

FINAL COURSE – FAST (Full)**Paper – 4: Direct Tax****Detailed Test Series – Paper 1**

Total No. of Questions in Part I – 15

Minimum Marks – 30

Total No. of Questions in Part II – 6

Maximum Marks – 70

Total No. of Pages - 45

GENERAL INSTRUCTIONS TO CANDIDATES

1. The question paper comprises two parts, Part I and Part II.
2. Part I comprises Multiple Choice Questions (MCQs).
3. Part II comprises questions which require descriptive type answer
4. Ensure that you receive the question paper relating to both the parts. If you have not received both, bring it to the notice of the Institute.
5. Answers to MCQs in Part I are to be mentioned in the first page of your answer copy. Students need to only mention their choice of correct option like (a) or (b) or so. No explanations or reasonings are required for MCQs.
6. Answers to descriptive questions in Part 2 should be given from the next page of your answer sheet
7. **Student should mention their Name, Batch, Course (CA Inter / Final), Subject Name, Date of Test and Test Code as given on top of this sheet on the first page before answering the MCQs.**
8. Once the test is complete, student need to scan the answer sheet and make single pdf file for all the pages and upload on fast test series app.(Help video link shared in mail from fasttestseries.com)
9. Duration of the examination is 1.5 hours You will be required to upload the answer sheets on the same date / time of test as defined in your live class else the answer sheet will not be evaluated. In such case you should do a self-evaluation using the suggested answer which will be posted in the same folder after one day of the date of test.
10. The FAST examiner team will check the copy and give the marks along with feedbacks for your improvements. We take utmost care in checking however being subjective in nature the checking may differ from examiner to examiner.
11. Candidate are advised not to cheat and have self-discipline as these tests are preparing you better for your real exams and hence realistic assessment will help you take corrective actions at the right time.
12. FAST reserves the right to display any answers or answer sheets or share with other students for your benefits without any prior written or express consent.
13. Your suggestions on the test paper or evaluation or else can be shared at casj@fast-india.com

PART 1**MULTIPLE CHOICE QUESTION****Case study -1**

Mr. B is an interior decorator by profession. He also delivers online lectures on interior decoration via an e-commerce platform – Indeco-Academy. The relevant information from Mr. B's Indeco-Academy account is given hereunder:

Date of Credit of services to account of Mr. B	Date of Payment to Mr. B	Value of Services Provided (₹)
31.05.2025	10.06.2025	2,00,000
31.10.2025	10.10.2025	1,50,000
31.03.2025	10.04.2026	1,40,000

In addition to the above, Mr. B received ₹ 20,000 on 18.02.2026 directly from a student instead of through the Indeco-Academy payment portal. Mr. B has not furnished his PAN or Aadhar number to Indeco-Academy but has furnished his driving license for KYC requirements.

On 05.05.2025, Mr. B provided interior decorating services to Mr. N in Mumbai having business turnover of ₹ 1.2 crores during P.Y. 2024-25 for his office premises as well as residential premises, the consideration for which was ₹ 80,000 and ₹ 60,000, respectively. Mr. B has provided his PAN details to Mr. N for invoicing purpose.

Mr. B's gross receipts from interior decoration profession (excluding fees for online lectures) from clients in India (including Mr. N) in total in the P.Y.2025-26 is ₹ 40 lakhs.

Fortunately, Mr. B got one client based in Country A (with which India does not have a DTAA) from whom he received ₹ 3,50,000 as net income after deduction of ₹ 50,000 as foreign tax.

Profits of Mr. B computed as per books of account maintained under section 44AA is ₹ 24 lakhs. He has, however, not got his books of account audited.

From the information given above, choose the most appropriate answer to the following questions: (1 to 4):-

1. Is Indeco-Academy required to deduct tax at source on amount received/receivable by Mr. B? If so, what is the amount of tax to be deducted? **2**
- (a) No tax is required to be deducted at source
- (b) Yes; ₹ 5,100
- (c) Yes; ₹ 25,500
- (d) Yes; ₹ 510

Ans. (c)

2. Is Mr. N required to deduct tax at source under section 194J? If so, what is the amount of tax to be deducted? **2**
- (a) No tax is required to be deducted at source u/s 194J
- (b) Yes; ₹ 1,000
- (c) Yes; ₹ 8,000
- (d) Yes; ₹ 10,000

Ans. (c)

3. Is Mr. N required to deduct tax at source under section 194M? If so, what is the amount of tax to be deducted? **2**
- (a) No tax is required to be deducted at source u/s 194M
- (b) Yes; ₹ 600
- (c) Yes; ₹ 1,200
- (d) Yes; ₹ 3,000

Ans. (a)

4. What is Mr. B's gross income-tax liability for the P.Y.2025-26, assuming that he has opted out of the default tax regime u/s 115BAC? **2**
- (a) ₹ 5,70,960
- (b) ₹ 4,91,400
- (c) ₹ 5,08,560
- (d) ₹ 5,53,800

Ans. (a)

Case study -2

Ganga LLP is a limited liability partnership set up a unit in Special Economic Zone (SEZ) in the financial year 2019-20 for manufacture of textiles. The unit fulfills all the conditions under section 10AA of the Income-tax Act, 1961. During the financial

year 2024-25, it has also set up a warehousing facility in Pune for storage of sugar, fulfilling the conditions for claim of deduction under section 35AD. Capital expenditure in respect of warehouse amounted to ₹ 97 lakhs (including cost of land ₹ 32 lakhs). The warehouse became operational with effect from 1st April, 2025 and the expenditure of ₹ 97 lakhs was capitalized in the books on that date.

The details for the financial year 2025-26 are given hereunder:

Particulars	₹
Profit of unit located in SEZ	60,00,000
Export sales of above unit received in India in convertible foreign exchange on or before 30.9.2026	1,20,00,000
Domestic sales of above unit	40,00,000
Profit from operation of warehousing facility (before considering deduction under section 35AD)	1,60,00,000

Mr. Ganesh, one of the partners of the LLP, commenced the business of manufacture of leather on 1.4.2024. His turnover in the P.Y.2024-25 is ₹ 180 lakh and in the P.Y.2025-26 is ₹ 200 lakhs. The payments made in the P.Y.2025-26 is ₹ 190 lakhs. The profit for P.Y.2025-26 as per books of account maintained u/s 44AA is ₹ 12.10 lakhs. Out of the turnover of ₹ 200 lakhs, ₹ 190 lakhs is received through RTGS and NEFT and ₹ 10 lakhs is received by way of cash. Out of the payments of ₹ 190 lakhs made (including expenditure incurred), ₹ 180 lakhs is through RTGS/ NEFT and the remaining ₹ 10 lakhs through cash.

From the information given above, choose the most appropriate answer to the following questions: (5 to 9):-

5. What is the amount of deduction under section 10AA and 35AD available to Ganga LLP while computing income under the regular provisions of the Income-tax Act, 1961 for A.Y.2026-27? 2
- (a) ₹ 45 lakhs and ₹ 65 lakhs, respectively

- (b) ₹ 22.50 lakhs and ₹ 65 lakhs, respectively
- (c) ₹ 45 lakhs and ₹ 97 lakhs, respectively
- (d) ₹ 22.50 lakhs and ₹ 97 lakhs, respectively

Ans. (b)

6. What is the tax liability of Ganga LLP computed under the regular provisions of the Income-tax Act, 1961 for A.Y.2026-27? **2**

- (a) ₹ 38,43,840
- (b) ₹ 31,70,000
- (c) ₹ 46,30,080
- (d) ₹ 19,65,600



Ans. (c)

7. What is the alternate minimum tax (rounded off) payable by Ganga LLP as per section 115JC for A.Y.2026-27? **2**

- (a) ₹ 39,49,750
- (b) ₹ 41,07,740
- (c) ₹ 43,95,280
- (d) ₹ 46,00,670

Ans. (d)

8. Is there any AMT credit to be carried forward under section 115JEE? If so, what is the amount of such credit? **2**

- (a) Yes; ₹ 5,22,340
- (b) Yes; ₹ 7,56,830
- (c) Yes; ₹ 2,63,900
- (d) No

Ans. (d)

9. What is the income to be declared by Mr. Ganesh for A.Y.2026-27 under the head “Profits and gains of business or profession”, so that he makes maximum tax savings without getting his books of account audited? **2**

- (a) ₹ 12 lakhs
- (b) ₹ 12.10 lakhs
- (c) ₹ 12.20 lakhs
- (d) ₹ 16 lakhs

Ans. (c)

Case study -3

X Pvt. Ltd. (“X”) is an Indian company. Y Inc (“Y”) is a private company incorporated in the USA and its income is not chargeable to tax in India. Both are promoted by Mr. Ayush who holds 30% equity share capital and voting power in both X and Y. The balance sheet of X as on 31st March, 2026 is as follows:

Liabilities	Amount (₹ million)	Assets	Amount (₹ million)
Paid up capital	250	Fixed Assets	700

Loans:		800	Investments	300
From Y	620		Cash and bank	200
From others	180		balance	
Current liabilities		150		
Total		1,200	Total	1,200

Additional information:

- (i) The loan was advanced by Y to X on 1st July, 2025 in rupee terms and carries 6.5% p.a. rate of interest. For borrowers with similar risk profile who are not associated enterprises of Y, Y advances loan at 4% p.a. interest rate.
- (ii) X has maintained such information and document in respect of the international transaction as has been prescribed under section 92D but has not reported the transaction as an international transaction. X does not make any adjustment to its total income on account of application of provisions of Chapter X of the Income-tax Act, 1961 in its return of income.

From the information given above, choose the most appropriate answer to the following questions: (10 to 15):-

10. Are X and Y associated enterprises? If so, why?

2

- (i) Yes, X and Y are associated enterprises because Mr. Ayush holds voting power of 30% in both the companies.
- (ii) Yes, X and Y are associated enterprises as not less than 75% of X's total loans have been availed from Y.
- (iii) Yes, X and Y are associated enterprises since the loan advanced by Y to X is not less than 51% of the book value of X's total assets.
- (iv) No, X and Y are not associated enterprises The most appropriate answer is -
- (a) Only (i)

- (b) (i) and (ii)
- (c) (i) and (iii)
- (d) Only (iv)

Ans. (c)

11. What is the amount of primary adjustment required to be made to the total income of X for A.Y.2026-27? **2**

- (a) ₹ 1,16,25,000
- (b) ₹ 58,12,500
- (c) ₹ 1,55,00,000
- (d) ₹ 77,50,000

Ans. (a)

12. If X has accepted the primary adjustment made by the Assessing Officer on 31.3.2027, what should X do if it does not want to treat the excess money as deemed advance? **2**

- (a) The excess money which is available to Y, has to be repatriated to India within 90 days from the due date of filing of return.
- (b) The excess money which is available to Y, has to be repatriated to India within 90 days from the date of order of the Assessing Officer.
- (c) X has to pay additional income-tax @20.9664% on the excess money.
- (d) Either (b) or (c)

Ans. (d)

13. If X has accepted the primary adjustment made by the Assessing Officer on 31.3.2027 and the excess money has not been repatriated into India upto **2**

31.3.2028, what would be the consequence if X has not opted to pay additional income-tax? Assume that SBI one-year marginal cost of lending rate is 10% on 1.4.2027 and 11% on 1.4.2028.

- (a) Interest of ₹ 16,56,563 has to be added to its total income for P.Y.2027-28
- (b) Interest of ₹ 11,60,509 has to be added to its total income for P.Y.2027-28
- (c) Interest of ₹15,40,313 has to be added to its total income for P.Y.2027-28
- (d) Interest of ₹ 20,53,750 has to be added to its total income for P.Y.2027-28

Ans. (c)

14. Which factor is relevant in determining whether penalty under section 270A of the Income-tax Act, 1961 will be leviable in respect of the primary adjustment to X's total income? **2**

- (a) Since X has maintained information and documents as prescribed under section 92D, that by itself is sufficient for holding that X has not under-reported its income
- (b) If the Assessing Officer/Transfer Pricing Officer makes adjustment to X's total income on account of an international transaction not being in accordance with arm's length price, that by itself is sufficient to hold that X has under-reported its income; consequently, penalty u/s 270A is leviable

- (c) Since X has not reported the transaction as an international transaction, X will be considered to have under-reported its income and penalty will be 50% of the amount of tax payable on the under-reported income
- (d) Since X has not reported the transaction as an international transaction, X will be considered to have misreported its income and penalty will be 200% of the amount of tax payable on the misreported income

Ans. (d)

15. In the scenario given above, what would be the situation on account of application of transfer pricing provisions if X, the Indian company would have been the lender and Y, the US company, the borrower? **2**

Rate of interest on loan by X to Y = 6.5% p.a.

For borrowers with similar risk profile who are not associated enterprises of X, advances loan at 4% p.a. interest rate.

- (a) Identical adjustment would be made to the income of Y instead of X
- (b) No adjustment would be required in the hands of X or Y
- (c) Identical adjustment would made to the income Y as well as X
- (d) Adjustment would still be made to the income of X and no adjustment would be made to the income of Y

Ans. (b)

Part-2**DESCRIPTIVE QUESTIONS**

- 1. Question paper comprises 6 questions. Answer Question No. 1 which is compulsory and any 4 out of the remaining 5 questions*
- 2. Working notes should form part of the answer.*
- 3. Answers to the questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate has not opted for Hindi Medium, his/her answers in Hindi will not be evaluated.*
- 4. Maximum Mark 70*

- Q.1** On, 1.4.2025, Binu Ltd. of Delhi, a domestic company, engaged in the business of manufacturing of metro rail seats, converted into an LLP by name M/s. Soumya LLP fulfilling all the conditions specified in section 47(xilib) of the Income-tax Act, 1961. Some of the relevant information is given below in respect of Binu Ltd., as on 31.3.2026: **14**
- (a) Voluntary Retirement Scheme (VRS) expenditure incurred by the company during the PY 2023-24 is ₹20 lakhs. The company was allowed deduction of ₹4 lakhs each for the PYS 2023-24 & 2024-25 u/s 35DDA.
 - (b) 150 equity shares in Toyo Ltd., an Indian company listed in Bombay Stock Exchange was acquired for ₹1,900 per share on 31.7.2017. On conversion, these shares become the property of M/s. Soumya LLP.
 - (c) Besides other assets transferred to M/s. Soumya LLP by M/s. Binu Ltd., it also transferred two factory buildings. On 1.4.2025, M/s. Soumya LLP leased out one factory building along with plant and machineries and furniture etc. at a consolidated lease rent of ₹50,000 per month.

During the previous year 2025-26, the M/s. Soumya LLP earned a profit of ₹25,40,000 after debit/credit of the following items to its Profit and loss account:

- (i) Mr. Binu is the working partner of the LLP. He is also a working partner in another firm. He is actively engaged in the business of both the firms. Binu gets, a salary of ₹55,000 p.m. from M/s. Soumya LLP and the same is authorised in the deed of LLP.
- (ii) Mr. Ayushman, an employee, was deputed to work in the client's office in Mumbai for three months. The LLP has paid his salary in cash for the months when he was in Mumbai, amounting to ₹3,45,000 (net of TDS and other deductions), since he did not have a bank account in Mumbai. This payment was included in amount of "salary" debited to profit and loss account. Mr. Ayushman is normally posted in Delhi being the headquarter of M/s. Soumya LLP.
- (iii) Amount of ₹25,000 was paid towards penalty for non-fulfilment of delivery conditions of a contract for sale for the reasons beyond its control.
- (iv) The LLP had provided an amount of ₹18 lakhs being the sum estimated as payable to workers based on agreement to be entered with workers union towards periodical wage revision once in 3 years. The provision, is based on a fair estimation of wage and reasonable certainty of revision once in 3 years.
- (v) Depreciation debited to profit and loss account ₹5,40,000.
- (vi) Gratuity provisions based on actuarial valuations ₹6.5 lakhs. (Gratuity actually paid ₹4 lakhs to retired employees debited in Gratuity provision account).

- (vii) Profit on sale of shares of M/s. Toyo Ltd. ₹1,27,500. These shares were sold on 31.5.2026 for ₹2,750 per share. The highest price of Toyo Ltd. quoted on the stock exchange as on 31.1.2018 was ₹2,500 per share.
- (viii) Repairs to plant and machinery include ₹59,000 in respect of plant and machinery given on lease.
- (ix) Factory licence fee paid ₹15,000 for each factory building.
- (x) Legal fee includes ₹26,000 paid to an advocate for drafting and registering the lease agreement.

Additional Information:

- (1) Under an agreement of debt restructuring, the bank has converted unpaid interest amounting to ₹9,00,000 up to 31.7.2025 into a new loan account repayable in 3 equal annual instalments. The first instalment was paid in March 2026 by debiting the new loan account.
- (2) Mr. Binu, being a working partner, bought a car which is registered in his own name out of the funds of LLP. The car was used exclusively for the purposes of the business of the LLP only. The depreciation on the car amounts to ₹15,000 for the PY 2025-26 which is not included in the depreciation amount debited to profit and loss account.
- (3) Depreciation as per Income-tax Rules ₹8,10,000 (including depreciation on the assets given on lease amounting to 90,000). It does not include depreciation on car.
- (4) The LLP sold import entitlements on 1.5.2025 for ₹1,50,000.

This sum is not included in profit and loss account by treating it as capital receipt.

You are required to discuss the implication of such conversion and calculate the total income in the hands of M/s Soumya LLP for the Assessment Year

2026-27.

Ans. Implication on conversion of company into LLP

Transfer of capital asset or intangible asset by a private company or unlisted public company to a LLP or any transfer of share held by shareholder to LLP in a conversion of private company into an LLP is not regarded as transfer u/s 47 provided the conditions specified therein are satisfied.

Accordingly, transfer of capital asset by Binu Ltd1., Delhi to M/s Soumya LLP is not regarded as transfer since the conditions specified in section 47(xiiib) as stated in the question stand satisfied and fulfilled.

Computation of Total Income in the hands of M/s Soumya LLP for the A.Y. 2026-27

Particulars		Amount ()	
I	Profits and gains of business and profession Net profit as per the profit and loss account Add : Items debited but to be considered separately or to be disallowed (i) Salary to Binu, working partner (to be considered separately) [₹ 55,000 x 12] (ii) Salary paid to Mr. Ayushman , an employee [U / s 40A (3) , disallowance is attracted in respect of expenditure for Which cash payment exceeding ₹ 10,000 is made on a day to a person . Payment of 3,45,000 to Mr. Ayushman , an employee , is covered by exception under Rule 6DD since , TDS has been deducted , employee is temporarily posted in Mumbai and does not have a bank account in Mumbai. Since the same has been debited to profit and loss account , no adjustment is required]	25,40,000 6,60,000 - -	
	(iii) Penalty for non - fulfilment of delivery conditions of a contract for sale		
	[Penalty for non - fulfilment of delivery conditions of a contract for sale is not on account of infraction of law. Penalty for breach of contract is business or commercial loss and would be allowable expenditure u/s 37. Since the same has been debited to profit and loss account , no adjustment is required]	-	
	(iv) Provision for wages payable to workers		

	[The provision is based on fair estimate of wages and reasonable certainty of revision , and thus is allowable as deduction , as ICDS - X requires reasonable certainty for recognition of a provision , which is present in this case . As the provision has been debited to profit and loss account , no adjustment is required while computing business income]		
	(v) Depreciation as per books of account	5,40,000	
	(vi) Provision for gratuity	2,50,000	
	[Provision of ₹ 6,50,000 for gratuity based on actuarial valuation is not allowable as deduction as per section 40A (7). However , actual gratuity of ₹ 24,00,000 paid is allowable as deduction . Hence , the difference is to be added back being of ₹ 2,50,000 (₹ 6,50,000 - ₹ 4,00,000)]		
	(viii) Repair to plant and machinery given on lease [Lease rent from factory building along with plant and machinery and furniture is chargeable to tax under the head income from other sources, since the main business of the M / s Soumya LLP is manufacturing of metro rail seats and not letting out the properties . Therefore , repairs to such P & M to be deducted from lease income taxable under IFOS since the same has been debited to P & L account , it has to be added back .	59,000	
	(ix) Factory licence fee paid [Factory licence fee in respect of leased out factory building is to be deducted from lease income taxable under the head " Income from Other Sources " . Since the same has been debited to profit and loss account , it has to be added back]	15,000	
	(x) Legal fee to advocate for drafting and registering lease agreement [Legal fee to advocate for drafting and registering lease agreement to be deducted from lease income taxable under the head " Income from Other Sources " . Since the same has been debited to profit and loss , it has to be added back]	26,000	
			15,50,000
	Add: Amount taxable but not credited to profit and loss account Profit on sale of import entitlements [Profit on sale of import entitlements is chargeable to tax under the head "Profits and gains from business and profession " u / s 28. Since the same has not been credited to profit and loss account, it has to be added]	1,50,000	40,90,000
	Less: Items credited to profit and loss account , but not includible in business income/permissible expenditure and allowances		42,40,000
	(i) Profit on sale of shares of M / s Toyo Ltd.	1,27,500	

	[Taxable under the head , " Capital Gains " . Since the same has been credited to profit and loss account , it has to be reduced from business income]		
	Al (a) Voluntary Retirement Scheme expenditure ₹ 20 lakh / 5] (One fifth deduction is available in respect of payment for voluntary retirement scheme for five years . Where a private company or unlisted company is succeeded by a LLP fulfilling the conditions laid down in section 47 (xiiib) , then , deduction in respect of voluntary retirement scheme is available to the LLP for the balance years from the year of succession . Hence, deduction of ₹ 4,00,000 is allowable in P.Y. 2023-24 to M / s Soumya LLP being for 3rd year]	4,00,000	
	Interest paid during the year [Conversion of unpaid interest into loan shall not be construed as payment of interest for the purpose of section 43B . The amount of unpaid interest converted into a new loan will be allowable as deduction only in the year in which such converted loan is actually paid. Since ₹ 3 lakhs has been paid in the P.Y. 2025-26 , the same is allowable as deduction]	3,00,000	
	Depreciation on motor car exclusively used for business purpose [Depreciation on motor car bought and used exclusively for the purposes of business is allowable though not registered in the name of the firm.]	15,000	
	Depreciation as per Income - tax Rules [₹8,10,000 - ₹90,000] [Depreciation on leased out asset to be deducted from lease income taxable under the head " Income from Other Sources. Since the same has been included in depreciation of ₹8,10,000 , it has to be reduced from it]	7,20,000	
			15,62,500
	Book Profit		26,77,500
	Less: Remuneration to Mr. Binu , a working partner [Subject to limit specified in section 40 (b) [On first ₹6,00,000 of book profit , 90 % of book profit or ₹3,00,000, whichever is higher and on the balance of book profit, 60 % of balance book profit] [17,86,500 (5,40,000 , being 90 % of ₹3,00,000 + ₹12,46,500 , being 60 % of ₹23,77,500) restricted to actual remuneration paid to Binu .		6,60,000
	Profits and gains from business and profession		20,17,500
II	Capital Gains Sale consideration [150 x ₹2,750 per share]		4,12,500
	Less : Cost of acquisition [150 x ₹22,50 per share] [Indexation benefit would not be available] [Higher of		3,75,000

(i)	₹1,900, actual cost, being the cost of acquisition to Binu Ltd. as per section 49]		
(ii)	₹2,500, being the lower of		
	- Fair market value as on 31.1.2018 [2,500 per share]		
	- Full value of consideration [2,750 per share]		
	Long term Capital gains since shares held for more than 12 months [Period of holding of Binu Ltd. is also included]		37,500

Q.2

- (A) M/s Rehman Dakait a partnership firm, commenced operations of the business of a new three-star hotel in Pune, Maharashtra on 1.4.2025. The firm consisting of two working partners, with equal shares, reports a net profit of ₹ 26,00,000 after deduction of the following items: 8
- (i) Depreciation as per books of accounts ₹ 15,80,000.
- (ii) Interest on capital @ 15% per annum (as per the deed of partnership).
The amount of interest is ₹ 50,00,000.
- (iii) Interest on loan includes an amount of ₹ 6,00,000 paid to Mr. Rajveer, a resident, on which tax was not deducted.

The firm purchased a new motor car for the above business for ₹ 7 lakh on 10th March, 2025 and capitalized the same in its books of account as on 1 April, 2025. Further, in April, 2025, it incurred capital expenditure of ₹ 2 crores (out of which ₹ 1.50 crores was for acquisition of land and ₹ 50 lakhs on building) exclusively for the above business. The firm also installed and put to use new centralised air conditioners on 15.5.2025 costing ₹ 3,20,000.

The capital expenditure incurred by the firm were paid by account payee cheque or use of ECS through bank account.

The firm also has another existing business of running a four-star hotel in Mumbai, which commenced operations fifteen years back, the profits from

which are ₹ 41,38,000 computed as per Income-tax Act for the A.Y.2026-27. Compute total income and tax payable by the firm for the A.Y.2026-27, assuming that the firm has fulfilled all the conditions specified for claim of deduction under section 35AD and opted for claiming deduction under section 35AD; and has not claimed any deduction under Chapter VI-A under the heading "C.- Deductions in respect of certain incomes".

Ans.

Computation of total income and tax payable of M/s Rehman Dakait

Particulars	₹	₹
Profits from the specified business of new hotel in Pune		26,00,000
Add : Items debited but to be considered separately or to be disallowed		
Depreciation	15,80,000	
Interest on capital to partners @ 15 % p.a. (Interest allowable to the extent of 12 % p.a. , since the same is authorized by the partnership deed . Thus , interest of 10,00,000 , being in excess of 12 % p.a. ie., 50,00,000 x 3 % / 15 % would be disallowed)	10,00,000	
30 % disallowance of interest on loan on which tax is not deducted [30 % of 6,00,000]	<u>1,80,000</u>	<u>27,60,000</u>
		<u>53,60,000</u>
Less : Permissible expenditures and allowances 100 % of capital expenditure allowable as deduction under section 35AD in respect of-		
- Building (expenditure on land not eligible for deduction)	50,00,000	
- New Motor Car (capital expenditure for purchase of car prior to 1.4.2025 (ie , prior to commencement of business) and capitalized in the books of account as on 1.4.2025	7,00,000	
- New Air conditioner	<u>3,20,000</u>	<u>60,20,000</u>

Loss from the specified business of new hotel in Pune	- (6,60,000)
Profit from the existing business of running a hotel in Mumbai	41,38,000
Less : Loss from the specified business of new hotel in Pune	6,60,000
Net profit from business after set - off of loss of specified business against profits of another specified business under section 73A	<u>34,78,000</u>
Total Income	34,78,000
	₹
Income - tax @ 30 % on total income of ₹ 34,78,000	10,43,400
Add : Health & education cess @ 4 %	<u>41,736</u>
Tax liability	<u>10,85,136</u>
Tax liability (rounded off)	10,85,140

Computation of Alternate Minimum tax liability of M/s Rehman Dakait

Particulars	₹
Total income (computed above)	34,78,000
Add : Deduction under section 35AD	60,20,000
	94,98,000
Less : Depreciation in respect of -	
	₹
- Building @ 10 % of ₹ 50,00,000	5,00,000
- New Motor Car (capital expenditure for purchase of car prior to 1,05,000 1.4.2024 (ie . , prior to commencement of business) and capitalized in the books of account as on 1.4.2025 @ 15 % of	7,00,000
- New Air conditioner @ 15 % of 3,20,000	<u>48,000</u>
Adjusted total income	<u>6,53,000</u>
Alternate Minimum Tax@18.5%	<u>88,45,000</u>
Add : Health & education cess @ 4 %	16,36,325
Tax liability under section 115JC	65.453
Tax liability under section 115JC (Rounded off)	<u>17,01,778</u>
	17,01,780
Since the regular income - tax payable is less than the alternate minimum tax payable , adjusted total income shall be deemed to be total income and tax is leviable @ 18.5 % thereof plus health and education cess @ 4 % . Therefore , tax liability is 17,01,780	
AMT Credit to be carried forward under section 115JD	₹
Tax liability under section 115JC	17,01,780

Less : Tax liability under the regular provisions of the Income - tax Act , 1961	<u>10,85,140</u>
AMT Credit to be carried forward	<u>6,16,640</u>

Q.2

- (B) Rahul inc. (incorporated in UK) has a branch office (PE) in India. The Net Profit of the Branch as per the statement of profit and loss for the year ended 31.03.2026 was 83 lakhs. It includes the following: 6
- (i) Dividend from Indian companies (listed) ₹8,00,000.
 - (ii) Dividend from Indian companies (unlisted) ₹4,00,000.
 - (iii) Interest received from MMS Ltd. of Mumbai ₹7,00,000. The amount was received by the Indian company MMS Ltd. in foreign currency as per loan agreement dated 01.04.2015 (section 194LC applicable).
 - (iv) Fee for technical services received from Barun Co. Ltd., Kolkata ₹25,00,000. The agreement was made on 10.08.2008 and was approved by Central Government. Expenditure incurred for providing technical service amounts to ₹6,00,000.

Additional information:

Total income chargeable to tax as per regular provisions of the Income-tax Act, 1961 (Act) is ₹20,00,000 (without considering the items (i) to (iv) above).

You are required to compute the book profit tax u/s 115JB of the Act for the assessment year 2026-27 and also the total income-tax liability of the assessee.

Your working should be supported by notes.

Ans. Computation of "Book Profit" for levy of MAT u/s 115JB for A.Y.2026-27

Particulars	₹	₹
Net Profit as per Statement of Profit and Loss		83,00,000

Less : Net profit to be decreased by the following amounts as per Explanation 1 to section 115JB :		
- Interest income received from an Indian company as per loan agreement dated 1.4.2015 , where the loan is given in foreign currency [Since income by way of interest chargeable to tax @ 5 % u / s 115A , being a rate lower than 15 % , has been credited to statement of profit and loss, the same has to be reduced to arrive at book profit]	7,00,000	
- Fees for technical services under an agreement approved by the Central Government [No adjustment is required since the foreign company carries on business through a permanent establishment i.e. , a branch in India . Such income ,being effectively connected with the branch in India, is taxable @ 35 % u / s 44DA. Since the income is not taxable at a rate less than 15 % it should not be reduced for determining book profit]	Nil	7,00,000
Book Profit		76,00,000

Computation of tax liability

Particulars	₹	₹
Minimum Alternate Tax on book profit u / s 115JB 15 % + HEC of ₹76,00,000		11,85,600
Income - tax computed as per the regular provisions of the Act		
- 35 % [since Amold Ltd. is a foreign company] of total income of ₹20 lakhs plus fees for technical services ₹19 lakhs (25 lakhs - ₹6 lakhs)	13,65,000	
- Dividend income from Domestic Company (Taxable at 20 % u / s 115A)	2,40,000	

- Tax @ 5 % on interest of 7 lakhs received from MMS Ltd. as per loan agreement dated 1.4.2015; the loan being given in foreign currency	35,000	
	16,40,000	
Add : HEC @ 4 %	65,600	
Total income - tax liability	17,05,600	

Note: Since the income-tax computed as per the regular provisions of the Income- tax Act, 1961, is higher than the MAT liability, the income-tax payable would be computed as per the regular provisions of the Income-tax Act, 1961: Income-tax computed as per the regular provisions of the Income tax Act, 1961

Q.3

(A) Examine the following independent case scenarios of charitable trust/institutions based on the provisions of the Income-tax Act, 1961: **8**

- (i) Shiksha charitable trust, having its main object as medical relief, earned the following income during the P.Y.2025-26:

Particulars		Amount in ₹
(i)	Income from tax free bonds issued by Indian Railway Finance Corporation Ltd. (IRFCL)	1,10,000
(ii)	Agricultural income	4,25,000

The trust claims exemption under section 10(1) and 10(15) in respect of its agricultural income, and interest income, respectively, without complying with the conditions laid down under section 11.

- (ii) “Vidya Jyoti Educational Trust” registered under section 12AB owns a building used for educational activities. During the year, one floor was

given on rent to a private coaching institute owned by the wife of the founder of the trust. The trust charged rent of ₹ 20,000 per month, whereas similar properties in the same locality fetch rent of ₹ 70,000 per month. The trust justified the lower rent on the ground that the coaching institute supports educational objectives.

- (iii) “Aarogya Welfare Charitable Trust” is registered under section 12AB and is engaged in providing free medical facilities. During the Previous Year 2025-26, Mr. Karan contributed ₹75,000. Further, he had contributed ₹ 9,50,000 up to 31.3.2025.

During the same year, the trust sold old hospital furniture to Mr. Karan for ₹ 1,20,000. The fair market value of the furniture was ₹ 2,80,000. The trust claims that since Mr. Karan’s donation during the current year does not exceed ₹ 1 lakh, he should not be treated as a specified person.

- Ans. (i)** Section 11(7) provides that where a trust has been granted registration under section 12AB and the registration is in force for a previous year, then, such trust cannot claim any exemption under any provision of section 10 [other than exemption of agricultural income under section 10(1)].

Therefore, a charitable trust cannot claim exemption under section 10(15) in respect of interest income, since it has voluntarily opted for the special dispensation under sections 11 to 13, and consequently has to be governed by the provisions of these sections. However, it can claim exemption under section 10(1) in respect of agricultural income, since section 11(7) provides an exception in respect of such income.

Therefore, the claim of Sahitya charitable trust, as regards exemption under section 10(15), is not correct.

- (ii) As per section 13(3), a relative (wife, in this case) of the founder is regarded as a specified person, and therefore any use or application of the income or property of the trust for her benefit attracts examination under section 13. Further, section 13(2)(b) provides that where any land, building or other property of the trust is made available for the use of a specified person without charging adequate rent or compensation, such use shall be deemed to be application of trust property for the benefit of that person.

In the present case, the trust has charged rent of ₹ 20,000 per month whereas the prevailing market rent for similar properties is ₹ 70,000 per month, which clearly indicates that the rent charged is not adequate. Consequently, the provisions of section 13(1)(c) become applicable and such part of income or property would not be eligible for exemption and would be taxed under section 115BBI at 30%. Further, to avoid income of the trusts or institutions to be used for the benefit of specified persons under section 13(3), penalty is leviable under 271AAE on the amount of income provided as a benefit.

- (iii) Mr. Karan's status has to be examined with reference to section 13(3)(b), which provides that any person whose contribution during the relevant previous year exceeds ₹ 1 lakh, or whose aggregate contribution up to the end of the relevant previous year exceeds ₹ 10 lakh, shall be treated as a specified person.

In the present case, although Mr. Karan contributed only ₹ 75,000 during the Financial Year 2025-26, his aggregate contribution to the trust amounts to ₹ 10,25,000, which exceeds the prescribed aggregate limit of ₹10 lakh. Therefore, he qualifies as a person referred to in

section 13(3), and any use or application of the income or property of the trust for his direct or indirect benefit will attract the provisions of section 13(1)(c).

During the year, the trust sold hospital furniture to Mr. Karan for ₹ 1,20,000 against a fair market value of ₹ 2,80,000. Since the property has been sold for inadequate consideration to a specified person, the transaction falls within the scope of section 13(2)(f), which deems such arrangements as application of trust property for the benefit of a specified person.

As a result, the provisions of section 13(1)(c) become applicable and such part of income or property would not be eligible for exemption and would be taxed under section 115BBI at 30%. Further, to avoid income of the trusts or institutions to be used for the benefit of specified persons under section 13(3), penalty is leviable under 271AAE on the amount of income provided as a benefit.

Q.3

(B) Mr. Ritesh, a resident individual, aged 42 years, earned the following sums during the P.Y. 2025-26:

6

Income from a business in India ₹ 4,85,000

Royalty Income from Country N ₹ 7,80,000 (Rate of Tax in Country N 10%, Tax deducted ₹ 78,000)

Interest (other than interest on securities) from Country Y US \$ 9,500 (interest became due on 01.04.2025) Tax deducted (on 21.02.2026): US \$ 950 (Rate of Tax 10%)

Agriculture income in Country M: ₹ 1,09,000

Additional Information:

- (i) As per DTAA between India and Country N, the royalty will only be taxable in the Source State.

- (ii) As per the DTAA between India and Country Y, interest can be taxed in both the states and tax credit will be available in respect of tax payable in resident state.
- (iii) Agriculture income is exempt in country M. India does not have a DTAA with Country M.
- (iv) Telegraphic transfer buying rate on different dates of US \$:

Date	Rate (₹)
31.03.2025	75
31.01.2026	78
21.02.2026	79
31.03.2026	80

You are required to calculate the total income and tax payable by Mr. Ritesh assuming that he opted out of the default tax regime under section 115BAC

Ans. Computation of total income and tax payable by Mr. Ritesh

Particulars	₹	₹
Profits and Gains of Business or Profession		
Income from business in India	4,85,000	
Royalty from Country N [As per India - Country N DTAA , royalty is taxable in Country N only]	<u>Nil</u>	4,85,000
Income from Other Sources		
Interest from Country Y [US \$ 9,500 x 80 (being conversion rate as on 31.3.2026 L.e. , last day of the previous year - Rule 115)	7,60,000	
Agricultural Income in Country M [Not exempt in India]	<u>1,09,000</u>	8,69,000
Gross Total Income / Total Income		13,54,000
Tax liability on ₹ 13,54,000		
Tax on total income [30 % of ₹ 3,54,000 + ₹ 1,12,500]		2,18,700
Add : Health and Education cess @ 4 %		8,748
		2,27,448
Less: Deduction under section 91		Nil
[Since agricultural income is exempt in Country M, there is no doubly taxed income. Hence , no deduction under section 91 is allowable]		
Less : Deduction u / s 90 (See Working Note below)		74,100

Tax payable		1,53,348
Tax payable (Rounded off)		1,53,350

Working Note: Calculation of deduction under section 90

Particulars	,
Average rate of tax in India [ie , ₹ 2,27,448 / ₹ 13,54,000 x 100]	16.80%
Tax payable in India on interest from Country Y [₹ 7,60,000 x 16.798 %]	1,27,665
Tax paid in Country Y [US \$ 950 x 78 , being conversion rate as on 31.1.2026 Le , the last day of month immediately preceding month in which tax has been deducted]	74,100
Deduction u / s 90 [being the lower of tax paid on interest income in Country Y and tax payable in India]	74,100

Q.4

(A) Discuss and compute the liability for deduction of Tax source, any, the following cases for Assessment Year 2026-27: **8**

- (i) A notified infrastructure debt fund eligible for exemption u/s 10(47) of the Income-tax Act, 1961 pays interest of ₹ 4.50 lakhs to a company incorporated in USA. The US company incurred expenditure of ₹ 15,000 for earning such interest. The fund also pays interest of ₹ 2.50 lakhs to Mr. R, who is a resident of a notified jurisdictional area.
- (ii) On 17.06.2025, a commission of ₹ 40,000 was retained by the consignee Harshit Packaging Ltd. and not remitted to the consignor 'Hari Developers', while remitting the sales consideration.
- (iii) Param Construction Ltd. sells a flat to Mr. Mani for ₹ 48 Lakhs on 15.01.2026 (SDV ₹ 42 lakhs). The agreement to sell provides that in addition, Mr. Mani has to pay maintenance charges (of ₹ 5,000 per month) for 24 months in advance ₹ 2,00,000 for car parking to be used

exclusively by him and ₹ 1,00,000 for club membership fees to Param Construction Ltd. before the flat is registered in the name of Mr. Mani. The flat is registered on 30.03.2026.

- (iv) Tulsi Private Ltd., a company engaged in ship breaking activity, sold some old and used plates, wood etc., in respect of which it did not collect tax from the buyer. The company claimed that such items are usable as such. Hence these are not 'scrap' to attract the provisions for collection of tax at source. The Assessing Officer treated such items in the nature of 'scrap' and raised a demand u/s 201(1) and interest u/s 201(1A).

Is the action of the Assessing Officer in treating such items as 'scrap' tenable in law? Discuss.

- Ans. (i) As per section 194LB, tax would be deductible@5% on gross interest paid/credited by a notified infrastructure debt fund, eligible for exemption u/s 10(47), to a non- corporate non-resident or foreign company.

However, in case the notified infrastructure debt fund pays interest to a person who is a resident of a notified jurisdictional area, section 94A will apply. Accordingly, tax would be deductible@30% u/s 94A

Since the payment is to a non-corporate non-resident or foreign company, health and education cess @4% has to be added to the applicable rate of TDS.

Therefore, the tax deductible in respect of payment of interest of ₹ 4.50 lakhs to US company would be ₹ 23,400 (i.e., 5.20% of ₹ 4.50 lakhs).

Tax deductible in respect of payment of interest of ₹ 2.50 lakhs to Mr. R, who is a resident of a notified jurisdictional area, would be ₹ 78,000,

being 31.2% of ₹ 2,50,000.

- (ii) Section 194H requires deduction of tax at source @2% from commission and brokerage payments to a resident if the amount of such payment exceeds ₹ 20,000. In the given case, 'Harshit Packaging Ltd.', the consignee, has retained the commission of ₹ 40,000 while remitting the sales consideration to the consignor 'Hari Developers'.

Since the retention of commission by the consignee/agent amounts to constructive payment of the same to him by the consignor/principal, deduction of tax at source is required to be made from the amount of commission [CBDT Circular No.619 dated 4/12/1991].

Therefore, Hari Developers has to deduct tax at source on ₹ 40,000 @ 2%. Tax deductible would be ₹ 800.

- (iii) Section 194-IA requires deduction of tax@2% by every transferee responsible for paying any sum as consideration for transfer of immovable property (land, other than agricultural land, or building or part of building) to a resident transferor, Tax is not required to be deducted at source where the total amount of consideration for the transfer and SDV of immovable property is less than ₹ 50 lakhs. Consideration for transfer of any immovable property includes, inter alia, club membership fee, car parking fee, maintenance fee, which are incidental to transfer of the immovable property.

In the present case, since the consideration for transfer of flat by Mr. Mani to Param Construction Ltd, is ₹ 52,20,000 (₹ 48 lakhs+₹ 1,20,000, being ₹ 5,000 x 24+ ₹ 2 lakhs +₹ 1 lakh) which is not less than ₹ 50 lakhs, Mr. Mani is required to deduct tax @1% on ₹ 52,20,000.

Tax deductible by Mr. Mani would be ₹ 52,200.

- (iv) The issue under consideration in the present case is, can items which are usable as such be treated as "Scrap" to attract provisions for tax collection at source u/s 206C.

The waste and scrap must be from manufacture or mechanical working of material which is definitely not usable as such because of breakage, cutting up, wear and other reasons.

Any material which is usable as such would not fall within the ambit of the expression scrap. In case of a company engaged in ship breaking activity, the old and used plates, wood etc. are usable as such. Since the items in question were usable as such, therefore, they do not fall within the definition of "scrap"

Thus, in the present case, the action of Assessing Officer in treating such items in the nature of scrap and raising a demand u/s 201(1) and interest u/s 201(1A), is not tenable in law.⁷

Q.4

- (B)** DIY Ltd., a company registered in India and subsidiary of CD Inc., a company registered in Austria. DIY Ltd. engaged in the manufacturing of fabric. To arrive at the arm's length price applicable to its transactions with CD Inc., DIY Ltd. enters into an advance pricing agreement with the Board on 25th November 2025. Accordingly, there will be a substantial change in the income of DIY Ltd. Also, DIY Ltd. wishes to apply for roll back provisions to PY 2021-22, 2022-23, 2023-24 and 2024-25. The AO wants to apply such transfer pricing provisions from the year in which DIY Ltd. became the subsidiary of CD Inc. i.e., A.Y. 2018-19 onwards. **6**

DIY Ltd. had filed its return of income for the A.Y. 2024-25 on 26th August

2024 and for A.Y. 2025-26, on 31 August, 2025. The assessments for the A.YS 2022-23 to 2025-26 are completed but the assessment of A.Y. 2026-27 is pending on the date of entering into APA.

You are required to answer the following questions:

- (i) Whether the AO is correct to apply the transfer pricing provisions from A.Y. 2018-19 onwards?
- (ii) In respect of A.Y. 2022-23, the transfer price arrived at by the Board is resulting in reduction in returned income of the assessee. Discuss whether the roll back provisions can be applied for that assessment year as well.
- (iii) What will happen to completed as well as pending assessments?

Ans. (i) No; the Assessing Officer is not correct in applying transfer pricing provisions as per the advance pricing agreement from A.Y.2018-19 itself.

This is so since roll back provisions can be applied only for any previous year, falling within the period not exceeding four previous years, preceding the first of the five consecutive previous years as may be specified in the agreement. Since P.Y.2025-26 is the first of the five consecutive previous years, roll back provisions can be applied only from A.Y.2022-23 (relevant to P.Y.2021-22) and not from A.Y.2018-19.

- (ii) No; the rollback provision cannot be applied in respect of an international transaction for a rollback year, if the application of rollback provision has the effect of reducing the total income or increasing the loss, as the case may be, of the applicant as declared in the return of income of the said year already filed by the assessee prior to the filing

of the APA.

Accordingly, the roll back provisions cannot be applied in respect of A.Y.2022-23, since it has the effect of reduction in income of DIY Ltd. for that year.

- (iii) DIY Ltd. has to furnish modified return in respect of the assessment years relevant to the previous year to which APA applies (and for which returns have already been furnished before entering into an APA) within a period of 3 months from the end of the month in which the agreement was entered into i.e., on or before 28th February 2026. The modifications therein should arise only because of the APA. Such return would be treated as a return filed under section 139(1).

In case of completed assessments (ie., assessments made upto A.Y.2025-26 other than A.Y.2026-27), the Assessing Officer would assess or reassess or re compute the total income of the relevant assessment year having regard to the APA.

In respect of pending assessment (i.e, assessment for A.Y.2026-27), the Assessing Officer shall proceed to complete the assessment or reassessment proceedings in accordance with the APA taking into consideration the return furnished by the assessee, since the same has been furnished after the date of entering into the APA.

Q.5

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

8

Your answer should cover:

- Issue involved
- Provision applicable

- **Analysis and Conclusion**

- (i) In case of an assessee, the Assessing Officer passed an order u/s 143(3) on 15/12/2023. CIT passed the order u/s 263 on 26.03.2026 holding that the said assessment order passed u/s 143(3) was erroneous and prejudicial to the interests of the revenue. CIT set aside the assessment order and directed the AO to make fresh assessment after conducting necessary enquiries. The order passed u/s 263 was dispatched to assessee on 28.03.2026. The AO issued notice u/s 142(1) to the assessee on 06.05.2026 for making fresh assessment.

The assessee contended that it had come to know about the revision order only when he received notice u/s 142(1) dated 06.05.2026. The copy of the order passed by CIT u/s 263 was supplied to him on 29.05.2026 on the request made to the Assessing Officer by him after receipt of notice u/s 142(1). Hence, the revision order is beyond the period of limitation u/s 263(2).

- (ii) M/s. Rama Ltd. filed its return of income claiming deduction for bad debts. The return was processed u/s 143(1)(a) of Income-tax Act, 1961. Thereafter, the Assessing Officer noticed that the assessee had wrongly claimed amounts of bad debts, he issued a notice u/s 154 after expiry of the time limit prescribed u/s 154(7). During the pendency of the proceedings initiated by notice u/s 154, the Assessing Officer issued a notice u/s 148A(1) of the Act. It is contention of M/s. Rama Ltd that the notice issued u/s 148A(1) is illegal.
- (iii) AZ Foundation, trust registered u/s 12AB, runs an educational institution. The trust is paying rent of ₹30 lakhs per annum for the building occupied by it but the trust has not deducted TDS on such rent

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

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

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

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

Conclusion: In the present case, revision order under section 263 was passed on 26.3.2026 before the expiry of two years i.e., 31.3.2026 from

the end of the F.Y. 2023-24 in which assessment order u/s 143(3) was passed. Thus, the revision order is within the period of limitation prescribed under section 263(2).

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

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

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

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

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

Note – The facts given in the question are similar to the facts in S.M. Overseas (P) Ltd. v. CIT (2023) 450 ITR 1/14 SCC 111 (SC). The above

answer is based on the rationale of the Apex Court ruling in the said case. The said ruling is in respect of erstwhile section 148, however, the same can be applied in the case on hand.

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

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

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

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

Q.5 (B)

- (1) What do you mean by double taxation? Discuss the connecting factors which lead to double taxation. **3**

Ans. The taxability of a foreign entity in any country depends upon two distinct factors, namely, whether it is doing business with that country or in that country. Internationally, the term used to determine the jurisdiction for taxation is “connecting factors”. There are two types of connecting factors, namely, “Residence” and “Source”. It means a company can be subject to tax either on its residence link or its source link with a country. If a company is doing business in a host/source country, then, besides being taxed in the home country on the basis of its residence link, it will also be taxed in the host country on the basis of its source link as the company would be heavily engaged in doing business in the territory of other country, for example, through its branch in that country.

However, if a company is doing business with another country (i.e., host/source country), then, it would generally be subject to tax in its home country alone, based on its residence link, since the company is not engaged in carrying on the business in the territory of source country (for example, export of goods to another country). In this regard, it may, however, be noted that significant economic presence in another country may result in tax liability in the other country. For example, as per the Income-tax Act, 1961, transaction in respect of any goods, services or property carried out by a non-resident with any person in India including provision of download of data or software in India if aggregate of payments arising from such transaction or transactions during the previous year exceeds ₹ 2 crores, would be deemed as significant economic presence of such non-resident in India. Significant economic presence of a non-resident in India would constitute business connection in India and consequently, income would be deemed to accrue or arise in India and hence, be taxable in India (the Source country).

- **Juridical double taxation:** When source rules overlap, double taxation may arise i.e. tax is imposed by two or more countries as per their domestic laws in respect of the same transaction, income arises or is deemed to arise in their respective jurisdictions. This is known as “juridical double taxation”.

In order to avoid such double taxation, a company can invoke provisions of Double Taxation Avoidance Agreements (DTAAs) (also known as Tax Treaty or Double Taxation Convention–DTC) with the host/source country, or in the absence of such an agreement, an Indian company can invoke provisions of section 91, providing unilateral relief in the event of double taxation.

- **Economic double taxation:** ‘Economic double taxation’ happens when the same transaction, item of income or capital is taxed in two or more states but in hands of different persons (because of lack of subject identity)

Q.5 (B)

2. Describe the three tier structure for transfer pricing documentation mandated by BEPS Action Plan 13. **3**

Ans. Action 13 contains a three-tiered standardized approach to transfer pricing documentation which consists of:

- (a) **Master file:** Master file requires MNEs to provide tax administrations with high-level information regarding their global business operations and transfer pricing policies. The master file is to be delivered by MNEs directly to local tax administrations.
- (b) **Local file:** Local file requires maintaining of transactional information

specific to each country in detail covering related-party transactions and the amounts involved in those transactions. In addition, relevant financial information regarding specific transactions, a comparability analysis and analysis of the selection and application of the most appropriate transfer pricing method should also be captured. The local file is to be delivered by MNEs directly to local tax administrations.

- (c) Country-by-country (CBC) report: CBC report requires MNEs to provide an annual report of economic indicators viz. the amount of revenue, profit before income tax, income tax paid and accrued in relation to the tax jurisdiction in which they do business. CBC reports are required to be filed in the jurisdiction of tax residence of the ultimate parent entity, being subsequently shared between other jurisdictions through automatic exchange of information mechanism.

Q.6

- (A) XYZ & Co, a firm engaged in interior decoration business, employed 20 new employees on 1.4.2022 on a monthly salary of ₹ 25,000 to be paid by account payee cheque. In addition, each employee was entitled to 10% employer contribution to recognised provident fund. The employees were also entitled to transport allowance of ₹ 3,000 p.m. paid in cash. The gross total income of XYZ & Co. included profits and gains from business of ₹ 62 lakh. The firm claimed deduction under section 80JJAA of ₹ 18 lakh, being 30% of 60 lakh (20 new employees x ₹ 25,000 p.m. x 12) on the basis of the report of the chartered accountant issued in Form 10DA. The same chartered accountant was also the tax auditor of the firm. The chartered accountant contended that “emoluments” do not include employer contribution to PF. Also, cash

payments were not to be considered as “additional employee cost” for the purpose of section 80JJAA. Hence, only ₹ 25,000 p.m. per employee paid by account payee cheque has to be treated as additional employee cost. Since the same does not exceed the limit of ₹ 25,000 p.m. and the employees have been employed for more than 240 days in the P.Y.2022-23, the employees would qualify as “additional employees” for the purpose of deduction under section 80JJAA for A.Y.2023-24.

Is his contention correct? Examine the ethical implications in this case.

Ans. Deduction under section 80JJAA is allowable to an assessee to whom section 44AB applies and whose gross total income includes any profits and gains derived from business, in respect of employment of new employees. The amount of deduction is 30% of additional employee cost incurred in the course of such business in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

“Additional employee cost” means the total emoluments paid or payable to additional employees employed during the previous year. However, in the case of an existing business, the additional employee cost shall be nil, if emoluments are paid otherwise than by an account payee cheque or account payee bank draft or use of ECS through bank account or other prescribed electronic mode.

“Emoluments” means any sum paid or payable to an employee in lieu of his employment by whatever name called but does not include, inter alia, contribution by employer to provident fund.

“Additional employee” means an employee who has been employed during the previous year and whose employment has the effect of increasing the total

number of employees employed by the employer as on the last day of the preceding year, but does not include, inter alia, an employee whose total emoluments are more than ₹ 25,000 p.m.

In this case, the contention of the chartered accountant that the emoluments do not include employer contribution to PF is correct. However, emoluments include ₹ 3,000 paid in cash by way of transport allowance to the employee. Hence, the total emoluments per employee is ₹ 28,000 p.m. Due to this reason, the 20 employees employed on 1.4.2022 will not qualify as “additional employees” for the purpose of deduction under section 80JJAA, since their total emoluments are more than ₹ 25,000 p.m. Hence, XYZ & Co. is not eligible for any deduction under section 80JJAA due to failure to fulfil the condition for being treated as an “additional employee”. In this case, the chartered accountant has failed to ensure compliance with the condition stipulated for claim of deduction under section 80JJAA and has wrongly issued the report in Form 10DA certifying the deduction claimed by the assessee under section 80JJAA.

Also, clause 33 of Form 3CD requires section-wise details of deductions, if any, admissible under Chapter VIA. Here again, the tax auditor has to ensure that the assessee fulfils all the conditions specified in the section under which the deduction is claimed. However, in this case, the tax auditor has failed to do so.

On account of such failure, clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 may be invoked.

Q.6

(B) M/s. Motu Limited incorporates a wholly owned subsidiary M/s. Patlu Limited in India. Its main business is to develop infrastructure facility and is eligible for deduction u/s 80-IA. Accordingly the company has claimed deduction u/s 80-IA. **4**

- (i) Patlu Limited derives income other than income from developing infrastructure facilities and discloses such income as income from developing infrastructure facilities, thus enjoying the benefit u/s 80-IA.
- (ii) Patlu Limited purchases the supplies for the development of infrastructure facilities from M/s. Motu Limited at a price lesser than the fair price, thus transferring the income of M/s. Motu Limited to M/s. Patlu Limited and enjoying the benefit of section 80-IA on such income.

Can GAAR be invoked in both the instances mentioned above?

Ans. (i) In the present case, Patlu Ltd. derives income other than income from developing infrastructure facilities and discloses such income as income from developing infrastructure facilities to avail benefit of deduction u/s 80-IA. This is a case of misrepresentation of facts by showing non-eligible income as income eligible for deduction u/s 80-IA. Hence, this is an arrangement of tax evasion and not tax avoidance.

Tax evasion, being unlawful, can be dealt with directly by establishing correct facts. GAAR provisions need not be invoked in such a case.

- (ii) In this case, there is a close connection between Motu Limited, ineligible assessee, and Patlu Ltd, an eligible assessee, since the eligible assessee is a wholly owned subsidiary of ineligible assessee. The purchase transaction has been arranged in such a way that it produces more than

ordinary profits to the eligible assessee.

However, such tax avoidance is specifically dealt with through the provisions contained in section 80-IA(10). Further, if the aggregate of such transactions entered into in the relevant previous year exceed the threshold of 20 crore, domestic transfer pricing regulations under section 92BA would be attracted.

It is not the intention of the legislation to invoke GAAR in such situations. Hence, the Revenue need not invoke GAAR in such a case, though GAAR and SAAR can co-exist as per clarification given in the CBDT Circular.

Q.6

- (C) A Non-resident Foreign Company entered into contracts with several Indian Companies for installation of mobile telephone system and made an application to the Board of Advance Rulings, for advance ruling in relation to the tax liability arising out of such transaction. **4**

One of the above said Indian Companies also made an application to its Assessing Officer for determination of a question of law with regard to payments to be made to the said Foreign Company.

The Board of Advance Rulings rejected the application of the Foreign Company on the ground that the question raised is pending before an Income Tax Authority. Is the rejection of the application of the Foreign Company justified in law?

Ans. As per section 245R, the Board for Advance Rulings (BAR), after examining the application and the records called for, may either allow or reject an

application. However, the Board shall not allow an application where the question raised in the application is already pending before any income tax authority, or Appellate Tribunal or any court.

In the present case, the question raised by a non-resident foreign company with respect to tax liability on income arising from installation of mobile telephone system is already pending before the Assessing Officer on account of application made by one of the Indian Companies for determination of question of law with regard to the payments made to the said foreign company.

Since such question is already pending before the Income-tax Authority, the rejection of application of the foreign company by the BAR is justified in law.