)(i)] then the assessment is void ab-initio.

(iii) No refund can be granted u/s 144.

(k) An assessee has quoted a false PAN Number in his return. What are the possible consequences?

Answer: If a person who is required to furnish PAN, quotes or intimates a number which is false, and which he either knows or believes to be false or does not believe to be true, the Assessing Officer may direct that person, who shall have to pay a penalty of Rs.10,000.

Question No.33

State True or False with reasons:

Sl.No.	Subject Matter	Opinion	Justification/Reason
(a)	Salary due for the month of March, 2011 was received on 4th April, 2011. Hence, the assessee claims this income to be assessed during the previous year 2011-12 and not for the year 2010-11.	**False**	Salary due in a previous year is taxable, even if it not received. Salary is taxable on due basis or on receipt basis, whichever is earlier.
(b)	Mr. Z, after his retirement, now resides in UK. He is in receipt of monthly Pension from his Indian Employer. Mr. Z claims that such income from pension should not be assessed to tax as an Indian income as it has neither received nor generated in India.	**False**	If an employee gets pension paid abroad in respect of services in India, the same will be deemed to accrue or arise in India. Hence, pension paid to Mr. Z is to be taxed as an Indian income.
(c)	Mr. B, an Indian citizen, is an employee at the Indian embassy in USA, is in receipt of salary including perquisites and allowances. He claims that his allowance or perquisites should be exempted from tax.	**True**	Any allowance or perquisites paid or allowed outside India by the Government to a citizen of India for rendering services outside India will be fully exempted.
(d)	An employee is in receipt of House Rent Allowance from his employer for the entire previous year, i.e. 12 months. He was actually residing in rented accommodation for 5 months. He claims exemption of HRA for 12 months.	**False**	Exemption should be calculated in respect of the period during which rental accommodation is occupied by the employee during the previous year. Hence, the employee is not justified in his action.
(e)	Un-commuted pension is <u>not taxable</u> for a Government employee	**False**	Un-commuted pension is <u>taxable</u> for both government and non-government retired employees as income from salaries
(f)	Zero Coupon Bond means a bond issued on or after <u>01.04.2004</u>, by: (I) Any Infrastructure Capital Company, or (ii) Infrastructure Capital Fund, or (iii) <u>Private sector Company</u>.	**False**	Zero Coupon Bond means a bond issued on or after <u>01.06.2006</u>, by: (I) Any Infrastructure Capital Company, or (ii) Infrastructure Capital Fund, or (iii) <u>Public Sector Company.</u>
(g)	A Ltd., an Indian Company, in a scheme of demerger, demerged and transferred assets to the <u>resulting company, which is French Company</u>. This is an exception to Transfer as defined u/s 2(47) of the Income Tax Act, 1961.	**False**	Vide Sec. 47(vib) Transfer of a capital asset by the Demerged Company to the Resulting Indian company, subject to : the fulfillment of the following conditions : (a)Transfer of capital asset should be from demerged company to a resulting company; (b)<u>Resulting company should be an Indian company;</u> (c)Transfer of capital asset should be made in a scheme of demerger.
(h)	X Ltd., is a 100% Indian subsidiary Company of B Ltd. (i.e. holding company of X Ltd.) Now, X Ltd. has transferred capital assets to B Ltd., which <u>shall be exempted</u> from being assessed under Capital Gains	**False**	Vide Sec.47 (v) When a transfer has been made by a 100% subsidiary to its Indian holding company shall continue to be exempted if: (a)If within the course of 8 years from the date of transfer, holding company loses its 100% stake on the subsidiary company.

			(b)If the transferee company transfers this capital asset as their stock-In-trade within 8 Years In both the above cases, the earlier exemption so granted shall be withdrawn and there would arise incidence of capital gains, in the original year of transfer, which would be initiated as per Sec.155 (7B) amendment proceedings.
(i)	Gain or loss from transfer of depreciable assets is assessed to tax as Long term capital gains or long term capital loss	**False**	Gains or losses from transfer of depreciable asset results in short-term capital gain or loss u/s 50.
(j)	Interest earned on enhanced compensation received pursuant to compulsory acquisition of property is also chargeable under the head "Income from capital gains".	**False**	Interest on enhanced compensation received pursuant to compulsory acquisition of property is chargeable under the head "Income from other sources".
(k)	Loss from owning and maintaining race horses can be set off against any other head of income.	**False**	Loss from owning and maintaining race horses can be set off only against income of that activity.
(l)	U/s 80CCF-for purchase of fixed deposits, a senior citizen can claim a deduction of ₹25,000 and other than senior citizen can claim a deduction of ₹20,000.	**False**	U/s 80CCF, deduction is available for investment/subscription to long-term infrastructure bonds and maximum deduction of ₹20,000/- is available to a HUF or an individual, irrespective of age.
(m)	Sec. 80IB, specifies, deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone.	**False**	Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone is specified in Sec. 80IAB.
(n)	Deduction in respect of royalty of authors [Sec. 80QQB] is allowable to any individual, being an author/joint author, in respect of any income by way of Lump sum consideration or royalty or copyright fees for assignment or grant of any of his Interests in the copyright of any book.	**False**	Deduction in respect of royalty of authors [Sec. 80QQB] is allowable to any resident individual, being an author/joint author, in respect of any income by way of Lump sum consideration or royalty or copyright fees for assignment or grant of any of his Interests in the copyright of any book.
(o)	"venture capital company" means a domestic company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines;	**False**	"venture capital company" means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines;
(p)	Commission earned by a broker for selling agricultural produce of an agriculturist is an agricultural income.	**False**	For considering an income as an agricultural income, such Revenue should be derived from land. Hence, Commission earned by a broker for selling agricultural produce of an agriculturist, since not derived from land, is not an agricultural income.
(q)	Thumb impression appended by an assessee is not valid for furnishing the Return of Income	**False**	Thumb impression appended by an assessee is valid for furnishing the Return of Income. The General Clauses Act accepts the thumb impression, as one of the modes of signing, valid and binding. [CIT vs. Kanhaiya Lal And

			Sons (2005) 273 ITR 425 (All.)]
(r)	A person shall be deemed to be of Indian origin if he or either of his parents or any of his grandparents, was born in India.	**False**	A person shall be deemed to be of Indian origin if he or either of his parents or any of his grandparents, was born in an undivided India.
(s)	A 'Hindu Undivided Family' is a creation of law and hence not a contract or status.	**False**	A 'Hindu Undivided Family' is neither the creation of law nor of a contract but arises from status.
(t)	Tax payable on Assessed Income: ₹15,000. Assessing Officer imposed a penalty of ₹20,000. Hence, total amount payable by the assessee is ₹35,000.	**False**	The total amount of penalty does not exceed the amount of in arrea₹ Hence, total amount payable can be a maximum of ₹30,000. (including tax payable and penalty).
(u)	Mr. Gomes, transferred a property of ₹50 lakhs, in the name of his wife, on her birthday. Income earned from that property is ₹4 lakhs. The Assessing Officer has assessed such income in the hands of Mrs. Gomes, considering her the owner of the property. He claims to be justified in his action.	**False**	Mrs. Gomes is the legal owner of the property. Property transferred by Mr. Gomes to his wife on her birthday, is out of love and affection and not against adequate consideration. Hence, Mr. Gomes is the 'Deemed Owner' of the property vide Sec.4 (1) (a) (i) of the Wealth Tax Act. Further, income from that property shall be clubbed and assessed to tax in the hands of Mr. Gomes u/s 64(1)(iv).
(v)	Mr. A, transferred an asset of ₹30 lakhs, to Ms. B on 15th May,2010. They got married on 20th May, 2010. The Assessing Officer, claims that his action of considering Mr.A as the Deemed owner of the property u/s 4(1)(a)(i) and income earned from that property which is also clubbed with income of Mr. A and assessed to tax, is justified as per law.	**False**	Sec.64(1)(iv) is not applicable if assets are transferred before marriage, as on the date of transfer, husband-wife relationship does not exist. Hence, action of the Assessing Officer is not justified and bad in law.
(w)	Asset used in business after it ceases to be used for Scientific Research is taken at WDV in the books of accounts. The action is considered to be correct by the assessee	**False**	Actual cost of the asset minus the amount of deduction allowed u/s 35 will be NIL. Assets utilized for scientific research purpose, is allowed 100% against profits of that year. Hence, the cost is NIL. The action of the assessee is not justified and is bad in law.
(x)	Recovery of bad debts allowed as deduction is considered as deemed income u/s 41(4) in the hands of the successor in business.	**False**	Sec.41(4) does not contain any provision regarding taxability of bad debts recovered by a successor in business. Such amount cannot be taxed in the hands of the successor in business. Continued existence of the business is not a condition for applying this section but the identity of the assessee must remain the same.

Question No. 34:

(a) ***B, is employed at Mumbai as a Manager of R Ltd. The particulars of his salary for the previous year 2010-11 are as under: Basic Salary ₹ 26,000 p.m. Dearness allowance ₹ 15,000 p.m. Conveyance Allowance for personal purpose ₹ 6,000p.m.; Commission @0.5% of the turnover achieved which was ₹ 90,00,000 during the previous year and the same was evenly spread. HRA ₹10,000 pm. The actual rent paid by him ₹ 15,000 pm for an accommodation at till 31.12.10. From 1.1.11 the rent was increased to ₹ 17,000 pm. Compute taxable HRA. If the assessee is provided a rent-free unfurnished accommodation in Mumbai, suggest the most suitable option for the assessee, considering the tax planning aspect.***

Note: If there is an increase in rent paid, it is advisable to calculate the exemptions separately based on the time period. Rent before and after increase.

Solution:

Option (A) If the Assesse is receiving House Rent Allowance from the employer

Salary for HRA (for 9 months) = Basic Pay + DA (considered for retirement benefits) + Commission (if received as a fixed percentage on turnover as per terms of employment)

= (26,000 × 9) + (15,000 × 9) + (0.5% of 90,00,000 × 9/12) = 4,02,750

Computation of Taxable House Rent Allowance (for 9 months: 1st April, 2010 to 31st December, 2010)

Particulars	₹	₹
Amount received during this 9 month on account of HRA (₹ 10,000 x 9)		**90,000**
Less: Exemption u/s 10 (13A) Rule 2A.		
Least of the followings:		
(a) Actual amount received	90,**000**	
(b) 50% of Salary	**2,01,375**	
(c) Rent paid less 10% of Salary	**94,725**	**90,000**
[15,000 × 9 – 10% of 4,02,750]		
Taxable HRA		**NIL**

Salary for HRA (for 3 months) = Basic Pay + DA (considered for retirement benefits) + Commission (if received as a fixed percentage on turnover as per terms of employment) = (26,000 × 3) + (15,000 × 3) + (0.5% of 90,00,000 × 3/12) = 1,34,500

Computation of Taxable House Rent Allowance (for 3 months: 1st January 2011 to 31st March, 2011)

Particulars	Rs	Rs
Amount received during this 3month on account of HRA (₹ 10,000 x 3)		**30,000**
Less: Exemption u/s 10(13A) Rule 2A		
Least of the followings:		
(a) Actual amount received	**30,000**	
(b) 50% of Salary	**67,125**	
(c) Rent paid less 10% of Salary		
[17,000 × 3 – 10% of 1,34,500]	**37,550**	**30,000**
Taxable HRA		**NIL**

Therefore, Total Taxable HRA for Mr.B for the previous year 2010-11 is NIL.

Option (B) : If the assessee is taking the benefit of rent-free unfurnished accommodation but not HRA

Taxable value of perquisite for rent-free unfurnished accommodation:= 15% of Salary = 15% of Rs. 5,37,500 = Rs. 80,858

Salary for Accommodation = Basic pay + D.A. (forming part of retirement benefit) + All other taxable allowances + any other monetary benefits

= Total of basic pay + D.A (forming part for retirement benefits) + commission (as a fixed percentage on turnover) = Rs. (4,02,750 + 1,34,500) = Rs.5,37,500 [figures already calculated above]

Since, Taxable value of perquisite for accommodation is higher than HRA, in this case, the assessee should continue taking HRA and not to avail the benefits of rent-free unfurnished accommodation.

(b) Mr. Ravi resigned from B Ltd after 23 years 8 months of service. He received a gratuity of ₹11,50,000. His average salary for the last 10 months, preceding the month of retirement is ₹54,000. What is the taxable gratuity? What would be the amount of taxable gratuity if prior to his joining B Ltd., he had also served in A Ltd. for a period of 4 years 6 months? If Mr.Ravi now joins C Ltd. and after serving for 5 years 10 months of service, receives ₹ 4,50,000, what would be the taxable gratuity, assuming that his average salary is ₹40,000?

Solution:

Computation of Taxable Gratuity (from B Ltd.) for the Previous Year 2010-11

Particulars	₹	₹
Amount received as Gratuity		11,50,000
Less: Exemption u/s 10(10)(iii) Least of the followings:		
(i) Actual amount received	11,50,000	
(ii) 1/2 × Average salary × No. of fully completed years of service [½ x 54,000×28]	7,56,000	
(iii) Maximum Limit	10,00,000	7,56,000
Taxable Gratuity		3,94,000

Note:

(1) No. of years of completed service shall also include the services of Mr.Ravi in A Ltd. for a period of 4 years, which is prior to B Ltd. From A Ltd. he has not received gratuity has he did not serve for a period of 5 years, but for the purpose of computing total length of service, that time period shall have to be considered. Hence, total no. of fully completed years of service is 23 years 8months + 4 years 6 months = 28 years 2 months = 28 years fully completed.

(2) An Assessee shall be eligible to claim a total exemption of ₹10,00,000 during the entire service-life time. In this case, out of gratuity received from B Ltd., ₹7,56,000 is exempted, being the lowest. So, at the time of computation of taxable gratuity from C Ltd, the maximum limit of ₹10,00,000 shall be reduced by the amount of exemption from gratuity already availed. Hence, the maximum limit after adjusting will be = ₹ (10,00,000 – 7,56,000)= ₹2,44,000.

(3) Now, total length of service for Mr.Ravi would be 28 years 2 months + 5 years 10 months = 34 years, fully completed. Hence, for the purpose of computing taxable gratuity from C Ltd., total length of service shall be taken as 34 years

Computation of Taxable Gratuity (from C Ltd.)

	Particulars	**₹**	**₹**
	Amount received as Gratuity		4,50,000
Less: Exemption u/s 10(10)(iii)			
Least of the followings:			
(i)	Actual amount received	4,50,000	
(iii)	½ × Average salary × No. of fully completed years of service [½ x 40,000×34]	6,80,000	
(iv)	Maximum Limit (See Note 2 above)	2,44,000	2,44,000
Taxable Gratuity			**2,06,000**

Question No.35

(a) Mr. King is getting a salary of ₹15,400 pm since 1.1.09 and dearness allowance of ₹8,500 pm, 50% of which is a part of retirement benefits. He retired on 30th November 2010 after 30 years and 11 months of service. His pension is fixed at ₹11,800 pm. On 1st February 2011 he gets 3/4ths of the pension commuted at ₹,3,69,000. Compute his gross salary for the previous year 2010-11 in the following cases:

(i) If he is a government employee and received gratuity
(ii) If he is an employee of a non-government company, and received gratuity
(iii) If he is an employee of a non-government company and gratuity not received.

Solution :

Date of retirement: 30th November, 2010. Pension commuted on 1st February, 2011. Hence, the assessee has drawn full amount of pension, i.e. ₹3,800 p.m. for the months of December 2010 and January ,2011. After commuting pension, he then received 25% of the pension amount. So, he received ₹950 p.m. (i.e. 25% of ₹ 3,800) for two months i.e. February and March,2011 during the previous year 2010-11.

Particulars	**Case (i)**	**Case (ii)**	**Case (iii)**
Uncommuted Value of Pension [(11,800×2) + (2,950×2)]	29,500	5,900	5,900
Commuted Value of Pension	Exempted	2,05,000	1,23,000

Case (i) Gratuity and commuted value of pension received by a Government employee is fully exempted. Only uncommuted value of pension is fully taxable.

Case (ii) Gratuity received by an employee of a non-government company

	₹
Commuted Value of Pension	
Actual commuted value of pension received	3,69,000
Less: Exempted u/s 10(10A)	
1/3rd of Full Value of Commuted Pension [1/3 × 4,92,000]	1,64,000
Where, Full Value of Commuted Pension [= 3,69,000 x 4/3 = 4,92,000]	
Taxable Commuted Value of Pension	**2,05,000**

Case (iii) Commuted Value of Pension (Non-govt employee, gratuity not received)

Actual commuted value of pension received	3,69,000
Less: Exempted u/s 10(10A)	
1/2 of Full Value of Commuted Pension [1/2 × 4,92,000]	2,46,000
Where, Full Value of Commuted Pension [= 3,69,000 x 4/3 = 4,92,000]	
Taxable Commuted Value of Pension	**1,23,000**

(b) Ms. Parineeta retired from service after 28 years 7 months from ABC Ltd. Leave sanctioned by employer 42 days p.a. Leave availed during service 400 days. Leave encashment received: ₹4,30,000. Average salary for 10 months preceeding the month of retirement ₹27,000. Compute taxable amount of leave encashment for the previous year 2010-11.

Solution:

Since leave sanctioned by the employer is more than 30days p.a., the following calculation is required, to determine the amount of leave credit on the date of retirement. Further, only completed years of service shall have to be taken into consideration, which in this case is 28 years.

Particulars	₹
(i) Leave credit available on the date of retirement	
= Total Leave sanctioned during tenure of employment – Total leave availed during service = [(28 years x 42 days per annum) – 400 days]	776
Less: Excess leave sanctioned by the employer [(42– 30) days per year x 28 years]	336
Leave credit on the basis of 30 days credit for completed years of service	**440**
(ii) Leave salary on the basis of 30 days credit = Step (i) × Average Salary = 440 × (27,000/30)	**3,96,000**

Computation of Taxable Leave Salary on Retirement

Particulars	₹	₹
Amount Received on Leave Encashment		4,30,000
Less: Exemption u/s 10(10AA) Least of the followings:		
(i) Actual amount of Leave encashment received	4,30,000	
(ii) Average salary of the individual for the past 10 months × 10 months	2,70,000	
(iii) Maximum Limit	3,00,000	
(iv) Leave at credit at the rate of 30 days p.a. for every Completed year of service as calculated in Step (ii)	3,96,000	2,70,000
Taxable Value of Leave Encashment		**1,60,000**

(c) Mr. Rozario, was retrenched from service of "GO SLOW Ltd". Retrenchment compensation received ₹ 6,50,000. Amount determined under the Industrial Disputes Act, 1948 ₹5,75,000. What is the taxability?

Solution :

Computation of Taxable Retrenchment Compensation

Particulars	₹	₹
Amount received as Retrenchment Compensation		6,50,000
Less: Exemption u/s 10(10B): Least of the followings:		
(i) Actual amount received	6,50,000	
(ii) Amount determined under the Industrial Disputes Act, 1948	5,75,000	
(iii) Maximum Limit	5,00,000	5,00,000
Taxable Value		**1,00,000**

(d) Mr. Virat, after serving Z Ltd. for 23 years 7 months, opted the Voluntary Retirement Scheme. Total tenure of service: 30 years Compensation received ₹ 8,00,000. Last drawn Salary (i.e. Basic pay + D.A, forming part of retirement benefits) ₹25,000. Compute exemption & taxable value of VRS compensation.

Solution:

Total tenure of service = 30 × 12=360 months

Actual length of service = 23 years 7 months = 283 months

No. of months of service left= (360 – 283) months = 77 months

Computation of Taxable amount of compensation received on Voluntary Retirement

Particulars	₹	₹
Amount received as VRS Compensation		8,00,000
Less: Exemption u/s 10(10C): Least of the followings:		
(i) Actual amount received	8,00,000	
(ii) Maximum Limit	5,00,000	
(iii) The highest of the following:		
Last drawn salary x 3 x No.of fully completed years of service		
=25,000 x 3 x 23= 17,25,000		
• Last drawn salary x Balance of no.of months of service left.	19,25,000	
= 25,000 x 77 months= 19,25,000		5,00,000
Taxable Value		3,00,000

Question No.36

(a) Calculate the perquisite value of the expenditure on medical treatment, which is assessable in the hands of an employee of a company, inclusive of the conditions to be satisfied:

Gross total income, inclusive of salary *₹2,00,000*

(i) amount spent on treatment of the employee's wife in a hospital maintained by the employer *₹20,000*

(ii) amount reimbursed by the employer on treatment of the employee's child in a hospital *₹14,000*

(iii) medical insurance premium reimbursed by the employer on a policy covering the employee, his wife and dependent parents ₹7,000

(v) (i) amount spent on medical treatment of the employee outside India ₹ 2,50,000 and (ii) amount spent on travel and stay abroad ₹ 90,000

(vi) amount spent on travel and stay abroad of attendant ₹ 60,000

Solution:

Computation of Taxable Value of Perquisite for expenses related to medical treatment

	Nature of Perquisites	Amount	Taxability/Non-taxability
i	Treatment of employee's wife in a hospital maintained by employer	nil	fully exempted
ii	Treatment of employee's child in a hospital, not maintained by the employer	nil	Since the amount is less than ₹15,000, it is exempted.
iii	Reimbursement of medical insurance premium	nil	since medical insurance premium u/s 80D is paid on the employee and members of his family
iv	Expenses on medical treatment outside India	nil	it is assumed that the whole of such expenditure is permitted by RBI
v	Amount spent on travel and stay abroad for the employee (referred as patient in this case)	nil	not taxable as the gross total income does not exceed ₹2,00,000
vi	Amount spent on travel and stay abroad for the attendant	nil	not taxable, as the gross total income does not exceed ₹2,00,000

(b) R submits the following information regarding his salary income for the year 2010-11: Basic salary ₹1,70,000 p.a.; D.A (forming part of salary) 60% of basic salary; City Compensatory Allowance ₹ 300 p.m; Children Education Allowance ₹ 400 pm per child for 3 children; Transport Allowance ₹ 1,000 p.m. He is provided with a rent free unfurnished accommodation which is owned by the employer. The fair rental value of the house is ₹24,000 p.a. Compute the value of perquisite for accommodation provided, assuming that the accommodation is provided in a city where population is (a) exceeding 25 lakhs (b) exceeding 10 lakhs but not exceeding 25 lakhs (c) less than 10 lakhs

Solution:

Workings: (1) Computation of Income from Salary for accommodation provided by employer

Particulars	Amount (₹)	Amount (₹)
Basic salary		1,70,000
D.A. (60% of ₹ 1,70,000)		1,02,000
City Compensatory Allowance (fully taxable) (₹300 × 12)		3,600
Children Education Allowance		
Actual amount received (400 × 12 × 3)	14,400	
Less: Exemption u/s 10(14)		
@ ₹100 per month per child subject to a maximum of 2 children (₹ 100 × 12 × 2)	2,400	12,000

Transport Allowance		
Actual amount received (₹ 1,000 × 12)	12,000	
Less: Exemption u/s 10(14) @ ₹ 800 p.m. (₹ 800 × 12)	9,600	2,400
Gross Income from Salary u/s 17(1)		**2,70,000**

Computation of Value of Unfurnished accommodation u/s 17(2) Rule 3(1) explanation 1

Case (a) Population exceeding 25 lakhs	
15% of salary	
Salary = Basic pay + DA (forming part of retirement benefits) + all other taxable allowances	
= 1,70,000 + 1,02,000 + 3,600 + 12,000 + 2,400	
= 2,70,000	40,500
Total Income from Salary	**3,10,500**

Case (b): Where population is exceeding 10 lakhs but not exceeding 25 lakhs

10% of Salary shall be considered as the value of taxable perquisite =10% of ₹ 2,70,000 = ₹ 27,000

Case (c) : Where population is less than 10 lakhs

7.5 % of salary shall be considered as the value of taxable perquisite = 7.5% of ₹ 2,70,000 = ₹ 20,250

(c) Mr. Haider, was provided an accommodation in a hotel by his employer for 22 days, before he could be provided with a rent free accommodation, owned by the employer. The hotel charges paid ₹ 6,000. Salary for the purpose of accommodation for the period of 22 days is ₹ 22,000. Compute the value of accommodation assuming ₹3,000 was recovered from the employee.

Solution:

In case of accommodation provided to the assessee on account of transfer, which is exceeding 15 days cumulatively, such shall be taxable as a perquisite. The company recovered ₹ 3,000 from the employee. Compute taxability.

Lower of the followings:	
(i) 24% of salary paid/payable= 24% of 22,000 = 5,280	
(ii) Actual charges paid/payable = 6,000	5,280
Less: Amount paid by the employee (i.e. recovered from the employee)	(3,000)
Taxable value of perquisite for accommodation in hotel	**2,280**

(d) Mr.Ritesh is provided with an accommodation in Kolkata since April 2010. Salary ₹ 40,000 p.m. Cost of furniture provided ₹80,000. On 1st September, 2010, following a promotion with a increase in Salary by ₹15,000, he was transferred to Jharkhand (population less than 25 lakhs but more than 10 lakhs), and was also provided an accommodation there. Mr.Ritesh was allowed to retain the Kolkata accommodation till March, 2011. Compute taxable value of perquisite for accommodation possessed by the assessee.

Solution : **Phase 1: Value of Furnished Accommodation (Kolkata) (April to September 2010)**

Particulars	₹
Value of unfurnished accommodation (15% of 40,000 × 6 months)	**36,000**
Add: Value of Furniture provided:	
• 10%p.a. of original cost of such furniture (10% of 80,000 x 6 months)	**8,000**
Value of Furnished Accommodation	**44,000**

Phase 2: Valuation of accommodation (October 2010 to December 2010)

(a) For the first 90 days of transfer: Where accommodation is provided both at existing place of work and in new place, the accommodation, which has lower value, shall be taxable.

(b) After 90 days: Both accommodations shall be taxable.

Computation for the first 90 days of transfer: (October 2010 to December 2010)

Lower of:

(i) Value of accommodation at existing place of work

(ii) Value of accommodation at new place

Value of accommodation at existing place of work (Kolkata)

15% of salary for 3 months (i.e. 90 days) = 15% of 55,000 × 3 months	= 24,750
Add: Cost of furniture provided: 10% of 80,000 x 3 months	= 24,000
Total Value of Perquisite	**48,750**

Value of accommodation at new work place (Jharkhand)

10% of salary for 3 months (i.e. 90 days) = 10% of 55,000 × 3 months = 16,500

Therefore, the assessee shall be assessed to tax on ₹ 16,500 (being the lower)

Phase 3: Valuation of accommodation (after 90 days) (January 2011 to March 2011)

For Kolkata accommodation: 15% of 55,000 x 3 months	= ₹24,750
Add: Cost of furniture provided: 10% x 80,000 x 3 months	= ₹24,000
Total value of perquisite	**₹48,750**
For Jharkhand accommodation: 10% of 55,000 x 3 months	= ₹16,500

Total value of perquisite:

Particulars	Taxable value of perquisite
Phase 1: Accomodation in Kolkata	44,000
Phase 2: Accomodation in Jharkhand (being the lower during 90 days)	16,500
Phase 3: Accomodation in Kolkata	48,750
	16,500
Total Value of Taxable Perquisite	**1,25,750**

Question No.37

(a) Mr. Z is the manager of F Ltd. his son is a student of Amity International School. School fees of ₹4,000 pm and hostel fees of ₹3,000 pm., are directly paid by Z Ltd. to the school but it recovers from Z only 30%. F also joins an advanced course of Marketing Management for 4 months at IIM, Ahmedabad, fees of the course, ₹2,50,000 is paid by F Ltd. Determine the perquisite value of the education facility.

Solution:

Computation of taxable value of perquisite for education facility provided by the employer [As per Rule 3(5)]

Particulars	Taxable value of perquisite (₹)
(1)(a) School fees of his children, studying in a school run by employer:	
(₹4,000 x 12) - (1,200 x 12)	33,600
(b) Hostel fees: (3,000 x 12) – (900 x 12)	25,200
2) Fees paid for Marketing Management course for Mr.Z (it is a fully exempted perquisite)	nil
Total value of taxable perquisite	**58,800**

(b) Mr. Ashwin is a Manager in Z Ltd. He gets salary @ ₹50,000 pm. He is also allowed free use of computer, video-camera and television of the company. H Ltd. has purchased (i) Computer for ₹ 60,000 (ii) Video-camera for ₹30,000. Their written down value on 1.4.08 is ₹40,000 and ₹20,000 respectively. Television set has been taken on lease rent @ ₹ 250 pm. The employer recovers ₹ 500 per month for use of the assets. Compute his gross salary for the assessment year 2011-12.

Solution:

Computation of taxable value of perquisite relating to use of assets provided by employer [As per Rule 3(7)(vii)]

Salary: ₹ 50,000 × 12	6,00,000
Add: Free use of computer, u/s 17(2)(vi) read with Rule 3(7)(vii)	Nil
Add: Free use of video camera, u/s 17(2)(vi) read with rule 3(7) (vii) [10% of ₹20,000]	2,000
Add: Free use of telephone, u/s 17(2)(vi) read with rule 3(7)(vii) [₹250 x 12 months]	3,000
Less: Amount recovered from the employee (₹ 500 x 12)	(6,000)
Gross Salary	**5,99,000**

(c) Mr.C is an accountant of D Ltd. He gets basic salary of ₹ 35,000 pm. He has purchased motor car and washing machine from the company on 1 February 2011. Particulars of cost and sale price of the two assets are given below:

Year of Purchase	*Particulars of the Asset*	*Purchase Price (Rs)*	*Sale price (Rs)*
01.07.2008	***Motor car***	***2,50,000***	***1,65,000***
15.09.2006	***Washing Machine***	***10,000***	***5,000***

Compute the taxable value of perquisites for the assessment year 2011-12.

Solution:

Computation of taxable value of perquisites on transfer of moveable assets [As per Rule 3(7)(viii)]

TRANSFER OF MOVABLE ASSET TO EMPLOYEES

	Nature of Assets transferred	Amount
	Motor car (Actual Cost)	2,50,000
Less:	Depreciation @ 20% on WDV from 01.07.2008 to 30.06.2009	50,000
	WDV after completion of first year from the date of purchase	2,00,000

Less:	Depreciation @ 20% on WDV from 01.07.2009 to 30.06.2010	40,000
	WDV after completion of second year from the date of purchase	1,60,000

Amount paid by the employee to the company for purchase of the Motor Car is ₹ 1,65,000. This is more than the WDV of the motor car on the date of transfer. Hence, there is no perquisite.

	Washing Machine (Actual Cost)	10,000
Less:	Depreciation @ 10% on SLM from 15.09.2006 to 14.09.2007	1,000
	WDV after completion of first year from the date of purchase	9,000
Less:	Depreciation @ 10% on WDV from 15.09.2007 to 14.09.2008	1,000
	WDV after completion of second year from the date of purchase	8,000
Less:	Depreciation @ 10% on WDV from 15.09.2008 to 14.09.2009	1,000
	WDV after completion of third year from the date of purchase	7,000
Less:	Depreciation @ 10% on WDV from 15.09.2009 to 14.09.2010	1,000
	WDV after completion of fourth year from the date of purchase	**6,000**
Less: Amount recovered from the employee		5,000
Value of Perquisite		**1,000**

(d) Amrit, Director (Administration) in MNPC Ltd. He is entitled to a motor car (1.8 ltrs) to be used for both official & private purposes.

Discuss the taxability of perquisite if :

(i) The car is owned by the employer, expenses paid by employer & it is a chauffeur driven car.

(ii) The car is owned by Amrit and expenses incurred ₹ 35,000 & chauffeur paid a salary of ₹ 48,000 provided by the employer.

Solution :

(i)Taxable value of perquisite will be : ₹ (2,400 + 900) p.m for chauffeur= ₹ 3,300 p.m × 12 months = ₹ 39,600

(ii)**Value of Perquisite**	₹
Amount of expenses	35,000
(+) Salary to chauffeur	48,000
Less : Value of Perquisite if the car was owned by the employer	(39,600)
[as computed in (i) above]	**43,400**

Question No.38

(a) Aniket joined a company on 1.7.2010 and was paid the following emoluments and allowed perquisites as under: Emoluments: Basic Pay ₹ 35,000 per month; D.A. ₹ 20,000 per month; Bonus ₹ 20,000 per month.

Perquisites :

(i) Furnished accommodation owned by the employer and provided free of cost;

(ii) Value of furniture therein ₹3,60,000; Hire charges of Furniture provided ₹20,000 p.a.

(iii) Motor car owned by the company (with engine c.c. less than 1.6 litres) along with chauffeur for official and personal use, expenses met by Employer.

(iv) Sweeper salary paid by company ₹1,500 per month; amount recovered @ ₹200 pm.

(v) Watchman salary paid by company ₹1,500 per month; amount recovered @ ₹300 pm.

(vi) Educational facility for 2 children provided free of cost. The school is owned and maintained by the company. Elder child studies in class V and younger child in class II. Tuition fee per month ₹1,600 & ₹ 900 respectively.

(vii) Loan of ₹ 5,00,000 repayable within 7 years given on 1.10.2010 for purchase of a house. No repayment was made during the year; let charged by employer @ 2% p.a. Interest chargeable as per Income Tax Act @ 10% p.a.

(viii) Interest free loan for purchase of computer ₹ 50,000 given on 1.2.2011. No repayment was made during the year;

(ix) Corporate membership of a club. The initial fee of ₹1,00,000 was paid by the company. Aniket paid the bills for his use of club facilities.

You are required to compute the income of Aniket under the head "Salaries" in respect of assessment year 2011-12.

Solution:

Previous Year: 2010-2011 **Assessee : Mr. Aniket** **A.Y. 2011-2012**

Computation of Income under the head 'Salaries'

(i)	Basic Pay	(35,000 × 9)	3,15,000
(ii)	D.A.	(20,000 × 9)	1,80,000
(iii)	Bonus	(20,000 × 9)	1,80,000
(iv)	Value of furnished accommodation	Note 1	1,28,250
(v)	Motor car	(1,800+900) × 9 m	24,300
(vi)	Sweeper Salary	(1,500–200) × 9 m	11,700
(vii)	Watchman Salary	(1,500–300) × 9 m	10,800
(viii)	Education facility	Note 2	5,400
(ix)	Interest free housing loan	Note 3	23,333
(x)	Interest free computer loan	Note 4	1,375
(xi)	Corporate membership fee		1,00,000
	Gross Salary		**8,80,158**

Note 1. Value of furnished accommodation:

Particulars		**Amount**
Salary for this purpose -		
Basic Salary	(35,000 × 9)	3,15,000
D.A (assuming part of retirement benefits)	(20,000 × 9)	1,80,000
Bonus	(20,000 × 9)	1,80,000
Total		**6,75,000**

Assuming, Mr. Aniket stays in a city where population is more than 25,00,000 as per 2001 census,

Value of unfurnished accommodation = 15% of salary

= 15% of 6,75,000 = ₹ 1,01,250

Value of furniture provided = 10% p.a. of actual cost

= 10% of 3,60,000 × 9/12 = ₹ 27,000

(Assuming, value of furniture given in the problem represents actual cost.)

Value of rent free furnished accommodation = 1,01,250 (+) 27,000

= ₹ 1,28,250

Note 2. Value of Educational Facility

Where the school is owned and maintained by employer, if the cost of education provided is less than ₹ 1,000 p.m. then the value of perquisite is NIL. If the cost of education exceeds ₹ 1,000 p.m. then the value of perquisite will be equal to the actual cost of education provided in excess of ₹ 1,000 pm. per child maximum for two children. Value of perquisite for elder child = ₹ (16,000 – 1,000) × 9 months = 5,400. Value of perquisite for younger child = NIL, since tuition fee per month is less than ₹ 1,000. Assuming, cost of education provided to Babu's children is less than ₹ 1,000 p.m. value of perquisite provided is NIL.

Note 3. Interest free housing loan

Value of perquisite = Interest @ 10% p.a. *less* Actual interest charged

= (10% – 2%) × ₹5,00,000 × 7/12 = ₹ 23,333.

Note 4. Interest free computer loan

Value of perquisite = Interest @ 16.50% p.a. *less* Actual interest charged

= (16.50% – 0%) × ₹ 50,000 × 2/12 = ₹ 1,375.

(b) A was employed with Z Ltd. He retired w.e.f. 1.2.2011 after completing a service of 24 years and 5 months. He submits the following information:

Basic Salary: ₹5,000 per month (at the time of retirement); Dearness Allowance: 100% of Basic Salary (60% of which forms part of salary for retirement benefits). Last increment ₹500 w.e.f. 1.7.2010.

His pension was determined at ₹3,000 per month. He got 50% of the pension commuted w.e.f. 1.3.2011 and received a sum of ₹1,20,000 as commuted pension. In addition to this, he received a gratuity of ₹1,50,000 and leave encashment amounting to ₹56,000 on account of accumulated leave of 240 days. He was entitled to 40 days leave for every years of service.

Compute his Gross Salary for assessment year 2011-12 assuming that he is not covered under Payment of Gratuity Act.

Solution:

Computation of Gross Salary for the Assessment Year 2011-12

		₹	₹
Basic Pay:	April '10 to June '10 = 3 months @ ₹ 4,500 pm	13,500	
	July 10 to June '11 = 7 months @ ₹ 5,000 pm	35,000	48,500
Dearness Allowance @ 100% of Basic Pay			48,500
Uncommuted Pension			
	February @ ₹ 3,000 pm	3,000	
	March @ ₹ 1,500 pm	1,500	4,500
	(Since 50% commuted)		
Commuted Value of Pension			
Amount Received		1,20,000	
Less : Exemption u/s 10(10A)			
	1/3 of Value of Commuted Pension	80,000	40,000
Where, Full value of Commuted Pension [1,20,000 / 50% = 2,40,000]			

Gratuity :

Amount received		1,50,000	
Less : Exempt (*See* note No. 1)		93,120	56,880

Note 1: Exemption, being least of the followings:

(i)	Actual Amount Received	1,50,000
(ii)	Maximum limit	10,00,000
(ii)	1/2 months average salary for each year's of completed service	93,120

Salary for Gratuity (not covered by Payment of Gratuity Act)

= Basic Pay + D/A (Forming part for retirement benefit)

Average Salary = (48,500 + 60% of 48,500) /10 = 77,600/10 = 7,760

Leave Encashment

	Amount received		56,000	
Less :	**Exemption u/s 10(10AA)**			
	Least of the followings:			
	(i) Actual Average Salary	56,000		
	(ii) 10 months average salary (10×7760)	77,600		
	(iii) Maximum limit	3,00,000		
	(iv) Leave Credit as per note below	NIL	NIL	56,000

Note :	Calculation of Leave Credit	
	Total leave entitlement (24 yrs × 40 days p.a.)	= 960 days
Less :	Leave Availed during service	720 days
	= Total leave entitlement – Leave encashment	
	= (960 – 240)	240 days
Less :	Excess Leave in excess of 30 days p.a.[24 (40 – 30)]	240 days
	Leave credit	NIL

(c) Vineet had been working with M Ltd., in a tribal area since 1-10-1996. He was entitled to the following emoluments:

1. ***Basic salary w.e.f. 1-1-2010 ₹6,000 p.m.***
2. ***Dearness allowance 50% of basic salary (40% of which forms part of salary for retirement benefits)***
3. ***Medical allowance ₹1500 p.m. (entire amount is spent on his own medical treatment).***
4. ***Entertainment allowance ₹400 p.m.***
5. ***Children education allowance ₹80 p.m. per child for three children.***
6. ***Hostel expenditure allowance ₹100 p.m. per child for three children.***
7. ***Uniform allowance ₹250 p.m. (He spends ₹1,500 on the purchase and maintenance of uniform)***

8. ***House rent allowance ₹750 per month. He pays ₹1,000 per month as rent.***
9. ***He contributes ₹900 per month to a recognised provident fund to which his employer contributes an equal amount.***

He retired from his job on 1.1.2011 and shifted to Delhi. He was entitled to the following benefits at the time of his retirement :

(a) Gratuity ₹1,35,000
(b) Pension from 1.1.2011 ₹3,000 p.m.
(c) Payment from recognised provident fund ₹3,00,000
(d) Encashment of earned leave for 150 days ₹36,000

He was entitled to 40 days leave for every completed year of service. He got 50% of his pension commuted in lumpsum w.e.f. 1.3.2011 and received ₹1,20,000 as commuted pension.
He joined K Ltd. at Mumbai w.e.f 1-2-2011 and was entitled to the following emoluments:

(1) Basic salary ₹5,000 p.m.
(2) Dearness allowance (forming part of salary) 20% of basic salary
(3) Rent-free unfurnished accommodation in Delhi which is owned by the employer and whose fair rental value is ₹48,000 p.a.

He was also given the following facilities by the employer:

(a) Motor car (1.4 ltr. engine capacity) with driver, which he uses partly for official and partly for personal purposes.
(b) The monthly expenses incurred by 'A' on gas and electricity were ₹500 which were reimbursed by the employer.
(c) Reimbursement of educational expenses of his two children which amounted to ₹350 p.m.
(d) On 4.3.2010 his wife fell ill and the employer reimbursed the expenditure of medical treatment amounting to ₹17,500.
(e) A watchman, a sweeper, a cook and a gardener have been provided to whom the company pays a salary of ₹400 p.m. each.
(f) Loan of ₹ 1,00,000 @ 8% p.a. for construction of his house was given by the company. SBI rate of interest is 7% p.a.

He made the following payments during the previous year:

(1) Professional tax ₹500
(2) Premium paid ₹15,000 on a Life insurance policy of ₹1,00,000.
(3) Deposit in PPF account ₹50,000.

Compute his total income and tax liability for the assessment year 2011-12.

Solution :

	₹	₹
Employer – M Ltd.		
Basic salary 6,000 × 9		54,000
DA @ 50% of Basic Salary		27,000
Medical allowance @ ₹ 1,500 pm × 9 months		13,500
Entertainment allowance @ ₹ 400 pm × 9 months		3,600
Children education allowance 80 × 3 × 9	2,160	
Less : Exempt u/s 10(14) = 80 × 2 × 9	440	720
Hostel expenditure allowance 100 × 3 × 9	2,700	

Less : Exempt u/s 10(14) = 100 × 2 × 9		1,800	900
Uncommuted pension (2,000 × 2 + 1,000 × 1)			5,000
Uniform allowance (250 ×9 – 1500)			750
House Rent Allowance			
Amount Received (750 × 9)		6,750	
Less : Exemption u/s 10(13A) Rule 2A			
Lease of the followings :			
(i) Amount Received	6,750		
(ii) 40% of Salary	25,920		
(iii) Rent paid – 10% of Salary	2,520	2,520	4,230
(1000 × 9 – 6,480)			

Salary for HRA = Basic Pay + Dearness Allowance (forming part of salary) + Commission (if received at a fixed percentage on turnover) = 54,000 + (40% of 27,000) = 54,000 + 10,800 = 64,800

Employer's Contribution to RPF @ ₹ 900 pm × 9 months		8,100	
Less : Exemption u/s 10(14) upto 12% of salary			
Salary = Basic Pay + D.A (forming part)			
= 54,000 + 40% of 27,000 = 64,800			
Therefore, 12% of 64,800 = 7,776		7,776	324
Gratuity — (from A Ltd.)			
Actual Amount Received		1,25,000	
Less : Exemption u/s 10(10)			
Least of the followings:			
(i) Actual Amount Received	1,25,000		
(ii) Max. limit	10,00,000		
(iii) 1/2 months average salary for each years of completed service	50,400	50,400	74,600
[1/2 × 7,200 × 14]			

Salary for Gratuity (not covered by Payment of Gratuity Act) = Basic Pay + D/A (forming part for retirement Benefit) + Commission (if received at a fixed percentage on turnover)

Again, Average Salary = Salary for 10 months preceding the month of retirement

B/P = 6,000 × 10 =	60,000
D/A (forming part) = 40% × 50% × 6,000 =	12,000
	72,000

Average Salary per month = ₹ 72,000/10 = ₹ 7,200

Commuted Value of Pension		
Amount Received	1,20,000	
Less : Exemption u/s 10(10A)		
1/3 of Full Value of Commuted Pension [1/3 of 2,40,000]	80,000	40,000

Full Value of Commuted Pension = (1,20,000 / 50% = 2,40,000)

Payment from RPF (Exempt)		—
Leave encashment – Actual amount	36,000	
Less : Exemption u/s 10(10AA)	4,800	31,200
		2,55,824

Least of the followings:

(a)	Actual encashment	₹ 36,000
(b)	Eligible encashment (7,200/30 × 20)	₹ 4,800
(c)	10 months average salary (7,200 × 10)	₹ 72,000
(d)	Amount specified	₹ 3,00,000

Leave encashment shall be exempt as under :

Completed years of service	13 years
Number of days leave allowed every year	40
Total leave allowable	520 days
Leave encashed	150 days
Therefore leave availed (520 – 150)	370 days
Leave available on basis of 30 days (30 ×13)	390 days
Less : Leave availed	370 days
Therefore encashment eligible for exemption (390 – 370)	20 days

Employer — S Ltd.

Basic salary (5,000 ×2)	10,000
Dearness Allowance @ 20% of B/Pay	2,000
Motor Car facility (1,800 + 900) × 2 months	5,400
Free Gas/Electricity (500 × 2)	1,000
Education Re-imbursement (350 × 2)	700
Medical Re-imbursement (17,500 – 15,000)	2,500
Watchmen (400 × 2)	800
Sweeper (400 × 2)	800
Cook (400 ×2)	800
Gardener (400 × 2)	800
Interest on Loan (not taxable as interest charged is more than the rate of SBI)	—
Perquisite for Value of Rent-free unfurnished accommodation	2,250
	27,050

Valuation of unfurnished rent-free accommodation:

15% of salary which includes the following:	
Basic (5,000 × 2)	₹ 10,000
DA	₹ 2,000
Uncommuted pension from R Ltd. (2,000 + 1,000)	₹ 3,000
	₹ 15,000

Value of the unfurnished accommodation 15% of ₹ 15,000 = ₹ 2,250

Aggregate salary from M Ltd. and S Ltd.			2,82,874
Less : (i) Entertainment allowance u/s 16(ii)		Nil	
(ii) Professional-tax u/s 16(iii)		500	500
Income from salary			2,82,374
Other Income			Nil
Gross Total Income			2,82,374
Less : Deduction u/s 80C			
RPF (900 × 9)		8,100	
LIP		15,000	
PPF		50,000	73,100
Total income (rounded off)			2,09,274
Total Income (Rounded of u/s 288)			**2,09,270**
Tax on ₹ 2,09,270			
upto ₹ 1,60,000	= Nil		
@ 10% on (2,09,270 – 1,60,000) = 10% of 49,270	= 4,927		4,927
Add : Education Cess @ 2%			98
Add : SHEC @ 1%			49
Total tax liability			5,074
Tax Payable (Rounded off u/s 288A)			= ₹ 5070

Since he has received lump sum payment on account of gratuity, commuted pension and leave encashment, he can claim relief u/s 89 if the same is beneficial to him.

(d) Ramesh retired as General Manager of XYZ Co. Ltd. on 30.11.2010 after rendering service for 20 years and 10 months. He received ₹9,00,000 as gratuity from the employer. (He is not covered by Gratuity Act, 1972) . His Salary details as below -

Basic Pay	***₹30,000 p.m. upto 30.06.2010***
Basic Pay	***₹32,000 p.m. from 01.07.2010***
Dearness Allowance (not forming part of salary for Retirement Benefits)	***50% of Basic Pay***
Transport Allowance	***₹3,000 p.m.***

Ramesh resides in his own house. Interest on monies borrowed for the self-occupied house is ₹84,000 for the year 31.3.2011. From a Fixed Deposit with a Bank, he earned Interest Income of ₹18,000 for the year ending 31.3.2011. He also invested ₹30,000 in long-term infrastructure Bond and ₹80,000 in PPF.

Compute Total Income of Ramesh for the year ended 31.03.2011.

Solution:

Assessee : Mr. Ramesh **Previous Year: 2010-2011** **Assessment Year : 2011-12**

Computation of Total Income

Particulars		**₹**	**₹**	**₹**
(A) Salary from XYZ Co. Ltd				
1. Basic Salary	(₹ 30,000 × 3 + ₹ 32,000 × 5)			2,50,000
2. Dearness Allowance	(50% of Basic Salary)			1,25,000
3. Transport Allowance	(₹ 3,000 × 8)		24,000	

	Less: Exempt u/s 10(14) (₹ 800 × 8 Months)		(6,400)	17,200
4.	Gratuity Received (Not covered under Payment of Gratuity Act)		9,00,000	
	Less: Exemption u/s 10(10) = Least of the following —			
(i)	Actual Amount received	9,00,000		
(ii)	½ months average salary for each years of completed service = ½ × 30,800 × 20 years	3,08,000		
(iii)	Maximum Limit	10,00,000	3,08,000	5,92,000

Average Salary for Gratuity = (Salary for 10 months preceding the month of retirement)/10

= (30,000 x 6 + 32,000 x 4) =3,08,000 /10 = 30,800

	Gross Salary		**9,84,200**
	Less: Deduction u/s 16		Nil
	Income under the head Salary		**9,84,200**
(B)	**Income from House Property**		
	Self Occupied — Annual Value	Nil	
	Less : Deduction u/s 24 — Interest on Borrowed Capital	(84,000)	**(84,000)**
(C)	**Income from Other Sources :** Bank Interest		**18,000**
(D)	**Gross Total Income**		**9,18,200**
	Less : Deduction under Chapter VIA		
	u/s 80C – Deposit in PPF ₹ 80,000		
	(Maximum amount allowed as deduction)		70,000
	u/s 80 CCF – Subscription to Long-term Infrastructure Bond		
	– Amount deposited ₹ 30,000, but deduction restricted upto ₹20,000		20,000
(E)	**Total Income**		**8,28,200**

(e) Mr. Ganesh retires on 31.10.2010 voluntarily from XYZ (P) Ltd as per the scheme u/s (10C) of the Income-tax Act, 1961. He furnishes the following particulars:

(i)	***Basic Pay***	***₹20,000 pm.***
(ii)	***Pension***	***₹8,000 pm.***
(iii)	***D.A. forming part of Salary for retirement benefits***	***₹6,000 pm.***
(iv)	***Compensation of voluntary retirement***	***₹6,00,000***
(v)	***Gratuity***	***₹1,50,000***
(vi)	***Leave Salary***	***₹40,000***

(vii) He gets 60% of his pension commuted for ₹90,000 on 31.1.2011. Completed years of service 18 years and 7 months. Leave availed while in service 19 months. But for the voluntary retirement, Mr. Ganesh would have retired only after 45 months. The last increment he received was on 1.11.2009.

Compute his taxable salary income for the A.Y. 2011-12.

Solution :

Assessee : Mr. Ganesh **Previous Year: 2010-2011** **Assessment Year : 2011-12**

Computation of Total Income

Particulars		**₹**
Basic salary	(₹ 20,000 × 7)	1,40,000
Dearness Allowance	(₹ 6,000 × 7)	42,000
Gratuity	(W.N. 1)	NIL
Pension	(W.N.2)	70,400
Voluntary Retirement Compensation	(W.N.3)	1,00,000
Leave Encashment	(W.N.4)	90,000
Income under the head "Salaries"		**4,42,400**

Working Notes:

(a) Computation of Taxable Gratuity

Particulars	**₹**	**₹**
Gratuity received (assumed as not covered by Payment of Gratuity Act, 1972)		1,50,000
Less : Exempt u/s 10(10) :		
Least of the following —		
(i) Actual Amount of Gratuity Received	1,50,000	
(ii) Maximum Limit	10,00,000	
(iii) ½ months average salary for each years of completed service (½ × 18 × 26,000)	2,34,000	(1,50,000)
Taxable Gratuity		**NIL**

(b) Computation of Taxable Pension

	Particulars		**₹**	**₹**
(a)	**Uncommuted Pension**			
	• Period: November 2010 - January 2011	(₹ 8,000×3 Months)	24,000	
	• Period: February 2011 - March 2011	(₹ 8,000×40%×2 Months)	6,400	
	• Total			30,400
(b)	**Commuted Pension**			
	Amount Received		90,000	
	Less : Exempt u/s 10(10A) 1/3rd of Full Value of Commuted Pension (Since Gratuity received) [1/3rd of (90,000/60) x 100] (Note 1)		(50,000)	40,000
	Taxable Pension			**70,400**

(C) Computation of Taxable VRS Compensation

Particulars	**₹**	**₹**
Amount of VRS Compensation Received		6,00,000
Less: Exempt u/s 10(10C):		
Least of the following —		
• Actual Amount Received	6,00,000	
• Maximum Limit	5,00,000	
• The above shall not exceed higher of :		
(i) Last Drawn Salary x 3 x No. of completed years of service (26,000 x 3 x 18 Years)	14,04,000	
(ii) Last drawn Salary x balance of months of service left (26,000 x 45 Months)	5,40,000	(5,00,000)
Taxable Value of VRS Compensation		**1,00,000**

(D) Computation of Taxable Leave Encashment

Particulars	₹	₹
Amount of Leave Encashment Received		90,000
Less : Exemption u/s 10(l0AA) :		
Least of the following:		
(i) Amount Received	90,000	
(ii) Notified Amount	3,00,000	
(iii) Average salary of past 10 months Salary x 10 months (12,000 × 10)	1,20,000	
(iv) Leave Encashment based on 30 days credit for every completed year of service (Note)	Nil	Nil
Taxable Leave Encashment		**90,000**

Note :

Total Leave Eligible on basis of 30 days credit for every completed years of service of 18 years =	18 Months
Total Leave Taken	19 Months
Leave to his credit	Nil

Question No.39

(a) Write short note on: terminal depreciation and balancing charge. Give an example to illustrate the same.

Answer:

Terminal Depreciation refers to Loss on Transfer & Balancing Charge refers to Gain on Transfer.

(a) It is applicable for any undertaking engaged in generation or generation and distribution of power;
(b) It must be a depreciable asset, on which depreciation is claimed on straight line basis;
(c) Such depreciable asset, is sold, discarded, demolished or destroyed in a previous year

If there arises:

(i) Loss on Sale = Terminal Depreciation;
(ii) Gain on Sale= Balancing Charge.

Calculation of Terminal Depreciation:

1. Calculate Written Down Value of the depreciable asset on the first day of the previous year in which such asset is sold, discarded, demolished or destroyed.
2. Ascertain Net Sale Consideration.

If value as per (1) > value as per (2) = Loss= Terminal Depreciation

Balancing Charge u/s 41(2) and Capital Gain u/s 50A:

If value as per (2) > value as per (1) = Gain = Balancing Charge. i.e. if , NC > WDV = Balancing Charge

Again, if, (i) NC > OC = Capital Gain and (ii) OC < WDV = Balancing Charge

Where,

NC = Net Sale Consideration

OC = Original Cost

WDV = Written Down Value

Example :

Neyduli power Projects is a power generating unit. On 1.4.2008, it purchased a plant of ₹ 50,00,000, eligible for depreciation @15% on SLM. Compute balancing charge or terminal deprecation assuming the plant is sold on 21.4.2010 for : (a) ₹8,50,000 (b) ₹32,00,000 (c) ₹45,00,000 (d) ₹52,00,000

Solution :

Computation of Terminal depreciation or balancing charge, capital gain.

Particulars	**A**	**B**	**C**	**D**
W.D.V. as on 1.4.2010 (as per Note below)	35,00,000	35,00,000	35,00,000	35,00,000
Less: Sale Proceeds	8,50,000	32,00,000	45,00,000	52,00,000
Balance	26,50,000	30,00,000	(10,00,000)	(17,00,000)
Terminal depreciation	26,50,000	3,00,000	NIL	NIL
Balancing charge	NIL	NIL	10,00,000	15,00,000
Short term capital Gain	NIL	NIL	NIL	2,00,000

Note: Computation of Depreciation and WDV as on 1.4.2010:

Original cost	50,00,000
Less: Depreciation	7,50,000
WDV as on 1.4.2009	42,50,000
Less: Depreciation for the year 2009-2010	7,50,000
WDV as on 1.4.2010	35,00,000

(b) Pharma Ltd. imported machinery from Germany on 27.8.10 at a cost of ₹40 crores. Customs Duty paid @ 20%. Countervailing Duty @ 10%. Government granted subsidy of ₹25 crores. The entire logisitics was supported by Nexgen Courier Ltd., an Indian Company. Total Service charges paid to them ₹ 20 lacs including service tax of ₹ 1,86,763. Compute Actual Cost, if assessee, avail CENVAT credit adjustment.

Previous Year: 2010-11 **Assessee : Pharma Ltd** **Assessment Year : 2011-12**

Computation of Actual Cost

Particulars	**Amount** (₹ crores)
Cost of Purchase	40.00
Add: Customs Duty @ 20% on ₹ 40 crores	8.00
Less: Countervailing duty @ 10% of ₹ 40 crores	4.00
Less: Government subsidy granted	25.00
Less: CENVAT Credit (Service Tax paid included in the payment made to Nexgen Courier Ltd.)	0.187
Actual Cost for the purpose of charging depreciation	**26.813**

(c) ZED Ltd. imported machinery from South Korea on 12.5.2010 for US$ 50,000. Exchange rate on that date : US$ = ₹44. 70. Customs Duty paid @ 20%. Government granted subsidy of ₹15,00,000. The assessee had a forward contract on 2.4.2010 at US$ 45.30. Logistics services was provided by Carrywell Courier Ltd. Service Charges paid ₹ 2,00,000 including service tax of ₹ 25,000. Engineers and labourers were engaged at site for installation of the machinery. Salary and wages paid for site engineers and labourers including their travelling expenses amounted to ₹ 4,60,000. Expenses incurred during trial run period ₹ 1,50,000. Sale of output produced during trial run period ₹ 90,000. Interest earned on deposits made to open Letter of Credit for purchase of this machinery ₹ 15,000 . The machine was put to use from 05.10.10. Depreciation @ 15%. Compute Actual Cost and Written Down Value.

Solution:

Assessee: ZED Ltd. **Previous Year: 2010-11**

Computation of Actual Cost and Written Down Value

Particulars		**Amount** (₹ crores)
Cost of the Asset (US$ 50,000 × ₹ 44.70)		22,35,000
Add :	Customs Duty paid @ 20% on ₹ 22,35,000	4,47,000
Less :	Government Subsidy granted	(15,00,000)
Add :	Exchange Rate Difference [US$ 50,000 × ₹ (45.30 - 44.70)]	30,000
Add :	Transportation charges paid ₹ 2,00,000 (including Service Tax ₹ 25,000)	2,00,000
Less :	CENVAT credit adjustment (credit for Service tax included in service charges paid to Carrywell Courier Ltd.)	(25,000)
Add :	Installation expenses incurred for payment of site engineers & labourers including travelling expenses	4,60,000
Add :	Expenses incurred during trial run period	1,50,000
Less :	Sale of output generated during trial run period	(90,000)
Less :	Interest earned on deposits made to open Letter of Credit for purchase of this machinery	(15,000)
Actual Cost for the purpose of determining depreciation		**18,92,000**
Less :	Depreciation @ 50% of 15% (since Put to Use < 180 days) for previous year 2010-11 (₹ 18,92,000 × 50% x 15%)	1,41,900
WDV as on 01.04.2011		**17,50,100**

(d) Mention the probable situations where proportionate depreciation may be resorted to.

Answer: In the following cases, depreciation is allowed on proportionate basis where in any Previous Year, there is :-

(i)Succession of a partnership firm by a company [u/s. 47(xiii)] or

(ii) Succession of a proprietary concern by a company [u/s. 47(xiv)]

(iii) Succession of any business other than on death [u/s. 170] or

(iv) Amalgamation of company [u/s. 2(1B)] or

(v) Demerger of any company [u/s. 2(19AA)]

(e) A Bros., a sole-proprietorship concern, was converted into a A Ltd. on 20.9.2010. Before the conversion, the concern had a block of furniture (rate of depreciation @ 10%), whose WDV as on 01.04.2010 was ₹ 6,50,000. On 01.05.2010, a new furniture of the same block was purchased for ₹ 50,000. A Ltd. purchased another furniture of the same type on 20.12.2010 for ₹48,000. Compute depreciation that would be claimed by A Bros. and A Ltd for the previous year 2010-11.

Solution :

(1) Depreciation shall have to be calculated at the prescribed rates, as is applicable for a going concern, without considering the event of amalgamation or demerger.

(2) Depreciation shall have to be apportioned between the predecessor and the successor in the ratio of number of days for which such assets were held for their business purpose and used by them.

Depreciation to be apportioned = [W.D.V. as on 1.4.2010 + New Purchases on 01.05.2010] = ₹ (6,50,000 + 50,000) = ₹ 7,00,000 × 10% = ₹ 70,000

(f) X Ltd., is a company engaged in the business of growing, manufacturing and selling of tea. For the accounting year ended 31st March, 2010, its composite business profits, before an adjustment under section 33AB of the Income-tax Act, were ₹ 60 lakhs. In the year, it deposited ₹ 25 lakhs with NABARD. The company has a business loss of ₹ 10 lakhs brought forward from the previous year. The company withdrew in February, 2010 ₹ 20 lakhs from the deposit account to buy a non-depreciable asset for ₹ 18 lakhs and could not use the balance before the end of the accounting year. The withdrawal and the purchase were under a scheme approved by the Tea Board. The non-depreciable asset was sold in November, 2010 for ₹ 29 lakhs. Indicate clearly the tax consequences of the above transactions and the total income for the relevant years.

Solution: **Computation of total income of X Ltd. for A.Y. 2010-11**

Particulars	**₹**
Net profits before adjusting deduction u/s 33AB	60,00,000
Less: Deduction u/s 33AB	24,00,000
[Lower of	
(i) 40% of ₹60 lakhs = ₹24 lakhs; or	
(ii) actual amount deposited with NABARD = ₹25 lakhs	
Profiits after adjusting deduction u/s 33AB	36,00,000
As per Rule 8 of Income-tax Rules, 40% of this sum is subject to income-tax and the balance 60% is treated as agricultural income.	
Hence, the business income is 40% of ₹ 36 lakhs	14,40,000
Add: Non-utilisation of amount withdrawn: ₹ 2 lakhs [i.e. (₹ 20 lakhs – ₹ 18 lakhs)]	
40% is taxable as business income (the balance 60% is treated as agricultural income).	80,000
Business income	15,20,000
Less: Business loss brought forward from the previous year	10,00,000
Total income	**5,20,000**

Computation of Total Income of X Ltd. for A.Y.2011-12

Particulars	**₹**
Business income **(See Note 2)**	7,20,000
Capital gains (Short-term) **(See Note 1)**	11,00,000
Total Income	**18,20,000**

Note 1 - Computation of capital gains

Particulars	**₹**
Sale proceeds	29,00,000
Less: Cost of acquisition	18,00,000
Short term capital gains (since the period of holding is less than 36 months)	**11,00,000**

Note 2 - Computation of business income Since the asset is sold within 8 years, the cost of the asset i.e. ₹ 18 lakhs should be treated as income since the same has been allowed as deduction in the assessment year 2010-11.

However, out of this ₹ 18 lakhs, 60% would be agricultural income and the balance 40% i.e. ₹ 7.2 lakhs would be business income of P.Y.2010-11. This is because deduction under section 33AB was allowed in P.Y.2010-11, before disintegration of income into agricultural income and non-agricultural income.

Question No.40

(a) Free Call Ltd. obtained a telecom licence on 15.6.07 for a period of 8 years ending on 31.3.2015 against a fee of ₹ 30 crores to be paid in four instalments of ₹ 12 crores, ₹ 7 crores, ₹ 6 crores, ₹ 5 crores by June 2008, June 2009, June 2010 and June 2011 respectively. Explain how the payment for licence fee shall be dealt under the Income Tax Act, 1961.

Solution:

Assessee : Free Call Ltd. Previous Year 2010-11 Assessment Year: 2011-12

(a) U/s 35ABB, expenditure incurred for the purpose of acquiring any right to operate telecommunication services is allowed equally as deduction throughout the unexpired life of the licence. Deduction shall be allowed **only for the actual payment made.**

(b) If only part payment is made, amortization is based on the amount paid and not on the basis of total consideration. For any further payments, deduction/amortization is allowed equally for the remaining unexpired useful life.

(c) Computation of amount of eligible deduction u/s 35 ABB:

Previous year	Amount paid (₹ Crores)	Unexpired Period of Licence on the date of actual payment	Amount of Deduction (₹ Crores)
2007-08	12.00	8 years	1.50
2008-09	7.00	7 years	[1.50 + (7.00/7)] = 2.50
2009-10	6.00	6 years	[2.50 + (6.00/6)] = 3.50
2010-11	5.00	5 years	[3.50 + (5.00/5)] = 4.50

(b) Hello International Ltd. incurs an expenditure of ₹240 crores for acquiring the right to operate telecommunication services for Assam & Sikkim. The payment was made in November 2009 and the licence to operate the services was valid for 15 years. In December 2010, the company transfers part of the licence, in respect of Assam, to Hi International Ltd. for a sum of ₹ 56 crores and continue to operate the licence in Sikkim. What is the deduction allowable u/s 35ABB to Hello International Ltd. for the Assessment Year 2011-12?

Solution :

Assessee: Hello International Ltd. Previous Year: 2010-11 Assessment Year : 2011-12

(a) u/s 35ABB, where part of the Telecom Licence is transferred and Net Consideration received on such transfer, is less than the expenditure remaining unallowed, the amount of deduction shall be computed as follows :

(i)	Unallowed amount as on 01.04.2010	= Total Expenditure Less Deduction for Financial Year 2009-10
		= ₹240 crores Less (₹240 crores/licence period of 15 years)
		= ₹240 crores less ₹16 crores = ₹224 crores.
(ii)	Net Consideration received	= ₹60 crores
(iii)	Remaining period of licence	= 14 years (including current previous year)
(iv)	Deduction u/s 35 ABB	= ₹ (224 crores less 56 crores) / 14 years= ₹12 crores.

(c) Jammer International Ltd. incurs an expenditure of ₹300 crores for acquiring the right to operate telecommunication services for Orissa and Jharkhand. The payment was made in August 2009 and the licence to operate the services was valid for 12 years. In December 2010, the company transfers part of the licence, in respect of Orissa to Hammer International Ltd. for a sum of ₹ 280 crores and continue to operate the licence in Jharkhand . What is the deduction allowable u/s 35ABB to Jammer International Ltd. for the Assessment Year 2011-12?

Solution:

Previous Year: 2010-11 Assessee: Jammer International Ltd. Assessment Year : 2011-12

(a) u/s 35ABB, where part of the Telecom Licence is transferred and Net Consideration received on such transfer, is more than the expenditure remaining unallowed, the amount of deduction shall be computed as follows :

(i)	Unallowed amount as on 01.04.2010	= Total Expenditure Less Deduction for Financial Year 2009-10

		= ₹300 crores Less (₹300 crores / licence period of 12 years)
		= ₹300 crores less ₹25 crores= ₹275 crores.
(ii)	Net Consideration received	= ₹280 crores
(iii)	Remaining period of licence	= 11 years (including current previous year)
(iv)	Deduction u/s 35 ABB	= ₹ (224 crores less 56 crores) / 14 years
		= ₹ 12 crores.

(d) Sleepwell Ltd. is an existing Indian Company, which sets up a new industrial unit. It incurs the following expenditure in connection with the new unit:

	₹
Preparation of project report	***4,00,000***
Market survey	***5,00,000***
Legal and other charges for issue of additional capital required for the new unit	***2,00,000***
Total	***11,00,000***
The following further data is given:	
Cost of project	***30,00,000***
Capital employed in the new unit	***40,00,000***

What is the deduction admissible to the company under section 35D for Assessment Year 2011-12?

Solution:

The deduction admissible under section 35D is one-fifth of the expenditure incurred for the project. This works out to ₹ 2,20,000.

However, such expenditure should not exceed the following limits as prescribed in section (3):

(a) 5% of cost of the project or

(b) 5% of the capital employed in the new industrial undertaking (being a company) — whichever is higher.

In this case

(a) 5% of the project cost is ₹ 1,50,000 and

(b) 5% of the capital employed is ₹ 2,00,000.

Hence, the expenditure eligible for amortization under section 35D would be ₹ 2,00,000.

And the admissible deduction for the current assessment year is 2,00,000 × 1/5 = ₹ 40,000.

(e) Ms. Raveena , a retail trader of Kolkata furnishes the following Trading and Profit and Loss Account for the year ended 31st March, 2011 :

Trading and Profit and Loss Account for the year ended 31.03.2011

		₹		₹
To	Opening stock	90,000	By Sales	12,11,500
To	Purchases	10,04,000	By Closing Stock	1,80,000
To	Gross Profit	2,97,500		
		13,91,500		13,91,500
To	Salary	60,000	By Gross profit b/d	2.97,500
To	Rent and rates	36,000	By Income from UTI	2,400
To	Interest on loan	15,000	By Other Business receipts	6,100
To	Depreciation	1,05,000		
To	Printing & stationery	23,200		
To	Postage & telegram	1,640		
To	Loss on sale of shares (Short term)	8,100		
To	Other general expenses	7,060		
To	Net Profit	50,000		
		3,06,000		3,06,000

Additional Information:

(i) It was found that some stocks were omitted to be included in both the Opening and Closing Stock, the values of which were : Opening stock ₹ 9,000 ; Closing stock ₹ 18,000

(ii) Salary includes ₹10,000 paid to his brother, which is unreasonable to the extent of ₹ 2,000.

(iii) The whole amount of printing and stationery was paid in cash.

(iv) The depreciation provided in the Profit and Loss Account ₹ 1,05,000 was based on the following information :

The written down value of plant and machinery is ₹ 4,20,000. A new plant falling under the same Block of depreciation of 25% was bought on 1.7.2010 for ₹ 70,000. Two old plants were sold on 1.10.2010 for ₹ 50,000.

(v) Rent and rates includes sales tax liability of ₹ 3,400 paid on 7.4.2010.

(vi) Other business receipts include ₹ 2,200 received as refund of sales tax relating to 2008-09.

(vii) Other general expenses include ₹ 2,000 paid as donation to a Public Charitable Trust.

You are required to advise Ms.Raveena whether she can offer her business income under section 44AF i.e. presumptive taxation.

Solution:

Let us assume that the facts relate to previous year relevant to assessment year 2011-12 and accordingly compute the income of Ms.Raveena.

Computation of Business Income of Ms.Raveena for the Assessment Year 2011-12.

		₹	₹
Net Profit as per profit and loss account			50,000
Add :	Inadmissible expenses / losses		
	Under valuation of closing stock	18,000	
	Unreasonable salary paid to brother [section 40A(2)]	2,000	
	Printing and stationery paid in cash [Section 40A(3)] 100% of ₹ 23,200	23,200	
	Depreciation (considered separately)	1,05,000	
	Short term capital loss on shares	8,100	
	Donation to public charitable trust	2,000	
			1,58,300
			2,08,300
Less :	**Deductions items:**		
	Under valuation of opening stock	9,000	
	Income from UTI	2,400	
	Refund of sales tax [Taxable u/s.41(1) – No adjustment necessary]	Nil	11,400
	Business income before depreciation		1,96,900
Less :	Depreciation (see note 1)		66,000
		Business Income	**1,30,900**

Computation of business income as per section 44AF

As per section 44AF, the business income would be 5% of turnover = 12,11,500 × 5 /100 = ₹ 60,575 . The business income under section 44AF is **₹ 60,575.**

As the business income under section 44AF is lower than the business income as per the normal provisions of the Act, it is advisable for Ms. Raveena to offer the business income under section 44AF of the Act

Note 1

Calculation of depreciation

WDV of the block of plant & machinery as on the first day of previous year	4,20,000
Add : Cost of new plant & machinery	70,000
	4,90,000
Less : Sale proceeds of assets sold	50,000

WDV of the block of plant & machinery as on the last day of previous year	4,40,000
Depreciation @ 15%	66,000

Note : No additional depreciation is allowable as the assessee is not engaged in manufacture or production of any article.

Note 2

Since sales-tax liability has been paid before the due date of filing return of income under section 139(1), the same is deductible.

Question No.41

(a) Mr Sanjeev , non-resident in India, for the year ended on 31 March 2011. Compute his income from business and his gross total income for the assessment year 2011-2012.

Profit & Loss Account for the year ended 31.3.11

Dr. Cr.

Expenditure	₹	Receipts	₹
To Purchases	1,90,000	By sales less returns	5,69,300
To Salaries and wages	1,40,000	By bad debts recovered, allowed in earlier years by the Assessing Officer	2,000
To Trade expenses	1,000		
To Purchase of trademarks	50,000		
To Registration of trademarks	2,000	By interest on securities (gross)	892
To Rent, rates and taxes	5,000	By dharmada, mandir and gaushala receipts	2,000
To Discount allowed	1,500		
To Household expenses	6,000	By refund on income tax	1,008
To Advertisement bill paid in cash	30,000	By proceeds of life insurance policy on maturity	43,500
To Income tax	10,000		
To Sales tax paid	3,000		
To Purchased technical know-how	12,000	By Net Income from Business outside India	3,00,000
		By Profits from a business outside India (30% received in India)	2,00,000
To Expenses incurred on income tax and sales tax proceedings	15,100		
To Contribution paid to a trust for staff welfare	1,000		
To Staff welfare expenses incurred	700		
To OYT deposit	5,000		
To Postage and telegrams	1,300		
To Donation to National Defence Fund	2,500		
To Life insurance premium on the life of the assessee	2,000		
To interest on capital	5,000		
To interest on loan taken to pay income tax	500		
To wealth tax	500		
To audit fee	1,000		
To entertainment expenditure	30,000		
To gifts and present to five customers, costing ₹ 3,000 each	15,000		
To expenses on apprentice training	4,000		
To emergency risk insurance	200		

To	fire insurance premium for stock	200	
To	provision for bad and doubtful debts	3,000	
To	reserve for pecuniary losses	5,000	
To	net profit	5,76,000	
	Total	**11,18,700**	**11,18,700**

Solution :

Computation of Gross Total Income for the Assessment Year 2011-2012

Particulars	**₹**	**₹**
Income from Business		
Net profit as per profit and loss account		5,76,000
Add: Expenses inadmissible in computing profits and gains from business or profession:		
Purchase of trademarks	50,000	
Household expenses [Sec. 37(1)]	2,500	
Advertisement bills paid in cash [Sec. 37(1) r.w. Sec. 40A(3)] @ 100% of ₹ 30,000	30,000	
Income tax [Sec. 40(a)(ii)]	10,000	
Purchase of technical know-how	12,000	
Contribution to a Trust for staff welfare fund [Sec. 40A(9)]	1,000	
Donation for National Fund [Sec. 37(1)]	2,500	
Life Insurance premium [Sec. 37(1)]	2,000	
Interest on capital [Sec. 36(1)(iii)]	5,000	
Interest on loan to pay income tax [Sec. 37(1) r.w. 40{a)(ii)]	500	
Wealth tax [Sec. 40(a)(iii)]	500	
Provision for bad and doubtful debts [Sec. 37(1) r.w. 36(1)(vii)(2)]	2,000	
Reserve for pecuniary losses [Sec. 37(1)]	6,000	1,24,000
		7,00,000
Less: Income from Business outside India (assuming the business was set up and controlled from a place outside India and income earned had neither accrued in India or received in India during the previous year, hence deducted, as Mr. Sanjeev is a non-resident in India)		(3,00,000)
Less:		
(a) Income not relating to business or profession: [Sec. 28(i)] Interest on government securities	892	
(b) Dharada, mandir and gaushala receipts	2,000	
(c) Refund of income tax	1,008	
(d) Proceeds of L.I.P.: It is not a business receipt and exempt [Sec. 10(10)]	43,500	
(e) Depreciation on trademarks; 25% of ₹ 50,000	12,500	
(f) Depreciation on know-how: 25% of ₹ 12,000	3,000	59,400
Gross Income from business		**3,40,600**

<u>Less: Income from Business outside India</u> (assuming set-up and controlled from a place outside India, but a part of profits received in India- hence balance part non-taxable, as the assessee is a non-resident) 70% of 2,00,000 = 1,40,000, received outside India, is to be deducted as it is included in the above profits.	(1,40,000)
Net Income from Business	**2,00,600**

Statement of Gross Total Income for the Assessment Year 2011-12

1. Income from business	2,00,600
2. Income from other sources— Interest on securities	892
Gross Total Income	**2,01,492**

Note :

(i) Mr. Sanjeev is a non-resident in India for the previous year 2010-11. It is assumed that the business was set up and controlled from a place outside India and income earned had neither accrued in India nor received in India during the previous year, hence, does not form part of taxable income as per Income Tax Act,1961

(ii) Bad debts deducted in earlier years and now recovered, has been rightly included in the profit and loss account as business income [Sec. 41(4)].

(iii) Since payment of income tax is not deductible, its refund cannot be taxed as deemed profits [Sec. 41(1)].

(iv) OYT (own your telephone) deposit is an allowable deduction in the year in which it is paid.

(v) "Dharmada", "mandir" and "gaushala" receipts are customarily levies by trader for charitable purposes. Amount received under these heads are not trading receipts. The fact that the amount collected under these heads are spent for other purposes would amount to breach of trust but it would not affect the initial nature and character of the receipt. Such receipts are not taxable.

(vi) The assessee is entitled to the deduction in respect of donation to National Defence Fund under Sec. 80G.

(vii) Life insurance paid by assessee on his life is allowed to be deducted in imputing total income under Sec. 80C.

(viii) Any payment on advertisement exceeding ₹ 20,000 should be made by on account payee cheque or account payee bank draft. Since the payment has been made in cash, 100% of advertisement has been disallowed [Sec. 37(1) r.w. Sec. 40A(3)]. 'Crossed cheque' requirement has been amended by 'account payee' cheque. It is operative from 13-07-2008.

(ix) From the assessment year 2001-2002, intangible assets also fall within the scheme of depreciation. Hence, depreciation has been allowed on trademarks and know-how.

(x) Registration expense of trademarks is revenue expenditure, allowed under Sec. 37(1).

(b) Dr. Christin Pinto, is a renowned medical practitioner. He furnishes his Receipts and Payments account for the financial year 2010-2011:

Dr. ***Cr.***

Receipts		*₹*	*Payments*		*₹*
To balance b/d		*35,000*	*By Rent of clinics:*		
To Consultation fees :			*2008-2009*	*13,600*	
2008-2009	*25,000*		*2009-2010*	*44,800*	
2009-2010	*1,80,000*		*2010-2011*	*26,600*	*85,000*
2010-2011	*2,62,000*	*4,67,000*	*By electricity and water*		*12,000*
To Visiting fees		*1,30,000*	*By purchase of professional books*		*18,000*
To loan from bank for professional purpose		*2,25,000*	*By household expenses*		*97,800*
			By municipal taxes paid in respect of property		*12,000*
To sale of medicines		*1,73,000*			
To gift/presents from patients		*15,000*	*By purchase of motor car*		*2,45,000*

To remuneration from articles published in professional magazines	*26,000*	*By Telephone Charges*	*10,000*
		By fire insurance in respect of property	*3,200*
To rent from house property	*96,000*	*By surgical equipment*	*44,700*
To interest on Post Office National Savings Certificates	*17,000*	*By advance income tax*	*43,000*
		By salary and perquisite to compounder	*72,000*
To Royalty from co-authorship of "Training Manual''	*3,50,000*		
To Royalty from a Registered Patent	*4,00,000*	*By entertainment expenses*	*16,000*
		By purchase of X-ray machine	*2,00,000*
		By expenses of income-tax proceedings	*15,000*
		By life insurance premium	*25,000*
		By gifts to wife	*25,000*
		By interest on loan	*12,000*
		By loan a/c—instalment paid	*25,000*
		By donation to Political Party	*2,500*
		By car expenses	*36,000*
		By purchase of medicines	*1,05,000*
		By balance c/d	*79,800*
	19,34,000		***19,34,000***

Compute his income from profession and gross total income for the assessment year 2011-2012 after taking into account the following additional information:

1. *One-third of the car expenses are in connection with personal use.*
2. *Depreciation on motor car is allowed at the rate of 15%.*
3. *The construction of the house property was completed in March 2006. It was let out for residential purposes.*
4. *Expenses on income tax proceeding include ₹1,000 paid for the preparation of return of income.*
5. *Receipts outstanding from patients for 2010-2011, amount to ₹8,000.*
6. *Closing stock of medicines is ₹8,000 but its current market price is ₹12,000.*
7. *Books purchased include annual publications of ₹12,000, purchased in December 2010.*
8. *Interest paid on loan taken for higher –education of his son Rs.33,569, not accounted for .*
9. *Royalty received in convertible foreign exchange within the prescribed limit of six months (i) Rs.2,85,000 from co-authorship of training manual and (ii) Rs.3,50,000 from royalty of patents.*

Solution: **Computation of Income from Profession for the Assessment Year 2011-2012 :**

Particulars	₹	₹
Income from Profession:		
(1) From Advisory role / Practice in Medicine		
(a) Receipt from profession:		
1. Consultation fees: [Sec. 28(i)]: (₹ 25,000 + ₹ 1,80,000 + ₹ 2,62,000)	4,67,000	
2. Visiting fees [Sec. 28(i)]	1,30,000	
3. Sale of medicines [Sec. 28(i)]	1,73,000	
4. Gifts and presents from patients [Sec. 28(iv)]	15,000	
5. Remuneration from articles published in professional magazines [Sec, 28(i)]	26,000	8,11,000

(b) Closing stock of medicines			8,000
Total receipts and closing stock			8,19,000
Less: Expenses allowable:			
1) Rent of clinic [Sec. 30]		85,000	
2) Electricity and water [Sec. 37(1)]		12,000	
3) Salary of compounder [Sec. 37(1)]		72,000	
4) Entertainment expenses [Sec. 37(1)]		16,000	
5) Expenses on income-tax proceedings [Sec. 37(1)]		15,000	
6) Interest on loan [Sec. 37(1)(iii)]		12,000	
7) Purchase of medicines [Sec. 37(1)]		1,05,000	
8) Car expenses [Sec. 37(1)] (2/3 x ₹ 36,000)		12,000	
9) Depreciation on professional books :			
(i) Annual publications: 12,000 × 100% × 50%		6,000	
(ii) Other books: 6,000 × 60%		3,600	
10) Depreciation on car [Sec. 32 r.w. Sec. 38] : 15% of 2,45,000 × 2/3		24,500	
11) Depreciation on plant and machinery:			
(i) X-ray machine	2,00,000		
(ii) Surgical equipment	44,700		
Depreciation @ 15% of	2,44,700	36,705	
12) Telephone Charges		10,000	(4,09,805)
Income from Profession (from practice in medicine)			**4,09,195**
Add: Income from Royalty from co-authorship of Training Manual			3,50,000
Add: Income from Royalty of Patents (Registered)			4,00,000
Total Income from Profession			**11,59,195**
Add: Income from House Property :			
Gross annual value on the basis of rental valuation		96,000	
Less*:* Full municipal taxes paid by the owner		12,000	
Net annual value		84,000	
Less: Statutory deduction: 30% of net annual value		25,200	
		58,800	
Income from House Property			58,800
Gross Total Income			**12,17,995**
Less: Deduction u/s 80C (LIC premium paid)			(25,000)
Less: Deduction u/s 80 E (interest on loan paid for higher education)			(33,569)
Less: Deduction u/s 80GGC (actual amount of donation paid to political party)			(2,500)
Less: Deduction u/s 80QQB (for royalty income on books other than text books)			
Lower of :			
(i) 100% of such income to the extent brought into India within six months in convertible foreign exchange			
= 100% of Rs.2,85,000 (Actual receipt of Rs.3,50,000 is not considered)			
(ii) Maximum Limit = 3,00,000			(2,85,000)
Less: Deduction u/s 80RRB (for royalty income on patents)			
Lower of :			
(i) 100% of such income to the extent brought into India within six months in convertible foreign exchange			

=100% of 3,50,000 (not to consider Rs.4,00,000 the actual income)	
(ii) Maximum limit = 3,00,000	(3,00,000)
Total Income	**5,71,926**
Total Income rounded off u/s 288A	**5,71,930**

Notes:

1. Purchase of motor car is capital expenditure. Hence, it is not deductible. Depreciation has been allowed on motor car.
2. Plant includes books and surgical equipment. Depreciation on professional books is allowed @ 60% but annual publications are written off @ 100%. However, as annual publications have been put to use for less than 180 days during the year, depreciation has been allowed @ 50%. The assessee can claim depreciation on surgical equipment at general rate.
3. Contribution of articles to periodicals and magazines constitutes income from vocation of the assessee.
4. Expenses in income-tax proceedings are wholly deductible [Sec. 37(1)].
5. One-third of car expenses and proportionate deprecation in respect of motor car have been disallowed as they are in connection with the personal use of the assessee.
6. Interest on Post Office National Saving Certificates is exempt from income tax [Sec. 10(15)].
7. Profits and gains of the business or profession are computed according to the method of the accounting regularly followed by the assessee (Sec. 145). Since the assessee has adopted cash system of accounting. "Income" is taxable on receipt basis and "expenditure" is allowed to be deducted on payment basis, irrespective of the previous year to which the receipt of payment belongs. Receipts outstanding for the previous year 2010-2011 will not be taken into consideration.
8. Profits and gains of business profession is required to be computed according to the system of accounting regularly followed by the assessee but if the income cannot be properly deduced therefrom, the Assessing Officer may compute the income on such basis and in such manner as he may deem fit [Proviso to Sec. 145(1)].
   In view of this, the Assessing Officer may take into account the value of closing stock while determining profits even under cash system of accounting
9. Donation to Political Party is allowed to be deducted from gross total income under Sec. 80GGC.
10. It is assumed that the assessee has furnished the prescribed forms i.e. Form 10CCD and Form 10H for claiming deduction u/s 80QQB and Form 10CCE and Form H for claiming deduction u/s 80RRB.

(c) The firm of M/s Amal & Associates is engaged in the business of growing and manufacturing tea. The Profit & Loss Account for the year ended 2010-2011 is given as follows:

Dr. ***Cr.***

Particulars	***₹***	***Particulars***	***₹***
Cost of growing and manufacturing tea	*40,00,000*	*Sales*	*95,00,000*
Salaries and wages	*15,00,000*	*Stock*	*13,50,000*
Advertising	*5,00,000*		
Entertainment expenses	*1,00,000*		
Travelling expenses	*3,00,000*		
Fine and penalties	*50,000*		
Cost of patent rights	*6,00,000*		
Expenses on scientific research	*6,00,000*		
General and sundry expenses	*2,00,000*		
Net profit	*30,00,000*		
	1,08,50,000		***1,08,50,000***

Additional information:

(i) Advertising includes payment of ₹ 2,00,000 made to a political party for insertion of advertisement in party's journal. The payment has been made by bearer cheque,

(ii) *Travelling expenses include a visit of the director to UK for 10 days (including 2 days for travelling). Five days were utilized for business purpose. Permission for foreign exchange was granted for ₹ 50,000. Total expenditure on the visit is ₹ 1,00,000 (including air fare of ₹ 40,000).*

(iii) *Expenses on scientific research include:*

(a) *Purchase of land ₹ 1,50,000*

(b) *Contribution to Agricultural Research Institute, New Delhi which is a National Laboratory ₹ 20,000.*

(c) *Contribution to Bhaba Atomic Research Centre (an approved research association)for statistical research, which is not related to business ₹ 30,000.*

(iv) *Refund of custom duty, deducted in the previous year, 2008-2009, amounting to ₹ 50,000, has not been credited to the profit and loss account.*

(v) *Sundry expenses include a contribution of ₹ 60,000 to Kolkata Municipal Corporation for undertaking a Drinking Water Project for slum-dwellers. The Project has been approved by National Committee but KMC has not issued any certificate indicating the progress of the project.*

(vi) *A deposit of ₹ 12,00,000 was made in instalments with National Bank for Agriculture and Rural Development (a) ₹ 4,00,000 in September 2010, (b) ₹ 6,00,000 in July 2011 and (c) ₹ 2,00,000 in December 2011. It has not been included in the profit and loss account. Date of submitting return of income 30/09/2011.*

(vii) *(a) W.D.V. of machinery on 01-04-2010 (Rate of depreciation 15%) ₹15,00,000*

(b) Machinery purchased in December 2010 for scientific research ₹ 5,00,000

(c) Purchase of five small drier machine, each costing ₹10,000

(d) Sale price of an old machinery (Rate of depreciation 15%) ₹ 6,00,000

(viii) *Lump sum payment of ₹ 5,00,000 was made to acquire a licence regarding technical information to improve tea-flavour. It has not been charged to P/L a/c.*

Compute the taxable business profits for the assessment year 2011-2012.

Solution :

Computation of Business Profits for the Assessment Year 2011-2012

Particulars	**₹**	**₹**
Net profit as per Profit & Loss Account		**30,00,000**
Add: Inadmissible Expenses:		
1. Advertisement payment to a political party [Sec. 37(2B)]	2,00,000	
2. Travelling outside India [Sec. 37(1)]. Proportionate expenses	22,500	
of foreign travel, (excluding air fare) not relating to business : (60,000 x 3/8)		
3. Fine and penalties	50,000	
4. Cost of patent rights	6,00,000	
5. Expenditure on scientific research (Sec. 35): Purchase of land	1,50,000	
6. Contribution to Bombay Municipal Committee (Sec. 35 AC):	60,000	10,82,500
Since the Certificate indicating progress in the prescribed		40,82,500
form has not been issued, no deduction is allowed.		
Add: Deemed profit: Refund of Customs Duty, deducted in earlier		50,000
years, not credited in the profit and loss a/c [Sec.41(1)]		

Less: Admissible expenses:			
Capital expenditure on scientific research [Sec.35(1)(iv)(2)]		4,00,000	
Depreciation on Patent rights @ 25% of ₹ 6,00,000		1,50,000	
Depreciation on know-how: @ 25% of ₹ 5,00,000		1,25,000	
Depreciation on Machinery:			
WDV as on 01/04/2010:	15,00,000		
Add: Purchase of driers	50,000		
	15,50,000		
Less: Sale of Old Machinery	5,00,000		
WDV as on 31/3/2011	**10,50,000**		
Depreciation @ 15% on ₹ 10,50,000			
Weighted Deduction for scientific research:		1,57,500	
(i) National Laboratory: @ 125% of ₹ 20,000= ₹ 25,000 – ₹ 20,000 = ₹ 5,000			
(ii) Bhaba Atomic Research Laboratory: @ 125% of ₹ 30,000 = ₹ 37,500 – ₹ 30,000 = ₹ 7,500			
Therefore, total deduction ₹(5,000 + 7,500)		12,500	8,45,000
Composite Profits before making deduction u/s 33AB			**32,87,500**
Less: Deduction u/s 33AB, for Deposit with NABARD			
Least of the followings:			
(i) Deposit of ₹ 10,00,000 (within the due date of submission of return)			
(ii) 40% of Business Profits: 40% of ₹ 32,87,500 = ₹ 13,15,000			10,00,000
Composite Profits after deduction u/s 33AB			22,87,500
Apportionment of profits into agricultural income and business income (As per Rule 8)[since the assessee is engaged in the business of growing and manufacturing tea: 40% of ₹ 22,87,500 =			**9,15,000**

(d)State whether the provisions or Sec. 41(1) of the Act can be applied to a case, where refund of excise duty has been obtained by the assessee on the basis of a decision of the CEGAT and where the matter has been taken up in further appeal to the Court by the Central Excise Department.

Answer: This question has been answered by the Apex Court in Polyflex (India) Pvt. Ltd. *v.* CIT [2003] 257 ITR 343. (SC)

The refund of excise duty pursuant to the decision of the CEGAT would be subject to tax by virtue of Sec. 41(1) and it is not necessary that the revenue should await the verdict of a higher court.

(e) In the course of an assessment proceeding, the Assessing Officer enhanced the value of the closing stock and added the difference to the total income. In the assessment year subsequent to this, the assessee wants the Assessing Officer to enhance, by the same amount, the value of the opening stock of the year. Discuss the validity of the claim.

Answer: The value of the closing stock of the preceding year must be the value of the opening stock of the succeeding year. Hence, if the value of closing stock at the end of a year is enhanced, the enhanced value should be taken as the value of the opening stock of the next year for the purpose of income tax.

The claim of the assessee in this case is, therefore, valid.

Question No. 42

(a) What would be your advice regarding admissibility of the following items of expenditure in computing the business income:

(i) A donation of ₹ 1 lakh made to a University for starting a laboratory for scientific research (i) relating to the assessee's business, (ii) not relating to the assessee's business.

(ii) Travelling expenses include a sum of ₹15,000 incurred by a director in travelling abroad for negotiating purchase of plant and purchase of plant and machinery.

(iii) Amount payable as damages to Government on account of shortfall in export target.

(iv) Overdraft from bank for payment of income tax: interest charged by the bank is ₹ 20,000.

(v) Payment of interest of ₹40,000 on monies borrowed from bank for payment of dividends to shareholders.

(vi) ₹ 12,000 paid for shifting of business from the original site to the present place which is more advantageously located.

(vii) Retrenchment compensation of ₹4 lakh paid to the workmen on the closure of one of the units.

(viii) Fees paid to the Registrar of Companies for bringing about a change in the Memorandum and Articles of Association in regard to issue of Equity.

Answers:

(i) The donation has been made to University to be used for scientific research for starting a laboratory. If the University is approved for the purpose of Sec. 35(1)(ii), then irrespective of the consideration whether the scientific research is related to assessee's business or not, deduction could be claimed @ 125% of amount paid. If it isnot approved, donation could not be claimed as a deduction under Sec. 35 in the computation of business income. However, the assessee could claim deduction from Gross Total Income under Sec. 80G, if the same is eligible.

(ii) Travelling expenses incurred by the director for negotiating the purchase of plant and machinery is a capital expenditure and hence to be disallowed.

(iii) The payment is not for any infraction of law but for failure to reach a target undertaken by the company being payment made wholly in the course of business, it is deductible.

(iv) Interest on overdraft taken to pay income tax is not allowable under Sec. 36(1)(iii).

(v) Interest on borrowings utilised for payment of dividend is allowable under Sec. 36(1)(iii).

(vi) Shifting expenses of business premises resulting in an expenditure of enduring benefit is a capital expenditure and is not allowable.

(vii) Retrenchment compensation payable to workmen on the total closure of a business cannot be allowed as deduction as the expenses are not incurred for the purpose of carrying on of its business. When, however, the tax-payer closes one of its units and continues to carry on the same business as before, the compensation will be admissible under Sec. 37(1).

(viii) Fee paid to Registrar of Companies for bringing about change in memorandum and articles of association is a capital expenditure, where it relates to issue of equity shares. Where alterations are warranted by the changes made in the Companies Act, the expenses are allowable.

(b) A company engaged in the manufacturing of fertilizer products, commenced its business on 01.04.2010. During the financial years 2007-2008 to 2009-2010 it had incurred ₹4.00 lakh annually as expenditure on salaries and purchase of raw material for the purpose of research connected with its business. During the previous year 2010-2011 incurred on scientific research, revenue expenditure of ₹3.00 lakh and a capital expenditure of ₹4.50 lakh on purchase of plant and machinery. Since the result of the research was unsuccessful, the company sold it its plant and machinery on 31.12.2010 for ₹8.00 lakh and closed its research activity. Compute the admissible deduction under Sec. 35 for the assessment year 2011-2012.

Solution:

Computation of deduction u/s 35 for Expenditure on scientific research

Particulars	₹	₹
Expenditure incurred during the earlier 3 years on salaries and purchase of raw material for the purpose of research connected with the business — fully allowed in the year of commencement of business by by virtue of Explanation to Sec. 35(1)(i) : [₹ 4,00,000 × 3]		12,00,000
Revenue expenditure on scientific research incurred during the previous year 2010-11	3,00,000	
Capital expenditure on scientific research incurred during the previous year 2010-11	4,50,000	
	7,50,000	
Total Weighted deduction © 150% on ₹ 7.50 lakh u/s 35(2AB)		11,25,000
Admissible deduction u/s 35 for the AY 2011-2012		23,25,000

(c) A company engaged in pharmaceuticals manufacturing, debited to its profit and loss account a sum of ₹50,000, being the interest on loan of ₹5,00,000 taken for financing its expansion scheme. The plant and machinery purchased for the project with the loan were not received during the year and those were still in transit at the end of the year. A sum of ₹ 4,000 was paid to a broker who arranged the loan. Discuss the admissibility of the interest.

Answer : Interest paid in respect of capital borrowed for the purposes of business or profession is admissible u/s 36(1)(iii). As per the Proviso to Sec. 36(1)(iii) inserted by the Finance Act, 2005, from assessment year 2006-2007, interest paid in respect of capital borrowed for acquiring an asset for extension of existing business or profession (whether capitalised in the books of account or not) for any period beginning from the date on which the capital is borrowed for acquisition of the asset till the date on which such asset is first put to use cannot be allowed as deduction. In this case, the asset has not been put to use till the end of the previous year. Therefore, interest of ₹ 50,000 is not be allowed as deduction. However, the cost of the asset is to be increased by the amount of interest and depreciation is admissible on enhanced cost [Proviso to Sec. 36(1)(iii)].The deduction brokerage of ₹ 4,000 paid to a broker for arranging the loan there is a bit controversial.

One view is that definition of the term "interest" u/s 2(28A) includes service fee or other charges in respect of monies borrowed, "brokerage" can be considered to fall under the scope of the term "other charges" and is therefore included under the definition of interest. Hence, brokerage of ₹ 4,000 for arranging the loan should be treated in the same way as interest. As per the other view, where brokerage or commission paid to an agent for arranging a loan for the purpose of business is not allowable as deduction u/s 36(1)(iii), but is allowable under Sec. 37(1). As per this view, ₹ 4,000 paid to a broker for arranging a loan is allowable as a deduction under Sec. 37(1).

(d)Apporva Shantilal filed his return of income for the assessment year 2010-11 on 29-1-2011 showing a loss of ₹ 11,42,000. The same represented unabsorbed depreciation of foundry business of ₹ 9,00,000 and the balance loss in foundry business. During the previous year relevant to the assessment year 2011-12, two businesses are carried on by him – a steel rolling mill at Kanpur and a fertilser manufacturing company at Cuttack. The foundry business was not carried on (discontinued). Separate books of account are being maintained for the two business carried on at different places. The following information is furnished :

Relating to Steel Rolling Mill at Kanpur

	Particulars	₹
(a)	Business Income prior to depreciation and following adjustments	5,60,000
(b)	Opening WDV of factory building	6,20,000
	This building, constructued 5 years back, was sold for	10,28,000
(c)	Machinery (entitled to depreciation @ 15%) Opening WDV	3,20,000
	All machines sold in March 2011 for	5,10,000
(d)	Opening WDV of Motor Car	1,20,000

Relating to Fertilizer unit at Cuttack

	Particulars	₹
(a)	Factory building (purchased in March, 2006) Opening WDV	2,80,000
(b)	New Machinery (Rate of depreciation 15%) purchased in June, 2010	50,00,000
(c)	Jeep Opening WDV	1,80,000
(d)	Furniture Opening WDV	80,000
(e)	Business income prior to above adjustments	7,16,000

Compute the total income of Mr. Apoorva Shantilal for the A.Y. 2011-12

Solution :

Computation of Total Income of Mr. Apoorva Shantilal for the A.Y. 2011-12

Particulars		₹
Profits and gains of business		
Profits prior to depreciation of Steel rolling mill	5,60,000	
Profits prior to depreciation of Fertilizer unit	7,16,000	
	12,76,000	
Depreciation for the year (Note - 1)	7,74,500	
	5,01,500	
Less : Set-off of Brought Forward Unabsorbed		
Depreciation u/s 31(2) – related	5,01,500	Nil
Capital Gains		
Short-term Capital Gain on Sale of Building (Note-1)	1,28,000	
Less : Set-off of Brought forward Unabsorbed		
Depreciation for the A.Y. 2010-11		
restrocted to the amount of profits	1,28,000	Nil
Gross Total Income		**Nil**
(–) Deduction under Chapter VIA		Nil
Total Income		**Nil**

Note : The assessee can carry forward ₹ 4,08,500 being unabsorbed depreciation for set off against income in the future years.

Working Note :

1. Computation of Depreciation and Short Term Capital Gains

Particulars	Block-I Factory Building	Block-II Furniture & Fixture	Block-III Plant & Machinery	Block-IV Motor Vehicles
Rate of Depreciation	10%	10%	15%	15%
Opening WDV				
— Kanpur	6,20,000	Nil	3,20,000	1,20,000
— Cuttack	2,80,000	80,000	Nil	1,80,000
Total opening WDV	9,00,000	80,000	3,20,000	3,00,000
Add : Additions during the year	Nil	Nil	50,00,000	Nil

		9,00,000	80,000	53,20,000	3,00,000
Less :	Sales during the year	10,28,000	Nil	5,10,000	Nil
	Short term Capital Gains	1,28,000	N/A	N/A	N/A
Net Book Value		Nil	80,000	48,10,000	3,00,000
Less :	Depreciation for the year	Nil	8,000	7,21,500	45,000
Closing WDV		Nil	72,000	40,88,500	2,55,000

Total Depreciation ₹ (8,000 + 7,21,500 + 45,000) = ₹ 7,74,500

2. Unabsorbed Depreciation – to be carried forward from Assessment Year 2010-11 ₹ 2,70,500 (after Set-off of ₹ 6,29,500 against income during the year) relating to Assessment Year 2010-12.

3. Unabsorbed Business loss of ₹ 2,42,000 (= ₹ 11,42,000 – 9,00,000) of A.Y : 2010-11 cannot be brought forward for setting off as the return of income for that Assessment Year was filed after due date of furnishing return u/s 139(1).

(e) A firm comprising of four partners A, B, C and D carrying on business in partnership, sharing profits/losses equally shows a profit of ₹2,00,000 in its books after deduction of the following amounts for the year :

Particulars	***₹***
(i) Remuneration to partner 'A' who is not actively engaged in business	***60,000***
(ii) Remuneration to partners 'B' & 'C' actively engaged in business	
Partner 'B'	***80,000***
Partner 'C'	***90,000***
(iii) Interest to partner 'D' on loan of ₹1,50,000	***36,000***

The deed of partnership provides for the payment of above remuneration and interest to partners. You are required to work out the taxable income of the firm as well as partners for assessment year 2011-12.

Solution : Computation of Income under the head Profits and Gains of Business or Profession for the A.Y. 2011-12

Particulars			**₹**
Net profit as per P/L A/c			2,00,000
Add : **Inadmissible expenses —**			
(i) Remuneration to A (not an active partner)			60,000
– disallowed u/s 40(b)			
(ii) Remuneration to B and C			1,70,000
– (considered separately [₹ 80,000 + 90,000]			
(iii) Interest paid to D on Loan advanced			36,000
Net Profit before Interest and Remuneration to Partners			**4,66,000**
Less : Maximum Permissible Interest u/s 40(b)			
@ 12% on Loan from D = ₹ 1,50,000 × 12% p.a.			18,000
Book Profit			**4,48,000**
Less : Maximum Permissible Remuneration to **B** and **C** u/s 40(b)			
(i) upto ₹ 3,00,000 – ₹ 1,50,000 or 90% of Book profits, whichever is higher	= 2,70,000		
On balance of Book Profits: 60% of Book Profits= 60% of 1,48,000	= 88,800		
	3,58,000		
(ii) Actual Remuneration paid		1,70,000	
Lower of (i) & (ii), allowed as deduction			1,70,000
Taxable Income			**2,78,000**

Taxable income of the partners

Particulars	A	B	C	D
Remuneration	Nil	80,000	90,000	Nil
Interest	Nil	Nil	Nil	18,000
Taxable income	Nil	80,000	90,000	18,000

Working notes :

(1) In the case of a firm, remuneration to a partner who is not a working partner is not eligible for deduction. In the case of working partners the remuneration paid is disallowed if it exceeds the limit prescribed u/s 40(b) with reference to "book profit".

Book working partners remuneration is worked out as under :

	₹
First ₹ 3,00,000 of the book profit @ 90%	2,70,000
On the balance ₹ 1,98,000 of book profit @ 60%	1,18,800
Total	**3,88,800**

(2) Any interest and salary to partners disallowed in the firm's case shall not be included in the total income of the partner and shall not be chargeable to tax in the partner's hands.

(3) Share of profits of the partners is exempt u/s 10(2A) of the Income-tax Act and therefore, not included in the partner's taxable income.

Question No.43

(a)X Ltd., carrying on business in manufacture and sale of textiles, showed a net profit of ₹10,50,000 in its Profit and Loss Account for the period ending March 31, 2011. On the basis of the following particulars noted from the company's accounts and ascertained on enquiry, compute, giving reasons, the total income of the company for the assessment year 2011-12. The company maintains books of account on the basis of mercantile system.

1. ***The general reserve account shows a credit of ₹2,75,000 under the head "Surplus on devaluation". The enquiries show that the company had exported textile to U.S.A. during the year 1995-96. The sale proceeds were placed in a separate bank account in U.S.A. which were utrlized for import of cotton from time to time After obtaining permission from the Reserve Bank of India, in January 2011 the company remitted to India a sum of ₹2 lakh, being the balance standing to its credit in the said bank account which included the above surplus realized on account of devaluation of the rupee in June 1996. The company claims that the said surplus is not taxable, firstly, on the ground that the said surplus did not relate to the previous year and secondly, the said surplus is not a trading receipt.***
2. ***The company had imported automatic looms under a special permission granted by the Textile Commissioner under the Cotton Textile (Control) Order, 1948. One of the conditions laid down while granting the permission was that the company should execute a bond in favour of President of India agreeing to export an agreed quantify of cloth and in default pay a sum calculated at the rate of 10 paise per metre to cover the shortfall. The company fell short of the target during the previous year as a result of which it was required to pay a sum of ₹40,000 towards the shortfall. The company has debited the said amount to "General expenses account".***
3. ***The company has set up a laboratory for conducting research in textile technology. It has incurred a capital expenditure of ₹ 1,00,000 for the said purpose. The amount is shown in the balance sheet us "Laborotory equipment account" but is claimed as deduction in the return of income for the assessment year 2011-12.***
4. ***The interest account includes payments amounting to ₹50,000 on deposits made by non-resident buyers of textile manufactured by the company. The said payments were made outside India without deduction of tax.***
5. ***The legal charge includes a sum of ₹60,000 paid to solicitors for framing a scheme of amalgamation of all other textile mill with the assessee-company. The scheme is approved by the Central Government in public interest.***

6. ***Travelling expenses include a sum of ₹ 1,25,000 being expenditure incurred by the directors of the company in connection with their tour to USA and UK for the purchase of new machinery for setting up a new plant for manufacture of caustic soda.***
7. ***₹1,00,000 (debited to profit and loss account) is paid to an approved Notional Laboratory with a specific direction that it shall be used for on approved scientific research programme.***

Solution :

		₹
Net profit as per Profit and Loss Account		10,50,000
Adiustments :		
Surplus arose on conversion of foreign currency into Indian currency (since foreign currency was kept for purchasing stock-in-trade, it will be revenue receipt)		(+) 2,75,000
Payment of ₹ 40,000 towards the shortfall in export (allowable as deduction since the payment is not penalty)		—
Capital expenditure on scientific research		(–) 1,00,000
Interest to non-residents [not deductible under section 40(a) since payment was made without deducting tax at source]		(+) 50,000
Legal charges for framing amalgamation scheme [deductible u/s 35DD in five years)		(+) 48,000
Travelling expenses of directors [section 37(1) does not permit a deduction of capital expenditure]		(+) 1,25,000
Weighted deduction under section 35(2AA) in respect of ₹ 1,00,000 paid to a National Laboratory [amount deductible is 125% of ₹ 1,00,000,		(–) 25,000
(–) Amount	1,25,000	
Show in P/L A/c	1,00,000	
Expenses not debited ealier	25,000	
Net Income		**14,23,400**

(b) D Ltd., carrying on business in manufacture, sale and export of tyres, tubes and accessories, has disclosed a net profit of ₹ 21,00,000 in its P & L account for the period ending March 31, 2011. On the basis of the following particulars furnished by the company and ascertained on inquiry, compute, giving reasons, its total income for the assessment year 2011- 12. The company follows the mercantile system of accounting :

(i) ***A sum of ₹ 20,000 is debited to compensation account. The company had placed an order for machinery to manufacture tyres with a UK company. However, due to a sudden increase in the price of machinery by the vendor, the assessee, had to cancel the contract, in lieu of compensation The company claims the said amount as deduction on revenue account or, in the alternate, as loss under the head "Capital gains" as the payment was mode towards extinguishment of right to acquire a capital asset.***

(ii) ***"Loss on export of accessories account" shows a debit of ₹4 lakh. In this connection it is explained that two trucks belonging to the company carrying tyres accessories were intercepted at the international border and seized by customs authorities for illegal export. The goods were confiscated by the customs authorities and a fine of ₹2 lakh was levied. The company claims the value of confiscated goods as a trading loss under section 28 and the payment of the fine of ₹2 lakh which is debited to rates and taxes account as on expenditure in the course of business under section 37(1).***

(iii) ***The company had set up a separate unit for manufacture of plastic tubes at Bangalore in 1995. The said unit suffered heavy losses. As a result the same was closed down and the plant and machinery were sold away. The company, however, claims unabsorbed depreciation amounting to ₹8 lakh in its return of income. It is not debited to the profit and loss account.***

(iv) ***During the previous year 1995-96, the assessee-company acquired 5,000 shares of E Ltd., on Indian company, as a result, the entire share capital of the said company is now held by the assessee-company. In May 2010, the assessee-company sold to E Ltd. plant and machinery for ₹6,00,000. The actual cost is ascertained at ₹4,00,000 and written down value at ₹1,50,000.***

(v) ***In the years 2000-2001 and 2001-02, the Government of India arranged exports of tyres and tubes through the Federation of Tyre Dealers of which the company was a member. The exports which were made to For Eastern countries resulted in loss which was shared by all members including the company. The Federation thereafter took up the questions of reimbursement of losses with the Government, which after protracted discussion and correspondence agreed to grant a subsidy calculated at a certain percentage of exports. The assessee-company received its share of subsidy amounting to ₹ 3 lakh in the previous year. The amount stands credited to the "Capital reserve account" and claimed as exempt.***

Solution : **Computation of Total Income for A.Y. 2011-12**

	₹
Net profit as per Profit and Loss Account	21,00,000
Adjustments :	
(i)Payment of compensation [not allowable since payment is in the nature of capital expenditure, being made to avoid unnecessary investment in capital asset ; nor can it be allowed as capital loss as there is no transfer of capital asset]	(+) 20,000
(ii)Loss arising out of confiscation of stock by customs authorities [not deductible by virtue of Explanation to section 37(1)]	(+) 4,00,000
(iii)Fine [not allowable as penalty paid for breach of law is not normal incidence of business	(+) 2,00,000
(iv)Unabsorbed depreciation of a unit closed before the commencement of previous year [allowable as deduction]	(–) 8,00,000
(v)Recovery of loss [taxable under section 41 (1)]	(+) 3,00,000
(vi)Compensation paid on voluntary retirement of employees [under section 35DDA, one-fifth of such compensation is deductible in the year in which the expenditure is incured and the balance is deductible in the next four years; section 35DDA is applicable even if the voluntary retirement scheme has not been framed in accordance with the guidelines given under section 10(10C);	(+) 22,40,000
Business Profit	44,60,000
Capital gain on sale of machinery to wholly owned subsidiary company [since transferee-company is wholly owned Indian subsidiary company of the assessee, the transaction is not treated as transfer under section 47(iv) and surplus arising on transfer is not taxable as capital gain]	—
Net Income	**44,60,000**

(c) Bharat, owner of Great India Roadways, furnishes following details for the A.Y. 2011-12.

	₹
Revenue from customers	***31,00,000***
Less : Expenses	
Rent of office premises	***1,80,000***
Rent of godown	***2,40,000***
Truck Driver salary	***5,00,000***
Allowance to truck driver	***1,20,000***
Cost of petrol, diesel, etc	***7,50,000***
Other expenses other than depreciation	***2,00,000***
Income from business without charging depreciation	***11,10,000***

Additional Information :

Great India Roadways have following details of its assets —

Assets	*Written down value as on 1.4.2010*
Office Premises	*₹2,50,000*
Machinery block (30%) consists of —	*₹20,00,000*
— 2 Diesel engine trucks of 13000 kgs each	
— 2 Diesel engine trucks of 10000 kgs each	
— 1 Petrol engine truck of 12000 kgs	

During the year, he purchased 2 medium-size-truck (petrol engine) for ₹3,50,000 each on 13.7.2010. However, 1 petrol engine truck of 12,000 kgs was sold on 9.9.2010 for ₹1,00,000.

Compute his income under the head Profits & gains of business or profession.

Solution :

Computation of Profits & gains of business or profession of Shri Bharat for the A.Y. 2011-12

Particulars	**Amount**
Net profit as per Profit and Loss A/c	11,10,000
Less : **Expenditure allowed but not debited to P & L A/c**	
Depreciation u/s 32 (Note)	8,05,000
Profits & gains of business or profession	**3,05,000**

Note : Computation of depreciation allowed u/s 32

Particulars	**Details**	**Amount**
Block 1 : **Office Premises @ 10%**		
W.D.V. as on 1.4.2010	2,50,000	
Add : Purchase during the year	Nil	
	2,50,000	
Less : Sale during the year	Nil	
	2,50,000	
Depreciation @ 10% on ₹ 2,50,000		25,000
Block 2 : **Trucks @ 30%**		
W.D.V. as on 1.4.2009	20,00,000	
Add : Purchase during the year	7,00,000	
	27,00,000	
Less : Sale during the year	1,00,000	
	26,00,000	
Depreciation @ 30% on ₹ 26,00,000		7,80,000
Depreciation allowed u/s 32		8,05,000

Alternative II : Computation of income u/s 44AE

No. of vehicle	**Type of goods carriage**	**Month including part of month**	**Details**	**Income ₹**
2 Diesel engine trucks of 13000 kgs each	Heavy	12	3500×12×2	84,000
2 Diesel engine trucks of 10000 kgs each	Other vehicle	12	3150×12×2	75,600
1 Petrol engine truck of 12000 kg	Other vehicle	6	3150×6×1	18,900
2 medium size truck	Other vehicle	9	3150×9×2	56,700
	Profit and gains of business or profession		**2,35,200**	

Income of the assessee under the head Profits & gains of business or profession shall be ₹ 2,35,200 u/s 44AE.

(d) During the previous year 2010-11, profit and loss account of Shri Amarnath, proprietor of Free Bird Enterprises engaged in the business of garments, shows profits of ₹4,50,000. With the following information, compute his taxable income from business -

(i) Interest on capital ₹5,000

(ii) Purchases include goods of ₹42,000 from his younger brother in cash. However, market value of such goods is ₹ 45,000.

(iii) ***Interest paid outside India ₹1,00,000 without deducting tax at source.***

(iv) ***Penalty paid to local government for non-filing of sales tax return ₹5,000***

(v) ***Penalty paid to customer for non-fulfilling of order within time ₹10,000***

(vi) ***Bad debts ₹1,00,000. Money has been advanced for purchase of Building.***

(vii) ***Revenue expenditure on promoting family planning among employees ₹10,000.***

(viii) ***Premium paid on health of employees ₹6,000 in cash***

(ix) ***Premium paid on health of his relatives ₹6,000 in cheque***

(x) ***Employer's contribution to RPF ₹ 12,000. One-half of the amount is paid after due date as per relevant Act but before 31.3.2010***

(xi) ***Employees contribution to RPF ₹10,000. ½ of the amount is paid after due date as per relevant Act.***

(xii) ***Interest on late payment of sales tax ₹1,000 (yet to be paid)***

(xiii) ***Interest on loan from State Bank of India ₹10,000 (₹5,000 is not paid till due date of filing of return)***

(xiv) ***Interest on late refund from income tax department ₹500***

(xv) ***Sale includes sale to Raj ₹10,000. (Cost of such goods ₹8,000; Market value of such goods ₹12,000)***

(xvi) ***He received ₹80,000 from a debtor at a time in cash.***

(xvii) ***Recovery of bad debt ₹10,000 (out of which ₹8,000 was allowed as deduction during AY. 2006-07)***

(xviii) ***Depreciation (being not debited in accounts) ₹20,000 allowed as deduction u/s 32***

Solution:

Computation of Profits and gains of business or profession of Shri Amarnath for the AY. 2011-12

Particulars	**Note**	**Details**	**Amount**
Net profit as per Profit and Loss account			4,50,000
Add : **Expenditure disallowed but debited in P &L A/c**			
Interest on capital	1	5,000	
Interest paid outside India without deducting tax at source	3	1,00,000	
Penalty paid to local government for non-filling of sales-tax return	4	5,000	
Bad debt	6	1,00,000	
Premium paid on health of employees in cash	8	6,000	
Premium paid on health of his relatives in cheque	9	6,000	
Employees contribution to RPF	11	5,000	
Interest on loan from State Bank of India	13	5,000	
Cost of goods sold to himself	14	8,000	2,40,000
			6,90,000
Less : Expenditure allowed but not debited in P & L A/c			
Depreciation u/s 32		20,000	
Less : Income not taxable but credited to P & L A/c			
Sales to himself (goods withdrawn for personal purpose)	14	10,000	
Recovery of bad debts	15	2,000	
Less : Income taxable under other head but credited to P & L A/c			
Interest on late refund from income tax department	16	500	32,500
Profits and gains of business or profession			**6,57,500**

Notes:

(i) Interest on capital to proprietor is not allowed as no one can earn from a transaction with himself. The provider of loan and receiver of loan are same hence does not involves any actual expenses.

(ii) Any unreasonable payment to relative is disallowed u/s 40A(2). Hence, ₹3,000 is disallowed. Since cash payment towards allowed expenditure (i.e. ₹19,000) does not exceed ₹ 20,000, hence provision of sec. 40A(3) is not applicable.

(iii) Any salary paid outside India without deducting tax at source is disallowed u/s 40(a).

(iv) Any payment made for infringement of law is disallowed.

(v) Payment made for non-fulfilling of contract is not a payment for infringement of law Hence, allowed u/s 37(1).

(vi) Bad debt is allowed only when such debt has been taken into account as income of previous year or any earlier previous year(s) [Sec. 36(1)(vii)]. Since, the debt is in respect of purchase of a building, which was not considered as income of any previous year, hence it is disallowed.

(vii) Any expenditure for promoting family planning is allowed to company assessee [Sec. 36(1)(ix)]. However, such expenditure (revenue in nature) incurred by assessee other than company shall be allowed u/s 37(1).

(viii) Payment of insurance premium on health of employees in cheque is allowed u/s 36(1)(ib).

(ix) Payment of insurance premium on health of relative is not related to business, hence disallowed.

(x) Employer's contribution towards RPF is allowed if payment is made before due date of filing of return irrespective of fact that such payment was made after due date prescribed in the relevant Act.

(xi) Any sum received from employees as their contribution towards RPF is allowed only when such sum has been credited to such fund within the due date prescribed in the relevant Act [Sec. 36(1)(va)].

(xii) Interest on late payment of sales tax is not a penalty but compensatory in nature. Hence, it is allowed u/s 37(1) Further such interest is not governed by the provisions of sec. 43B.

(xiii) Any interest payable to any scheduled bank is allowed on cash basis [Sec. 43B]. Hence, unpaid amount is disallowed.

(xiv) Any expenditure of personal nature is not allowed. Further, no one can earn from a transaction with himself. Hence, sale made to himself is not treated as income.

(xv) Bad debt recovery is treated as income in the year of recovery to the extent of bad debt allowed in the earlier year [Sec. 41(4)]

(xvi) Interest on late refund of income tax is taxable under the head 'Income from other sources'.

(xvii) Receipt from debtor ₹ 80,000 in cash is not attracted by provision of sec. 40A(3).

(e) Discuss the admissibility or otherwise of any five of the following claims in connection with assessment to income-tax. They do not necessarily relate to the same assessee:

(i) An expenditure of ₹1,00,000 was incurred on the occasion of the silver jubilee of the company for presentation of silver mementos to shareholders and directors, the value of each memento being ₹1,000 only.

(ii) An assessee carries on business in respect of which it holds tenancy rights. It carries out improvements to the said building at a cost of ₹2,00,000 and claims depreciation @ 10% thereon. The assessing officer rejects the claim on the ground that the assessee is not the owner of the building.

(iii) Excise duty amounting to ₹ 2,00,000 for the period 2009-10 was paid by the company by 30-9-2010 before furnishing the return of income for the assessment year 2010-11.

(iv) A criminal case was filed against a company under the Essential Commodities Act, 1955. The company incurred litigation expenses amounting to ₹50,000 to defend the directors. The directors were ultimately acquitted.

(v) A company was generating electricity privately for its factory. Later, at its expense, electric lines were laid from the trunk road to the factory. It paid ₹5,00,000 to the State Electricity Board as its contribution for this purpose. The ownership of the power-line was to vest with the State Electricity Board.

(vi) X and Yare two shareholders of Pooja Ltd., a closely held company. X holds 55% share capital on 30-1-2010, X transfers his shares to A. Pooja Ltd. wants to set off brought forward loss of ₹4,00,000 (business loss ₹1,00,000;

unadjusted depreciation ₹ 3,00,000) of the previous year 2008-09 against the income of the previous year 2009-10 (i.e., ₹9,00,000). Can it do so?

Answer:

(i) As per the decision of the Apex Court in the case of *Aluminum Corporation of fndia Ltd.* v *CIT* (1972) 86 ITR 11 (SC) and various other decisions, where an expenditure is incurred for commercial expediency, the same shall be allowed as deduction under section 37(1). If at the time the expenditure is incurred, commercial expediency justifies it, it will be taken to be for the purpose of the business even though not supported by any prevailing practice.

Presentation of silver mementos to the directors and shareholders on the occasion of silver jubilee is to motivate both the directors and the shareholders. The expenditure has been incurred on account of commercial expediency and should qualify for deduction under section 37(1).

(ii) According to Explanation to section 32(1) where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a lease or other right of occupancy and any capital expenditure is incurred by the assessee for the purposes of the business or profession on the construction of any structure or doing of any work, in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, the provisions of section 32 shall apply as if the said structure or work is a building owned by the assessee. Hence, depreciation in this case will be allowable.

(iii) As the excise duty has been paid or before the due date of furnishing return under section 139(1) in respect of the previous year in which the liability to pay such sum was incurred, the same shall be allowed as deduction on due basis as per section 43B.

(iv) Section 37(1) does not make any distinction between expenditure incurred in civil litigation and that incurred in criminal litigation. All that the court has to see is whether the legal expenses were incurred by the assessee in his character as a trader, in other words, whether the transaction in respect of which proceedings are taken arose out of and was incidental to assessee's business. Further, it is to be seen whether the expenditure was *bona fide* incurred wholly and exclusively for the purpose of the business. [*CIT* v *Birla Cotton Spg.* & *Wvg. Mills Ltd.* (1971) 82 ITR 166 (SC)]. In view of this, the litigation expenses of ₹ 50,000 incurred in detending directors is deductible under section 37(1).

(v) The new electric power lines were laid to run the factory efficiently but since the ownership of the power lines was to vest with the State Electricity Board, the contribution of ₹ 5,00,000 paid to the State Electricity Board shall be allowable as revenue expenditure under section 37(1).

(vi) According to section 79 the losses of a closely held company can be carried forward and set off in the subsequent assessment year only when at least 51% of the shares of the company carrying voting rights are held by the same persons as on the last day of the previous year in which the loss was incurred and the last day of the previous year in which the losses are set off. In this case business loss will not be allowed to be set off but unabsorbed depreciation is not a loss and shall be allowed to be set off.

Question No.44

(a) Discuss the correctness or otherwise of the following propositions with reasons therefor :

(i) Where a person draws from his own stock-in-trade for personal use, there can be no taxable profit.

(ii) Even an outlay for acquiring an enduring advantage for business may be deductible as revenue expenditure.

Answer:

(i)The Supreme Court in *CIT* v. *Kikabhai Premchand* (1953) 24 ITR 506 held that when a person draws from his own stock-in-trade for personal use, there can be no taxable profit as in this case the vendor and the vendee are not different. To constitute a sale these should be one buyer and seller. The buyer and seller has to be different entity to constitute a proper sale.

(ii) Normally, an amount spent for acquiring an enduring advantage for business is of capital nature but there can be certain cases when the amount spoent on acquiring an enduring advantage may be treated as revenue expenditure. The Supreme Court in *CIT* v. *Empire Jute Co. Ltd.* (1980) 124 ITR 1 held that when a jute mill as a result of an arrangement with other Jute mil had undertaken to work only for specified hours during a week but exceeded the same and paid for such excess period to other members of the pooling arrangement, such payment is known as purchasing loom hours. Though looms are capital assets, the payment was for their operations. By the purchase of loom hours no new asset was created and there was no addition to or expansion of the profit-making apparatus of the company. Hence, such payment is of revenue nature.

(b) A Public Limited Company engaged in the generation and distribution of power had its business acquired by the Government in June 2008. Certain items of plant and machinery used by the Company in its business were taken over by the Government at a price which resulted in the Company realizing a surplus of ₹26,60,000 over its written down value. The compensation was received by the Company in April 2009 which was accepted by it under protest. The Company proceeded to initiate arbitration proceedings under law and was granted an additional compensation of ₹16 Lakhs. This was decided by the arbitrators in December 2008 and received by the Company in March 2010.

The Company claims that the assessment of the Company to tax should not be made since the business was completely taken over by the Government in June 2008 and at the time of final determination of compensation in March 2010, the Company did not exist.

Do you agree to the Company's claim? Discuss with reference to the Assessment Year(s) to which the claim to tax, if any, can be related.

Answer:

1. In case of acquisition of property under any law, the balancing charge u/s 41(2) is taxable as income of the previous year in which it becomes due and not in the year in which it was settled. [United Provinces Electric Supply Co. 110 Taxman 134 (SC)]
2. As per Explanation to Section 41(2), even when the business is not in existence, such balancing charge shall be taxable in its hands as if it is in existence in the relevant previous year.
3. **Conclusion :**
   (a) Surplus of ₹ 26,60,000 — taxable in AY 2009-10 as Balancing Charge under the Business Income.
   (b) Additional Compensation of ₹16,00,000 determined in December 2009 taxable as Balancing Charge in AY 2010-2011 under Business Income.

(c) Mr. Tony has estates in Rubber, Tea and Coffee. He derives income from them. He has also a nursery wherein he grows plants and sells. For the previous year ending 31.3.2010, he furnishes the following particulars of his sources of income from estates and sale of Plants. You are requested to compute the taxable income for the Assessment year 2010-2011.

(i) Manufacture of Rubber	***₹5,00,000***
(ii) Manufacture of Coffee grown and cured	***₹3,50,000***
(iii) Manufacture of Tea	***₹7,00,000***
(iv) Sale of Plants from Nursery	***₹1,00,000***

Assessee : Mr. Tony **Previous Year : 2010-11** **Assessment Yea : 2011-2012**

From the words 'Mr. Tony has estates', it is presumed that the had grown Tea, Coffee and Rubber, and also Plants in his Estates, and the amount given is the Profits of the Business.

Computation of Taxable Income is as under:-

Particulars	Agricultural Income	Non-agricultural income
Growing and Manufacture of Rubber **[Rule 7A]**	5,00,000 × 65% = ₹ 3,25,000	5,00,000 × 35% = ₹ 1,75,000
Grown and Cured Coffee**[Rule 7B]**	3,50,000 × 75% = ₹ 2,62,500	3,50,000 × 25% = ₹ 87,500
Growing and Manufactured of Tea **[Rule 8]**	7,00,000 × 60% = ₹ 4,20,000	7,00,000 × 40% = ₹ 2,80,000
Growing & Sale of Plant by Nursery **[See Note]**	₹ 1,00,000	—
Total	**₹ 11,07,500**	**₹ 5,42,500**
Taxable Income	**Exempt u/s 10(1)**	**₹ 5,42,500**

(d) Romit acquired a plot of land on 1.6.75 for ₹ 4,00,000/-. He converts the plot into stock in trade of his real estate dealing business on 18.2.2007 when the fair market value of the plot was ₹ 35,00,000. The stock-in-trade is sold by him on 18.5.2010 for ₹ 40,00,000/- (FMV as on 1.4.81 was ₹ 6,00,000 and FMV as on 1.4.76 ₹4,50,00).

Solution:

The conversion of capital asset into stock-in-trade is treated as a transfer as per sec. 2(47). Capital asset was converted into stock-in-trade on 18.2.2007 i.e. previous year 2006-07.

Computation of Capital Gains

		₹
Consideration for Transfer (FMV)		35,00,000
Less :	Indexed Cost of Acquisition	31,14,000
	Long term Capital Gains	**3,86,000**

Computation of Business Income

	Sale Proceeds of HP	40,00,000
Less :	FMV on the date of conversion	35,00,000
		5,00,000

(e) PQR & Co. is a partnership firm, consisting 3 partners P, Q and R. the firm is dissolved on 31.12.10. The assets of the firm were distributed to the partners as under:

Particulars	*Block of machinery (given to P)*	*Stock (given to Q)*	*Land (given to R)*
Year of acquisition	*1990-91*	*2002-03*	*1978-79*
Cost of acquisition (₹)	*7,20,000*	*4,00,000*	*10,000*
Market value as on 31.12.10	*15,00,000*	*6,00,000*	*25,00,000*
WDV as on 31.12.10	*10,40,000*	*—*	*—*
Value at which given to partners as per agreement	*10,00,000*	*4,50,000*	*18,00,000*
Market value as on 1.4.81	*—*	*—*	*2,70,000*

Compute the income taxable in the hands of the firm for the assessment year 2011-12. What shall be the cost of acquisition of such assets to the partners of the firm?

Solution:

Computation of Short Term Capital Gains on block of machinery

		₹
Sale consideration (i.e. the market value)		15,00,000
Less :	Cost of Acquisition (WDV of the block)	10,40,000
	Short Term Capital Gains	**4,60,000**

Income from Business (on transfer of stock)

	₹
Market value of stock	6,00,000
Less : Cost of Acquisition	4,00,000
	2,00,000

Computation of Capital Gains on transfer of land

		₹
Consideration for transfer		25,00,000
Less :	Indexed cost of Acquisition :	19,19,700
		5,80,300

Cost of acquisition of assets to the partners

		₹
Partner "P"		1,00,000
Partner "Q"		4,50,000
Partner "R"		18,00,000
Less :	Indexed cost of Acquisition :	(19,19,700)
		4,80,300

Question No.45

(a) Mr. B acquired a house property for ₹50,000 in 1969-70. On his death in October 1985 the house was acquired by his son C. The market value of the house as on 1/4/81 was ₹3,00,000. This house was acquired by the Government on 15.3.2008 and a compensation of ₹16 lacs is paid to him on 25.3.2010. C filed a suit against the Government challenging the quantum of compensation and the court ordered for giving additional compensation of ₹ 14,00,000. He incurred an expenditure of ₹ 40,000 as an expenditure in connection with the suit. The additional compensation was received on 25.3.2011. Compute capital gains chargeable to tax.

Solution :

Capital Gain on initial compensation shall be chargeable in the A.Y. 2010-11, i.e. for the previous year 2010-11.

Computation of Long Term Capital Gains for the A.Y. 2010-11

		₹
Consideration for transfer (being the compensation)		16,00,000
Less :	Indexed Cost of Acquisition	14,25,564
	Long Term Capital Gains	**1,74,436**

Computation of Long Term Capital Gains for the A.Y. 2011-12

		₹
Enhanced Compensation received		14,00,000
Less :	Cost of Acquisition	NIL
	Cost of Improvement	NIL
	Expenses on Transfer	(40,000)
	Long Term Capital Gains	**13,60,000**

(b) A holds 15,000 shares (10% of total share holding) in B Ltd. which he had purchased on 10.2.96 for ₹ 6,00,000. The company went into liquidation on 16.7.2010 and paid a sum of ₹20 per share in cash and an asset whose market value as on the date of distribution i.e. 5.10.10 was ₹18,20,000 to A. the accumulated profits of the company were ₹15 lacs.

(i) Compute the income of A for the A.Y. 2011-12 assuming that he has no other income.

(ii) Compute the capital gain chargeable to tax if the asset of B Ltd. is sold by A for ₹15 lacs on 28.3.11.

Solution :

Computation of Capital Gains of Mr. B for the A.Y. 2011-12

		₹
(a)	(i) Capital Gain on transfer of shares	
	Total consideration (15,000×20+18,20,000)	21,20,000
	Less : Proportionate amount of deemed dividend	
	(10% of ₹ 12,86,353)	1,28,635
	Less : Indexed Cost of Acquisition	15,18,149
	Long Term Capital Gains	**4,73,216**
	(ii) **Income from others Sources**	
	Dividiend from Indian Company	Exempted
		4,73,216
(b)	**Capital Gain on transfer of asset (B Ltd.)**	
	Full Value of Consideration	15,00,000
	Less : Cost of Acquisition (being the market value as on the date of distributions)	13,20,000
	Short Term Capital Gains	**1,80,000**
	Accumulated Profits	**15,00,000**

Dividend tax @ 16.60875% (= 15% + 7.5% + 2% Education cess + 1% SHEC)

Hence, the amount to be distributed plus tax @ 16.60875% on such amount should be ₹ 15,00,000

Therefore, amount of tax = ₹ 2,13,6470

Profits available for distribution = ₹ (15,00,000 – 2,13,647) = ₹ 12,86,353.

(c) Ravi owns a residential house which was purchased by him in 1975 for ₹80,000. The FMV as on 1.4.81 was ₹2,00,000. This house is sold by him on 16.7.2010 for a consideration of ₹15,00,000. The brokerage and expenses on transfer was ₹15,000. Compute capital gains for the assessment year 2011-12. If he invests ₹ 5,00,000 for purchase of a new house on 15.3.2011. If the HP so purchased in 15.3.2011 is again sold in 21.10.11 for ₹9 lacs, what will be the tax liability?

Solution :

Computation of Capital Gains for the A.Y. 2011-12

	₹
Consideration for transfer	15,00,000
Less : Expenses on transfer	15,000
Net Consideration	**14,85,000**
Less : Indexed Cost of Acquisition	14,22,000
Long term Capital Gains	**63,000**
Less : **Exemption u/s 54**	
Cost of New HP Purchased ₹ 5,00,000	
(exemption restricted upto the balance of LTCG)	63,000
Taxable Long term Capital Gains	**NIL**

If the HP purchased in 15.3.2011 is again sold on 21.10.11 for ₹ 9 lacs, there share a rise short term capital gains. The cost of acquisition shall be adjusted to the extent of long term capital gains exemption already availed.

Computation of Capital Gains for the A.Y. 2012-13

		₹
Consideration for transfer		9,00,000
Less : **Cost of Acquisition**		
Cost of purchase	5,00,000	
Less : Exemption u/s 54 availed during A.Y. 2010-11 now withdrawn	63,000	4,37,000
Short term Capital Gains		**4,63,000**

(d) Saptarshi acquired shares of G Ltd. on 15.12.99 for ₹ 5 lacs which were sold on 14.6.10 for ₹16 lacs. Expenses on transfer of shares ₹20,000. He invests ₹8 lacs in the bonds of Rural Electrification. Corporation Ltd. on 16.10.2010.

(i) Compute capital gain for the assessment year 2011-12.

(ii) State the period for which the bonds should be held by the assessee. What will be the consequences if such bonds are sold within the specified period?

(iii) What will be the consequences if Saptarshi takes a loan against the security of such bonds.

Solution :

Computation of Capital Gains for the A.Y. 2011-12

	₹
Consideration for transfer	16,00,000
Less : Expenses on Transfer	20,000
Net Consideration	**15,80,000**

Less : **Indexed Cost of Acquisition (5,00,000 x 711/389)**	9,13,882
Long-term Capital Gains	6,66,118
Less : **Exemption u/s 54EC**	6,00,000
Taxable long-term Capital Gain	66,118

(ii) Saptarshi should not transfer or convert (otherwise than transfer) into money such bonds within 3 years from the date of their acquisition.

If these bonds are transfered or converted into money within 3 years, capital gain of ₹ 6,00,000 exempted earlier shall attract taxability towards long-term capital gain of the previous year in which such asset is transferred **or** converted into money.

(iii) If any loan is taken against security of such bonds, it shall be taxable as long-term capital gains of the previous year in which such loan is taken against the security of such bonds.

(*e) The house property of A is compulsorily acquired by the government for ₹ 10,00,000 vide Notification issued on 12.3.2005. A had purchased the house in 1991-92 for ₹2,00,000. The compensation is received on 15.4.2009. The compensation is further enhanced by an order of the court on 15.5.2010 and a sum of ₹ 2,00,000 is received as enhanced compensation on 21.10.2010. A wants to claim full exemption of the capital gains Advise A in this respect. Compute the capital gain and determine the year in which it is taxable. Also specify the period upto which the investment in the new house should be made by the assessee*.

Solution :

Although the house property is compulsorily acquired on 12.3.2005, the capital gain will arise in the previous year in which full or part of the compensation is first received *i.e.* previous year 2009-10. However, indexation will be done till the year of compulsory acquisition. Therefore, capital gains will be calculated as under:

Assessment year 2010-11		**₹**
	Full value of consideration	10,00,000
Less :	Indexed cost of acquisition: (2,00,000 x 632/199)	6,35,175
	Long-term capital gain	**3,64,825**

The assessee should either invest at least ₹ 3,64,825 for the purchase/construction of a residential house property on or before 31.7.2010 (relevant due date) and /or deposit the amount under the capital gain scheme on or before 31.7.2010, to be utilised for purchase of house property by 14.4.2011 and /or construction of the house property by 14.4.2012.

Computation of Capital Gain for the A.Y. 2011-12

		₹
	Enhanced compensation Received	2,00,000
Less :	Cost/Indexed cost of acquisition	Nil
	Long-term Capital Gain	2,00,000

The assessee should either invest at least ₹ 2,00,000 for the additional construction of a residential house property already acquired for claiming under section 54 on or before 31.7.2011 (relevant due date) and/or deposit the amount under the capital gain scheme on or before 31.7.2011 may invest ₹ 2,00,000 in the specified bonds.

Question No.46

(a) V. G. had placed a deposit of ₹10 Lakhs in a bank on which he received interest of ₹80, 000. He had also borrowed ₹5 Lakhs from the same bank on the security of the deposit and was liable to pay ₹50,000 by way of interest to the bank. He therefore offered the difference between two amounts of ₹30,000 as income from other sources. Is this correct?

Answer :

(i) U/s 57, any expenditure (not being capital expenditure) expended to earn income chargeable under the head "Income from Other Sources" will be allowed as deduction against such income.

(ii)Interest on bank FD was the income in the hands of the assessee and the interest on the loan taken from bank on that deposit is not an allowable expenditure.

Therefore, in the given case, the interest of ₹50,000 paid by VG is not allowable as deduction, and the entire interest of ₹80,000 is fully taxable.

(b) Shrey purchased in 2003, 10,000 Shares of Hero Ltd. for ₹ 5 Lakhs by borrowing money from a bank. He holds them as 'Investments'. He received dividend during the previous year 2010-11. He has paid interest of ₹ 85,000 on the loan to the bank during the previous year. Please advise Shrey, how should he deal with these facts in computing his income?

Answer :

(i)In computation of total income under the Income Tax Act, the expenditure incurred in relation to income, which does not form part of Total Income, shall not be allowed as deduction. [Section 14A]

(ii)Dividend Income is exempt u/s 10(34) and hence does not form part of Total Income.

Therefore, the interest payment is not an allowable expenditure.

(c) Mr Goutam, out of his own funds, had taken a FDR for ₹ 1,00,000 bearing interest @ 10% p.a. payable half-yearly in the name of his wife Latika. The interest earned for the year 2010-2011 of ₹ 10,000, was invested by Mrs Latika in the business of packed spices which resulted in a net profit of ₹55,000 for the year ended 31st March 2011. How shall the interest on FDR and income from business be taxed for the Assessment year 2011-2012?

Answer: Where an individual transfers an asset (excluding house property), directly or indirectly to his/her spouse, otherwise than for adequate consideration, or in connection with an agreement to live apart, income from such asset is included in the total income of such individual [Sec. 64(1)(iv)].

Accordingly, interest on FDR, accruing to wife, is included in the total income of her husband. However, business profits cannot be clubbed with total income of husband. Clubbing applies only to the income from assets transferred without adequate consideration. It does not apply to the income from accretion of the transferred assets. Hence, business profit is taxable as the income of wife.

(d) Sawant is a fashion designer having lucrative business. His wife is a model. Sawant pays her a monthly salary of ₹ 20,000. The Assessing Officer while admitting that the salary is an admissible deduction, in computing the total income of Sawant had applied the provisions of Sec. 64(1) and had clubbed the income (salary) of his wife in Sawant's hands.

Discuss the correctness of the action of the Assessing Officer.

Answer: Where an individual has got substantial interest in a concern and his spouse derives any income from such concern by way of salary, commission, fees or by any other mode, such income is clubbed with the total income of such individual [Sec. 64(1)(ii)].

However, clubbing provision does not apply if the earning spouse holds technical or professional qualification and the income is solely attributable to the application of such knowledge and experience.

Salary earned by wife as model from the concern where her husband holds substantial interest is assessable as her income.

(e) Discuss whether the loss could be set-off in the following case:

Smt. Vatika carried on business with the gifted funds of her husband Mr.Dabuu. For the previous year ending 31.3.2010,Vatika incurred loss of ₹5 lakh which loss Dabbu wants to set-off from his taxable income.

Answer: Funds for business were gifted by husband to wife. Accordingly, income from business should be clubbed with the income of husband [Sec. 64(1)(iv)].

"Income" includes "loss" also. Hence, husband is entitled to set-off the business loss of wife against his taxable income.

(l) Due to a business re-organisaton, whereby a private company or a listed public company is succeeded by a limited liability partnership fulfilling all the conditions of Sec.47(xiiib). Now the erstwhile company has paid compensation for Voluntary Retirement. Can the successor LLP avail the benefit of such deduction?

Answer:

Successor LLP will be allowed deduction of payment under Voluntary Retirement Scheme for the unexpired period vide Sec.35DDA(4A) [w.e.f. A.Y: 2011-12], as they would have applied to the company, if reorganization of business had not taken place.

(m) B Ltd. a widely held listed company arising out of a business reorganization has been succeeded by a LLP. It has now transferred capital asset and intangible asset to the successor LLP. The Assessing Officer holds this transfer to be taxable. Is it a valid contention?

Answer:

Transfer of capital asset or intangible asset by a private limited company or a non-listed company to LLP shall not be regarded as transfer. Correspondently, any transfer of a share or shares held in a company by a shareholder shall also not be treated as transfer on conversion of the above company to a LLP, vide Sec.47(iiib) w.e.f. A.Y.2011-12.

In this case, B Ltd. is a widely held and listed company. Hence, transfer of assets shall be considered as a transfer. Hence, the contention of the Assessing officer is justified.

Question No.47

(a)D has earned income of ₹5,60,000 from speculation business during the PY 2010-2011. However, he has suffered losses in business and profession ₹3,20,000 and ₹1,70,000, respectively during the same period. Determine his income from business profession for the assessment year 2011-2012.

Solution: Income from business profession for the AY 2011-2012:

Particulars	₹
Profits from speculation business	5,60,000
Less. (i) Loss from Non-Speculation Business	(-) 3,20,000
(ii) Loss from profession	(-) 1,70,000
Income from business and profession	**70,000**

(b) Following are the particulars of the income of Mr. Siddharth for the previous year 2010-2011

	₹
1. Income from house property	
(i) Property R	***(+) 12,000***
(ii) Property J	***(-) 20,000***
2. Profits and gains from business:	
(A) Non-speculation:	
(i) Business X	***40,000***
(ii) Business Y	***(-) 50,000***
(B) Speculation:	
(i) Silver	***40,000***
(ii) Bullion	***(-) 10,000***
3. Capital gains:	
(i) Long-term capital gains	***(+) 30,000***
(ii) Short-term loss	***(-) 10,000***
4. Income from other sources:	
(i) Card games-loss	***10,000***
(ii) From the activity of owing and maintaining race horses:	
(a) Loss at Mumbai	***(-) 50,000***
(b) Profit at Kolkata	***(+) 40,000***
(iii) Dividend from Indian companies	***10,000***
(iv) Income by letting out plant and machinery	***1,11,000***
The following losses have been carried forward:	
(i) Long-term capital loss from the assessment year 2006-2007:	***18,000***
(ii) Loss from silver speculation from the assessment year 2006-2007 and which was discontinued in the assessment year 2007-2008	***25,000***

Compute the gross total income for the assessment year 2011-2012

Solution: **Computation of Gross Total Income for the Assessment Year 2011-2012**

Particulars	₹	₹
1. Income from house property (+ 12,000 - 20,000)		(-) 8,000
2. Profits from speculation:		
(i) Profit from Silver Business	40,000	
Less: Current year loss from bullion	(-) 10,000	
	30,000	
Less: Carried forward silver speculative loss	(-) 25,000	
Surplus from Speculation	5,000	
(ii) Add: Business profit from X business	40,000	
(iii) Less: Business loss from Y business	(-) 50,000	(-) 5,000

Unabsorbed business loss may be set-off against the income of any other head except 'salaries' and 'winnings from lottery, card games, crossword puzzle, betting on race horses', etc.

3. Capital gains:		
Long-term capital gains	30,000	
Less : Short-term capital loss	(-) 10,000	
Long-term capital gain	20,000	20,000
4. Income from other sources:		
(i) Income by letting out plant and machinery		1,11,000
(ii) Card game-loss of ₹ 10,000		
Neither it can be set-off nor it can be carried forward		
(iii) Profit from race horses at Kolkata	(+) 40,000	
Less : Loss from race horses at Mumbai	(-) 50,000	
Less : to be carried forward for next four assessment year	(-) 10,000	
(iv) Dividend from Indian companies: Exempt under Sec. 10(34)		Nil
Aggregated income after setting-off current year losses from house property profit and business against income from other sources:		**1,18,000**
Less : **Carried forward long-term capital loss, from the assessment year 2006-2007 to be set-off against long-term capital gains**		**(18,000)**
Gross total income or total income as there is no deduction available from GTI		**1,00,000**

(c) Mr. Dey furnishes the following particulars of his income for the previous year 2010-2011:

Particulars	***₹***
Unit "A": Business loss	***(-) 4,00,000***
Unabsorbed depreciation	***(-) 2,00,000***
Unit "B": Business profit	***10,00,000***
Income from house property	***2,00,000***
Carried forward losses and allowance;	
Unit "C" business was discontinued on 31-12-2004	
Apart from the abovementioned, the following unabsorbed:	
1. Business loss	***(-) 3,00,000***

2. Depreciation	***(-) 2,00,000***

Unit "D" business was discontinued on 1-3-2007 leaving the following unabsorbed:

1. Business loss	***(-) 3,00,000***
2. Depreciation	***(-) 1,00,000***

Compute his total income for the assessment year 2011-12.

Solution : **Computation of Total Income for the AY 2011-2012**

Particulars	**₹**	**₹**
Income from house property		2,00,000
Business - profession		
Profit of B-business	(+) 10,00,000	
Less: Business loss of A - business	(-) 4,00,000	
Depreciation of A-business	(-) 2,00,000	
	(+) 4,00,000	4,00,000
Aggregated income		6,00,000
Less: Carried forward business loss:		
(i) Loss of C Business to be set-off against business profits	(-) 3,00,000	
(ii) Loss of D business	(-) 3,00,000	
	6,00,000	(-) 6,00,000
Total income		**Nil**

Note : Where business loss and depreciation both are being carried forward, business loss has got priority, over depreciation. Unabsorbed depreciation is carried forward without time-limit.

(d) Mr Jamal, a resident assessee, runs a manufacturing business in Delhi. For the previous year 2010-2011, he disclosed his taxable income as below:

	₹
Business profits	***2,55,000***
Long-term capital gains	***25,000***
Short-term capital gain	***15,000***

He has hired furnished accommodation for his own use and pays ₹ 4,000 p.m. He has paid donation amounting to ₹ 10,000 to National Defence Fund. He has deposited ₹ 50,000 under a scheme framed by the Life Insurance Corporation for maintenance of his dependant brother with a disability. The disability is certified by the medical authority. Compute his total income for the assessment year 2011-2012.

Solution:

Computation of total income of Mr Jamal — Assessment Year 2011-2012

Particulars	**₹**	**₹**
Income from business (computed)		2,55,000
Long-term capital gain (computed)		25,000

Short-term capital gain (computed)		15,000
Gross Total Income		**2,95,000**
Deductions from gross total income:		
(i) Deposit for maintenance of a dependent with disability [Sec. 80DD]:	50,000	
(ii) Charitable donations to National Defence Fund [Sec. 80G]: Amount of Deduction @ 100% of ₹ 10,000	10,000	
(iii) Expenditure incurred on rent [Sec. 80GG] [W.N.1]	17,000	77,000
Total Income		**2,18,000**

Workings Note 1:

Particulars	₹	₹
Expenditure incurred on rent [Sec. 80GG]:		
• [Rent paid -10% of ATI], i.e. 48,000 -21,000 = 17,000, or		
• 25% of AGTI, i.e. 25% of 2,10,000 = 52,500, or		
• ₹ 2,000 p.m. = ₹ 24,000		
whichever is less, is to be deducted, i.e. ₹ 17,000		
Adjusted Total Income for Sec. 80GG:		
Gross total income		
Less: Aggregate of		2,95,000
(i) All permissible deduction from GTI except for deduction for u/s 80GG	60,000	
(ii) Any long-term capital gain	25,000	85,000
Adjusted Gross Total Income [AGTI] for Sec. 80GG		**2,10,000**

(e) M, resident in India, furnishes the following particulars of his receipts and outgoings during the previous year 2010-2011.

		₹
Receipts:		
(i)	***Income from salary***	***2,00,000***
(ii)	***Income from house property***	***3,00,000***
(iii)	***Gross winning from crossword puzzle***	***3,50,000***
Outgoing :		
(i)	***Contribution to LIC annuity plan***	***15,000***
(ii)	***Medical insurance premium:***	
(a)	***For himself***	***4,000***
(b)	***His wife, not dependent***	***3,000***
(c)	***Mother, non-resident, 67 years, dependent***	***5,000***
(d)	***Nephew, wholly dependent with disability***	***3,000***
(e)	***Grandson, dependent***	***2,000***
(iii)	***Expenditure on medical treatment and maintenance of the nephew referred to***	***30,000***
(iv)	***Medical treatment for grandson, suffering from a disease specified under income-tax rules(v)***	***50,000***
(v)	***Donation to Gujarat government for family planning***	***50,000***
(vi)	***Scholarship to a poor but meritorious student***	***20,000***
(vii)	***Contribution to approved scientific research association***	***30,000***
(viii)	***Contribution to Delhi Municipal Corporation for sewage scheme for slum-dwellers, approved by National Committee***	***50,000***
(ix)	***Donation to Political party paid during November 2010 assembly elections***	***20,000***

Compute his total income for the assessment year 2011-2012.
Make necessary assumptions and clarify them.

Solution: **Computation of Total Income for AY 2011-2012**

Particulars		**₹**	**₹**
Income from salary			2,00,000
Income from house property			3,00,000
Gross winnings from crossword puzzle			3,50,000
Gross Total Income			**8,50,000**
Less: Deductions under Chapter VIA :			
Contribution to LIC annuity plan [Sec. 80CCC]		10,000	
Medical insurance premium [Sec, 80D]			
Self	4,000		
His wife	3,000		
Mother, 67 years old	5,000		
Nephew dependent with disability	x		
Grand son	x	**12,000**	
Maintenance and medical treatment of a dependent with disability [Sec. 80DD]			
Expenditure for medical treatment of grandson [Sec. 80DDB]		Nil	
Donations for scientific research or rural development [Sec. 80-GGA]			
(a) Donation to approved scientific research association		30,000	
(b) Contribution to MCD for slum-dwellers scheme, approved by National Committee		50,000	
Donations to political party [Sec. 80GGC w.e.f. 22.9.2004]		20,000	
Charitable donations [Sec. 80G]			
(a) Scholarship to a poor meritorious student		xxx	
(b) Gujarat government for family planning: 100% of qualifying amount			
1. Actual donation = 50,000, or			
2. 10% of specified GT1 = 37,800			
8,50,000 – (3,50,000 + 10,000 + 12,000 + 30,000 + 50,000 + 20,000) = ₹3,78,000			
whichever is less, is QA 37,800= 100% of 37,800		37,800	1,59,800
Total Income			**6,90,200**

Question No. 48

(a) Previous year	***Particulars***	***X***	***Y***
2005-2006	***Business profits or loss before depreciation***	***(–) 6,00,000***	***14,00,000***
	Depreciation	***4,00,000***	***2,00,000***
2006-2007	***Business profits or loss before depreciation***	***5,00,000***	***2,00,000***
	Depreciation	***4,00,000***	***1,00,000***
2008-2009	***Business profits or loss before depreciation***	***8,00,000***	***10,00,000***
	Depreciation	***4,00,000***	***2,00,000***
2009-2010	***Business profits or loss before depreciation***	***28,00,000***	***12,00,000***
	Depreciation	***4,00,000***	***6,00,000***

Compute the amount of deduction for X u/s 80-IA and total income of C Ltd. for all four previous years

Solution:

Computation of deduction u/s 80-IA for undertaking X

Particulars	2005-2006	2006-2007	2007-2008	2009-2010
Profits or loss before depreciation	(-) 6,00,000	5,00,000	8,00,000	28,00,000
Less: Depreciation		(-) 4,00,000	(-) 4,00,000	(-) 4,00,000
	6,00,000	1,00,000	4,00,000	24,00,000
Set-off of carry forward business loss		(-) 1,00,000	(-) 4,00,000	(-) 1,00,000
Set-off of carry forward depreciation		xxx	xxx	(-) 4,00,000
Profits eligible for deduction u/s 80-IA	Nil	Nil	Nil	19,00,000
Amount of deduction @ 100% of profits	**Nil**	**Nil**	**Nil**	**19,00,000**

Computation of profits of undertaking Y and total income of C Ltd.

Particulars	2005-2006	2006-2007	2007-2009	2009-2010
Profits or loss before depreciation:	14,00,000	2,00,000	10,00,000	12,00,000
Less: Depreciation of Y	(-) 2,00,000	(-) 1,00,000	(-) 2,00,000	(-) 6,00,000
	12,00,000	1,00,000	8,00,000	6,00,000
Profits of X after depreciation	Nil	1,00,000	4,00,000	24,00,000
Set-off of business loss of X	(-) 6,00,000			
Set-off of unabsorbed depreciation of X	(-) 4,00,000			
Gross Total Income	**2,00,000**	**2,00,000**	**12,00,000**	**30,00,000**
Less: Deduction u/s 80-IA	Nil	Nil	Nil	19,00,000
Total income of C Ltd.	**2,00,000**	**2,00,000**	**12,00,000**	**11,00,000**

Note: Even though the business loss and unabsorbed depreciation of X were set-off during the PY 2006-2007 itself in computation of total income of C Ltd., for the purpose of deduction u/s 80-IA, they will still be carried forward on notional basis and set-off only against the profits of business eligible u/s 80-IA.

(b) SK Industries, a diversified group, discloses profit from the following sources for the previous year 2010-2011 :

		(₹ in lakhs)
(i)	***Profits from small-scale unit, started in 2001-2002***	***6.00***
(ii)	***Profit from industrial undertaking 2002-2003, in Vidisha, a B-class industrially backward district.***	***10.00***
(iii)	***Profit from multiplex theatre, started in 2006-2007***	
	(a) Delhi	***4.00***
	(b) Allahabad	***2.00***
(iv)	***Profits from convention centre, started in 2007-2009***	
	(a) Delhi	***5.00***
	(b) Allahabad	***3.00***
(v)	***Profits from Hill View, a hotel started in 2002-2003 at Manali in Himachal Pradesh. Hotel is approved by prescribed authority***	***10.00***
(vi)	***Profits from undertakings engaged in refining of mineral oil since 1 January 2004 in Uttar Pradesh, not listed in backward state in Eighth Schedule.***	***10.00***

Compute the total income for the assessment year 2011-2012.

Computation of Total Income

Particulars	**(₹ lakhs)**	**(₹ lakhs)**
(i) Profits from SSI		6.00
(ii) Profits from undertaking located in industrially backward B-class district		10.00
(iii) Profits from multiplex theatre: (4 + 2) =		6.00
(iv) Profits from convention centre : (5+3) =		3.00
(v) Profits from Hill View Hotel		10.00
(vi) Profits from refining undertaking		10.00
Gross Total Income		**50.00**
Less: Deduction in respect of profits and gains from certain industrial undertaking, other than infrastructure undertakings (Sec. 80-IB) :		
1. Profits from SSI [Sec. 80-IB (3)] : 25% of ₹ 6 Lakh :	1.50	
2. Profits from undertaking in B-class industrially backward district [Sec. 80-IB (4)] 25% of ₹ 10 lakh	2.50	
3. Profits from multiplex theatre [Sec. 80-IB(7A) 50% of Rs.2 lakhs (No deduction for Delhi)	1.00	
4. Profits from convention centre [Sec. 80-IB(7B)] 50% of Rs.8 lakhs	4.00	
5. Profits from Hill View Hotel [Sec. 80-IB(7)] Allowed only for Indian company	Nil	
6. Profits from refining undertaking [Sec. 80-IB(9)]-100% of profits for 7 assessment years	10.00	**19.00**
Total Income		**31.00**

(c) Evergreen Construction (P) Ltd. has earned profits during the PY 2010-2011 from construction and sale of flats under three housing projects, developed at Rajarhat, Kolkata, details of which are given below:

		(₹in lakhs)
(i)	***Profits from construction and sale of flats, built up on a plot of 1.5 acres, built up area of the flat 1400 sq feet, located 30 km from Kolkata.***	***80.00***
(ii)	***Profits from construction and sale of flats, built up on a plot of 1 acre, built up area 1050 sq feet, located within 25 km from Delhi.***	***60.00***
(iii)	***Profits from construction and sale of flats, built on a plot of 0.90 acre, built up area 1000 sq feet, located 35 km from Kolkata.***	***40.00***

The housing projects have been approved by the Kolkata Industrial Development Authority in the year 1 April 2006. Compute its total income for the previous year 2010-2011 relevant for the AY 2011-2012. Would your answer be different in the following cases:

(i) The housing projects were not approved.

(ii) The housing project is carried out in accordance with a scheme approved by West Bengal Government for redevelopment of buildings in slum areas.

(iii) The company was engaged only in the sale of flats and not developing and building the housing project.

Computation of Total Income for the AY 2011-2012

Particulars	**(₹ in lakh)**	**(₹ in lakh)**
Profits from Project (i)		80.00
Profits from Project (ii)		60.00
Profits from Project (iii)		40.00
Less :		**180.00**
Deductions from profits and gains from certain industrial undertaking other than infrastructure undertaking (Sec. 80-IB):		
(i) Profits from Housing Project (a) are fully deductible as the size of flat not exceeding the prescribed area 1,500 sq.ft.	80.00	
(ii) Profits from Housing Project (b) not deductible as the area of the	x	

	flat exceeds the prescribed area of 1000 sq.feet		
(iii)	Profits from Housing Project (c) not deductible as the size of the Housing plot is less than 1 acre.	x	(–) 80.00
Total Income			**100.00**

(d) Mekon Ltd., an Indian company, as on 1 April 2010, has 95 regular workers on the pay roll. During the previous year, it earns profits of ₹90 lakh before allowing any deduction for wages for new employments during the previous year 2010-11. Compute its total income for the previous year 2010-2011 taking into account the following employment schedules of workers:

Date of employment	*Number of workers*	*Status of workers*	*Rate of wages*
1-5-2010	*90*	*Casual*	*3,500 p.m.*
1-6-2010	*25*	*Employed through contract labour*	*4,000 p.m.*
1-6-2010	*10*	*Regular*	*5,000 p.m.*
1-7-2010	*15*	*Regular*	*6,000 p.m.*

Computation of Total Income for the AY 2011-2012

	Particulars	**₹**	**₹**
Profits before allowing deduction for wages			**90,00,000**
Less:	Wages paid to workers [Sec. 37(1)] :		
(i)	90 × ₹ 3,500 × 11	34,65,000	
(ii)	25 × ₹ 4,000 × 10	10,00,000	
(iii)	10 X ₹ 5,000 X 10	5,00,000	
(iii)	10 × ₹ 5,000 × 9	4,50,000	(-) 54,15,000
Business Profits and Gross Total Income			**35,85,000**
Less:	Deduction in respect of employment of new workmen		(-) 75,000
[Sec. 80 JJAA] 30% (₹ 5,000 x 5 x 10) – ***Refer Note.***			
Total Income			**37,10,000**

Note:

(i) The company had already 95 workers on the pay roll as on 1st April,2010.

(ii) Deduction u/s 80JJAA is available @ 30% on additional wages paid to the new regular workmen employed by the assessee during the previous year

(iii) Regular Workmen does not include :

(a) A casual workman; or

(b) A workman employed through contract labour; or

(c) Any other workman employed for a period of less than three hundred days during the previous year.

(iv) Hence, for the purpose of computing deduction only 5 workmen is considered, out of those regular workman employed during 1-6-2010. On this date, the total number of regular workman crosses more than one hundred. i.e. it becomes (95 + 10) = 105. Hence, for the excess of 100 workman, the deduction is computed.

(v) Regular workman employed on 1-7-2010 could not be considered for deduction as the total number of working days during the previous year is less than 300 days.

Question No.49

(a) ***Mr. J is suffering with 60% locomotor disability which is certified by medical authority. He is employed as Technical Supervisor with Air Tel at a salary of ₹20,000 p.m.***

Particulars	***₹***
(i) Income from government securities	***20,000***
(ii) Long-term capital loss	***(-) 40,000***
(iii) Short-term capital gain (Sec. 111A)	***1,00,000***
(iv) Insurance commission (gross)	***1,00,000***
(v) Interest on Saving Fund a/c from bank	***10,000***

He has incurred the following expenses:

(i) Medical insurance paid by cheque for his father, resident in India and 70 years ***18,000***

(ii) Deposit with LIC for maintenance of father, mainly dependant on him for support and maintenance and suffering from low-vision with a severe disability of 80%, as per certificate of the medical authority

(iii) Rent paid for the year 2010-2011 for accommodation hired by him. ***40,000***

Compute his total income for the assessment year 2011-2012.

Solution:

Computation of Total Income for the Assessment Year 2011-2012

Particulars	**₹**	**₹**
1. Income from salaries		2,40,000
2. Income from capital gains :		
(a) Short-term capital gains (Sec. 111A)		
(b) Long-term capital loss to be carried forward		1,00,000
3. Income from others sources :		Nil
(a) Interest government securities	20,000	
(b) Interest on savings fund a/c with Bank	10,000	
(c) Insurance commission	1,00,000	1,30,000
Gross Total income	**4,70,000**	
Less : Deductions under Chapter VIA:		
Medical insurance (Sec. 80D)	18,000	
Deduction in respect of maintenance including medical treatment of a department, a person with severe disability (Sec. 80DD)	1,00,000	
Deduction in case of a person with disability (Sec. 80U) :	50,000	
Deduction u/s 80GG :(Least of the followings)		
(a) (i) Rent paid less 10% of Adjusted Gross Total Income 40,000-23,300 = 16,700,		
(b) (ii) 25% of 2,33,000 Adjusted Gross Total Income=58,250,		
(iii) 2,000 p.m. × 12 = 24,000	16,700	**1,84,700**
Whichever is less, is or be deducted		
Total income		**2,85,300**

(b) Mr. X, Finance Manager of K Ltd. Mumbai, furnishes the following particulars for the Financial Year 2010-2011. **₹**

(i)	***Gross Salary (per month)*** ***[Tax deducted from Salary ₹1,09,000]***	***64,000***
(ii)	***Valuation of medical facility in a hospital maintained by the Company***	***7,000***
(iii)	***Rent Free Accommodation owned by the Company***	
(iv)	***Housing Loan of ₹6,00,000 at the interest rate of 5% p.a. (no repayment***	
(v)	***made during the year, to be repaid within 10 years)***	
(vi)	***Gift made by the Company on the occasion of wedding anniversary of X***	***4,750***
(vii)	***A wooden table and 4 Chairs were provided to X at his residence***	
(viii)	***(Dining Table). This was purchased on 1.5.2007 for ₹60,000 and sold to X on 1.8.2010 for ₹30,000***	
(ix)	***Personal purchases through Credit Card provided by the Company amounting to ₹ 20,000 was paid by the Company. No part of the amount was recovered from X.***	
(x)	***A Maruti Esteem Car which was purchased by the Company on 16.7.2006 for ₹5,50,000 was sold to the assessee on 14.8.2010 for ₹1,30,000.***	
(xi)	***Other income received by the assessee during the previous year 2010-2011 are :***	***₹***
	Interest on Fixed Deposits with a Company	***5,000***
	Income from specified mutual fund	***3,000***
	Interest on bank deposits of a minor married daughter	***3,000***
	Income from UTI received by his handicapped minor son	***1,200***
(xii)	***Contribution to LIC towards Premium u/s 80CCC***	***10,000***
(xiii)	***Deposit in PPF Account made during the year 2010-2011***	***75,000***
(xiv)	***Bonds of ICICI (Tax Savings) eligible for tax deduction***	***25,000***
(xv)	***Compute the Taxable Income of Mr. X and the tax liability for the Asst. Year 2011-2012.***	

Solution:

Previous Year: 2010-11 **Assessee: Mr. X** **Assessment Year : 2011-12**

Computation of Total Income

	Particulars	**₹**	**₹**
Income from Salaries:			
	Basic Salary (₹ 64,000 × 12)		7,68,000
Add: Value of Perquisites:			
1.	Value of Medical Facility in hospital maintained by K Ltd.		
	— Treatment in hospital maintained by Employer — Fully Exempt		Nil
2.	Rent Free Accommodation owned by Company — Explanation 1 to Sec. 17(2)		1,15,200
	15% of salary = 15% of ₹ 7,68,000 (Population > 25 Lakhs)		
3.	Housing Loans at concessional rate – Rule 3(7)(i)		
	= ₹ 6,00,000 × (10% – 5%)		30,000
4.	Use of Furniture & Fittings upto 1.8.2010 - Rule 3(1)(vii)		
	= 10% × ₹ 60,000 × 4/12		2,000
5.	Transfer of Assets - Rule 3(7)(viii)		
	Dining Table as per WN 1 (a)	12,000	
	Motor Car as per WN 1 (b)	95,280	1,07,280
6.	Gifts made by the Company on the occasion		
	of the Wedding Anniversary		Nil
7.	Credit Card Purchases taxable as perquisite u/s 17(2)		20,000

Gross Income from Salary			**10,42,480**
Less : Deduction u/s 16			Nil
Net Income from Salaries			**10,42,480**
Income from Other Sources:			
Interest on Fixed Deposits with a Company		5,000	
Income from specified mutual fund	3,000		
Less : Exempt u/s 10(35)	(3,000)		
Interest on Bank Deposits of minor married daughter	3,000		
Less : Exempt u/s 10(32)	(1,500)	1,500	
Income received by handicapped minor son - not clubbed u/s 64(IA)		Nil	6,500
GROSS TOTAL INCOME			**10,48,980**
Less: **Deduction under Chapter VI-A**			
U/s 80CCC – Contribution towards Pension Fund			10,000
U/s 80C – Contribution towards PPF			75,000
U/s 80CCF – Bonds of ICICI (Long term infrastructure bonds)			25,000
TOTAL INCOME			**9,38,980**

Working Notes :

1. **Valuation of Perquisites on transfer of Movable Assets :**

(a) Transfer of Assets

	Dining Table (₹)
Purchase Price	60,000
Less : Depreciation till date of Sale	(18,000)
(₹ 60,000 × 3 × 10%)	
WDV as at date of transfer	42,000
Less : Deduction for	
collection from Employee	(30,000)
Value of Perquisite	**12,000**

(b) Motor Car

	₹
Cost of Purchase (16.7.2006)	5,50,000
Less : Depreciation @ 20% (16.7.2006 - 15.7.2007)	1,10,000
16.7.2007: WDV	4,40,000
Less : Depreciation for 16.7.2007 - 15.7.2008	88,000
16.7.2008: WDV	3,52,000
Less : Depreciation for 16.7.2008 - 15.7.2009	70,400
16.7.2009: WDV	2,81,600
Less : Depreciation for 16.7.2009 - 15.7.2010	56,320
16.7.2010: WDV	2,25,280
Less : Amount Recovered on Transfer	1,30,000
Value of Perquisite	**95,280**

2. Gifts received from the employer on the occasion of the wedding anniversary
   (a) Taxable as perquisite u/s 17(2).
   (b) As per Rule 3(7)(vi), value of any gift or voucher or token (other than made in cash) or convertible ; in cash on ceremonial occasion or otherwise shall be taxable if the the aggregate value of Gift during the previous year is ₹ 5,000 or more. Since the value of gifts received is less than ₹ 5,000, it shall be exempt from tax.

Question No.50

(a) ***M, an individual, retired from the services of a Company on 31.10.2010. He joined another employer on 1.11.2010 and was in service till end of March 2011, when he furnishes the following details and information :***

1. Salary and Allowances for the period

From First Employer	***₹Per month***
Basic Salary	***30,000***
Dearness Allowance	***16,000***
Conveyance Allowance	***6,000***
From Second Employer	***₹Per month***
Basic Salary	***35,000***
Fixed Conveyance Allowance	***8,000***

2. While he was with the first employer, M contributed 10% of his basic salary to a Provident Fund Account with the Regional Provident Fund Commissioner. He did not become a member of the Provident Fund maintained by the second employer.

3. M was permitted by the second employer to encash 15 days leave he had accumulated during his service and received ₹ 12,500 from his employer.

4. M had constructed a residential house in Chennai in February 2007 for ₹ 30 Lakhs. Part of the costs of construction was met by borrowals of ₹ 20 lakhs from the Housing Development Corporation, at interest of 12.5% p.a. The loan was taken on June 2005. The loan outstanding at the beginning of the current year was ₹ 12,00,000. The rate of interest applicable for the current year was reduced to 9% p.a. due to reduction in rates. [He had also borrowed from some relatives ₹ 4,00,000 on which interest at 15% p.a. was due.] The property had been let-out soon after completion.

5. In the Assessment Year 2007-08, M was allowed a deduction of ₹ 50,000 for irrecoverable rents. The annual value decided by the Corporation of Chennai for the property is ₹80,000. The property was let-out in the current year to a Company on a rent of ₹ 20,000 p.m. The half-yearly municipal taxes on the property were fixed by the Corporation of Chennai only in August 2010 at ₹15,000 for every half year from 1.4.2007. M paid the taxes due in September 2010 upto the half-year ending 31.3.2010.

6. M also received from the previous tenant ₹40,000 (out of the dues of ₹50,000).

7. After retirement from the first employer, M received ₹ 4,50,000 from the Regional Provident Fund Commissioner, money was fully invested by him in the 15% Non-Redeemable Debentures issued by the Indian Oil Corporation interest on these had not come in by the end of March 2011.

8. M received interest of ₹60,000 on long-term fixed deposits with Banks, ₹25,000 as interest on Post Office Savings Bank Accounts and ₹20,000 as income from units.

9. M owns a car which is used for office purposes also and it is found that the entire conveyance allowance from his employer had been fully spent on travel for official purposes.

10. One of the policies of insurance taken by M had matured for payment and ₹8,00,000 received by him in June 2010 from the LIC was invested by him, in the name of his 16-year old son, in fixed deposits with companies. Interest received upto 31.3.2011 on these deposits was ₹ 90,000. On one of the continuing policies of insurance, M paid a premium of ₹ 60,000 in the year. Compute M's total income for the Assessment Year 2011-12.

Solution :

Previous Year: 2010-11 **Assessee: Mr. M** **Assessment Year : 2011-12**

Computation of Total Income

			₹	₹	₹
Income under the head Salaries					
From First Employer					
	Basic Pay	(₹ 30,000 x 7)		2,10,000	
	Dearness Allowance	(₹ 16,000 x 7)		1,12,000	
	Conveyance Allowance	(₹ 6000 x 7)	42,000		
Less:	Exempt u/s 10(14)		(42,000)	Nil	3,22,000
	Amount received from Regional Provident Fund Commissioner		4,50,000		

Less: Exempt u/s 10(12)		(4,50,000)	Nil	
From Second Employer				
Basic Salary	(₹ 35,000 x 5)		1,75,000	
Conveyance Allowance	(₹ 8,000 x 5)	40,000		
Less: Exempt u/s 10(14) (incurred for official performance of duties)		(40,000)	Nil	
Leave Encashment - Fully taxable while in service			12,500	1,87,500
Gross Income from Salary				**5,09,500**
Income from House Property :				
Gross Annual Value u/s. 23(1) — Higher of Municipal Value of ₹80,000 or Actual Rent of ₹ 2,40,000			2,40,000	
Less: Municipal Taxes paid during the year @ ₹ 15,000 for every half year from 1.4.2007 upto 31.3.2010 (Current Year - Not Paid)			(90,000)	
Net Annual Value (NAV)			1,50,000	
Less: Deduction @ 30% of NAV u/s 24(a)			(45,000)	
Interest on Borrowed Capital u/s 24(b)				
Loan from Housing Development Corporation:				
Current Period Interest: ₹12,00,000 × 9%		1,08,000		
Prior Period Interest (Interest upto 31.3.2006) [(₹20,00,000 × 12.5%) + (4,00,000 × 15%)] × 10/12 × 1/5		51,667		
Loan from Relative - Current Period Interest (₹ 4,00,000 x 15%)		60,000	(2,19,667)	
Add: Unrealised Rent recovered (taxable in the year of recovery u/s 25AA)			40,000	**(74,667)**
Income from Other Sources				
Interest on Long-term Fixed Deposits with Bank			60,000	
Interest on Post Office Savings Bank A/c		25,000		
Less: Exempt u/s 10(15)		(25,000)	Nil	
Income from Units of UTI		20,000		
Less: Exempt u/s. 10(35)		(20,000)	Nil	
LIC Policy matured		8,00,000		
Less: Exempt u/s. 10(1D)		(8,00,000)	Nil	
Interest from Fixed Deposits with Companies in the name of minor son		90,000		
Less: Exemption u/s. 10(32)		(1,500)	88,500	1,48,500
Gross Total Income				**5,83,333**
Less: Deduction under Chapter VI–A–				
u/s 80C –LIC Premium			(60,000)	
– RPF – 10% of ₹ 1,40,000			(14,000)	74,000
Total Income				**5,09,333**
Total Income (Rounded Off u/s 288A)				**5,09,330**

Assumptions :

1. It is presumed that Mr. M accounts for his interest income on receipt basis.
2. Assumed that there has been no repayment of Housing Loan Principal during the year ending 31.3.2006 for the purpose of calculation of prior period interest.
3. Recognised Provident Fund received on retirement shall not be taxable u/s 10 (assuming conditions are satisfied).
4. **Unrealised Rent recovered:** Since the assessee has been allowed a deduction of ₹ 50,000 from his house property income in earlier years in respect of unrealised Rent, entire ₹ 40,000 recovered during current year becomes taxable.
5. **Deduction of Interest** u/s 24 shall be allowed even if the amount is borrowed from any person other than the Banks/Financial Institutions in respect of Let out property.

(b) Mr. A, a Senior Citizen, has furnished the following particulars relating to his House Properties:-

Particulars	*House I —₹*	*House II —₹*
Nature of Occupation	***Self Occupied***	***Let-out***
Municipal Valuation	***60,000***	***1,20,000***
Fair Rent	***90,000***	***1,50,000***
Standard Rent	***75,000***	***1,40,000***
Actual Rent per month	***—***	***12,000***
Municipal Taxes paid	***6,000***	***12,000***
Interest on Capital borrowed	***90,000***	***80,000***

Loan for both Houses were taken on 1.4.2006. House II remained vacant for 4 months.

Besides the above two house, A has inherited during the year 1988-89 an old house from his grandfather. Due to business commitments, he sold the house immediately for a sum of ₹ 250 Lakhs. The house was purchased in 1962 by his grandfather for a sum of ₹2 Lakhs. However, the Fair Market Value as on 1.4.1981 was ₹30 Lakhs. With the sale proceeds, A purchased a new house in March 2010 for a sum of ₹140 Lakhs and the balance was used in his business.

The other income particulars of Mr. A besides the above are as follows (AY 2011–2012):-

- ***Business Loss*** ***₹12 Lakhs***
- ***Income from Other Sources (Bank Interest)*** ***₹1 Lakh***
- ***Investments made during the year PF*** ***₹70,000***
- ***ICICI Infrastructure Bond Purchased (u/s 80CCF)*** ***₹30,000***

Compute Total Income of Mr. A and his Tax Liability for the Assessment Year 2011–2012

Solution:

Assessee : Mr. A **Previous Year : 2010-11** **Assessment Year : 2011-12**

Computation of Total Income

		Particulars	**₹**	**₹**	**₹**
1. Income from House Property :					
(a)		**House I:** Self Occupied — Annual Value u/s 23(2)	Nil		
		Less : Deduction u/s 24(b) = Interest on Housing Loan			
		taken on 1.4.2006 (Note 1)	90,000	(90,000)	
(b)		**House II :** Let-out – (Note 2)		(21,000)	(1,11,200)
2. Profits and Gains of Business or Profession – Loss					(12,00,000)
3. Capital Gains — Sale of Residential House Property — Long Term Asset					
		Sale Consideration		2,50,00,000	
	Less :	Expenses on Transfer		Nil	
		Net Consideration		2,50,00,000	
	Less :	Indexed Cost of Acquisition — Fair Market Value as on 1.4.81 × CII of year of Sale /CII of year of first holding (₹ 30 Lakhs × 711/161)		(1,32,48,447)	
		Long Term Capital Gain		1,17,51,553	
	Less :	Exemption u/s 54 — New House purchased for Rs.140 lakhs, but deduction restricted upto the balance of capital gains		1,17,51,553	NIL
4. Income from Other Sources : Bank Interest					1,00,000
		Gross Total Income			**Nil**

Note:

1. No deduction under Chapter VIA is allowed as there is no positive income.
2. Balance of loss from House property after adjustment against Income from other sources is Rs.11,200 (i.e. Rs.1,11,200 – Rs.1,00,000)
3. Loss from Business Rs.12,00,000 is carried forward for adjustment in the next year.
4. It is assumed that the construction of the house was completed **within 3 years** from the end of the financial year in which the loan was taken.
5. Annual Value of House Property II is computed as under —

(i)	Municipal Value (MV)	1,20,000
(ii)	Fair Rental Value (FRV)	1,50,000
(iii)	Higher of MV + FRV	1,50,000
(iv)	Standard Rent	1,40,000
(v)	Reasonable Expected Rent (RER) [lower of (iii) + (iv)]	1,40,000
(vi)	Annual Rent @ ₹ 12,000 pm	1,44,000
(vii)	Unrealised Rent	Nil
(viii)	Actual Rent [(vi) – (vii)]	1,44,000
(ix)	Vacancy Allowance	48,000
(x)	Gross Annual Value [(viii) – (ix)]	96,000
	Less : Municipal Tax paid	12,000
	Net Annual Value (NAV)	**84,000**
	Less : Standard deduction @ 30% of NAV u/s 24(a)	25,000
	Less : Interest on borrowed Capital u/s 24(b)	80,000
	Income for House II	**(21,200)**

(c) Mr Ashok a senior citizen, owns a property consisting of two blocks of identical size. The first block is used for business purposes. The other block has been let out from 14.2010 to his cousin for ₹20000 p.m. The cost of construction of each block is ₹5 lacs (fully met from bank loan), rate of interest on bank loan is 10% p.a. The construction was completed on 31.3.2010. During the year ended 31.3.2011, he had to pay a penal interest of ₹2000 in respect of each block on account of delayed payments to the bank for the borrowings. The normal interest paid by him in respect of each block was ₹42,000. Principal repayment for each block was ₹23,000 An identical block in the same neighbourhood fetches a rent of ₹25,000 per month Municipal Tax paid in respect of each block was ₹12,000. The income from business prior to adjustment towards depreciation on any asset is ₹2,20,000. He follows mercantile system of accounting. Depreciation on equipments used for business is ₹30,000. On 23.2.2011, he sold shares of B Ltd., a listed share in BSE for ₹ 2,30,000. The share had been purchased 10 months back for ₹1,80,000. Security transaction tax paid may be taken as ₹220. Brought forward business loss of a business discontinued on 12.1.2009 is ₹90,000. This loss has been determined in pursuance of a return of income filed in time and the current year is the seventh year. The following payments were affected by him during the year:

1. ***LIP of ₹20,000 on his life and ₹12,000 for his son aged 22, engaged as a software engineer and drawing salary of ₹25,000 per month.***
2. ***Medical insurance premium of ₹6,000 for himself & ₹5,000 for above son. The premiums were paid by cheque. You are required to compute the total income for the assessment year 2011-12 and the tax payable. The various heads of income should be properly shown. Ignore the interest on bank loan for the period prior to 1.4.2010, as the bank had waived it.***

Solution:

Computation of Total Income of Mr. Ashok for A.Y. 2011-12.

	Particulars		**Amount**	**Amount**
(1)	**Income from house property (Let out)**			
	Gross Annual Value (being Fair rent)		3,00,000	
	Less: Municipal tax		12,000	
	Net Annual Value		2,88,000	
	Less: Deduction:-			
	u/s 24(a) Standard Deduction (30% of NAV)	86,400		
	u/s 24(b) Interest on loan	42,000	1,28,400	1,59,600
(2)	**Profits and gains of business or profession**			
	Net profit before depreciation		2,20,000	
	Less: Expenditure allowed but not debited in P & L Account			
	Depreciation on equipment	30,000		
	Depreciation on building i.e. 10% of ₹ 5,00,000	50,000	80,000	
	Profits and gains of business or profession of current year		1,40,000	
	Less: Brought forward losses set off u/s 72		(90,000)	50,000
(3)	**Capital gains**			
	Consideration for Transfer		2,30,000	
	Less: Cost of acquisition		(1,80,000)	
	Short Term Capital Gains			50,000
	Gross Total Income			2,59,600
	Less: Deduction u/s			
	80C: LIC Premium paid	32,000		
	Repayment of bank loan	23,000	55,000	
	80D: Medical insurance premium		6,000	61,000
	Total Income			**1,98,600**
	Tax payable			**Nil**

Notes:

1. Penal interest is not allowed u/s 24(b)
2. It has been assumed that interest, municipal tax on property used for business have already being charged while computing "business income before depreciation" i.e. ₹ 2,20,000.
3. STT is not allowed as expenditure on transfer.

Question No.51

(a) Thomas took voluntary retirement from State Bank of India on 1st May, 2010 under the Voluntary Retirement Scheme (VRS) and received a sum of ₹ 25 lakh on account of VRS benefits. At the time of his retirement, Thomas was having 47 months of service left and had served the organisation for 18 years 11 months. His last drawn Basic Pay ₹60,000, D.A. @ 60% of B/Pay (80% of which forming part of salary). Later, he started a business of plying, hiring and leasing of goods carriages from 1st June, 2010 by acquiring 3 heavy vehicles for ₹12 lakh, 2 medium goods vehicle for ₹5 lakh and 3 light commercial vehicles for ₹6 lakh. Although, he did not maintain regular books of account for his business, the diary maintained by him reveled gross receipts of ₹3,12,000 for the financial year ended 31st March, 2011 and he incurred an expenditure of ₹1,68,500 on the business towards salaries of drivers, repairs, fuel, etc. Depreciation on vehicle is not included in the said expenditure.

During the financial year 2010-11, he received a sum of ₹3,00,000 on account of pension from bank and he contributed a sum of ₹65,000 to his PPF account maintained with the said bank in the same year. His PPF account was credited with interest of ₹35,000 during the financial year 2010-11. He also purchased long-term infrastructure bonds for ₹20,000; Repayment of educational loan interest for the year ₹50,000. He also paid medical infrastructure premium of ₹14,000.

Further, he had two residential properties, one is self occupied and other is let out. During the financial year 2010-11, Thomas was able to let out his property only for 11 months on a monthly rent of ₹17,000. The total municipal taxes on the let out property was ₹8,000, 50% of which was paid by the tenant and 50% by him. The interest on loan taken for renovation of the self occupied property paid by him during the year was ₹ 34,000. The insurance premium on the house and actual repairs and collection charges paid are ₹1,600 and ₹18,000 respectively and the entire expenditure is borne by him. During the financial year 2010-11, he was able to recover the unrealized rent of ₹33,000 from old tenant who vacated the house during the August, 2009 after spending litigation expenses of ₹ 15,000. During the financial year 2010-11. Thomas suffered short term capital loss on account of sale of shares on various dates amounting to ₹8,50,500.

From the aforesaid information, you are required to compute the total income of Thomas for the AY. 2011-12 giving reasons in respect of each and every item and indicate the relief/rebate/deduction which he is entitled to claim.

Solution:

Previous Year : 2010-2011 Assessee : Mr. Thomas Assessment Year : 2011-2012

	Computation of Total			**₹**
(1)	**Income from Salary**			
	Pension Received			3,00,000
	<u>Voluntary Compensation</u>			
	Actual Amount Received		25,00,000	
	Less : Exemption u/s 10(10c)			
	Least of the following:			
	(i) Actual Amount Received	25,00,000		
	(ii) Maximum limit	5,00,000		
	(iii) Higher of the following :			
	(a) Last Drawn Salary × 3 × No. of Fully	47,.95,200		

completed years of service			
= 88,800 × 3 × 18 = 47,95,200		5,00,000	
(b) Last Drawn Salary × Balance of number of months of service left			
= 88,800 × 47 = 41,73,600			20,00,000
Last Drawn Salary = B/ Pay + D.A (forming part)			
= ₹ [60,000 + 60% of 80% of 60,000]			
= ₹ [60,000 + 28,800]			
= ₹ 88,800			
(2) **Income from House Property**			
(a) **Self-occupied:**			
Annual Value	Nil		
(–) Interest on Loan u/s 24(b) ₹ 34,000			
– restricted upto ₹ 30,000	(30,000)	(30,000)	
(b) **Let-out House Property**			
Gross Annual Value			
(being the Rental Value) = 17,000 ×12	2,04,000		
Less : Municipal Tax Paid by the assessee during the year			
= 18,000 × 50%	9,000		
Net Annual Value (NAV)	**1,95,000**		
Less : Standard deduction @ 30% of NAV u/s 24(a)	58,500		
Less : Interest on loan u/s 24(b)	Nil	1,36,500	1,06,500
(3) **Income from Business or Profession**			
Presumptive Income u/s 44AE			
in the Business of plying, leasing or hiring trucks			
(i)Light goods vehicles = 3 × 4,500 × 10 =	1,35,000		
(ii)Medium goods vehicles = 2 × 4,500 × 10 =	90,000		
(iii)Heavy goods vehicles = 3 × 5,000 × 10 =	1,50,000		3,75,000
(5) **Income from Capital Gains**			
Short Term Capital Loss			(8,50,000)
Gross Total Income			**19,31,500**
Less : **Deductions under Chapter VIA**			
u/s 80 C – Deposits in PPF	65,000		
u/s 80D – Medical Insurance Premium	14,000		
u/s 80E – Interest paid on Education loan	50,000		
u/s 80CCF – Investments in Long-term Infrastructure Bonds	20,000		1,49,000
Total Income			**17,82,500**

Tax on Total Income of ₹ 17,82,500	3,88,750
(+) E/c @ 2%	7,775
(+) SHEC @ 1%	3,888
Tax Payable	**4,00,413**
Tax Payable (Rounded off u/s 288B)	4,00,410

(b) Mr. Anurag is a Cost Accountant in practice. The Income & Expenditure Account for the year ending March 31, 2011 read as follows :

	Expenses	*₹*		*Income*	*₹*
To	*Employees cost*	*1,50,000*	*By*	*Professional earnings*	*16,00,000*
To	*Travelling & Conveyance*	*50,000*	*By*	*Dividend income*	
To	*Administration & Office exp.*	*4,00,000*		*from shares*	*2,00,000*
To	*Interest*	*1,50,000*		*from equity oriented mutual funds*	*1,00,000*
To	*Demat charges*	*10,000*			
To	*Net profit*	*11,40,000*			
Total		*19,00,000*	*Total*		*19,00,000*

Other Information:

(a) Entire Dividend income is claimed as exempt from taxation by virtue of Section 10(34) and 10(35).
(b) Anurag claims that no expenditure has been incurred against the dividend income, which is claimed as exempt from tax.
(c) The value of investment in shares as on the first day and the last day of the previous year is ₹7,50,000 and ₹9,00,000 respectively.
(d) The value of investment in units of Mutual Funds as on the first day and the last day of the previous year is ₹5,00,000 and 2,00,000 respectively.
(e) All expenditure including interest expenditure of ₹1,50,000 incurred by Anurag are relating to taxable and non taxable Income. Demat charges are directly attributable to exempt income.
(f) The value of the total assets as appearing in the Balance sheet of the assessee as on the first day and last day of the previous year is ₹60,00,000 and ₹80,00,000 respectively.
You are required to compute the taxable income of Anurag for the assessment year 2011-12.

Solution :

Computation of Taxable Income A.Y. 2011-12

Particulars		**₹**
Income from Profits & Gains of Business or Profession – as per Working Note 1		8,40,000
Income from other sources – as per Working Note 2		Nil
	Total	**4,40,000**
Add : Disallowance u/s 14A – as per Working Note 3		31,804
	Taxable Income	**4,71,804**

Working Note 1 — Profits & Gains of Business or Profession

	₹	**₹**
Net profit as per Income & Expenditure Account		11,40,000
Less : Income considered under other heads		
– Dividend Income from shares	2,00,000	
– Income from UTI	1,00,000	3,00,000
Taxable professional income		**8,40,000**

Working Note 2 — Income from other sources

		₹	₹
1.	Dividend Income from Shares	2,00,000	
	Less : Exemt under sec 10(34)	2,00,000	Nil
2.	Income from units in Mutual funds	1,00,000	
	Less : Exempt under sec 10(35)	1,00,000	Nil
	Taxable income from other sources		**Nil**

Working Note 3 — Disallowance u/s 14A

		₹
(a)	Amount of expenditure directly relating to exempt income (Other than interest) — Demat charges	10,000
(b)	Amount of interest incurred by way of expenditure other than those included above (1,50,000 × 8,25,000 / 70,00,000)	17,679
(c)	Amount equal to 0.5% of the average value of Investments (8,25,000 × 0.5%)	4,125
	Total amount disallowed u/s 14A (a) + (b) + (c)	**31,804**

Note:

1. Average value of Investment = (7,50,000 + 9,00,000) / 2 = ₹ 8,25,000.
2. Average value of Total Assets = (60,00,000 + 80,00,000) / 2 = ₹ 70,00,000.

(c) Mr. Samir submits the following information for the A.Y. 2011-12.

Particulars	***₹***
Taxable Income from Salary	***1,64,000***
Income from House property :	
House 1 Income	***37,000***
House 2 loss	***(53,000)***
Textile Business (discontinued on 10.10.2010)	***(20,000)***
Brought forward loss of textile business - A.Y. 2008-09	***(80,000)***
Chemical Business (discontinued on 15.3.2010)	
– b/f loss of previous year 2008-09	***(25,000)***
– unabsorbed depreciation of previous year 2008-09	***(15,000)***
– Bad debts earlier deducted recovered in July '2010	***40,000***
Leather Business	***62,000***
Interest on securities held as stock in trade	***10,000***

Determine the gross total income for the assessment year 2011-12 and also compute the amount of loss that can be carried forward to the subsequent years.

Solution:

Computation of Gross Total Income A.Y. 2011-12

	Particulars		**₹**	**₹**
I.	Income from Salary :			1,64,000
II.	Income from House property :			
	House 1 Income		37,000	
	House 2 loss		(53,000)	(26,000)
III.	Profits and Gains of Business or Profession:			
	(i) Textile business loss		(20,000)	
	(iii) Chemical business – Bad debts			
	recovered taxable u/s 41(4)	40,000		
	Less : (i) Set off of brought forward			

	loss of P.Y. 2008-09 u/s. 72	(25,000)	15,000	
			(5,000)	
(iii)	Leather Business Income	62,000		
(iv)	Interest on securities held as stock-in-trade	10,000	72,000	
			67,000	
Less : B/f. business loss ₹ 80,000 restricted to			67,000	Nil
	Gross Total Income			**1,38,000**

Note :

1. The unabsorbed loss of ₹ 13,000 (80,000-67,000) of Textile business can be carried forward to A.Y. 2011-12 for setoff u/s. 72, even though the business is discontinued.
2. The unabsorbed depreciation of ₹ 15,000 is eligible for set off against any income other than salary income. Since, Gross total income contains the balance of Income from Salary only, Unabsorbed depreciation cannot be adjusted. Hence, carried forward for adjustment in the subsequent years.

Question No.52

(a)H Bros., an HUF, started an undertaking in "Special Economic Zone" during the previous year 2007-2008. From the following particulars relating to the previous year 2010-2011, compute the total income for the assessment year 2011-2012.

		₹ (in lakh)
(i)	***Total turnover***	***30***
(ii)	***Export sales***	***25***
(iii)	***Business profits***	***15***
(iv)	***Receipt of convertible foreign exchange in India up to 30 September 2011***	
(v)	***Convertible foreign exchange kept outside India with the permission of RBI for importing a new machinery***	***16***
(vi)	***Receipt of convertible foreign exchange in December 2011***	***4***
(vii)	***Convertible foreign exchange received for reimbursement for freight, insurance attributable to export***	***2***

Solution : **Computation of Total Income** **₹ (in lakhs)**

Business profits	15
Less : Deduction for export profits : [Sec. 10A]	10
Total income	5

Note :

1. Convertible foreign exchange received in December 2011 has not been included in Export turnover, because it is received after the prescribed time limit without approval of the competent authority.
2. Convertible foreign exchange kept outside India with the permission of RBI is included in Export turnover.
3. Reimbursement of freight and insurance in convertible foreign exchange is not included in Export turnover.

(b)The books of account maintained by a National Political Party registered under the Representation of the People Act, 1951 for the year ended on 31-3-2011 disclose the following receipts :

(i)	***Rent of property let out to a departmental store at Chennai.***	***10,00,000***
(ii)	***Interest on deposits other than banks.***	***2,00,000***
(iii)	***Contribution from 100 persons (who have secreted their names) of ₹33,000 each***	***33,00,000***
(iv)	***Contribution @ ₹22 each from 1,00,000 members in cash***	***22,00,000***
(v)	***Net profit of cafeteria run in the premises at Delhi***	***3,00,000***

Compute the total income of the political party for the assessment year 2011-2012, with reason for inclusion or otherwise.

Solution: **Computation of income of National Political Party: AY 2011-2012**

Particulars	₹
(a) Rent from property: Exempt under Sec. 13A	—
(b) Income from business—Profits of cafeteria	3,00,000
(c) Income other sources:	—
(i) Interest on deposit other than banks: Exempt under Sec. ISA	—
(ii) Contributions from 100 persons exceeding ₹ 22,000 each—See Note below,	33,00,000
(iii) Contributions from 1,00,000 members: Exempt Sec. 13A.	—
Total income	**36,00,000**

Note : Any income of a political party received by way of voluntary contributions is exempt, provided:

(i) it keeps and maintains such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom;

(ii) it keeps and maintains a record, name and address of the person who has contributed in excess of ₹ 20,000; and

(iii) its accounts are audited by an accountant defined in Explanation below Sec. 288(2).

Thus, in order to claim exemption in respect of voluntary contributions exceeding ₹ 20,000, a political party is required to keep and maintain a record, and names, address of persons who have made such contributions. The legislative intention is to ensure that there is transparency in the process of collection of funds [Common Cause *v.* Vol. 222 ITR 260 (SC)]. Hence, no exemption can be allowed in respect of contributions exceeding ₹ 20,000 from persons who have secreted their names.

Question No.53

(a) D Ltd., a closely-held Indian company, is engaged in the business of manufacture of chemical goods (value of plant and machinery owned by the company is ₹55 lakh). The following information for the financial year 2010-11 are given : D Ltd. is engaged in the business of manufacture of garments.

	₹
Sale proceeds of goods (domestic sale)	***25,00,000***
Sale proceeds of goods (export sale)	***7,00,000***
Amount withdrawn from general reserve (reserve was created in 1996-97 by debiting P&L A/c)	***2,00,000***
Amount withdrawn from revaluation reserve	***1,50,000***
Total	***35,50,000***
Less : Expenses	
Depreciation (normal)	***6,16,000***
Depreciation (extra depreciation because of revaluation)	***2,70,000***

Salary and wages	***2,10,000***
Wealth tax	***10,000***
Income-tax	***3,50,000***
Outstanding customs duty (not paid as yet)	***17,500***
Proposed dividend	***60,000***
Consultation fees paid to tax expert	***21,000***
Other expenses	***1,39,000***
Net Profit	***18,56,500***

For tax purposes the company wants to claim the following :
—Deduction under section 80-1B (30 per cent of ₹14,56,500).
—Depreciation under section 32 (₹5,36,000)
The company wants to set off the following losses/allowances:

	For tax purposes	***For accounting purposes***
	₹	***₹***
Brought forward loss of 2003-04	***14,80,000***	***4,00,000***
Unabsorbed depreciation	***—***	***70,000***

Compute the net income and tax liability of D Ltd. for the assessment year 2011-12 assuming that D Ltd. has a (deemed) long-term capital gain of ₹60,000 under proviso (i) to section 54D(2) which is not credited in profit and loss account.

Solution:

	₹
Net profit as per P&L A/c	18,56,500
Add :	
Excess depreciation [i.e., ₹ 6,16,000 + ₹ 2,70,000 — ₹ 5,36,000]	3,50,000
Wealth tax	10,000
Income tax	3,50,000
Customs duty which is not paid	17,500
Proposed dividend	60,000
Total	26,44,000
Less : Amount withdrawn from reserve (i.e., ₹ 2,00,000+₹ 1,50,000)	3,50,000
Business income	22,94,000
Less : Unabsorbed loss	14,80,000
Business Income	8,14,000
Long-term capital gain	60,000
Gross total income	8,74,000
Less : Deductions under section 80-IB [30% of ₹ 4,14,000]	1,24,200
Net Income (rounded off)	**7,49,800**
Tax liability (under normal provisions)	
[20% of ₹ 60,000 + 30% of ₹ 6,89,800, plus 3% of tax as cess]	**2,25,508**

Computation of Book profit

Net Profit	18,56,500
Add :	
Depreciation (i.e. ₹ 6,16,000 + ₹ 2,70,000)	8,86,000
Wealth tax	Nil
Income-tax	3,50,000
Proposed dividend	60,000
Less : Amount withdrawn from general reserve	(–) 2,00,000
Unabsorbed depreciation	(–) 70,000
Depreciation (normal)	(–) 6,16,000
Amount withdrawn from revaluation reserve to the extent	
it does not exceed extra depreciation because of revaluation	(–) 1,50,000
Book profit	**21,16,500**
Tax liability (18.54% of book profit)	3,92,399

D Ltd. will pay ₹ 3,92,399 as tax for the assessment year 2011-12 as per section 115JB. Tax credit is however, available in respect excess tax (i.e., ₹ 1,66,891) under section 115JB.

(b) What is the due date of filling of return of income in case of a non-working partner of a firm whose accounts are not liable to be audited?

Answer : Due date of furnishing return of income in case of non-working partner shall be 31st July of the assessment year whether the accounts of the firm are required to be audited or not.

A working partner for the above purpose shall mean an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner and is drawing remuneration from the firm.

(c) Can unabsorbed depreciation be carried forward even if the return is filed after due date?

Answer : Unabsorbed depreciation can be carried forward even if the return of loss is submitted after the due date, as it is not covered under Chapter VI of set off or carry forward of losses but covered u/s 32(2).[East Asiatic Co.(India) Pvt. Ltd. vs.CIT (1986) 161 ITR 135(Mad.)]

(d) Can a belated return of income filed u/s 139(4) be revised?

Answer : There was a difference of opinion among various courts regarding filling of revised return in respect of belated returns. However, it has been held that a belated return filed u/s 139(4) cannot be revised as section 139(5) provides that only return filed u/s 139(1) or in pursuance to a notice u/s 142(1) can be revised [Kumar Jagdish Chandra Sinha vs.CIT(1996) 220 ITR 67(SC)].

(e) Can a revised return be further revised?

Answer : If the assessee discovers any omission or any wrong statement in a revised return, it is possible to revise such a revised return provided it is revised within the same prescribed time[Niranjan Lal Ram Chandra Vs.CIT (1982) 134 ITR 352 (All.)]

(f) What is a protective assessment under Income-tax law? What is the procedure followed for the recovery of tax in such cases?

Answer: A protective assessment is made in a case where there are doubts relating to the true ownership of the income. If there is an uncertainty about the taxing of an income in the hands of Mr. A or Mr. B, then at the discretion of the Assessing Officer, the same may be added in the hands of one of them on protective basis. This is to ensure that on finality, the addition may not be denied on the ground of limitation of time. Once finality regarding the identity of the tax payer to be taxed is established, the extra assessment is cancelled. But the Department cannot recover the tax from both the assessees in respect of the same income. Penalty cannot be imposed on the strength of a protective assessment.

(g) If an assessment is remanded back to Assessing Officer, can he introduce new sources of income for assessment?

Answer: Where the assessment is set aside by the Tribunal and the matter remanded to the Assessing Officer, it is not open to him to introduce into the assessment new sources of income so as to enhance the assessment. Any power to enhance is confined to the old sources of income which were the subject matter of appeal [Kartar Singh vs.CIT (1978) 111 ITR 184 (P &H)].

Question No.54

(a) A, B and C Ltd. are three members of an AOP, sharing profit and losses in the ratio 2:2:1. The AOP discloses its income for the PY 2010-2011 as below:

Particulars	***₹***
(i) Long-term capital gains	***4,00,000***
(ii) Business profits	***6,00,000***

Determine tax liability of AOP in the following cases:

(i) C Ltd. is an Indian company
(ii) C Ltd. is a foreign company

Solution: Allocation of income of AOP among partners

Particulars of income	**A** **₹**	**B** **₹**	**C Ltd** **₹**
Long-term capital gains	1,60,000	1,60,000	80,000
Business profits	2,40,000	2,40,000	1,20,000
Share income of the members	4,00,000	4,00,000	2,00,000

<u>Tax liability of an AOP</u>

Particulars	**Case – I** **C Ltd. an Indian company** **₹**	**Case – II** **C. Ltd. as foreign company** **₹**
Tax on the share of C Ltd.		
Case I : 1,20,000 x 33.99%	40,788	—
Case II: 1,20,000 x 42.23%	—	50,676
Tax on balance income at AOP:		
(i) Long-term capital gain 4,00,000 x 22.66%	90,640	90,640
(ii) Business profits 6,00,000 x 33.99%	2,03,940	2,03,940
Total tax payable	3,35,368	3,45,256
Total Tax (Rounded off a/c 288B)	3,35,370	3,45,260

(b) ***Devdas Charitable Trust submits the particulars of its receipts and outgoing during the previous year 2010-2011. as below :***

		₹
(i)	***Income from property held under trust for charitable purposes***	***20,00,000***
(ii)	***Voluntary contribution (out of which ₹5,00,000 will form part of the corpus)***	***15,00,000***
(iii)	***Donations paid to blind charitable school***	***6,00,000***
(iv)	***Scholarship paid to poor students***	***4,00,000***
(v)	***Amount spent on holding free eye camps in urban slums***	***3,00,000***
(vi)	***Amount set apart for setting up an old age home by March 2013***	***10,00,000***

Compute the total income of the trust for the previous years' 2009-2010 and 2014-2015 if it spends ₹ 5,00,000 during the previous year 2013-2014 and ₹3,00,000 during the previous year 2014-2015 in setting up the old age home.

Solution : Computation of the taxable income of the trust for previous year 2010-2011/AY 2011-2012.

	Particulars		**₹**
(i)	Income from property held under charitable trust		20,00,000
(ii)	Income from voluntary contributions (₹ 15,00,000-₹ 5,00,000)		10,00,000
	Total		**30,00,000**
	Less: 15% set apart for future application		45,00.000
	Balance		**25,50,000**
	Less: Income applied for charitable purposes:		
(i)	Donations to blind charitable school	6,00,000	
(ii)	Scholarship to poor students	4,00,000	
(iii)	Free eye camps in urban slums	3,00,000	
	Total	**13,00,000**	
	Amount set apart for old age home	**10,00,000**	23,00,000
	Taxable income		**2,50,000**
(b)	Previous year 2014-2015 /AY 2015-2016:		
	Amount set apart for old age home	10,00,000	
	Less:		
1.	Amount spent during 2013-2014	3,00,000	
2.	Amount spent during 2014-2015	5,00,000	
	Taxable income	**2,00,000**	

(c) In the case of Ms Laxmi, you are required to compute the interest u/s 234A, 234B & 234C from the following details—

Tax on total income ₹2,00,000; Due date for filing the return 30.09.2011; Actual date of filing the return 1.10.2012 and tax paid on 30.09.2011 ₹2,00,000.

Solution: **Computation of Interest u/s 234A**

Particulars		**As per assessed income**
Tax		₹ 2,00,000
Less : Advance tax paid	Nil	
TDS	Nil	Nil
Amount on which interest is payable		₹ 2,00,000
Period of default (October being part of a month shall be considered)		1 month
Interest u/s 234A (1% × ₹ 2,00,000 × 1 month)		**₹ 2,000**

Computation of Interest u/s 234B

Since assessee did not pay any amount by way of advance tax, hence she is liable to pay interest u/s 234B.

Particulars	Assessed income
Shortfall	₹ 2,00,000
Period of default (From April to September)	6 months
Interest (1% × 2,00,000 × 6 months)	**₹ 12,000**

Computation of Interest u/s 234C

Due Date	Advance Tax payment	Advance Tax paid	Cumulative Advance Tax paid before due date	shortfall in payment	Surplus	Months	Interest
15.9.2010	**30% of 2,00,000 = 60,000**	**nil**	**nil**	**60,000**	**nil**	**3**	**1,800**
15.12.2010	**60% of 2,00,000 =1,20,000**	**nil**	**nil**	**1,20,000**	**nil**	**3**	**3,600**
15.3.2011	**100% of 2,00,000**	**nil**	**nil**	**2,00,000**	**nil**	**1**	**2,000**
Total Interest payable u/s 234C							**7,400**

Question No.55

(a) X Ltd. estimates its income for the previous year 2009-10 at ₹1,20,000. Besides this income, it has also earned long-term capital gain of ₹80,000 on transfer of gold on 1.12.2010. Compute the advance tax payable by the company in various instalments.

Solution :

	₹
Tax on ₹ 1,20,000 @ 30%	36,000
LTCG of ₹ 80,000 @ 20%	16,000
	52,000
Add : Education cess @ 2%	1,040
SHEC @ 1%	520
	53,560

Amount payable on 1st and 2nd instalment

For the first two instalments tax on LTCG will not be taken into account as this accrued on 1.12.2010 *i.e.* after the due date of the first 2 instalments.

	₹
Tax including Education Cess and SHEC payable without Long-term Capital Gain (₹ 36,000 + 720 +360)	37,080

Advance Tax Payable

Due Date	Tax Liability as on due date	Amount of Instalment Payable (₹)
15.6.2010	15% of 37,080 = 5,562	₹ 5,562
15.9.2010	45% of 37,080 = 16,680	= 16,680 – 5,560 = 11,118
15.12.2010	75% of 53,560 = 40,170	= 40,170 – 5,562 – 11,118 =23,490
15.3.2011	100% of 53,560 = 53,560	= 53,560 – 5,562 – 11,118 – 23,490 = 13,390

(b) Find out the amount of advance tax payable by ABC Ltd. on specified dates for the financial year 2010-11 :

Business income	***₹1,75,000***
Long term capital gain on 31-7-2010	***₹3,50,000***
Bank interest	***₹10,000***
TDS on business income	***₹19,995***

Solution:

Computation of total income of ABC Ltd. for the Previous Year 2009-10

Particulars	**Amount** ₹
Profits and gains of business or profession	1,75,000
Capital gains: Long term capital gains	3,50,000
Income from other sources: Bank Interest	10,000
Total Income	**5,35,000**

Computation of tax liability of ABC Ltd. for the previous year 2010-11

Particulars	**Long term capital gain** ₹	**Other income** ₹
Income	3,50,000	1,85,000
Tax rate	20%	30%
Tax on above	70,000	55,500
Add : Education cess & SHEC	2,100	1,665
Tax and cess payable	72,100	57,165
Less : TDS	—	19,995
Advance tax payable	**72,100**	**37,170**

Advance tax to be paid on specified dates

	Advance tax on LTCG		**Advance tax on income other than LTCG**		
Date	**Workings**	**Amount (a) ₹**	**Workings**	**Amount (b) ₹**	**Total (a+b) ₹**
15.06.2010	As LTCG occurred on 31.7.10	Nil	15% of ₹ 37,170	5,576	5,576
15.09.2010	45% of ₹ 72,100	32,445	30% of ₹ 37,170	11,151	43,596
15.12.2010	30% of ₹ 72,100	21,630	30% of ₹ 37,170	11,151	32,781
15.03.2011	25% of ₹ 72,100	18,025	25% of ₹ 37,170	9,292	27,317
Total		**72,100**		**37,170**	**1,09,270**

(c) Find out the amount of advance tax payable by Mr. A on specified dates under the Income tax Act, 1961 for the Previous Year 2010-11:

	₹
Business income	***2,75,000***
Long term capital gain on 31-7-2010	***60,000***
Winning from lotteries on 12-9-2010	***50,000***
Bank interest	***10,000***
Other income	***5,000***
Investment in PPF	***40,000***
Tax deducted at source:	
Case I	***48,000***
Case II	***25,000***

Solution:

Computation of Total Income of Mr. A for the previous year 2010-11

Particulars	Details	Amount
Profits and gains of business or profession		2,75,000
Capital gains: Long term capital gains		1,60,000
Income from other sources		
Winning from lotteries	50,000	
Bank interest	10,000	
Other income	5,000	65,000
Gross Total Income		5,00,000
Less : Deduction u/s 80C — Deposits in PPF		40,000
Total Income		**4,60,000**

Computation of Tax liability of Mr. A for the previous year 2010-11:

Income	Case 1	Case 2
Long term capital gain (₹ 1,60,000 @ 20%)	32,000	32,000
Winning from lotteries (₹ 50,000 @ 30%)	15,000	15,000
Balance income (₹ 2,50,000)	9,000	9,000
Tax	56,000	56,000
Add : Education cess & SHEC	1,680	1,680
	57,680	57,680
Less : Tax Deducted at Source	48,000	25,000
Total Tax Payable	**9,680**	**32,680**

Advance tax to be paid on specified dates:-

Case I : Since amount of tax payable is less than ₹10000, assessee is not liable to pay advance tax.

Case II : Advance Tax Payable

Due Date	Tax Liability (₹)	Amount of Instalment (₹)
15.6.2010	30% of 32,680 = 9,804	9,804
15.9.2010	60% of 32,680 = 19,608	= 19,608 – 9,804 = 9,804
15.12.2010	100% of 32,680 = 32,680	= 32,680 – 9,804 – 9,804 = 13,072

Question No.56

(a) Mr. Prasad, ordinarily resident in India, furnished the following particulars of his income/savings during the previous year 2010-2011.

	₹
(i)Income from foreign business (Including ₹2,00,000 from business connection in India) accruing outside India	*12,00,000*
(ii)Loss from Indian business	*(–) 2,00,000*
(iii)Income from house property	*4,00,000*
(iv) Dividends gross from Indian companies	*60,000*
(v) Deposit in Public Provident Fund	*70,000*
(vi)Tax paid in foreign country	*2,50,000*

There is no double taxation avoidance treaty. Compute the tax liability

Solution: **(a) Computation of Total Income for the A.Y. 2011-12**

Particulars	**₹**	**₹**
1. Income from House Property		4,00,000
2. Income from Business :		
(a) Income from Indian business	(-) 2,00,000	
(b) (i) Income from foreign business accruing or arising outside India	(+) 10,00,000	
(ii) Income from foreign business deemed to accrue or arise in India	(+) 2,00,000	10,00,000
3. Income from other sources		
Dividends from Indian companies exempt [Sec. 10(34)]		Nil
Gross total income		**14,00,000**
Less : Deduction for approved savings (Sec. 80C): PPF Deposits		70,000
Total income		**13,30,000**

Tax liability on Total Income :

Income-tax on slab rates	3,48,000
Add: Surcharge on income tax	Nil
(assuming total income less than one crore)	3,48,000
Add : Education cess : 2% on the aggregate of income tax and surcharge	6,960
Add : SHEC @ 1%	3,480
Tax liability	**3,58,440**
Less : Double taxation relief on foreign business profits, not deemed to accrue or arise in India (Sec. 91) [10,00,000 × 20.833%]	2,08,330
Tax payable	**1,50,110**

Note: 1. Relief is allowed on the doubly taxed income either at average rate of Indian tax or average rate of foreign income tax, whichever is lower;

(a) Average rate of Indian income tax : 3,58,440 / 13,30,000 × 100 = 26.95%

(b) Average rate of foreign income tax: (2,50,000/12,00,000) × 100 = 20.833%

2. The amount of doubly taxed income has been worked out as under:

	₹
Income from foreign business, accruing outside India	12,00,000
Less: (i) Income from business connection deemed to accrue or arise in India which is not entitled to double taxation relief.	2,00,000
Doubly taxed income	10,00,000

3. Loss from Indian business has been set-off against profits from foreign business which is deemed to accrue or arise in India.

The mode of set-off increases the amount of double taxation relief.

(b) A is a musician deriving income from foreign concerts performed outside India, ₹50,000. Tax of ₹10,000 was deducted at source in the country where the concerts were given. India does not have any agreement with that country for avoidance of double taxation. Assuming that Indian income of A is ₹ 2,00,000, what is the relief due to him under Sec. 91 for the assessment year 2011-2012.

Solution : **Computation of Total Income for the A.Y. 2011-12**

		₹
(a) Computation of total income:		
(i)	Indian income	2,00,000
(ii)	Foreign income	50,000
	Gross Total Income or Total Income	**2,50,000**
(b)	Computation of Tax Liability :	
	Income tax on total income:	9,000
Add :		
	(i) Education cess @ 2%	180
	(ii) SHEC @ 1%	90
		9,270
Less : Double taxation relief under Sec. 91: ₹ 50,000 × 3.71%		1,855
Tax payable		**7,415**

Question No.57

(a) Samir furnishes the following particulars for the compilation of his Wealth Tax return for Assessment Year 2011-12.

(i) Gifts of jewellery made to wife from time to time aggregating ₹ 80,000.Market value on valuation date ₹3,00,000

(ii) Flat purchased under installment payment scheme in 1979 for ₹ 9,50,000. Used for purposes of his residence and market value as on 31.3.2010. (Installment remaining unpaid ₹80,000) ₹10,00,000

(iii) Urban land transferred to minor handicapped child valued on 31.3.2010 ₹5,00,000.

Explain how you will deal with these items. Make suitable assumptions if required.

Solution:

Particulars	Taxable	Reasons
Gift of Jewellery made to wife	₹ 3,00,000	Deemed asset u/s 4. Fair Market Value of the Jewellery is taxable.
Flat used for residence	NIL	Taxable as an asset u/s 2(ea) but the assessee can claim exemption u/s 5(vi). So full value of the asset is exempt from tax.
Urban Plot in the hands of the minor	NIL	Asset held by the minor who is handicapped u/s 80U, clubbing provisions does not apply.

(b) Sunrise Promoters & Developers Ltd. a widely held company owns the following assets as on 31.3.2011 : -

(i) Land at Rajarhat (West Bengal) purchased in 2002 on which a residential complex consisting of 24 flats, to be sold on ownership basis, is under construction for last 18 months

(ii) Two office flats at Noida purchased for resale in the year 2003

(iii) Shares of Group Companies, break-up value of which is ₹19,00,000

(iv) Cash at construction site ₹8,00,000

(v) Residential flat in occupation of company's whole-time director drawing a salary of ₹ 4,50,000 per annum.

Which of the above assets will be liable for wealth? Give reasons in brief.

Solution : Assessee: Sunrise Promoters & Developers Ltd. Valuation Date: 31.3.2011

Assessment Year: 2011-12

Nature of Asset	**Amount Taxable**	**Reasons**
Land at Rajarhat purchased in 2005	NIL	Urban Land held as stock-in-trade for a period less than 10 Years -not an asset u/s 2(ea)
Residential Flats at Noida purchased in 2004 for resale	NIL	House Property held as stock-in-trade - not an asset u/s 2(ea)
Shares of Group Companies	NIL	Not an asset u/s 2(ea)
Cash at construction site	NIL	Any amount recorded in the books of account is not an asset u/s 2(ea)
Residential House Property for Whole-Time Director	NIL	Since Gross Annual Salary of Whole Time Director is less than ₹ 5 Lakhs - not an asset u/s 2(ea)

(c) Hassan, a person of Indian origin was working in Australia since 1986. He returned to India for permanent settlement in June 2004 when he remitted the moneys into India. He furnished the following particulars of his wealth as on 31.3.2011. You are required to arrive at his wealth in respect of Assessment Year 2011-12 :

(a) Market Value of Residential house in Jharkhand (let-out for residence) ₹ 10,00,000 with Net Maintainable Rent p.a. of ₹1,20,000.

(b) Share in building owned by a firm in which Hassan is a Partner - used for business ₹5,00,000

(c) Motor-car purchased in April 2009, out of moneys remitted to India from Australia ₹4,00,000

(d) Value of interest in Firm excluding item (b) above ₹5,00,000

(e) Shares in companies (quoted) ₹2,00,000

(f) Assets purchased out of amount remitted from Australia :

- ***Jewellery purchased in March 2002 ₹5,50,000***
- ***Vacant land purchased in October 2000 ₹10,00,000***

(g) Amount standing to the credit of NRE Account ₹15,00,000

(h) Cash on hand (out of sale proceeds of agricultural income) ₹65,000

Solution : **Assessee: Hassan Valuation Date: 31.3.2011 Computation of Net Wealth**

Nature of Asset	Amount Taxable	Reasons
Residential House in Jharkhand	NIL	Not an Asset u/s 2(ea) - Let-out for whole year -Hence, not taxable
Share in the building owned by the firm	NIL	Not an asset u/s 2(ea), used for its own business - not chargeable to tax
Motor-car 4,00,000		
Less: Exempt u/s 5(v)-acquired out of money brouqht into India (4,00,000)	NIL	Asset u/s 2(ea). But, exemption available u/s 5(v), since acquisition out of money brought into India.
Value of Interest in a Firm	5,00,000	Assumed as deemed asset u/s 4(1)(b)
Shares in Companies	NIL	Not an asset u/s 2(ea)
Value of Jewellery	5,50,000	Asset u/s 2(ea) - Not entitled for exemption
Vacant Land	10,00,000	Asset u/s 2(ea) - Purchased in October 2000
Money in NRE A/c	NIL	Not an asset u/s 2(ea)
Cash in Hand in excess of ₹ 50,000	15,000	Asset u/s 2(ea), being an Individual
NET WEALTH	**20,65,000**	
Tax Liability	**Nil**	

Since less than the Basic Exemption limit.

Question No.58

(a) Abhishek, a person of Indian origin was working in Austria since 1991. He returned to India for permanent settlement in May 2010 when he remitted money into India. For the valuation date 31.3.2011, the following particulars were furnished. You are required to compute the taxable wealth. The reason for inclusion or exclusion should be stated:-

- ***Building owned and let-out for 270 days for residence. Net maintainable rent (₹ 1,00,000) and the Market Value (Excess of Unbuilt Area over Specified Area is 20% of the Aggregate Area) ₹30 lakhs***
- ***Jewellery : (a) Purchased in April 2010 out of money remitted to India from Austria ₹ 12,00,000***

  (b) Purchased in May 2010 out of sale proceeds of motor-car brought from abroad and sold for ₹ 40 lakhs.
- ***Value of interest in urban land held by a firm in which he is a partner ₹ 10 lakhs***
- ***Bonds held in companies ₹ 10 lakhs***
- ***Motor car used for own business ₹25 lakhs***
- ***Vacant house plot of 480 sq. mts. (purchased in December 2003) market value of ₹20,00,000***
- ***Cash in hand ₹45,000***
- ***Urban land purchased in the year 2007 out of withdrawals of NRE Account ₹15,00,000***

Solution:

Assessee : Abhishek Valuation Date : 31.3.2011 Assessment Year : 2011-12

Computation of Net Wealth

Nature of the Asset	₹	₹	Reasons
Value of the House		**18,50,000**	Asset u/s 2(ea). Working Note 1
Jewellery: Purchased in April 2010	12,00,000		Asset u/s 2(ea).
Less: Exempt u/s 5(v)	(12,00,000)	**Nil**	Purchased out of money
Jewellery			brought into India
Jewellery: Purchased in May 2010	40,00,000		Asset u/s 2(ea).
Less: Exempt u/s 5(v)	(40,00,000)	**Nil**	Purchased out of sale proceeds of
			assets brought into India
Interest in Urban Land held by firm		**10,00,000**	Deemed Asset u/s 4(1)(b)
Bonds held in companies	—	**Nil**	Not an asset u/s 2(ea)
Motor car		**25,00,000**	Asset u/s 2(ea). Not held as
			stock-in-trade
Vacant House Plot (480 sq. mts.)	20,00,000		Asset u/s 2 (ea)
Less: Exempt u/s 5(vi)	(20,00,000)	**Nil**	House/part of house/plot
			less than 500 sq.mts.
Cash in hand		**Nil**	Since not exceeding ₹50,000
Urban Land Purchased	15,00,000		Purchased out of money
Less: Exempt u/s 5(v)	(15,00,000)	**Nil**	brought into India
NET WEALTH		**53,50,000**	
Less : Basic Exemption		**30,00,000**	
Net Taxable Wealth		**23,50,000**	
Tax Payable @ 1%		**23,500**	

(1) Working Notes: Valuation of Building :

Net Maintainable Rent(NMR)	= ₹1,00,000
Capitalized Value of NMR=NMR×12.5 (Owner of the land) = ₹ 1,00,000 × 12.5	= ₹12,50,000
Add : Premium for excess of unbuilt area (20%) over specified area = 40% of CNMR	= ₹ 5,00,000
VALUE OF THE HOUSE	**₹18,50,000**

(b) Mr. Kushal Sengupta owns a house at Jharkhand, which is let-out at ₹1,35,000 per annum. The annual value of the property as per municipal records also is ₹1,00,000. Municipal taxes are partly borne by the owner (₹5,000) and partly by the tenant (₹6,000). Repair expenses are borne by tenant (₹10,000) the difference between the un-built area and specified area does not exceed 5%. The property was acquired on 10.5.1998 for ₹15,00,000.

Determine for purposes of Wealth Tax Act, the value of the property as on 31.3.2011 on the following situations —

(i) ***The house is built on a freehold land.***

(ii) ***It is built on a leasehold land, the unexpired period of lease of the land is more than 50 years***

(iii) ***If the area of the plot on which the house is built is 800 sq. mete₹ FSI, permissible is 1.4 and FSI utilised is 1088 Sq. metres. (136 Sq. metres × 8 Storeys)***

(iv) ***The tenant had made interest free deposit of ₹1,00,000 with the landlord.***

Solution :

Assessee : Mr. Kushal Sengupta Valuation Date : 31.3.2011 Assessment Year : 2011-12

Computation of Value of House Property

For Situations (i) & (ii):

Computation of Gross Maintainable Rent (Amount in ₹)

Particulars	**No Rental Deposit**	**Rental Deposit excess of 3 Mths**
Actual Annual Rent	1,35,000	1,35,000
Add: Municipal Taxes borne by the tenant	6,000	6,000
I/9th of Actual Rent Receivable since repair expenses are borne by the tenant (₹1,35,000/ 9)	15,000	15,000
Rental Deposits - 15% Interest on ₹ 1,00,000	Nil	15,000
GROSS MAINTAINABLE RENT	**1,56,000**	**1,71,000**
Less: Municipal Taxes Paid	11,000	11,000
Less: 15% of Gross Maintainable Rent	23,400	25,650
Net Maintainable Rent	**1,90,400**	**2,07,650**
Case (a) Capitalization of Net Maintainable Rent		
-Freehold Land NMR x 12.5	**23,80,000**	**25,56,625**
Case (b) Capitalization of Net Maintainable Rent		
-Leasehold Land - Unexpired Lease 50 Years = NMR×10	**19,04,000**	**20,07,650**
Property Acquired after 31.3.1974 i.e. 10.5.1997	**15,00,000**	**15,00,000**
Therefore, Value of the Property (whether on Lease-hold Land or on Freehold Land)	**15,00,000**	**15,00,000**

For Situation (iii) : In case of excess unbuilt area :

Unbuilt Area = (Actual Area of the Land **less** Built up Area) = (800 sq. mt **less** 136 sq. mt). = 664 sq. mt.

Excess Unbuilt Area = (Unbuilt Area **less** Specified Area) = 664 sq. mt. **less** 70% of 800 sq. mt. = 664 Less 560 = 104 sq. mt

% of Excess Unbuilt Area = **Excess Unbuilt Area** × **100/Aggregate Area** = 104 × 100/800 = 13%

Therefore, Value of the Property = Substituted Net Maintainable Rent i.e. ₹15,00,000 + 30% of SNMR = ₹ 19,50,000

Question No.59

(a) From the following dated furnished by Mr. Soumitra, determine the value of house property built on leasehold land as at the valuation date 31.3.2011:

Particulars	₹
Annual Value as per Municipal valuation	1,40,000
Rent received from tenant (Property vacant for 3 months during the year)	1,08,000
Municipal tax paid by tenant	10,000
Repairs on property borne by tenant	8,000
Refundable deposit collected from tenant as security deposit which does not carry any interest	50,000

The difference between unbuilt area and specified area over aggregate area is 10.5%.

Solution :

Assessee: Mr. Soumitra Valuation Date: 31.3.2011 Assessment Year: 2011-12

Computation of Value of House Property

Step I: Computation of Gross Maintainable Rent (GMR)

Particulars	₹	₹
Actual Annual Rent- ₹ 1,08,000 x 12 Months/9 Months		1,44,000
Add: Municipal tax paid by the Tenant 10,000		
I/9th of Actual Rent Receivable as repair expenses are borne by the tenant - ₹ 1,44,000/9	16,000	
Interest on Refundable Security Deposit- ₹ 50,000 x 15% x 9/12	6,000	32,000
GROSS MAINTAINABLE RENT (GMR)	**1,76,000**	

Step II: Computation of Net Maintainable Rent (NMR)

Particulars	₹	₹
Gross Maintainable Rent (GMR)		1,76,000
Less: Municipal Taxes levied by the local authority	10,000	
15% of Gross Maintainable Rent - ₹1,76,000 x 15%	26,400	(36,400)
NET MAINTAINABLE RENT (NMR)		**1,39,600**

Step III: Capitalisation of the Net Maintainable Rent (CNMR) (Assumed that unexpired lease period is more than 50 Years)

NMR × Multiple Factor for an Unexpired Lease Period - ₹ 1,39,600 × 10 = ₹ 13,96,000

Step IV: Addition of Premium to SNMR in case of excess inbuilt area:

Particulars	₹
Add: Capitalisation of the Net Maintainable Asset	13,96,000
Premium for excess of 10.5% unbuilt area over specified area-30% of CNMR	4,18,800
Value of House Property as per Wealth Tax Act	**18,14,800**

(b)Property Company Ltd. has let-out a premise with effect from 1.10.2010 on monthly rent of ₹1.5 lakh. The lease is valid for 10 years and the tenant has made a deposit equivalent to 3 months rent. The tenant has undertaken to pay the municipal taxes of the premises amounting to ₹ 2 lakh. What will be the value of the property under Schedule III of the Wealth Tax Act for assessment to wealth tax?

Solution :

Assessee: Property Company Ltd. Valuation Date: 31.3.2011 Assessment Year : 2011-12

Computation of Value of Let-out Property

Actual Annual Rent Receivable :- ₹ 1,50,000 × 12 Months	18,00,000
Add: Municipal Taxes borne by the Tenant	2,00,000
Gross Maintainable Rent (GMR)	**20,00,000**

Less: Municipal Taxes levied by the Municipal Authority	2,00,000
Less: 15% of Gross Maintainable Rent (₹ 20,00,000 × 15%)	3,00,000
NET MAINTAINABLE RENT	**15,00,000**

Value of the Property = Capitalized Value of NMR

NMR × 8 (unexpired period of lease is less than 50 years) = ₹ 15,00,000 × 8 = ₹ **1,20,00,000**

Question No.60

(a) Net wealth of firm consisting of three partners Bidyut, Kingshuk and Deepak in 2:2:1 and a capital contribution of ₹ 17 Lakhs, ₹ 13 Lakhs, and ₹ 12 Lakhs respectively is as under -

(i)	***Value of assets located outside India***	***₹30,00,000***
(ii)	***Value of assets located in India***	***₹80,00,000***
(iii)	***Debts incurred in relation to assets in India***	***₹40,00,000***

Determine the value of interest of the partners in the firm under the Wealth Tax Act, 1957.

Solution:

Assesses: Bidyut, Kingshuk & Deepak Valuation Date: 31.3.2011
Assessment Year: 2011-12
Computation of net wealth of the Firm

Particulars	**₹**	**₹**
Value of Assets located in India	80,00,000	
Less: Liability in relation to assets in India	40,00,000	40,00,000
Value of Assets located outside India		30,00,000
Net Wealth of the Firm		**70,00,000**

Computation of Interest of the Partner in the net wealth of the Firm (Amount in ₹)

Particulars	**Bidyut**	**Kingshuk**	**Deepak**
To the extent of Capital Contribution	17,00,000	13,00,000	12,00,000
Balance (Net Wealth-Capital Contribution) in Profit sharing ratio since dissolution ratio is not given	11,20,000	11,20,000	5,60,000
Interest of the Partner in the Net Wealth of the Firm	**28,20,000**	**24,20,000**	**17,60,000**

Computation of the Interest of the Partner in the net wealth of the Firm on the basis of location of assets:
(Interest of the Partner in the Firm **apportioned** in the ratio of **4:3)**

Particulars	**Balu**	**Kausik**	**Deepu**
Assets Located Inside India	16,11,429	13,82,857	10,05,714
Assets Located Outside India	12,08,571	10,37,143	7,54,286
Interest of the Partner in the Net Wealth of the Firm	28,20,000	24,20,000	17,60,000

(b) Satender is aged 35 years. His father settled a property in trust giving whole life interest therein to Satender. The income from the property for the years 2006-07 to 2009-10 was ₹70,000, ₹84,000, ₹90,000, ₹ 108,000, respectively. The expenses incurred each year were ₹ 2,000, ₹ 4,000, ₹ 5,000 and ₹6,000 respectively. Calculate the value of life interest of Mr. Jogi in the property so settled on the valuation date 31.3.2011, with the help of the factor of 9.267.

Step	Procedure
1	Average Income for last three years = (₹ 84,000 + ₹ 90,000 + ₹ 1,08,000)/ 3 = ₹ 94,000.
2	Average Expenses for the last three years = (₹ 4,000 + ₹ 5,000 + ₹ 6,000) / 3 = ₹ 5,000.
3	Maximum Permissible Expenses = Average Expenses **or** 5% of Average Income, whichever is less = 5% of ₹ 70,000 = ₹ 3,500
4	Average Annual Income = ₹ 94,000 Less ₹ 3,500 = ₹ 90,500.
5	Life Interest=Average Annual Income×Life Interest Factor = ₹ 90,500 × 9.267 = ₹ 8,38,664.

(c) The assessment of assessment year 2005-06 was completed on 28.03.2008. On 5.7.2010, the Assessing Officer issues notice under Sec.148 as he has reasons to believe that Rs.95,000 has escaped assessment for the assessment year 2005-06. Is the notice valid? Would your answer differ is the amount involved was Rs.1,05,000 instead of Rs.95,000?

Answer: As income escaped is less than Rs.1,00,000, as per section 149(1), notice under section 148 could have been issued till 31.3.2010 (4 years from the end of the relevant assessment year of which income escaped assessment). Hence, notice issued on 5.7.2010 is time barred and thus invalid.

Since income exceeds Rs.1,00,000, as per Sec.149(1), notice u/s 148 could have been issued upto 31.3.2012.hence notice issued on 5.7.2010 is a valid notice.

(d) Mr.R wins a motor car in a lucky draw held by G Ltd. The market price of the car is Rs.3,00,000. What should be the amount of TDS to be recovered?

Answer: In this case, G Ltd. shall have to recover the tax as follows:

Gross up the draw amount which shall be : 3,00,000 x 100/70 = 4,28,571

The tax to be deducted shall be = 4,28,571 x 30% = 1,28,571

G Ltd. shall deposit Rs.1,28,571 as tax and the gross income of Mr. R shall be Rs.4,28,571.

(e) State the objectives of tax planning?

Answer: The prime objectives of tax planning are:

(i) reduction of tax liability;

(ii) minimization of litigation

(iii) productive investment

(iv) healthy growth of economy

(v) economic stability.

(f)State the factors on the basis of which tax planning is done.

Answer: It is essential that areas of tax planning should be identified, so that one does not realise too late that one has missed the opportunity for tax-cost reduction. A survey of such areas should help proper tax planning. The following factors are helpful for effective tax planning:

(i) Residential status and citizenship of the assessee;

(ii) Heads of income/assets to be included in computing net wealth

(iii) Latest legal position

(iv) Form vs. substance