DIRECT TAX LAWS AND INTERNATIONAL TAXATION

Time Allowed: 3 Hours **Full Marks: 100**

The figures in the margin on the right side indicate full marks.

Where considered necessary, suitable assumptions may be made and clearly indicated in the answer.

SECTION – A (Compulsory)

1. **Choose the correct option:** **[15 x 2 =30]**

i. **Kumar Industries is engaged in manufacture of leather products. It was set up in backward area and became eligible for subsidy @ 25% for the generator, to be used in guest house, acquired by it for ₹ 12 lakhs on 15.12.2023. It received the subsidy in March 2024. The amount of depreciation for the year at the applicable rate would be _____________.**

a. ₹ 67,500
b. ₹ 90,000
c. ₹ 1,80,000
d. Nil

ii. **In the year of restructuring, depreciation shall be:**

a. available to the successor company fully
b. apportioned between successor and predecessor on the basis of number of days
c. available to the predecessor company fully
d. None of the above

iii. **Uncontrolled transaction means a transaction between ____________, whether resident or non-resident.**

a. enterprises other than associated enterprises
b. associated enterprises
c. any enterprises
d. none of the above

iv. **The provisions of sec. 92 will apply only if the aggregate value of specified domestic transactions entered into by the taxpayer during the year exceeds a sum of ₹_____.**

a. 100 crore

b. 5 crore
c. 10 crore
d. 20 crore

v. In respect of DTAA, generally, India follows:
a. UN Model
b. UK Model
c. OECD Model
d. US Model

vi. ICDS is applicable in case of income under the head:
a. Profits and gains from Business or Profession
b. Capital Gains
c. Income from House Property
d. All heads of income

vii. Auddy Fertilisers P Ltd., is a manufacturer. A factory building has been constructed for ₹ 40 lakhs and occupied on 12.02.2023. Additional depreciation allowable for the said factory building is ______.
a. Nil
b. ₹ 4,00,000
c. ₹ 2,00,000
d. None of the above

viii. MSP Ltd., has spent a sum of ₹ 20 lakhs towards meeting its corporate social responsibility (CSR) under the Companies Act, 2013. The amount of deduction available while computing the business income is ___________.
a. Nil
b. ₹ 10 lakhs
c. ₹ 15 lakhs
d. ₹ 20 lakhs

ix. Napa Ltd. earned ₹ 15 lakhs by way of transfer of carbon credit. The tax liability in respect of carbon credit is ____________.
a. ₹ 1,56,000
b. ₹ 2,34,000
c. ₹ 4,68,000
d. Nil

x. Vikash has advertised on Facebook to promote his business of coaching. He is required to pay ₹ 20,000 in the previous year 2023-24 to Facebook for the advertising services availed. What amount is required to be deducted as equalisation levy?

a. ₹ 1,200
b. ₹ 800
c. ₹ 400
d. Nil

xi. When an assessee fails to furnish any information relating to a specified domestic transaction, the quantum of penalty as a percentage of value of the transaction would be —

a. 2%
b. 1%
c. 5%
d. 3%

xii. A is using a motor car for his personal purposes, but charges as business expenditure. This is the case of __________.

a. Tax Avoidance
b. Tax Planning
c. Tax Evasion
d. Tax Management

xiii. Countries that employ explicit policies designed to attract international trade oriented activities by minimization of taxes and reduction or elimination of other restrictions on business operations is described as ________.

a. Tax Havens
b. Tax Planning
c. Tax Evasion
d. Tax Management

xiv. During the course of survey in the premises of Ratan & Co. on 10.01.2024, stocks of goods purchased for ₹ 10 lakhs were found to be not recorded in the books of account. The firm has brought forward loss of ₹ 5 lakhs and incurred business loss of ₹ 2 lakhs for the year ended 31.03.2024 without considering the unaccounted stock. The tax liability of the firm including the said unaccounted purchase would be _______.

a. ₹ 7,80,000
b. ₹ 3,12,000
c. ₹ 93,600
d. Nil

xv. GAAR provisions shall not apply to:

a. an arrangement where the tax benefit in the relevant assessment year arising, in aggregate, to all the parties to the arrangement does not exceed a sum of ₹ 3 crore
b. an arrangement where the tax benefit in the relevant assessment year arising, in aggregate, to all the parties to the arrangement does not exceed a sum of ₹ 5 crore
c. an arrangement where the tax benefit in the relevant assessment year arising, in aggregate, to all the parties to the arrangement does not exceed a sum of ₹ 1 crore
d. None of the above.

Answer:

(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)	(x)	(xi)	(xii)	(xiii)	(xiv)	(xv)
a	b	a	d	a	a	a	a	a	d	a	c	a	a	a

SECTION – B

(Answer any five questions out of seven questions given. Each question carries 14 Marks)
[5x14=70]

2. Following is the profit and loss account of Z Ltd. for the year ended on 31-3-2024:

Particulars	Amount	Particulars	Amount
To Raw material consumed	23,25,000	By Sale	1,60,00,000
To Rent	3,50,000	By Closing Stock	10,00,000
To Salary & Wages	12,00,000	By Revaluation Reserve	25,000
To Depreciation	5,00,000	By General Reserve	1,00,000

To Provision for contingencies	**75,000**		
To Wealth Tax	**50,000**		
To Provision for bad debts	**40,000**		
To Proposed dividend	**1,00,000**		
To Provision for Income tax	**1,05,000**		
To Net Profit	**1,23,80,000**		
	1,71,25,000		**1,71,25,000**

Additional Information:

(1) The amount of depreciation includes depreciation on revaluation of assets ₹ 50,000. Further, for the purpose of Income tax, depreciation is ₹ 4,00,000.

(2) Turnover of the company during the previous year was ₹ 530 crores. However, during the financial year 2021-22, turnover of the company was ₹ 250 crores only.

(3) In past few years, company had suffered losses, following balances are still unabsorbed:

	As per Income tax Act	**As per books of Accounts**
Depreciation	**₹ 66,00,000**	**Nil**
Losses	**₹ 35,50,000**	**Nil**

Compute tax liability of the company. **[14]**

Answer:

Computation of total income of Z Ltd. for the A.Y.2024-25 (as per other provisions of the Act)

Particulars	Details (₹)	Amount (₹)
Net profit as per books of accounts		1,23,80,000
Add: Expenditure disallowed but debited in P/L A/c		
Excess Depreciation	1,00,000	
Provisions for Contingencies	75,000	
Wealth Tax	50,000	
Provision for bad debts	40,000	
Proposed Dividend	1,00,000	
Provision for income tax	1,05,000	4,70,000

		1,28,50,000
Less: Amount credited to P/L A/c		
Revaluation Reserve	25,000	
General Reserve	1,00,000	1,25,000
		1,27,25,000
Less: Brought forward business loss		35,50,000
		91,75,000
Less: Unabsorbed Depreciation		66,00,000
Total Income		25,75,000

Computation of Book Profit of Z Ltd. for the A.Y.2024-25

Particulars	Details (₹)	Amount (₹)
Net profit as per books of accounts		1,23,80,000
Add:		
Provision for contingencies	75,000	
Proposed Dividend	1,00,000	
Provision for income tax	1,05,000	
Provision for Bad Debts	40,000	
Depreciation	5,00,000	8,20,000
		1,32,00,000
Less:		
Depreciation (ignoring depreciation on revaluation)	4,50,000	
Amount transferred from Revaluation Reserve	25,000	
Amount transferred from General Reserve	1,00,000	5,75,000
Book Profit		1,26,25,000

Computation of tax liability of Z Ltd.

Particulars	Amount (₹)
Total income as per other provisions of the Act	25,75,000
Tax on above @ 25% [A]	6,43,750
Book profit u/s 115JB	1,26,25,000
15% of book profit [B]	18,93,750
Tax [Higher of A & B]	18,93,750
Add: Surcharge [As total income is ₹ 1,26,25,000]	1,32,563
Tax & Surcharge	20,26,313

Add: Health & Education Cess @ 4%	81,053
Tax Liability (Rounded off u/s 288B)	21,07,370

3. (a) **On 01-10-2023, Mr. Shah of Surat is offered an employment by Vimal & Co. Ltd., Surat on a basic salary of ₹ 55,500 p.m. Other allowances are dearness allowance (not forming part of salary for retirement benefits) ₹ 50,000 p.m., medical allowance ₹ 10,000 p.m. and bonus being 1 month's basic salary. The company gives an option to Mr. Shah either to take a rent-free accommodation in Surat of the fair rental value of ₹ 20,000 p.m. or to accept house rent allowance of ₹ 20,000 p.m. Mr. Shah join the job with house rent allowance and takes a house in Surat at a monthly rent of ₹ 20,000.**
Analyse whether he has made a wise choice from tax advantage view (old regime). [7]

Answer:

Computation of Gross Taxable Salary of Mr. Shah for the A.Y.2024-25

Particulars		When he takes HRA		When he takes RFA	
		Amount (₹)	Amount (₹)	Amount (₹)	Amount (₹)
Basic			3,33,000		3,33,000
Bonus			27,750		27,750
Dearness allowance			3,00,000		3,00,000
Medical allowance			60,000		60,000
HRA		1,20,000			
Less: Minimum of the following					
a) Actual amount received	1,20,000				
b) 40% of salary	1,33,200				
c) Rent paid over 10% of salary	86,700	86,700	33,300		Nil
Rent free accommodation (being 10% of salary)			Nil		42,075
Gross Taxable Salary			7,54,050		7,62,825

Note: Salary for the purpose:

Particulars	Accommodation (₹)	HRA (₹)
Basic salary	3,33,000	3,33,000

Medical Allowance	60,000	--
Bonus	27,750	--
Total	4,20,750	3,33,000

Comment:

The above computation indicates that if the assessee chooses rent-free accommodation, then his gross taxable salary increases by ₹ 8,775 (being ₹ 7,62,825 – ₹ 7,54,050), which will increase his tax bill. Hence, assessee has taken right decision.

(b) Smile Ltd. is a wholly-owned subsidiary company of Happy Ltd., an Indian company. Smile Ltd. owns Plant-A and Plant-B (depreciation rate 40%, depreciated value of the block ₹ 3,00,000 on 1st April, 2023). Plant-B was purchased and put to use on 10th November, 2021 (cost being ₹ 70,000). Plant-B is transferred by Smile Ltd. to Happy Ltd. on 14th December, 2023 for ₹ 20,000. It is put to use by Happy Ltd. on the same day. Happy Ltd. owns Plant-C on 1st April, 2023 (depreciation rate 40%, depreciated value ₹ 60,000). Find out the amount of depreciation in the hands of Smile Ltd. and Happy Ltd. for the assessment year 2024-25. [7]

Answer:

Depreciation in the hands of Smile Ltd. for the assessment year 2024-25

Particulars	Amount (₹)
Depreciated value of the Plant A and B on 1st April, 2023	3,00,000
Less: Plant B transferred to Happy Ltd	20,000
WDV as on 31st March, 2024	2,80,000
Depreciation for the block P.Y.2023-24	1,12,000
WDV at the end of the year	1,38,000

Depreciation in the hands of Happy Ltd. for the assessment year 2024-25

Particulars	Amount (₹)
Depreciated value of the block on 1st April, 2023	60,000
Add: Actual Cost of Plant B acquired from Smile Ltd (See Note)	33,600
WDV as on 31st March, 2024	93,600
Depreciation on transferred asset [₹ 33,600× ½ × 40%]	6,720
Other Asset @ 40% of ₹ 60,000	24,000
Total Depreciation	30,720

Note: Actual Cost of Plant B in the hands of Happy Ltd.

Particulars	Amount (₹)
Actual Cost of Plant B in the hands of Smile Ltd on Nov 10, 2021	70,000
Less: Depreciation for P.Y 2021-22 (1/2 of 40% of ₹ 70,000)	14000
Balance on April 1, 2022	56,000
Less: Depreciation for the P.Y.2022-23	22,400
Balance on April 1, 2023	33,600

4. (a) X Ltd. has several undertakings carrying on several businesses. During the year 2023-24, the company sold one of its undertaking (as it was continuously generating loss since last 5 years) for a lump sum value of ₹ 300 lacs without assigning value to individual asset and liabilities. The fair market value of the capital asset of that unit is ₹ 350 lacs. Book value of sundry assets and liabilities of the undertaking as on the date of sale is as under:

Items	**Book Value**
Land	**₹ 50 lacs (Value for the purpose of Stamp duty ₹ 70,00,000)**
Machinery	**₹ 70 lacs (WDV as per IT Act ₹ 60 lacs)**
Furniture	**₹ 50 lacs (WDV as per IT Act ₹ 90 lacs)**
Stock	**₹ 30 lacs**
Debtors	**₹ 40 lacs**
Creditors	**₹ 50 lacs**

Brokerage on transfer paid @ 5%. Compute capital gain. [7]

Answer:

Since the undertaking is owned by the company for more than 3 years hence the gain on transfer shall be liable to long term. Calculation of cost of acquisition (i.e. Net worth)

Particulars	Workings	Details	Amount
Value of asset taken over			
Land	Book value of non-depreciable assets	₹ 50 lacs	
Stock	Book value of non-depreciable assets	₹ 30 lacs	
Debtors	Book value of non-depreciable assets	₹ 40 lacs	
Machinery	WDV as per I.T. Act	₹ 60 lacs	

Furniture	WDV as per I.T. Act	₹ 90 lacs	₹ 270 lacs
Less: Value of liabilities taken over			
Creditors	Book Value		₹ 50 lacs
Net worth (cost of acquisition)			₹ 220 lacs

Computation of capital gains in the hands of X Ltd. for the A.Y. 2024-25

Particulars	Details	Amount (₹)	Amount (₹)
Sale Consideration	Higher of actual consideration and FMV of capital assets transferred		350 lacs
Less: Expenses on transfer	5% of ₹ 300 lacs		15 lacs
Net Sale Consideration			335 lacs
Less: Cost of Acquisition	Calculated above	220 lacs	
Less: Cost of improvement		Nil	220 lacs
Long Term Capital Gain			115 lacs

(b) USA Airlines incorporated as a company in USA operates its flights to India and vice versa during the year 2023-24 and collects charges of ₹ 150 lakh for carriage of passengers and cargo out of which ₹ 90 lakh were received in US Dollars for the passenger fare booked from New York to Mumbai. The total expenses for the year on operation of such flights were ₹ 195 lakh. Income chargeable to tax of the foreign airlines may please be computed. [7]

Answer:

(a) Computation of income of USA Airlines

Particulars	Fare booked from Mumbai to New York whether paid in India or outside India	Fare booked from New York to Mumbai	
		If paid in India (or deemed to be received in India)	If paid outside India
Fare	₹ 60 lakh [(₹150 – ₹90 lakh]	₹ 90 lakh	₹ 90 lakh
Taxable Income @ 5% of the above	₹ 3,00,000	₹ 4,50,000	-

5. (a) **Summarize a comparison between revision u/s 263 and revision u/s 264. [7]**

Answer:

Comparative study of revision u/s 263 & revision u/s 264

Basis	Sec. 263	Sec. 264
Which order can be revised	Order, which is prejudicial to the interest of revenue.	Order, which is prejudicial to the interest of assessee.
Proceedings at the motion of	At the own motion of the authorities.	At the own motion of the authorities or on the application of the assessee.
Scope	Revision is possible of the issues which have not been considered and decided in an appeal, i.e., doctrine of partial merger is applicable	Revision u/s 264 is not possible on any issue if an appeal has been filed, i.e., doctrine of total merger is applicable
Time limit for application	Assessee does not apply	Within 1 year from the date on which the order in question was communicated to the assessee
Time limit for passing a revisional order	2 years from the end of the financial year in which the order sought to be revised was passed.	• Where the authorities act on his own motion: within 1 year from the date of original order. • Where the application is made by the assessee: within 1 year from the end of the financial year in which such application is made.
Fee	Not applicable	₹ 500 where the application for revision is made by the assessee.
Appeal against order	Appeal can be filed to the Tribunal	No appeal can be filed.
Beneficial to	Revenue	Assessee

(b) **Mr. Goswami submitted his return on 25th July, 2024 for the assessment year 2024-25. The following particulars are furnished by him for the previous year 2023-24:**

	₹
Tax payable on assessed income	**1,03,950**
Tax deducted at source	**36,450**
Advance taxes paid as under:	
15th June, 2023	**Nil**
15th September, 2023	**18,500**
15th December, 2023	**16,125**
15th March, 2024	**25,250**

You are required to examine and compute the interest, if any, payable by the assessee at the time of filing return of income. [7]

Answer:

Computation of interest u/s 234B

Particulars	Amount (₹)
Tax and cess payable	1,03,950
Less: Tax deducted at source	36,450
Assessed tax	67,500
90% of above	60,750
Advance tax paid [₹ 18,500 + ₹ 16,125 + ₹ 25,250]	59,875
Since advance tax paid by him is less than 90% of assessed tax, sec.234B is applicable	
Shortfall (Assessed tax less Advance tax paid)	7,625
Rounded off	7,600
Period of default [From April 2024 to July 2024]	4 months
Interest u/s 234B (1% * ₹ 7,600 * 4)	304

Computation of Interest Payable u/s 234C

Particulars	Installment of Advance Tax (₹)			
	15-6	15-9	15-12	15-3
Rate of Advance tax	15%	45%	75%	100%
Amount payable as advance tax	10,125	30,375	50,625	67,500
Less: Amount paid till date	-	18,500	34,625	59,875
Shortfall	10,125	11,875	16,000	7,625
Rounded off (a)	10,100	11,800	16,000	7,600
Period of default (b)	3 months	3 months	3 months	1 month
Interest (1% × a × b)	303	354	480	76
Total interest payable u/s 234C		₹ 1,213		

6. (a) **Analyze, in brief, the different models of tax convention in DTAA.** **[7]**

Answer:

Model Tax Conventions:

Global trade and commerce have made the world a single integrated market. In today's scenario, no country can claim that it is self-sufficient. This gives rise to import and export of goods and services. As and when the global trade started expanding its operations, economic transactions triggered tax provisions of various jurisdictions. In the absence of any agreement for avoidance of double taxation, the global business environment was affected. Therefore, a need was felt that there must be formulated a convention which would enable avoidance of double taxation. This led to series of model tax conventions by various bodies in different years.

Model tax treaties serve as the starting point (or can be termed as standard format) for negotiations between two countries. Although model treaties are not legally binding, their language often is incorporated verbatim (or with only minor alterations) in the text of bilateral treaties. However, sometimes they make changes as per their requirement and relationship with the other country.

Presently, the following are the model tax conventions which are in vogue –

(A) Organisation for Economic Co-operation and Development (OECD) Model:

The emergence of present form of OECD Model Convention can be traced back to 1927, when the Fiscal Committee of the League of Nations prepared the first draft of Model Form applicable to all countries. Since then, it has been revised several times and the latest being in the year 2017. OECD Model is essentially a model treaty between two developed nations. This model advocates residence principle, that is to say, it lays emphasis on the right of state of residence to tax the income.

(B) United Nations (UN) Model:

In 1968, the United Nations set up an Adhoc Group of Experts from various developed and developing countries to prepare a draft model convention between developed and developing countries. In 1980, this Group finalized the UN Model Convention in its present form. It has further been revised a number of times, the recent ones being in the year 2021. It gives more weight to the source principle as against the residence principle of the OECD Model. UN Model is designed to encourage flow of investments from the developed countries to developing countries. It takes into account sharing of tax-revenue with the country providing capital. Most of India's tax treaties are based on the UN Model.

(C) US Model:

The US Model convention was first published in 1976 and revised several times. US motel is used by the United States while entering into tax treaties with various country.

(b) Amar, an individual, resident of India, receives the following payments after TDS during the previous year 2023-24:

(i)	**Professional fees on 17.08.2023**	**₹2,40,000**
(ii)	**Professional fees on 04.03.2024**	**₹ 1,60,000**

Both the above services were rendered in country X on which TDS of ₹ 50,000 and ₹ 30,000 respectively has been deducted. He had incurred an expenditure of ₹ 2,40,000 for earning both these receipts / income. His income from other sources in India is ₹ 5,00,000 and he has made payment of ₹ 70,000 towards LIC. Compute the tax liability of Amar and also the relief u/s 91, if any, for A.Y.2024-25. [7]

Answer:

Computation of total income and tax liability of Mr. Amar for the A.Y. 2024-25

Particulars	Amount (₹)	Amount (₹)
Income from profession from foreign	4,80,000	
Less: Expenses	2,40,000	2,40,000
Income from profession in India		5,00,000
Gross Total Income		7,40,000
Less: Deduction u/s 80C		NA
Total income		7,40,000
Tax on above		29,000
Add: Health & Education cess		1,160
Tax and cess payable		30,160
Average rate of tax [₹ 30,160 / ₹ 7,40,000 x 100]		4.08%
Rate of tax in Country X		16.67%
Relief u/s 91 [4.08%^ of ₹ 2,40,000]		9,792
Tax payable (Rounded off u/s 288B)		20,370

^ Relief u/s 91 is available at a lower rate i.e., 4.08%.

7. (a) Brain Inc. London has 35% equity in Salem Ltd. The company Salem Ltd. is engaged in development of software and maintenance of customers across the globe, which includes Brain Inc.

During the year 2023-24, Salem Ltd. spent 2000 men hours for developing and maintaining a software for Brain Inc. and billed at ₹ 1,000 per hour. The cost incurred for executing maintenance work to Brain Inc. for Salem Ltd. amount to ₹ 15,00,000. Similar such work was done for unrelated party Try Ltd. in which the profit was at 50%.

Brain Inc. gives technical support to Salem Ltd. which can be valued at 8% of gross profit. There is no such functional relationship with try Ltd.

Salem Ltd. gives credit period of 90 days the cost of which is 3% of the normal billing rate which is not given to other parties.

Compute ALP under cost plus method in the hands of Salem Ltd. and the impact of the same on the total income. [7]

Answer:

(A) Computation of Arm's Length Gross Profit Mark-up

Particulars	%
Normal Gross Profit Mark up	50.00
Less: Adjustment for differences	
Technical support from Brain Inc [8% of Normal GP = 8% of 50%]	(4.00)
	46.00
Add: Cost of Credit to Brain Inc 3% of Normal Bill [3% ×GP 50%]	1.50
Arm's Length Gross Profit mark-up	47.50

(B) Computation of Increase in Total Income of Brain Inc.

Particulars	Amount (₹)
Cost of services	15,00,000
Arm's length Billed Value [Cost / [(100 – Arm's Length mark up)] [₹ 15,00,000 / (100% - 47.50%)]	28,57,143
Less: Billed amount [2,000 hours x ₹ 1,000 per hour]	20,00,000
Therefore, Increase in Total Income	8,57,143

(b) SD Ltd., an Indian Company, has borrowed ₹ 100 crores on 01-04-2023 from M/s. SM Inc., a company incorporated in UK, at an interest rate of 10% p.a. The said loan is repayable over a period of 10 years. Further, this loan is guaranteed by M/s MSPL Inc. incorporated in UK. M/s. MM Inc., a non-resident, holds shares carrying 35% of voting power both in M/s SD Ltd. and M/s MSPL Inc. Net profit of M/s. SD Ltd. for P.Y. 2023-24 was ₹ 11 crores after debiting the above interest, depreciation of ₹ 5 crores and income-tax of ₹ 4 crores.

Calculate the amount of interest to be allowed to be claimed under the head "Profits and gains of business or profession" in the computation of M/s SD Ltd. Also explain allowability of such disallowed interest, if any. [7]

Answer:

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

Further, where the debt is issued by a lender which is not associated but an associated enterprise either provides an implicit or explicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by an associated enterprise and limitation of interest deduction provided u/s 94B would be applicable.

In the present case, since M/s MM Inc holds 35% of voting power i.e., more than 26% of voting power in both SD Ltd and M/s MSPL Inc, SD Ltd. and M/s MSPL Inc are deemed to be associated enterprises.

Since loan of ₹ 100 crores taken by SD Ltd., an Indian company from M/s SM Inc, is guaranteed by M/s MSPL Inc, an associated enterprise of SD Ltd., such debt shall be deemed to have been issued by an associated enterprise and interest payable to M/s SM Inc shall be considered for the purpose of limitation of interest deduction u/s 94B.

Computation of interest to be allowed as per section 94B in the computation of income under the head profits and gains of business or profession of SD Ltd.

₹ in crore

Particulars	₹	₹
Net profit		11.00
Add: Interest already debited (₹ 100 crores x 10%)		10.00
Depreciation		5.00
Income-tax		4.00
EBITDA		30.00

Interest paid or payable by ND Ltd. (Lower of the following would be disallowed)		10.00
- Total interest paid or payable in excess of 30% of EBITDA (₹ 10,00,00,000 – ₹ 9,00,00,000) = ₹ 100 lakhs	1.00	
- Interest paid or payable to non-resident AE	10.00	
Interest to be disallowed as deduction		1.00
Interest allowable as deduction under the head "Profits and gains from business or profession (₹ 10,00,00,000 – ₹ 1,00,00,000)		9.00

Disallowed interest of ₹ 1.00 crore can be carried forward to the subsequent assessment year and it would be allowed as deduction against profits and gains, to the extent of allowable interest expenditure u/s 94B.

8. (a) Roma purchases 600 equity shares in XY (P) Ltd. on 1-04-2023 @ ₹ 150 each. On 31-12-2023, XY (P) Ltd. is demerged. In the scheme of demerger, division Y was transferred to Y (P) Ltd. (resulting company). On that date balance sheet of XY (P) Ltd. is as follow –

Liabilities	Division		Total	Asset	Division		Total
	X	Y			X	Y	
6,000 E. Shares			6,00,000	Land	-	2,50,000	2,50,000
General Reserve			4,00,000	Plant	1,75,000	1,00,000	2,75,000
Loan (General)			2,00,000	Investment	2,50,000	-	2,50,000
Loan (Specific)	60,000	75,000	1,35,000	Stock	1,95,000	2,30,000	4,25,000
Creditors	25,000	40,000	65,000	Debtors	55,000	45,000	1,00,000
				Cash and Bank	25,000	75,000	1,00,000
			14,00,000				14,00,000

Y (P) Ltd., in consideration of the demerger, issued equity share of ₹ 100 each (at par) to the shareholders of XY (P) Ltd. on proportionate basis. You are required to compute –

- **Number of shares of Y (P) Ltd. received by Roma and cost thereof.**
- **Cost of acquisition of shares held by Roma in XY (P) Ltd. after demerger.**

Capital gain, if Roma sold 200 shares of XY (P) Ltd. @ ₹ 125 & 100 shares of Y(P) Ltd. @ ₹ 110 on 31-03-2024. [7]

Answer:

Calculation of number of shares of Y (P) Ltd. received by Roma

Particulars	Amount (₹)	Amount (₹)
Net asset taken over by Y (P) Ltd		
Assets taken over		
Land		2,50,000
Plant		1,00,000
Stock		2,30,000
Debtors		45,000
Cash and bank		75,000
		7,00,000
Less: Liabilities		
Loan (Specific)	75,000	
Creditors	40,000	
Share of General loan (₹ 2,00,000 x ₹ 7,00,000) / ₹ 14,00,000	1,00,000	2,15,000
Net asset taken over		4,85,000
No. of shares issued by Y (P) Ltd. (Consideration of ₹ 4,85,000 was discharged by issuing equity shares of ₹ 100 each)		4,850 shares
% of Roma's holding in XY (P) Ltd. (600 shares, out of 6,000 shares of XY (P) Ltd.)		10%
No. of shares allotted in Y (P) Ltd to Roma (10% of 4,850 shares)		485 shares

Cost of such shares is –

$$\frac{\text{Cost of acquisition of shares in XY (P) Ltd. x Net book value of asset transferred to Y (P) Ltd.}}{\text{Net worth of XY (P) Ltd. immediately before demerger (i.e. Paid up capital + General Reserve)}}$$

$$= \frac{(600 \times ₹\ 150) \times ₹\ 4{,}85{,}000}{₹\ 6{,}00{,}000 + ₹\ 4{,}00{,}000}$$

= ₹ 43,650

Cost of acquisition of shares of XY (P) Ltd. (after demerger)	=	Original cost of acquisition – Cost of acquisition of shares of Y (P) Ltd. (as computed above)
	=	₹ 90,000 – ₹ 43,650 = ₹ 46,350

Computation of capital gain in the hands of Roma for the A.Y. 2024-25

Particulars	Details	Shares of	
		XY (P) Ltd. (₹)	Y (P) Ltd. (₹)
Sale Consideration	200 x ₹ 125	25,000	-
	100 x ₹ 110	-	11,000
Less: Expenses on transfer		Nil	Nil
Net Sale Consideration		25,000	11,000
Less: i) Cost of acquisition	[(₹ 46,350 x 200)/600]	15,450	-
	[(₹ 43,650 x 100)/485]	-	9,000
ii) Cost of improvement		Nil	Nil
Short Term Capital Gain		9,550	2,000

(b) Explain when two enterprises will be considered as an associated enterprise? Examine the different circumstances when two enterprises are treated as deemed associated enterprises. If X Inc. holds 30% equity shares in Y Ltd. as well as in Z Inc., does Y Ltd. And Z Inc. considered as associated enterprise? Justify. [7]

Answer:

Associated enterprise [Sec. 92A]: Associated enterprise, in relation to another enterprise, means an enterprise:

1. which participates, directly or indirectly, or through one or more intermediaries, in the *management* or *control* or *capital* of the other enterprise; or
2. in respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.

Deemed associated enterprise [Sec. 92A(2)]:

For the above purpose, two enterprises shall be deemed to be associated enterprises if, at any time during the previous year fulfil any of the following conditions (if one of following conditions are not satisfied, then mere participation in management or control or capital of the other enterprise, etc. shall not make them associate):

(A) one enterprise holds (directly or indirectly) shares carrying not less than 26% of the voting power (i.e., equity shares in case of company) in the other enterprise; or

(B) any person or enterprise holds (directly or indirectly) shares carrying not less than 26% of the voting power in each of such enterprises; or

(C) the manufacture or processing of goods or articles or business carried out by one enterprise is *wholly* (not partially) dependent on the use of know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has *exclusive* rights; or

(D) 90% or more of the raw materials and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, are supplied by the other enterprise or by persons specified by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise; or

(E) the goods or articles manufactured or processed by one enterprise, are sold to the other enterprise or to persons specified by the other enterprise, and the prices and other conditions relating thereto are influenced by such other enterprise; or

(F) where one enterprise is controlled by an individual, the other enterprise is also controlled by such individual or his relative or jointly by such individual and relative of such individual; or

(G) where one enterprise is controlled by a Hindu undivided family, the other enterprise is controlled by a member of such Hindu undivided family, or by a relative of a member of such Hindu undivided family, or jointly by such member and his relative; or

(H) where one enterprise is a firm, association of persons or body of individuals, the other enterprise holds not less than 10% interest in such firm, association of persons or body of individuals; or

(I) a loan advanced by one enterprise to the other enterprise constitutes not less than 51% of the book value of the total assets of the other enterprise; or

(J) one enterprise guarantees not less than 10% of the total borrowings of the other enterprise; or

(K) more than ½ of the board of directors or members of the governing board, or one (not ½ of total number of executive director) or more executive directors or executive members of the governing board of one enterprise, are appointed by the other enterprise; or

(L) more than ½ of the directors or members of the governing board, or one or more of the executive directors or members of the governing board, of each of the two enterprises are appointed by the same person or persons; or

(M) there exists between the two enterprises, any relationship of mutual interest, as may be prescribed.

Since, X Inc. holds more than 26% equity shares in Y Ltd as well as in Z Inc., hence, Y Ltd and Z Inc. are considered as associated enterprises.