

**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.

**SECTION – A (Compulsory)****1) Choose the correct option:****[15 x 2 = 30]**

- (i) Mr. Chita Ranjan, aged 65 years, is a non-resident individual. His total income for the financial year 2024–25 amounts to ₹1,01,00,000. He has opted out of the default tax regime under section 115BAC. The Tax liability (including Cess) of Chita Ranjan for A.Y.2025-26 is
- (a) ₹33,21,500
  - (b) ₹31,93,750
  - (c) ₹32,68,875
  - (d) ₹30,93,750
- (ii) Mr. Mithai Lal purchased a residential house property on 28th June 2022 for ₹10,00,000 and incurred additional expenditure of ₹3,00,000 on improvements in July 2022. He sold the house property in March 2024 for ₹25,00,000. Out of the sale proceeds, he invested ₹10,00,000 in purchasing another residential house in August 2024. What is the amount of capital gains taxable in the hands of Mr. Mithai Lal for the A.Y. 2025-26?
- (a) ₹2,00,000
  - (b) ₹12,00,000
  - (c) ₹5,00,000
  - (d) ₹15,00,000
- (iii) Mr. Jhunjhunwala, a property dealer, sold a flat in Kolkata to his friend Mr. Satyam, a trader, on 15th August 2024 for ₹2.25 crores. The stamp duty value of the property on the date of sale was ₹2.50 crores. Mr. Jhunjhunwala had purchased the flat on 25th October 2023 for ₹2 crores, and the stamp duty value on that date was also ₹2 crores. Based on the above information, what are the correct tax implications under the Income-tax Act, 1961?
- (a) ₹50 lakhs would be taxable as short-term capital gains in the hands of Mr. Jhunjhunwala. There would be no tax implication in the hands of Mr. Satyam.
  - (b) ₹50 lakhs would be taxable as business income in the hands of Mr. Jhunjhunwala. There would be no tax implication in the hands of Mr. Satyam.
  - (c) ₹50 lakhs would be taxable as business income in the hands of Mr. Jhunjhunwala and ₹25 lakhs would be taxable as income from other sources in the hands of Mr. Satyam.
  - (d) ₹50 lakhs would be taxable as short-term capital gains in the hands of Mr. Jhunjhunwala and ₹25 lakhs would be taxable as income from other sources in the hands of Mr. Satyam.

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- (iv) Every company to whom the provisions of MAT apply is required to obtain a report from a chartered accountant in Form No. \_\_\_\_\_ on or before the due date of filing the return of income.
- (a) 29
  - (b) 29A
  - (c) 29B
  - (d) 29C
- (v) Under the provisions of the Income-tax Act, 1961, a return of income can be revised under Section 139(5) if it was originally filed under which of the following sections?
- (a) 139(1)
  - (b) 139(4)
  - (c) 139(5)
  - (d) All of the above
- (vi) Provisions relating to advance ruling are provided in sections \_\_\_\_\_.
- (a) 80C to 80U
  - (b) 245A to 245L
  - (c) 237 to 245
  - (d) 245N to 245V
- (vii) If the amount of income in respect of which the penalty is imposed or imposable for the relevant year(s) exceeds \_\_\_\_\_, then no order reducing or waiving the penalty under section 273A (1) shall be made by the Principal Commissioner or Commissioner, except with the previous approval of the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General, as the case may be.
- (a) ₹1,00,000
  - (b) ₹2,00,000
  - (c) ₹5,00,000
  - (d) ₹10,00,000
- (viii) In the year 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
- (ix) Mr. Subrata, a salaried individual, paid brokerage of ₹46 lakhs to Mr. Sudip, a broker, on 12th January 2025 for purchasing a residential house. His father, Mr. Bhima, a retired pensioner, made contract payments of ₹18 lakhs, ₹23 lakhs, and ₹15 lakhs on 26th September 2024, 3rd November 2024, and 12th February 2025 respectively, to Mr. Manoj, a contractor, for the reconstruction of his residential house. Based on the provisions of the Income-tax Act, 1961, what is the correct TDS implication for these transactions?

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- (a) Neither Mr. Subrata nor Mr. Bhima is required to deduct tax at source, since they are not subject to tax audit, being a salaried individual and a pensioner, respectively.
- (b) Both Mr. Subrata and Mr. Bhima are required to deduct tax at source under the provisions of the Income-tax Act, even though they are not subject to tax audit.
- (c) Mr. Subrata is required to deduct tax at source, but Mr. Bhima is not required to deduct tax at source.
- (d) Mr. Bhima is required to deduct tax at source, but Mr. Subrata is not required to deduct tax at source.
- (x) As per sec. 94B, interest expenses claimed by an entity to its associated enterprises shall be restricted to \_\_\_\_ of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less
- (a) 30%
- (b) 25%
- (c) 20%
- (d) 10%
- (xi) Potato Ltd. filed its return of income with suo moto adjustment of ₹300 lakhs in respect of ALP of its transactions with its associated enterprise. Within how many days the amount secondary adjustment must be repatriated to India in order to avoid interest under section 92CE read with rule 10CB?
- (a) Within 90 days from the end of the assessment year
- (b) Within 120 days from the date of filing ITR
- (c) Within 90 days from the 'due date' specified in section 139(1)
- (d) Within 30 days from the end of the assessment year
- (xii) In the assessment of Amit (P) Ltd. there was increase in income by way of arm's length price adjustment of ₹200 lakhs. The assessee decided to pay additional income-tax instead of making secondary adjustment. What is the tax rate at which the additional income-tax is payable by the assessee?
- (a) 10.92%
- (b) 16.692%
- (c) 20.9664%
- (d) 23.296%
- (xiii) For ALP Inc. of Italy which of the following would mean that it has a Permanent Establishment (PE) in India?
- (a) Use of facilities solely for the purpose of storage or display goods belonging to the enterprise.
- (b) Operating a factory in India
- (c) Maintenance of goods belonging to the enterprise solely for the purpose of processing by another enterprise.
- (d) Maintenance of fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise.



## DIRECT TAX LAWS AND INTERNATIONAL TAXATION

- (xiv) Which of the following method of computing arm's length price is not a 'Transaction Based Method'?
- (a) Comparable Uncontrolled Price Method
  - (b) Resale Price method
  - (c) Cost Plus Method
  - (d) Profit Split Method
- (xv) A sold a machine to B (associated enterprise) and in turn B sold the same machinery to C (an independent party) at sale margin of 30% for ₹4,00,000 but B has incurred ₹4,000 in sending the machine to C. From the above data, what is the arm's length price of the machine?
- (a) ₹2,80,000
  - (b) ₹2,76,000
  - (c) ₹2,96,000
  - (d) ₹3,00,000

Answer:

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

## SECTION – B

Answer any 5 questions out of 7 questions given. Each question carries 14 marks.

[5 × 14 = 70]

- 2) Following is the profit and loss account of Z Ltd. for the year ended on 31-3-2025

Particulars	₹	Particulars	₹
To Raw material consumed	20,00,000	By Sale:	
To Rent	5,00,000	Export	50,00,000
To Salary & Wages	10,00,000	Domestic	30,00,000
To Depreciation	5,00,000	By Closing Stock	10,00,000
To Provision for contingencies	75,000		
To Wealth Tax of earlier year	50,000		
To Loss of subsidiary co.	50,000		
To Custom Duty	40,000		
To Proposed dividend	1,00,000		
To Provision for Income tax	1,05,000		
To Net Profit	45,80,000		
	90,00,000		90,00,000

**DIRECT TAX LAWS AND INTERNATIONAL TAXATION****Additional Information**

1. Interest on bank loan relating to year 2022-23 has been paid during the previous year ₹1,00,000.
2. Whole of Custom duty is unpaid.
3. Company is entitled to get deduction u/s 80G ₹1,00,000
4. For the purpose of Income tax, depreciation is ₹4,00,000.
5. Turnover of the company during the previous year was ₹65 crores and it is life time highest turnover achieved by the company.
6. In past few years, company had suffered losses, following balances are still unabsorbed:

	<u>As per Income Tax Act</u>	<u>As per books of Accounts</u>
Depreciation	-	₹3,50,000
Losses	₹42,50,000	₹4,00,000

Compute tax liability of the company.

[14]

Answer:

**Computation of total income of Z Ltd. for the A.Y.2025-26 (as per other provisions of the Act)**

Particulars	Details (₹)	Amount (₹)
Net profit as per books of accounts		45,80,000
Add: Expenditure disallowed but debited in P/L A/c		
Excess Depreciation	1,00,000	
Provisions for Contingencies	75,000	
Wealth Tax	50,000	
Loss of subsidiary company	50,000	
Proposed Dividend	1,00,000	
Provision for income tax	1,05,000	
Unpaid customs duty	40,000	5,20,000
		<b>51,00,000</b>
Less: Expenditure allowed but not debited in P/L A/c		
Interest on bank loan of earlier years		1,00,000
		<b>50,00,000</b>
Less: Brought forward business loss		42,50,000
<b>Gross Total Income</b>		<b>7,50,000</b>
Less: Deduction u/s 80G		1,00,000
<b>Total Income</b>		<b>6,50,000</b>

**Computation of Book Profit of Z Ltd. for the A.Y.2025-26**

Particulars	Details (₹)	Amount (₹)
Net profit as per books of accounts		45,80,000
Add:		
Provisions for Contingencies	75,000	



# FINAL EXAMINATION

SET - 2

## MODEL ANSWERS

TERM – JUNE 2025

### PAPER – 15

SYLLABUS 2022

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Loss of subsidiary company	50,000	
Proposed Dividend	1,00,000	
Provision for income tax	1,05,000	
Depreciation	5,00,000	8,30,000
		<b>54,10,000</b>
<b>Less:</b>		
Depreciation (as assets are not revalued)	5,00,000	
Lower of unabsorbed depreciation and brought forward loss (as per books of account)	3,50,000	8,50,000
<b>Book Profit</b>		<b>45,60,000</b>

#### Computation of tax liability of Z Ltd.

Particulars	Amount (₹)
Total income as per other provisions of the Act	6,50,000
Tax on above @ 25% [A]	1,62,500
Book profit u/s 115JB	45,60,000
15% of book profit [B]	6,84,000
<b>Tax [Higher of A &amp; B]</b>	<b>6,84,000</b>
Add: Surcharge [As total income is only ₹45,60,000/-, thus, surcharge is not applicable]	Nil
<b>Tax &amp; Surcharge</b>	<b>6,84,000</b>
Add: Health & Education Cess @ 4%	27,360
<b>Tax Liability (Rounded off)</b>	<b>7,11,360</b>

- 3) (a) Mr. A owned two residential house for his own residential purpose, details of which are as follows-

Particulars	House 1	House 2
Gross Annual value	4,00,000	5,00,000
Municipal tax (paid)	2,000	10,000
Interest on loan taken for construction of house	20,000	25,000

On 1/4/2024, Mr. A gifted ₹25,00,000 to her wife. Out of such money, she acquired a house property for her own residential purpose. The new house has a gross municipal value of ₹2,50,000. She paid a corporation tax of ₹2,000. Compute income from house property of Mr. & Mrs. A. (Assume that Mrs. A does not own any other property). Assume that he has opted for the old tax regime. [7]

- (b) A business entity requires ₹50 lakhs for expansion of business. The entity has two options.

Particulars	Option 1	Option 2	Option 3
	₹	₹	₹
Equity Share of ₹10 each	40,00,000	30,00,000	30,00,000
12% Debentures	10,00,000	10,00,000	20,00,000
18% Loan from Bank		10,00,000	

Expected rate of return is 15% (before tax). Tax Rate is 31.2% (including cess).

Considering the information provided above, it is advisable to choose the correct option accordingly. [7]



## DIRECT TAX LAWS AND INTERNATIONAL TAXATION

Answer:

(a) Computation of income from house property of Mr. A for the A.Y. 2025-26

Particulars	₹
<b>Self-occupied house properties</b>	
Net Annual Value	Nil
Less: Deduction u/s	
24(a) Standard Deduction@30%	-
24(b) Interest on loan [₹25,000 + ₹20,000]	45,000
	(45,000)
Add: Income of Mrs. A clubbed u/s 64(1)(iv)	Nil
<b>Income from house property</b>	<b>(45,000)</b>

Computation of income from house property of Mrs. A for the A.Y. 2025-26

Particulars	₹
<b>Self-occupied house</b>	
Net Annual Value	Nil
<b>Less: Deduction u/s</b>	
24(a) Standard Deduction@30%	-
24(b) Interest on loan	Nil
	<b>Nil</b>
Less: Income clubbed u/s 64(1)(iv) with the income of Mr. A	Nil
<b>Income from house property</b>	<b>Nil</b>

(b)

Particulars	Option 1	Option 2	Option 3
Share Capital	40,00,000	30,00,000	30,00,000
12% Debentures	10,00,000	10,00,000	20,00,000
18% loan from Bank	-	10,00,000	
EBIT	7,50,000	7,50,000	7,50,000
Cost to Company			
Debenture Interest	1,20,000	1,20,000	2,40,000
Interest on loan from Bank	-	1,80,000	-
Net Profit before tax and dividend	6,30,000	4,50,000	5,10,000
Tax Payable @ 31.2%	1,96,560	1,40,400	1,59,120
Profit after tax	4,33,440	3,09,600	3,50,880
<b>Return on capital</b>	<b>10.84%</b>	<b>10.32%</b>	<b>11.70%</b>

Option 3 is better as in this option return on capital is maximum.



## DIRECT TAX LAWS AND INTERNATIONAL TAXATION

- 4) (a) 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, 2024). Plant-B was purchased and put to use on 10th November, 2022 (cost being ₹70,000). Plant-B is transferred by Smile Ltd. to Happy Ltd. on 14th December, 2024 for ₹20,000. It is put to use by Happy Ltd. on the same day. Happy Ltd. owns Plant-C on 1st April, 2024 (depreciation rate 40%, depreciated value ₹60,000). Calculate the amount of depreciation in the hands of Smile Ltd. and Happy Ltd. for the assessment year 2025-26.

[7]

- (b) Mr. Mcfon, a non-resident and German citizen, is employed in a German company. The German company has a PE in India and accordingly the income of the PE is chargeable to tax in India. Mcfon has visited India during the FY 2024-25 on official work and stayed for 83 days. His salary for that period was ₹23,00,000 which is borne by the Indian PE.

Mc fon held 1500 shares of Brunda banax Pvt. Ltd. (BB), an Indian company since 29.11.2017 which he acquired for ₹12 per share. For acquiring the shares, he remitted USD 50,000 to India on 1.11.2017. He sold these shares on 25.6.2024 for ₹45 per share.

Mc fon also held 2000 equity shares of Deutschea Telekom (DT), a German company, which he had acquired for ₹145 per share in 2018. DT follows April to March as its financial year. He sold all these shares for ₹615 per share to Ben, another non-resident, on 26.09.2024. The relevant information of DT as on 31.3.2025 is given below:

(i) Total value of assets ₹15 crores.

(ii) Total value of immovable properties worldwide = ₹12 crores.

(iii) Immovable properties held in India (included in (ii) above) - ₹8 crores.

Dividend from Deutschea Telekom received in India on 28.06.2024 was - ₹1,15,000.

You are required to compute the total income taxable in India of Mr. Mcfon ignoring the provisions of DTAA between India and Germany, if any. Assume assessee opted out from section 115BAC.

Exchange rates for 1 USD on the relevant dates is given as hereunder:

Date	Buying Rate (1 US \$)	Selling Rate (1 US\$)
29.11.2017	₹79	₹81
1.11.2017	₹76	₹78
25.6.2024	₹89	₹91

[7]

Answer:

- (a) Depreciation in the hands of Smile Ltd. for the assessment year 2025-26

Particulars	Amount(₹)
Depreciated value of the Plant A and B on 1st April, 2024	3,00,000
Less: Plant B transferred to Happy Ltd	20,000
WDV as on 31st March, 2025	2,80,000
Depreciation for the block P.Y.2024-25	1,12,000
WDV at the end of the year	1,38,000





**DIRECT TAX LAWS AND INTERNATIONAL TAXATION**

**Depreciation in the hands of Happy Ltd. for the assessment year 2025-26**

Particulars	Amount(₹)
Depreciated value of the block on 1st April, 2024	60,000
Add: Actual Cost of Plant B acquired from Smile Ltd (See Note)	33,600
WDV as on 31st March, 2025	93,600
Depreciation on transferred asset [ $₹33,600 \times \frac{1}{2} \times 40\%$ ]	6,720
Other Asset @ 40% of ₹60,000	24,000
<b>Total Depreciation</b>	<b>30,720</b>

**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, 2022	70,000
Less: Depreciation for P.Y 2022-23 ( $\frac{1}{2}$ of 40% of ₹70,000)	14,000
Balance on April 1, 2023	56,000
Less: Depreciation for the P.Y.2023-24	22,400
<b>Balance on April 1, 2024</b>	<b>33,600</b>

(b)

**Computation of Total income of Mr. Mcfon for the A.Y. 2025-26**

Particulars	₹	₹
<b>Income from Salary:</b> [Salary deemed to accrue or arise in India, since it is paid for services rendered in India as per section 9(1)(ii). Hence, it is taxable in the hands of Mr. Mcfon. Exemption u/s 10(6)(vi) would not be available to him, though he stayed in India for a period of not exceeding 90 days during the previous year since he is receiving salary from a German company which is engaged in business and trade in India through a PE in India and such salary is borne by Indian PE]	23,00,000	
<b>Less: Standard deduction u/s 16(ia)</b>	50,000	22,50,000
<b>Income from Capital Gains:</b> Transfer of 1500 equity shares of Brunda banax Pvt. Ltd. [Taxable in India, since shares are situated in India] Sale Consideration ( $1500 \times ₹45$ per share/90, being average of ₹89 (TTBR) + ₹91 (TTSR)/2 on 25.6.2024)	\$750	
<b>Less: Cost of acquisition</b> ( $1500 \times ₹12$ per share/80, being average of ₹79 (TTBR) + ₹81 (TTSR)/2 on 29.11.2017)	\$225	
	<u>\$525</u>	
Long-term capital gain [ $\$ 525 \times ₹89$ , being TTBR on 25.06.2024]		46,725
<b>Transfer of 2000 Equity shares of Deutsche Telekom (DT)</b> [Not taxable in India, since shares of foreign company do not derive its value substantially from assets located in India as value of Indian assets do not exceed ₹10 crores]		Nil
<b>Income from Other Sources</b> Dividend received in India from Deutsche Telekom [taxable in India, since dividend is received in India]		1,15,000
<b>Gross Total Income/Total Income (rounded off)</b>		<u><b>24,11,730</b></u>



## DIRECT TAX LAWS AND INTERNATIONAL TAXATION

- 5) (a) Discuss the procedure followed on receipt of an application for advance ruling under Section 245R of the Income Tax Act 1961. [7]

- (b) A Ltd. made the following payments of advance tax during the financial year 2024-25:

	<u>₹ in lakh</u>		<u>₹ in lakh</u>
June 15, 2024	3.70	September 15, 2024	3.50
December 15, 2024	10.25	March 18, 2025	8.80

The return of income is filed on 31-7-2025 showing –

Business income ₹80 lakhs

Long term capital gains taxable @ 12.50% (as on 1-12-2024) ₹10 lakhs

Compute interest payable u/s 234C. [7]

Answer:

- (a) Section 245R of the Income Tax Act, 1961 lays down the procedure that the Authority for Advance Rulings (AAR) follows upon receiving an application. The aim is to ensure proper scrutiny and timely disposal of advance ruling requests.
- On receipt of an application, the Board for Advance Rulings shall cause a copy thereof to be forwarded to the Principal Commissioner or Commissioner and, if necessary, call upon him to furnish the relevant records. Where any records have been called for by the Board for Advance Rulings, such records shall, as soon as possible, be returned to the Principal Commissioner or Commissioner.
  - The Board for Advance Rulings may, after examining the application and the records called for, by order, either allow or reject the application.
  - No application shall be rejected unless an opportunity has been given to the applicant of being heard. Further, where the application is rejected, reasons for such rejection shall be given in the order.
  - A copy of every order (allowing or rejecting) shall be sent to the applicant and to the Principal Commissioner or Commissioner.
  - Where an application is allowed, the Board for Advance Rulings shall, after examining such further material as may be placed before it by the applicant or obtained by the Board for Advance Rulings, pronounce its advance ruling on the question specified in the application.
  - On a request received from the applicant, the Board for Advance Rulings shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorized representative.
  - The Board for Advance Rulings shall pronounce its advance ruling in writing within 6 months of the receipt of application.
  - A copy of the advance ruling pronounced by the Board for Advance Rulings, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Principal Commissioner or Commissioner, as soon as may be, after such pronouncement.



## DIRECT TAX LAWS AND INTERNATIONAL TAXATION

## (b) Computation of tax liability for A.Y. 2025-26 (₹ in lakh)

Particulars	Business income	Long term capital gain
Income	80.00	10.00
Tax rate	30%	12.50%
Tax liability before surcharge	24.00	1.25
Add: Surcharge	Nil	Nil
Tax liability after surcharge	24.00	1.25
Add: Education cess	0.96	0.05
<b>Tax liability after surcharge and cess</b>	<b>24.96</b>	<b>1.30</b>

## Computation of interest payable u/s 234C

Particulars	Installment of Advance tax			
	15/6/2024	15/9/2024	15/12/2024	15/3/2025
Rate of Advance tax	15%	45%	75%	100%
Amount payable:				
(₹24,96,000 × 15%)	3,74,400			
(₹24,96,000 × 45%)		11,23,200		
[(₹24,96,000 + ₹1,30,000) × 75%]			19,68,500	
[(₹24,96,000 + ₹1,30,000) × 100%]				26,26,000
Less: Amount paid till date	3,70,000	7,20,000	17,45,000	17,45,000 <sup>3</sup>
Shortfall (a)	Nil <sup>1</sup>	4,03,200	2,23,500	8,81,000
Period of default (b)	-	3 months	3 months	1 months
Interest (1% × a × b)	-	₹12,096	₹6,705	₹8,810
<b>Total interest payable u/s 234C</b>		<b>₹27,611</b>		

1. Since assessee has paid at least 12% of tax (i.e. ₹2,99,520) on or before 15th June, 2024, hence no interest u/s 234C shall be levied.
2. Since assessee fails to pay 36% of tax (i.e. ₹8,98,560) on or before 15th September, 2024, hence interest u/s 234C shall be levied. It is to be noted that interest shall be payable considering 45% of tax.
3. As payment has not been made within due date, hence advance tax paid on 18-03-2025 has not been considered.

6) (a) Explain methods of Bilateral relief in Double Taxation Avoidance Agreements (DTAAs) and briefly state how unilateral relief is provided in the Income Tax Act, 1961. [7]

(b) Mr. Arun, an Indian resident, aged 49 years, is employed as a Supervisor at ADNOC in the country UAE, earning a monthly salary of AED 7,500. In order to look after his ailing mother residing in Mumbai, India, he shifted with his family on 1 July, 2024 and started his consultancy business in India. Before shifting to India, he let out his house property in UAE @ 4,250 AED from the same month. His stay in India in last 7 years is 780 days and he was residents for 5 PY's in last 10 PY's.

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The details of his income in INR for the year ended 31st March, 2025 are as follows:

Profit from the consultancy business	₹8,35,000
Fixed Deposit interest from the bank of Country UAE	₹45,500
Savings bank interest from SBI, Mumbai	₹15,250
Dividend income from PQR Ltd., an Indian company	₹ 7,750

Rate of income tax in Country UAE is 25%

During the previous year, Mr. Arun paid ₹45,000 as medical insurance premium for himself and ₹56,000 as medical insurance premium to insure the health of his father, a non-resident aged 76 years, who is not dependent on him.

You are required to compute the total income and tax liability of Mr Arun for assessment year 2025-26 assuming that India has not entered into double taxation avoidance agreement with Country UAE and he has opted out from provisions of Section 115BAC. You may consider (1 AED = 25 INR).

[7]

Answer:

(a) **Methods of Bilateral relief in Double Taxation Avoidance Agreements (DTAAs)**

**Bilateral Relief:** In cases where there is DTAA between two tax jurisdictions, Bilateral relief is provided.

There are two ways by which the jurisdictions may agree to provide relief from double taxation viz. Exemption method and Credit method.

**Exemption Method:**

In this method, one country provides an exemption to such type of income, which is generally the country of residence.

- I. **Full Exemption Method:** Under this method, income earned in the State of source is fully exempt in the State of residence.
- II. **Exemption with progression:** Under this method, income from the State of source is considered by the State of residence only for rate purposes.

**Credit Method:**

In this method, the taxpayer remains liable in the country of residence on his / its global income. However, as far as the quantum of tax liabilities is concerned, credit or deduction for tax paid in the source country is given by the country of residence against its domestic law as if the foreign tax were paid to the country of residence itself.

(i) **Full credit:**

Total tax paid in the State of source is allowed as credit against the tax payable in country of residence.

(ii) **Ordinary Credit:**

State of residence allows credit of tax paid in the State of source restricted to the part of income-tax which is attributable to the income taxable in the State of residence.

**DIRECT TAX LAWS AND INTERNATIONAL TAXATION****(iii) Tax Sparing:**

State of residence allows credit for deemed tax paid on income which is otherwise exempt from tax in the country of source.

**(iv) Underlying tax credit:**

Credit is allowed to resident not only for the taxes withheld against the dividend income but also for the taxes paid on the underlying profits out of which dividend is paid by a company in the overseas jurisdiction. However, underlying credit may only apply if satisfaction of substantial shareholding requirement is met.

**Unilateral method of relief provided in the Income-tax Act, 1961:**

Section 91 of the Income-tax Act contains unilateral relief where there is no DTAA between India and foreign jurisdiction.

If any person resident in India proves that his income which accrued or arose outside India and he has paid tax thereon he shall be entitled to the deduction from the Indian income-tax payable of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax in the said foreign country whichever is lower or at the Indian rate if both the rates are equal.

Indian rate of tax means the rate determined by dividing the amount of Indian income-tax (including surcharge and cess) by the total income. Such rate is applied on the foreign income by way of relief under section 91.

**(b) Computation of total income and tax liability of Mr. Arun for A.Y.2025-26**

Particulars	₹	₹
<b>Salaries</b>		
Salary income from ADNOC, Country UAE (7500 AED × 3 × ₹25)	5,62,500	
Less: Standard deduction	50,000	5,12,500
<b>Income from house property</b>		
Annual Value of house property in Country UAE (4,250 AED × 25 × 9 months)	9,56,250	
Less: Deduction u/s 24(a) 30% of Annual Value	2,86,875	6,69,375
<b>Profits and Gains of Business or Profession</b>		
Profits from the Consultancy business in India		8,35,000
<b>Income from Other Sources</b>		
Fixed deposit interest from the bank of Country UAE	45,500	
Savings bank interest from SBI Mumbai	15,250	
Dividend income from PQR Ltd., an Indian company	7,750	68,500
<b>Gross Total Income</b>		<b>20,85,375</b>
<b>Less: Deductions u/c VI-A u/s 80D</b>		
Mediclaime premium for self ₹45,000 restricted to	25,000	
Mediclaime premium for father ₹56,000 restricted to	25,000	
(Since father is a non-resident, even though he is of the age of 76 years)		



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<b>Under section 80TTA</b>		
Interest on savings bank account ₹15,250, restricted to	10,000	60,000
<b>Total Income</b>		<b>20,25,375</b>
<b>Total Income (rounded off)</b>		<b>20,25,380</b>
<b>Tax liability on ₹20,25,380</b>		
Tax on total income [30% of ₹10,25,380 + ₹1,12,500]		4,20,114
Add: Health and Education cess @4%		16,805
		4,36,919
Less Deduction u/s 91 (See Working Note below)		2,64,769
<b>Net tax liability</b>		<b>1,72,150</b>

## Working note - Calculation of deduction u/s 91

Particulars	₹
<b>Doubly Taxed Income</b>	
Salaries	5,12,500
Income from house property	6,69,375
FD interest in Country UAE	45,500
	<b>12,27,375</b>
Indian rate of tax = $4,36,919/20,25,380 \times 100 = 21.572\%$	
Rate of tax in Country UAE = 25%	
Lower of the above = 21.572%	
<b>Deduction u/s 91 [21.572% × ₹12,27,375]</b>	<b>2,64,769</b>

7. (a) Terabyte Inc. of France and R Ltd. of India are associated enterprises. R Ltd. imports 6,000 compressors for Air Conditioners from Terabyte Inc. at ₹6,700 per unit and these are sold to Refresh Cooling Solutions Ltd at a price of ₹10,000 per unit. R Ltd. had also imported similar products from Gold Inc. Poland and sold outside at a Gross Profit of 20% on Sales. Terabyte Inc. offered a quantity discount of ₹1,000 per unit. Gold Inc. could offer only ₹500 per unit as Quantity Discount. The freight and customs duty paid for imports from Gold Inc. Poland had cost R Ltd. ₹1,200 per piece. In respect of purchase from Terabyte Inc., R Ltd. had to pay ₹200 only as freight charges.
- Compute the Arm's Length Price and the subsequent amount of increase in the Total Income of R Ltd, if any.
- [7]
- (b) Discuss the provisions relating to secondary adjustments under the transfer pricing regulations in India.
- [7]

**DIRECT TAX LAWS AND INTERNATIONAL TAXATION****Answer:****(a) Computation of Arm's Length Price**

Particulars	Amount (₹)
Resale Price of Goods Purchased from Terabyte Inc.	10,000
Less: Adjustment for Differences –	
a) Normal Gross Profit Margin at 20% of Sale Price [ $20\% \times ₹10,000$ ]	2,000
b) Incremental Quantity Discount by Terabyte Inc. [ $₹1,000 - ₹500$ ]	500
c) Difference in Purchase related expenses [ $₹1,200 - ₹200$ ]	1,000
<b>Arm's Length Price</b>	<b>6,500</b>

**Computation of Increase in Total Income of R Ltd**

Particulars	Amount (₹)
Price at which actually bought from Terabyte Inc. of France	6,700
Less: Arm's Length Price per unit under Resale Price Method	6,500
<b>Decrease in Purchase Price per unit</b>	<b>200</b>
No. of units purchased from Terabyte Inc.	3,000 units
<b>Increase in Total Income (<math>6,000 \text{ units} \times ₹200</math>)</b>	<b>₹12,00,000</b>

- (b) “Secondary adjustment” means an adjustment in the books of account of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.

The provisions are enumerated here-in-below:

- Where a primary adjustment to transfer price:
  - i. has been made suo motu by the assessee in his return of income;
  - ii. made by the Assessing Officer has been accepted by the assessee;
  - iii. is determined by an advance pricing agreement entered into by the assessee u/s 92CC on or after 01-04-2017;
  - iv. is made as per the safe harbour rules framed u/s 92CB; or
  - v. is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into u/s 90 or 90A for avoidance of double taxation, - the assessee shall make a secondary adjustment.
- Exception: Nothing contained in this section shall apply, if:
  - i. the amount of primary adjustment made in any previous year does not exceed ₹1 crore; or
  - ii. the primary adjustment is made in respect of an assessment year commencing on or before 01-04-2016.
- Where, as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee, the excess money (or part



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thereof) which is available with its associated enterprise, if not repatriated to India within the time as may be prescribed, shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed in such manner as may be prescribed [Sec. 92CE(2)]

**8. Present your answer for the following situations under the headings:**

- (i) Issue Involved
- (ii) Provision Applicable
- (iii) Analysis & Conclusion

- (a) Mr. Riyan filed his return of income for A.Y. 2024 -25 declaring a total income of ₹20 lakhs. His case was selected for scrutiny assessment and an addition of ₹8 lakhs was made by the Assessing Officer(AO) due to disallowances of certain expenses. During the assessment proceedings, Mr. Riyan realized that he had inadvertently failed to claim set -off of brought forward losses under section 72 amounting to ₹6 lakhs, which he was otherwise eligible to claim. However, by the time this omission was noticed, the time limit for filing a revised return had already expired. Consequently, Mr. Riyan requested the Assessing Officer during the proceedings to allow the set-off of such brought forward losses, despite the omission in the original return filed under section 139(1).

Whether the Assessing Officer is bound to accept the request of Mr. Riyan? Examine.

[7]

- (b) EE (P) Ltd. is engaged in distribution of computer software and hardware. It procured copyrighted software from foreign companies and sold the same to its customers. No value addition was made. The software was "ready to use" software. Also, it procured computers in which software was affixed as an integrated unit. In the assessment, the amount paid for purchase of software was subjected to disallowance since no tax was deducted at source on the payments made to foreign companies supplying "ready to use software". The company wants to know the correct legal position. Also, it wants clarity as regards hardware purchased and software affixed therein. You are the tax consultant for EE (P) Ltd. Discuss your opinion in this regard.

[7]

**Answer:**

**(a) (i) Issue Involved:**

The issue under consideration is whether the Assessing Officer is bound to allow the set-off of brought forward losses under section 72 even if the assessee, Mr. Riyan, in this case, has not claimed the same in the return filed by him and the time limit for filing revised return has expired.

**(ii) Provision Applicable:**

Under section 72, business losses shall be carried forward and shall be set-off against the profits and gains of any business in the next assessment year. It is assumed that the assessee has filed the return of



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income within the time stipulated u/s 139(1) and hence is eligible for set off of the unabsorbed loss in the subsequent year. The wording used in section 72 is “shall”, indicating that the provisions relating to set off of brought forward business loss are mandatory provided the loss was determined in pursuance of a return filed under section 139(3) in any earlier previous year.

**(iii) Analysis and Conclusion:**

As per CBDT Circular No.14 (XL-35) of 1955 dated 11.04.1955, it is the duty of the Assessing Officer to assist a taxpayer in every reasonable way, particularly in the matter of claiming and securing reliefs and in this regard, they should take the initiative in guiding a taxpayer where proceedings or other particulars before them indicate that some refund or relief is due to him.

Thus, it is the duty of the Assessing Officer to apply the relevant provisions of the Act for the purpose of determining the true figure of Mr. Riyan’s total income and consequential tax liability. Merely because Mr. Riyan has not claimed the set-off of brought forward losses of ₹6 lakhs in the original return filed and the time limit for filing revised return has expired, it cannot relieve the Assessing Officer of his duty to apply section 72 in the appropriate case.

The Assessing Officer is bound to accept the request of Mr. Riyan and allow the set-off of brought forward losses of ₹6 lakhs under section 72, even if Mr. Riyan has not claimed the same in the return filed, and the time limit for filing the revised return has expired.

The above answer is based on the rationale of the Supreme Court in CIT vs. Mahalakshmi Sugar Mills Co. Ltd. (1986) 160 ITR 920, taking note of the CBDT Circular No.14 (XL-35) of 1955 dated 11.04.1955.

**(b)****(i) Issue involved:**

The company is procuring software which are ready to use for redistribution in India and procuring computer hardware with software inbuilt therein. The issue is whether such acquisition and payment is “royalty” and hence liable for tax deduction under section 195.

**(ii) Provision applicable:**

Under section 195, TDS would be attracted only if the impugned payments to the non-resident are chargeable to tax in India.

Explanation 2(v) to section 9(1)(vi) says, “royalty” means consideration for transfer of all or any rights (including the granting of licence) in respect of any copyright, literary, artistic or scientific work.

As per Explanation 4, transfer of all or any rights includes transfer of all or any right for use or right to use computer software is also covered by the term, “royalty”.

**(iii) Analysis & Conclusion:**

The Apex court in the case of Engineering Analysis Centre of Excellence (P) Ltd v. CIT (2021) 432 ITR 1 (SC) observed that the following would not amount to use of or right to use any copyright and

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that the amount paid by Indian resident to foreign company is not royalty for use of copyright in the computer software.:

- (i) Where computer software is purchased directly by end user resident in India, from a foreign, non-resident supplier or manufacturer;
- (ii) Where resident Indian concerns acting as distributors or resellers, purchase computer software from foreign, non-resident suppliers or manufacturers and then, resell the same to resident Indian end users;
- (iii) Where the distributor happens to be a foreign, non-resident vendor, who, after purchasing software from a foreign, non-resident seller, resells the same to resident Indian distributors or end users;
- (iv) Where computer software is affixed on to hardware and is sold as an integrated unit / equipment by foreign, non-resident suppliers to resident Indian distributors or end users; It is not a case of use of copyright and it is a case of use of copyrighted article being the software by the end users in India.

Therefore, the amount paid for purchase of software or the hardware in which the software is affixed is not royalty and hence not liable for tax deduction under section 195.

Therefore, EE (P) Ltd need not apprehend TDS provisions being applicable in its case as it is involved in purchase and sale of copyrighted article and not empowering the buyers to use the copyright as such.