PAPER – 4: DIRECT TAX LAWS & INTERNATIONAL TAXATION

PART – I Multiple Choice Questions

All questions relate to Assessment Year 2026-27, unless stated otherwise in the question.

Integrated Case Study - I

Mr. Krishan, a resident Indian, is engaged in retail business in Delhi. The turnover of his business for FY 24-25 was ₹ 9.90 crores. The aggregate payments made by Mr. Krishan to Mr. Anil (a resident wholesaler in Delhi) during the FY 25-26 towards consideration for purchase of goods were ₹ 90 lakhs (₹ 20 lakhs on 5th June 2025, ₹ 25 lakhs on 27th Sep. 2025, ₹ 20 lakhs on 20th Nov. 2025 and ₹ 25 lakhs on 15th Feb. 2026). The business turnover of Mr. Anil for FY 24-25 was ₹ 10.10 crores.

Mr. Anil paid ₹ 6 lakhs on 5th Sep. 2025 to Mr. Albert (a seller of overseas tour program package) for booking one week overseas holiday tour package to Singapore. Mr. Anil for his daughter's MBA education in USA State University, USA remitted ₹ 13 lakhs on 10th Feb. 2026, out of his personal savings, through Bank of India, Laxmi Nagar branch, Delhi. The Bank of India is an authorised foreign exchange dealer, under LRS and a financial institution for the purpose of Section 80E of the Income-tax Act. Mr. Anil also took an education loan of ₹ 18 lakhs on 15th Feb. 2026 from State Bank of India, Shakarpur Branch, Delhi for his son's two-year Master of Public Administration program in Lynn University, USA. The loan amount was directly remitted by State Bank of India, Shakarpur Branch in the bank account of Lynn University, USA maintained with a foreign bank in USA. The remittance was made under Liberalised Remittance Scheme of RBI (LRS). Mr. Anil during the FY 25-26 also remitted ₹ 6.5 lakhs on 21st March 2026, out of his personal savings, under LRS through Bank of India, Laxmi Nagar Branch, Delhi as gift to his sister residing in London in her bank account located in London. The amount was gifted by Mr. Anil on the occasion of 52nd birthday of his sister. Mr. Anil has furnished undertakings containing the *details in respect of earlier foreign remittances made during FY 25-26 through Bank of India, Laxmi Nagar Branch at the time of requesting for making remittance to his sister's account.*

The Income-tax department has received information from foreign Jurisdiction in respect of the investment in the shares of a foreign company made in the FY 24-25 and the dividend credited in foreign bank account of Mr. Albert in the said financial year. The said investment in the shares of the foreign company and dividend income have not been disclosed by Mr. Albert in his return of income for AY 25-26.

From the facts given above, choose the most appropriate answer to the following Multiple-Choice Questions (MCQs No 1 to 5): -

1. *Which one of the following statement is correct in respect of business transactions entered between Mr. Krishan and Mr. Anil during FY 25-26?*

   (A) TDS and TCS provisions are not applicable on the said transactions.

   (B) Mr. Krishan was required to make TDS @ 0.1% on ₹ 40 lakhs.

   (C) Mr. Krishan was required to make TDS @ 0.1% on ₹ 90 lakhs

   (D) Mr. Anil was required to make TCS @ 0.1% of ₹ 40 lakhs. ***(2 Marks)***

2. *In respect of amount received from Mr. Anil for one week overseas holiday tour package to Singapore, Mr. Albert was:*

   (A) required to collect ₹ 3,000 as tax at source

   (B) required to collect ₹ 6,000 as tax at source

   (C) required to collect ₹ 30,000 as tax at source

   (D) not required to collect any tax at source ***(2 Marks)***

3. *In respect of the remittance made by Mr. Anil for his daughter's education, the Bank of India, Laxmi Nagar branch, Delhi. was -*

   (A) required to collect tax at source at the rate of 5% on ₹ 3 lakhs

   (B) required to collect tax at source at the rate of 5% on ₹ 13 lakhs

   (C) required to collect tax at source at the rate of 0.5% on ₹ 13 lakhs

(D) not required to collect tax at source as the amount was remitted for the higher education of daughter. ***(2 Marks)***

4. *In respect of amount remitted as gift to sister by Mr. Anil ________.*

   (A) TCS provisions are not applicable as the gift from brother is exempt from tax under Section 56(2)(x).

   (B) TCS provisions are not applicable as the amount remitted is less than ₹ 10 lakhs and out of personal savings.

   (C) TCS of ₹1,30,000 was to be made by the Bank of India, Laxmi Nagar branch, Delhi.

   (D) TCS of ₹ 32,500 was to be made by Bank of India, Laxmi Nagar branch, Delhi. ***(2 Marks)***

5. *In respect of investment in the shares of the foreign company and the foreign dividend income not disclosed in the return for AY 25-26, subject to fulfillment of the other conditions prescribed for filing an updated return, Mr. Albert _________.*

   (A) has an option to file an updated return for AY 25-26, at any time before 31st March 2030.

   (B) has an option to file an updated return for AY 25-26 upto 31st March 2030 or before the date on which the information in respect of investment in shares of foreign company and foreign dividend has been communicated to him by the Assessing Officer, whichever is earlier.

   (C) has an option to file an updated return for AY 25-26 upto 31st March 2030 even after the information in respect of investment in shares of foreign company and foreign dividend has been communicated to him by the Assessing Officer.

   (D) cannot file an updated return for AY 25-26 as the foreign investment and foreign income not disclosed in the return filed u/s 139(1) or 139(4) or 139(5) is charged to tax under the Black Money Act.

(2 Marks)

Integrated Case Study - II

Mr. Nitin a citizen of India, who lives in Singapore and a non-resident for the AY 26-27 for the purpose of taxation under the Indian Income-tax Act has furnished the following information in respect of the said assessment year:

(i) Dividend from TLT Ltd., an Indian Company (gross) of ₹ 3,60,000

(ii) Interest on debentures of SLL Pvt. Ltd., an Indian Company, (subscribed in convertible foreign exchange) of ₹ 3,70,000 (gross).

(iii) Interest expenses of ₹ 60,000 and ₹ 40,000 respectively incurred on loan taken for purchase of shares of TLT Ltd. and for purchase of debentures of SLL Pvt. Ltd.

(iv) On 15th March 2026, he sold shares of Tix Ltd. (an Indian public company) for ₹ 18,25,000 which were subscribed in convertible foreign exchange on 10th June 2004 in dollars equivalent to ₹ 4,65,000. Expenditure of ₹ 7,000 were incurred in connection with sale of the said shares at the time of sale. Out of the sale proceeds of shares, he invested ₹ 4,80,000 on 30th April 2026 for purchases of listed shares of an Indian Company Next High Ltd.

*[**Cost Inflation Index**: FY 04-05-113; FY 25-26-376]*

(v) ₹ 4,00,000 Interest on Income Tax Refund for FY 24-25 credited in his designated Bank Account.

*From the facts given above, choose the most appropriate answer to the following Multiple-Choice Questions **(MCQs No 6 to 8):***

6. Ignoring the provisions of the DTAA and cess and surcharge, state which of the following statement is correct in respect of taxability of dividend in the hands of Mr. Nitin and TDS was to be made by TLT Ltd. on the dividend distributed to Mr. Nitin

(A) Taxable dividend in the hands of Mr. Nitin is ₹ 3,60,000 and ₹ 36,000 is the amount of which TDS was to be made by TLT Ltd.

(B) Taxable dividend in the hands of Mr. Nitin is ₹ 3,00,000 and ₹ 30,000 is the amount of which TDS was to be made by TLT Ltd.

(C) *Taxable dividend in the hands of Mr. Nitin is ₹ 3,00,000 and ₹ 60,000 is the amount of which TDS was to be made by TLT Ltd.*

(D) *Taxable dividend in the hands of Mr. Nitin is ₹ 3,60,000 and ₹ 72,000 is the amount of which TDS was to be made by TLT Ltd.* ***(2 Marks)***

7. *The long-term capital gains taxable in the hands of Mr. Nitin on sale of shares of Tix Ltd. (without giving effect to first proviso to Section 48 and assuming that the capital gains from sale of shares of Tix Ltd. is only source of income for AY 26-27), if he elects to be governed by the "special provisions relating to certain incomes of Non-Residents" shall be -*

(A) *₹ 13,53,000*

(B) *₹ 9,95,772*

(C) *₹ 9,97,142*

(D) *₹ 13,60,000* ***(2 Marks)***

8. *In the situation, where Mr. Nitin elects to govern by special provisions discussed in MCQ-7 above, the long term capital gain arises from the sale of shares of Tix Ltd. shall be chargeable to income-tax at the rate of -*

(A) *ten per cent*

(B) *twenty per cent*

(C) *Twelve and one half per cent on amount exceeding ₹ 1,25,000*

(D) *Twelve and one half per cent* ***(2 Marks)***

Integrated Case Study - III

Asha Trust is a charitable trust set up on 1st April 2010 with the object of providing relief to the poor. Later on, in April 2012, it changed its object to medical relief. It applied for registration on the basis of its new object, i.e., medical relief, on 1st Sep. 2012 and was granted registration under Section 12AA on 1st Feb. 2013.

Before Asha Trust applied for registration on the basis of its new object, the trust was not allowed any benefit under Section 11 and 12 or under relevant clauses of Section 10(23C) of the Act.

On 1st April 2025, Asha Trust merged with Upkar Trust. Upkar Trust is not eligible for registration under Section 12AB or approval under Section 10(23C). All the assets and liabilities of the Asha Trust became the assets and liabilities of Upkar Trust.

The break-up of assets and liabilities of Asha Trust transferred to Upkar Trust is given below:

(i) Land

Location	**Date of purchase**	**Stamp Duty Value on 1st April 2025**	**Value which the land would fetch, if sold in the open market on 1st April, 2025 as per report of registered valuer**	**Book Value on 1st April 2025**
			₹	₹
Noida	1st Sept. 2010	75 lakhs	78 lakhs	70 lakhs
Gurugram	1st Sept.2013	120 lakhs	140 lakhs	130 lakhs

(ii) Shares

Type of shares	**Date of Purchase**	**Face value of each share**	**Purchase Price of each share**	**Price at which each share is quoted on BSE as on 1st April 2025**		**Open market value on 1st April 2025**
				Highest Price	**Lowest Price**	
		₹	₹	₹	₹	₹
10000 Quoted equity shares of A Ltd.	1st May 2014	100	210	420	420	NA
4000 Preference Shares of B Ltd.	1st Sept. 2015	100	100	-	-	*180

**as per report of Merchant Banker*

(iii) Trust Fund and Liabilities

Book value of trust fund and liabilities on 1st April 2025 = ₹ 150 lakhs which includes -

(a) Corpus fund ₹ 15 lakhs.

(b) Provision for taxation ₹ 5 lakhs; and

(c) Reserves and Surplus ₹ 20 lakhs.

From the facts given above, choose the most appropriate answer to the following Multiple-Choice Questions ***(MCQs No 9 to 12):***

9. *For the purpose of the calculation of accreted Income of Asha Trust, FMV of land at Noida to be taken at -*

   (A) ₹ 75,00,000

   (B) ₹ 78,00,000

   (C) ₹ 70,00,000

   (D) ₹ Nil ***(2 Marks)***

10. *For the purpose of the calculation of accreted Income of Asha Trust, FMV of Total Assets shall be:*

   (A) ₹ 2,66,20,000

   (B) ₹ 2,67,20,000

   (C) ₹1,88,20,000

   (D) ₹ 2,63,20,000 ***(2 Marks)***

11. *Accreted Income of Asha trust works out to -*

   (A) ₹1,56,20,000

   (B) ₹ 1,57,20,000

   (C) ₹ 1,53,20,000

   (D) ₹ 78,20,000 ***(2 Marks)***

12. *Additional income-tax payable by Asha Trust on accreted Income works out to -*

    (A) ₹ 54,58,250

    (B) ₹ 24,39,840

    (C) ₹ 15,64,000

    (D) ₹ 27,32,620 **(2 Marks)**

13. *Mr. Krishnamurthy is employed with XYZ Ltd. as Marketing Manager. His CTC details as per proposed offer for the appointment are as under:*

    Basic Pay - ₹ 30,00,000/-

    HRA - ₹ 15,00,000/-

    Other taxable allowances - ₹ 5,00,000/-

    Mr. Krishnamurthy requested his employer to restructure salary component of "Other taxable allowances" by including tax free perquisites such as Health insurance and medical expenses in term of proviso to Section 17(2), making arrangement for commuting between office to residence and providing gift coupons to the extent of tax free limit prescribed under Rule 3 of the Income-tax Rules. He is also requested to contribute a part of the above component in the NPS account as employer's contribution within the limit prescribed under Section 80CCD(2).

    The proposal of Mr. Krishnamurthy for restructuring of salary in your view-

    (A) is a tax evasion method as it reduces tax liability of Mr. Krishnamurthy.

    (B) is a tax planning method as it reduces tax liability of Mr. Krishnamurthy in legitimate way.

    (C) is a tax avoidance method as it reduces tax liability of Mr. Krishnamurthy

    (D) is a colourable method to reduce tax liability of Mr. Krishnamurthy

    (2 Marks)

14. *Raman is a State Government Employee. The details of his income from salary for FY 25-26 are given below:*

- *Basic Salary received during the year: ₹ 12,00,000*
- *Dearness allowance: ₹ 6,00,000*
- *Contribution made by the State Government to the NPS account of Mr. Raman as employer's contribution: ₹ 1,44,000*
- *Raman invested 80,000 in LIC eligible for deduction under Section 80C.*
- *NPS contribution deducted by the employer as employee's contribution in NPS and credited to his NPS account: ₹ 1,44,000*
- *Raman also paid Medical insurance premium ₹ 30,000 in terms of Section 80D*

Based on the above information deduction from the Gross Total Income under default tax regime in the case of Mr. Raman works out to -

(A) ₹ 1,44,000

(B) ₹ 2,88,000

(C) ₹ 3,98,000

(D) ₹ 1,74,000 **(2 Marks)**

15. *Mr. Puneet, a citizen of India, serving in the Ministry of External Affairs in India, was transferred to Indian Embassy in Canada on 31st March 2025. He did not visit India any time during the FY 25-26. He has received the following income for the FY 25-26:*

S. No	Particulars	₹
(i)	*Income under the head "Income from Salaries" received from the Government of India excluding Foreign allowances (computed as per New Tax Regime)*	*8,00,000*
(ii)	*Foreign Allowance paid by the Government of India for the services rendered outside India*	*5,00,000*
(iii)	*Interest on fixed deposit with a branch of scheduled bank at Delhi (India)*	*2,00,000*

Based on the above information, Gross Total Income of Mr. Puneet for AY 26-27 under New Tax Regime works out to -

(A) ₹ 8,00,000

(B) ₹ 15,00,000

(C) ₹ 10,00,000

(D) ₹ 2,00,000 ***(2 Marks)***

Answer Key

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

PART – II Descriptive Questions

*Question No.**1** is compulsory.*

*Answer any **four** questions out of the remaining **five** questions.*

Working notes should form part of the answer.

All questions relate to Assessment Year 2026-27, unless stated otherwise in the question.

Question 1

The statement of the profit and loss of AB Ltd., (a domestic company) which is engaged in the business of Manufacturing, shows a Net Profit of ₹ 52 lakhs for the financial year ended 31st March 2026. The following debits and credits needs to be considered for computing total income of AB Ltd. for AY 26-27:

(a) Professional fees amounting to ₹ 2 lakhs debited in profit and loss account for FY 24-25 but was paid on 30th July 2025 in cash has not been debited or credited in the profit and loss account for FY 25-26.

(b) The interest amounting ₹ 8 lakhs payable to non-banking financial companies notified for the purpose of Section 43B has been debited in P&L for FY 25-26 even though the same is proposed to be paid after due date of filing return for the AY 26-27.

(c) ₹ 3.5 lakhs received as interest on margin money deposited with bank for obtaining bank guarantee to carry on business was credited in profit and loss account for FY 25-26.

(d) Loss of ₹ 2,60,000 incurred by way of trading in Futures and Options (Derivatives) in BSE during the FY 25-26 and accordingly debited to P&L for FY 25-26.

(c) Legal fees incurred in defending Title of factory premises of the company ₹ 3,70,000 debited in P&L of FY 25-26. The same was incurred and paid during the said FY after deducting TDS as applicable and the TDS was also deposited in the said FY.

(f) Development charges of ₹ 95,000 paid to Government on industrial land purchased in the FY 25-26 and accordingly, debited to the P&L account relevant to the AY 26-27.

(g) ₹ 3,20,000 paid to the Indian Institute of Science, Bangalore notified for scientific research in term of Section 35(1)(ii) during the FY and accordingly, debited to P&L Account for the FY 25-26.

(h) A Machine which was in use since 5 years having WDV amounting ₹ 1.80 lakhs as on 1st April 2025 was discarded on 1st Sep. 2025 for ₹ 10,000. The WDV of the Machine amounting ₹ 1.80 lakhs was reduced from its block of assets of 15% (Block still exits) and ₹ 1.70 lakhs was debited to P&L as loss on sale of Machinery.

Additional Information for which no adjustments has been made in the books of accounts:

1. *The Company has received Excise Duty Drawback under the Customs and Central Excise Duty Drawback Rules, 1971 amounting to ₹ 6.5 lakhs during the FY 25-26 against exports made during the earlier financial years.*
2. *Computer Printer amounting ₹ 90,000 was purchased on 1st Sep. 2025 and put to use on the same day.*

Compute Total Income of AB Ltd. for the AY 26-27 under the regular provisionS of the Income-tax Act, with necessary explanations assuming that the AB Ltd. has not opted for any concessional tax under special provisions of the Income-tax Act, 1961. Total turnover of AB Ltd. for the FY 23-24 was ₹ 290 crores and during the FY 24-25 was ₹ 410 crores. Ignore the provision of MAT.

Would it be beneficial for AB Ltd. to opt for beneficial tax rates under Section 115BAA for FY 25-26. Support your view with necessary calculations. ***(14 Marks)***

Answer

Computation of Total Income of AB Ltd. for the A.Y. 2026-27 under regular provisions of the Act

Particulars	(₹)	
Profits and gains of business or profession		
Net Profit as per the statement of profit and loss		52,00,000
Add: **Items debited but to be considered separately or to be disallowed**		

(b) Interest to NBFC paid after 'due date' of filing return of income [Interest to NBFC, not paid before the 'due date' of filing return of income, would attract disallowance u/s 43B in the A.Y. 2026-27. Since the same has been debited to the statement of profit and loss, it has to be added back for computing business income.]	8,00,000	
(d) Loss incurred in trading in futures and options [Loss incurred by way of trading in futures and options cannot be allowed as deduction while computing profit from the manufacturing activity, since it is not a loss in relation to such business. Since the said amount has been debited to the statement of profit and loss, it has to be added back for computing profit from manufacturing activity.]	2,60,000	
(e) Legal fees in defending title of factory premises [Legal fees incurred in defending title of factory premises is a revenue expenditure since the expenditure does not result in the acquisition of new asset nor does it increase the value of the premises, it merely preserves the status quo. Since the said amount has been debited to the statement of profit and loss, no adjustment is required.]	Nil	
(f) Development charges paid to Government on industrial land [Development charges paid to Government on industrial land purchased is a capital expenditure. Since the said amount has been debited to the statement of profit and loss, it	95,000	

has to be added back for computing business profit.]		
(g) Contribution to IIS, Bangalore notified for scientific research	Nil	
[As per section 35(1)(ii), 100% deduction is allowed for amount paid to a research institution undertaking scientific research, if such institution is approved for this purpose and notified by the Central Government. Since the amount of contribution is already debited to statement of profit and loss, no further adjustment is required.]		
(h) Loss on sale of machinery	1,70,000	
[Loss on sale of machinery is not deductible since it is capital in nature. Since the loss has been debited to statement of profit and loss, the same is required to be added back while computing business income.]		
		13,25,000
		65,25,000
***Less:* Items credited but not taxable or chargeable to tax under another head**		
(c) Interest on margin money deposited with bank		Nil
[Interest income received on funds kept as margin money for obtaining the bank guarantee would be taxable under the head "Profits and gains of business or profession"[1]. Since such interest has already been credited to profit and loss account, no further adjustment is required.		
		65,25,000

[1] *As decided in CIT v. K and Co. (2014) 364 ITR 93 (Del*

Add: **Income to be added**		
(a) Professional fees paid in cash for which deduction was allowed in A.Y. 2025-26	2,00,000	
Since the payment for professional fees exceeding ₹ 10,000 in a day has been made in cash for which deduction was allowed in A.Y. 2025-26, the payment shall be deemed to be the income of the A.Y. 2026-27		
AI 1. Excise duty drawback	6,50,000	
As per section 28, excise duty drawback against exports made is taxable as business income		
		8,50,000
		73,75,000
Less: **Depreciation as per Income-tax Rules,1962**		
- Depreciation on computer printer [₹ 90,000 x 40% since it is put to use for more than 180 days]	36,000	
- Depreciation on ₹ 1,70,000 [₹ 1,70,000 x 15%] [Since block of machinery exists, only the sale value of ₹ 10,000 is to be reduced from the WDV. However, since the amount of ₹ 1,80,000 has been reduced from WDV, depreciation on ₹ 1,70,000 has to be provided]	25,500	
		61,500
Income from manufacturing business		**73,13,500**
Less: Set-off of loss from trading in futures and options (derivatives) in recognized stock exchange against income from manufacturing business is allowable as per section 70(1), since the same is not speculative in nature		2,60,000
Profits and gains from business or profession		**70,53,500**
Total Income		**70,53,500**

Computation of tax liability of AB Ltd. for the A.Y. 2026-27 under regular provisions of the Act

Particulars	₹
Tax on ₹ 70,53,500	
Tax ₹ 70,53,500 @25%, since total turnover for P.Y. 2023-24 does not exceed ₹ 400 crores	17,63,375
Add: HEC @4%	70,535
Tax liability	**18,33,910**

Computation of total income and tax liability of AB Ltd. for the A.Y. 2026-27 under section 115BAA

Particulars	₹
Total Income as per regular provisions of the Act	70,53,500
Add: Contribution to IIS, Bangalore notified for scientific research [Not allowable as deduction u/s 115BAA]	3,20,000
Total Income as per section 115BAA	**73,73,500**
Tax on ₹ 73,73,500	
Tax on balance income of ₹ 73,73,500 @22%	16,22,170
Add: Surcharge @10%	1,62,217
	17,84,387
Add: HEC @4%	71,375
Tax liability	**18,55,762**
Tax liability (Rounded off)	**18,55,760**

Since the tax liability of AB Ltd. under section 115BAA is more than the tax liability computed under regular provisions of the Act, it would be beneficial for it not to opt for section 115BAA for A.Y. 2026-27.

Question 2

(a) *Mr. Pawan (a resident) purchased Gold Jewellery worth ₹ 5,60,000 during the FY 05-06. During the FY 11-12, he further purchased gold jewellery worth ₹ 7,80,000. All the jewellery was sold by him on 15th May 2025. The Jewellery purchased in FY 05-06 was sold for ₹ 21,00,000 and that purchased in FY 11-12 was also sold for ₹ 21,00,000. He purchased a*

Residential House of ₹ 25,90,000 on 25th Dec. 2025. He owns only one residential house as on 15th May 2025.

Compute the income chargeable under the head Capital Gains in accordance with the provisions of the Income-tax Act, 1961, considering the most beneficial treatment permissible to Mr. Pawan under the Act.

CII for relevant Previous Year:

2005-06: 117, 2011-12: 184, 2025-26:376 ***(4 Marks)***

(b) *T Pvt Ltd. a Closely Held Company not being an eligible startup referred to in Section 80-IAC submits the following information:*

Particulars	**FY 23-24**	**FY 24-25**	**FY 25-26**
Business Income/ loss	*(-) ₹ 1,50,000*	*(-) ₹ 2,50,000*	*(+) ₹ 5,00,000 (before unabsorbed depreciation and business losses of FY 23-24 and 24-25*
Unabsorbed Depreciation	*₹ 40,000*	*₹ 80,000*	-----
Shareholding as on last day of financial year	*P-35%*	*P-35%*	*P-35%*
	Q-20%	*Q-20%*	*Z-20%*
	R-15%	*T-15%*	*T-15%*
	S-30%	*U-30%*	*U-30%*

Considering the above facts, explain whether the losses of FY 23-24 and 2024-25 can be set off against the income of FY 25-26 assuming that Income-tax Return for AY 24-25 and 25-26 were filed before the due date applicable for relevant assessment year. ***(4 Marks)***

(c) *NWG Cruises Ltd., a non-resident company incorporated in Singapore. operates luxury passenger cruises across Asia. During the FY 25-26, the company undertook multiple cruise voyages, operating in Indian ports as well as internationally.*

The particulars of the income/receipts of NWG Cruises Ltd. for FY 25-26 are as under:

1. *₹ 40 crore received from passengers embarking in India for cruises touching Indian ports.*
2. *₹ 5 crore received from cargo services.*
3. *₹ 15 crore received outside India for tickets sold abroad for cruises touching Indian ports.*
4. *₹ 10 crore received for cruises operating entirely outside India (not touching Indian ports).*
5. *₹ 3 crore interest earned (Gross) on fixed deposits maintained with an Indian bank.*

NWG Cruises Ltd. had taken the cruise ship on lease from TMB Cruises Ltd., a company registered in Singapore, and paid lease rentals of ₹ 8 crore during the FY 25-26. Both NWG Cruises Ltd. and TMB Cruises Ltd. are subsidiaries of TLO Cruise Ltd., a holding company incorporated in Singapore.

Considering the above facts, compute the taxable income of NWG Cruises Ltd. in India, assuming that special provisions for computing profits and gains of business of operation of cruise ships in case of non-residents inserted with effect from 1st April 2025 under the Income-tax Act, 1961 are applicable and NWG Cruises Ltd. fulfils all the conditions prescribed under the relevant rule of the Income-tax Rules, 1962. Also examine the taxability of lease rental income in the hands of TMB Cruises Ltd. with necessary explanations. ***(6 Marks)***

Answer

(a) Computation of Income chargeable under the head "Capital Gains" in the hands of Mr. Pawan

Particulars	(₹)	(₹)
On sale of Gold Jewellery purchased in F.Y. 2005-06		
Full value of consideration	21,00,000	
Less: Cost of acquisition	5,60,000	
	15,40,000	
Less: Exemption u/s 54F in respect of purchase of residential house within 2 years		

after the date of transfer [₹ 15,40,000 x 21,00,000 / 21,00,000]	15,40,000	
Long term capital gains [Since asset held for more than 24 months]		**Nil**
On sale of Gold Jewellery purchased in F.Y. 2011-12		
Full value of consideration	21,00,000	
Less: Cost of acquisition	7,80,000	
	13,20,000	
Less: Exemption u/s 54F in respect of purchase of residential house within 2 years after the date of transfer [₹ 13,20,000 x 4,90,000 (25,90,000 - 21,00,000) / 21,00,000]	3,08,000	
Long term capital gains [Since asset held for more than 24 months]		**10,12,000**
Capital gains chargeable to tax		**10,12,000**

(b) As per section 79, in case of a closely held company not being an eligible start up referred to in section 80-IAC, no loss incurred in the previous year shall be carried forward and set off against the income of the subsequent previous year unless the shares carrying at least 51% of the voting power of the company are beneficially held on the last day of the previous year in which the loss is sought to be set off, by the same shareholders, who beneficially held the shares carrying at least 51% of the voting power on the last day of the previous year in which the loss was incurred.

Since shareholders holding at least 51% of the voting power (65%, in the present case) on 31st March 2024 are not same as shareholder holding at least 51% of the voting power on 31st March 2026, the business loss of ₹ 1,50,000 of P.Y. 2023-24 cannot be set-off against business income of the P.Y. 2025-26.

Since shareholders holding at least 51% of the voting power (80%, in the present case) are the same on 31st March 2025 and 31st March 2026, the loss of ₹ 2,50,000 of P.Y. 2024-25 can be set-off against business income of the P.Y.2025-26.

Section 79 is not applicable in case of carry forward of unabsorbed depreciation.

Hence, unabsorbed depreciation of ₹ 40,000 of P.Y. 2023-24 and of ₹ 80,000 of P.Y. 2024-25 can be set off against business income of P.Y. 2025-26.

(c) Computation of taxable income of NWG Cruises Ltd. for the A.Y. 2026-27

Particulars	(₹)	(₹)
Profits and gains of business or profession		
Amount received from passengers embarking in India for cruises touching Indian ports	40,00,00,000	
Amount received outside India for tickets sold abroad for cruises touching Indian ports	15,00,00,000	
	55,00,00,000	
Lease rental of ₹ 8 crore not eligible for deduction		
Presumptive income [20% of ₹ 55,00,00,000]		11,00,00,000
Presumptive income from cargo services [@ 7.5% under section 44B assuming cargo is shipped at any port in India or amount is received in India if shipped at any part outside India] 7.5% of ₹ 5 crore.		37,50,000
Note: *Alternatively, if it is assumed that cargo is not shipped at any port in India nor such amount is received in India, then the amount will not be taxable in India. In such case, total income would be ₹ 14 crore.*		
Amount received for cruises operating entirely outside India [Not taxable]		-
		11,37,50,000
Income from other sources		
Interest on fixed deposits maintained with an Indian bank		3,00,00,000
Total Income		**14,37,50,000**

The lease rental of ₹ 8 crores by NWG Cruises Ltd. to TMB Cruises Ltd., a foreign company is exempt by virtue of section 10(15B) in the hands of TMB Cruises Ltd. since following conditions are satisfied: (1) NWG Cruises Ltd., is a foreign company which operates cruise ships in India opts for presumptive taxation regime, (2) TMB Cruises Ltd. is a foreign company and (3) NWG Cruises Ltd. and TMB Cruises Ltd. are subsidiaries of TLO Cruise Ltd.

Question 3

(a) (i) M. Foundations is a charitable trust registered under Section 12AB of IT Act 1961. During the FY 25-26, it derived an income of ₹ 60 lakhs from property held under trust. It applied a sum of ₹ 40 lakhs towards charitable purposes which includes repayment of loan taken for the construction of an orphanage amounting to ₹ 6 lakhs. It applied ₹ 5 lakhs at a private Ganpati Mahotsava organized by a housing society.

Assuming that the return filed for AY 26-27 is subsequently taken under scrutiny by issue of notice u/s 143(2) and during the assessment proceedings, the Assessing Officer consider that the amount of ₹ 5 lakhs paid for a private Ganpati Mahotsava organized by a housing society is a violation of term of the registration granted under Section 12AB and make a reference to CIT (Exemption) to withdraw the registration granted.

Considering the above facts, explain whether the Assessing Officer is empowered to make such reference and what action the CIT (Exemption) may take on such reference. ***(3 Marks)***

(ii) Sarvseva Trust is a charitable trust registered under Section 12AB with the main object of relief of poor. The trust received an income of ₹ 5 lakhs on 30th March 2026. It could not apply this amount during the FY 25-26 but applied it in the FY 26-27.

Considering the above facts, explain whether the Sarvseva trust can claim this amount of 5 lakhs as application for charitable purpose during the FY 25-26, if so, whether any conditions need to be fulfilled by Sarvseva trust. ***(3 Marks)***

(iii) *Swadeshi Electoral trust is an Electoral Trust incorporated on 1st May 2026* and approved by CBDT in accordance with the scheme made by Central Government. It received voluntary contributions amounting to ₹ 1.20 crores during the FY 25-26. It invested a part of the contribution in 6 months bank fixed deposit and received an interest of ₹ 1 lakh.*

Being in the first year of incorporation, what is the obligation on the Swadeshi Electoral trust regarding the distribution of these contributions to be eligible for exemption. Explain with the relevant provision and rule. ***(2 Marks)***

(b) *Mohan, a resident individual aged 46 years, received the following incomes during the FY 25-26:*

- *Income from house property in Chennai (as computed under the head "Income from House Property"): ₹ 4,30,000*
- *Royalty from Country X: ₹ 7,50,000 (Rate of tax in Country X is 10% and tax deducted in Country X was ₹ 75,000). As per DTAA with Country X, the royalty is only taxable in the source state.*
- *Interest (other than interest on securities) from Country Y: USD 10,000 (Interest became due on 31st Dec. 2025) and tax deducted (on 19th Feb. 2026) USD 1,000 (Rate of tax 10%). As per DTAA with Country Y, interest can be taxed in both the contracting states and tax credit will be available in respect of tax payable in resident state.*
- *Agricultural income in Country Z: ₹ 2,00,000; loss from house property (computed) in Country Z- ₹ 1,30,000 which is not eligible for set-off against any other income in Country Z. Agricultural income is exempt in Country Z and India does not have a DTAA with Country Z.*

  TTBR rate of 1 USD on various dates:

  31.03.2025 - ₹ 75; 30.11.2025 - ₹ 76; 31.12.2025 - ₹ 77;

  31.01.2026 - ₹ 78; 19.02.2026 - ₹ 79; 31.03.2026 - ₹ 80

Compute the total income and tax liability of Mohan for the AY 26-27, assuming that he opted out from the taxation under the default tax regime.

(6 Marks)

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* to be read as '2025'

Answer

(a) (i) As per second proviso to section 143(3), the Assessing Officer is empowered to make a reference to the Principal Commissioner or Commissioner to withdraw the registration granted to M. Foundations, a charitable trust registered u/s 12AB, since it has committed specified violation.

M. Foundation has applied ₹ 5 lakhs at a private Ganpati Mahotsava organised by a housing society which is a specified violation since the trust has applied its income for a private religious purpose, which does not ensure for the benefit of the public.

On receiving such reference, the Principal Commissioner of Income-tax or Commissioner of Income-tax can call for such documents or information from the trust or institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence of the specified violation; pass an order in writing to cancel the registration granted u/s 12AB after affording a reasonable opportunity of being heard for such previous year and subsequent previous year, if he is satisfied that specified violation have taken place; forward a copy of the order cancelling the registration to the Assessing Officer and to the trust.

(ii) Sarvseva Trust can claim income of ₹ 5 lakhs received on 30.3.2026 as application for charitable purpose of income during the FY 2025-26 if the income is applied for charitable purposes in India during the P.Y. immediately following the previous year in which the income was derived i.e., P.Y. 2026-27.

For exercising such option for availing the extended period for application, Sarvseva trust has to exercise an option in writing that the income applied later as prescribed may be deemed to be income applied to the relevant charitable purposes during the previous year in which the income was derived.

Such option has to be exercised at least 2 months before the due date for filing return of income specified under section 139(1).

The income so deemed not to be taken into account in calculating the amount of income applied to such purposes, during the previous year i.e. PY 2026-27 being the immediately following previous year in which such income was derived.

(iii) As per section 13B, the voluntary contribution of ₹ 1.20 crores received by Swadeshi Electoral trust would be exempt during the previous year 2025-26, if it distributes to a registered political party during the said previous year ₹ 1.14 crores, being 95% of the total contributions received by it during the financial year along with the surplus, if any, brought forward from earlier previous year and functions in accordance with the rules (Rule 17CA) made by the Central Government.

The exemption under section 13B will be available only in respect of voluntary contribution received by Swadeshi Electoral trust. The exemption cannot be claimed in respect of interest of ₹ 1 lakh received on bank fixed deposits.

(b) **Computation of total income and tax liability of resident Mohan for the A.Y. 2026-27 (as per the optional tax regime)**

Particulars	₹	₹
Income from House Property		
Income from house property in Chennai (Computed)	4,30,000	
Less: Loss from house property in Country Z	1,30,000	
		3,00,000
Profits and Gains of Business or Profession		
Royalty from Country X [Taxable in the source state only, hence, not considered]		-
Income from Other Sources		
Interest (other than interest on securities) from Country Y (USD 10,000 x ₹ 80, being the TTBR as on 31.3.2026)	8,00,000	
Agricultural income in Country Z	2,00,000	
		10,00,000
Gross Total Income/ Total Income		**13,00,000**

Tax liability on ₹13,00,000		
Tax on total income [30% of ₹3,00,000 + ₹ 1,12,500]		2,02,500
Add: Health and Education cess@4%		8,100
		2,10,600
Less: Foreign tax credit (See Working Note below)		78,000
Net tax liability		**1,32,600**
Working Note: Calculation of Foreign tax credit		
Indian Average Rate of tax = ₹ 2,10,600/ ₹ 13,00,000 x 100 = 16.20%		
Doubly taxed income pertaining to Country Z = Nil		
Foreign tax credit	Nil	
Doubly taxed income pertaining to Country Y = ₹ 8,00,000		
Tax paid in India in respect of interest (other than interest on securities) [₹ 8 lakhs x 16.20%]	1,29,600	
Tax paid in Country Y in respect of royalty [USD 1,000 x ₹ 78, being the TTBR on 31.1.2026]	78,000	
Foreign tax credit = Lower of tax paid in India and Country Y	78,000	

Question 4

(a) (i) XYZ Pvt. Ltd. distributed Gold Coin to one of its Resident distributor for achieving higher sale. The coin was purchased on 15.01.2026 by XYZ Pvt. Ltd. for ₹ 2,50,000 but at the time of distribution of Gold Coin (i.e., 15th Feb. 2026) the Fair Market Value of Gold Coin was ₹ 3,00,000.

Explain whether TDS provisions are applicable on the gold coin distributed by XYZ Pvt. Ltd. If so, calculate the amount of TDS and *whether XYZ Pvt. Ltd. has to ensure that the TDS amount is paid by the distributor before the gold coin is distributed to him.* **(2 Marks)**

(ii) RK Garg & Company, a Partnership firm has paid Interest amounting ₹ 1,20,000 and ₹ 20,000 to its partners Ramesh Kumar Garg and Ashok Kumar Garg respectively on 31st Mar. 2026.

Explain whether TDS provisions are applicable on R K Garg & Company. If so, calculate the TDS to be deducted by RK Garg & Company. **(2 Marks)**

(iii) PQR Ltd. has paid ₹ 2,70,000 to Mr. A for Professional Services rendered by Mr. A. The agreement between PQR Ltd. and Mr. A stipulates the tax should be borne by PQR Ltd. Explain the TDS implications on PQR Ltd. Also state whether Mr. A is entitled to get TDS Credit. **(2 Marks)**

(iv) Mr. Ramesh has deposited money under Capital Gain Accounts Scheme, 1988 during the FY 24-25 with State Bank of India. Mr. Ramesh has died on 30th Sep. 2025. The Total Amount of Interest during the FY 25-26 was ₹ 3,00,000 (which includes interest ₹ 1,50,000 upto 30th Sep. 2025), Discuss the TDS implications for the FY 25-26 assuming no declaration is filed under Rule 37BA(2). **(2 Marks)**

(b) Company A had undertaken an international transaction in FY 25-26 and the operating profit for the same was ₹ 72,975. The company selected the following comparables with the weighted average operating profits as under:

Name of Comparable	**Operating Profit (Amount in ₹)**
A	69,750
B	79,200
C	68,850
D	83,400
E	75,000
F	1,45,500
G	1,32,938
H	1,13,760

Compute the Arm's Length Price (ALP). Also determine the amount of adjustment, if any, required to be made to the operating profit of Company A. ***(6 Marks)***

Answer

(a) (i) As per section 194R, a person responsible for providing to a resident, any benefit or perquisite whether in cash or in kind, arising from business or the exercise of a profession, by such resident has to, before providing such benefit or perquisite, ensure that tax required to be deducted has been deposited @10% on the value of such benefit or perquisite, where the value of such benefit or perquisite exceeds ₹ 20,000.

Accordingly, in the present case, XYZ Pvt. Ltd. has to ensure that TDS of ₹ 25,000 i.e., 10% of ₹ 2,50,000 being the purchase price of the gold coin distributed to its resident distributor has been deposited by the distributor.

For this purpose, XYZ Pvt Ltd. may rely on a declaration along with a copy of the tax payment challan provided by the recipient, being a distributor confirming that the tax required to be deducted on the benefit/perquisite has been deposited.

(ii) As per section 194T, a Partnership Firm, is required to deduct tax at source @10% on the amount of salary, remuneration, commission, bonus or interest payment to its partner where such sum or the aggregate of such sums exceeds ₹ 20,000.

In the present case, the interest paid to Ramesh Kumar Garg is ₹ 1,20,000 which exceed ₹ 20,000 but interest paid to Ashok Kimar Garg is ₹ 20,000 only.

Thus, RK Garg & Company is required to deduct tax at source of ₹ 12,000 i.e., @10% of ₹ 1,20,000, being the amount of interest paid to Ramesh Kumar Garg.

No TDS is attracted for interest paid to Ashok Kumar Garg as the interest amount is not exceeding ₹ 20,000.

(iii) Since as per the agreement between PQR Ltd. and Mr. A, tax on income from professional services should be borne by PQR Ltd. then such income is increased to such an amount as would after deduction of tax thereon, be equal to the net amount payable under the agreement.

Accordingly, PQR Ltd. is required to deduct tax at source @10% on ₹ 3,00,000 (₹ 2,70,000 x 100/90) and furnish a certificate to Mr. A in the prescribed form within the prescribed time.

Mr. A can claim the credit of tax deducted at source by PQR Ltd., since any sum deducted is deemed to be income received while computing the income of the payee, on the production of a certificate furnished by the payer.

(iv) In case of deposits under the Capital Gains Accounts Scheme, 1988 where the depositor (Mr. Ramesh, in the present case) has died on 30th September 2025:

(i) TDS on the interest income accrued of ₹ 1,50,000 for and up to the period of death of Mr. Ramesh i.e., from 1st April 2025 till 30th September 2025 is required to be deducted and reported against PAN of the depositor, and

(ii) TDS on the interest income accrued of ₹ 1,50,000 for the period after the death of the depositor i.e., from 1st October, 2025 till 31st March 2026 is required to be deducted and reported against PAN of the legal heir, since no declaration is filed under Rule 37BA(2) that credit for tax deducted has to be given to another person.

(b) In the present case, the dataset consists of eight entries and assuming the most appropriate method is other than the profit split method or the method prescribed by the CBDT, the ALP will be computed by applying the range concept beginning from the thirty-fifth percentile of the dataset and ending on the sixty-fifth percentile of the dataset would be constructed. For this purpose, the data set is to be arranged in ascending order as follows:

SI. No.	Name of Comparable	Operating profit (₹)
1.	C	68,850
2.	A	69,750
3.	E	75,000
4.	B	79,200

5.	D	83,400
6.	H	1,13,760
7.	G	1,32,938
8.	F	1,45,500

Percentile/Result	Value to be selected	Value (₹)
35% of 8 = 2.8	3rd Value	75,000
65% of 8 = 5.2	6th Value	1,13,760
Median i.e.,50% of 8 = 4	Arithmetic Mean of 4th and 5th value	81,300 = (79,200 + 83,400) / 2

Since operating profit of ₹ 72,975 from the international transaction is falling outside the range of 35 percentile and 65 percentile, the ALP shall be considered to be the median of dataset.

Accordingly, ALP of the international transaction would be ₹ 81,300 and the adjustment to be made to the transaction would be ₹ 8,325 (₹ 81,300 – ₹ 72,975).

Question 5

(a) *Answer any **two** of the following three sub-parts.*

(i) *AB Ltd. is a multinational company engaged in manufacturing and selling of soft drinks. For the AY 21-22, after being aggrieved by the order of assessment passed in pursuance to the directions issued by the DRP, it had filed an appeal before ITAT. In May 2024, the tax tribunal allowed a stay for six months on the operation of order of Assessing Officer which was extended till 28th May 2025. Till then the bench was functioning intermittently and therefore, the disputed matter could not be disposed off.*

Discuss whether the automatic vacation of the stay order upon the expiry of extended period of 365 days is valid, in a case where the delay in disposing of the appeal is not attributable to the assessee. ***(4 Marks)***

(ii) *M/s XYZ Pvt. Ltd., aggrieved by the order of Appellate Tribunal, filed an appeal to the High Court. The High Court without itself framing the substantial question of law at the time of admission of appeal, issued* *notices, heard both the parties and decided the appeal affirming the order of the Tribunal based on the questions raised by the appellant under Section 260A(2)(c).*

Discuss the validity of action taken by High Court in deciding the appeal. ***(4 Marks)***

(iii) *Mr. Manish's total income for the AY 24-25, as per return furnished under Section 139(1) is ₹ 45 lakhs. The assessment was completed on 20th Oct. 2025. Thereafter, on 10th April 2026 the Assessing Officer noticed a mistake in computation of depreciation which increased the income by ₹ 6 lakhs. The Assessing Officer issued a notice under Section 154 for the purpose of rectifying the mistake.*

Mr. Manish consults you to give an opinion whether he can opt for dispute resolution before DRC (Dispute Resolution Committee) in respect of order passed under Section 154 (assuming he fulfils all the specified conditions).

Would your answer change if an order for detention has been made on him under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, but such order has been set aside by the court? ***(4 Marks)***

(b) *In the light of the provisions of Model tax conventions, answer the following:*

(i) *Discuss the taxability of 'Business profits', under both OECD and UN Model tax conventions.*

(ii) *What kind of dispute resolution is addressed under Article pertaining to Mutual Agreement Procedure? Give any two key differences between OECD Model Convention and UN Model Convention in respect of Mutual Agreement Procedure.* ***(6 Marks)***

Answer

(a) (i) **Issue Involved:** The issue under consideration is whether the stay order can be automatically vacated upon expiry of extended period of stay of 365 days, where the delay in disposing of the appeal is not attributable to the assessee.

Provision applicable: As per third proviso to section 254(2A), where the appeal filed before the Appellate Tribunal is not disposed of within the period of stay or extended period of stay granted by the

Tribunal, the order of stay shall stand vacated after the expiry of 365 days, even if the delay in disposing of the appeal is not attributable to the assessee.

Analysis: This provision would result in the automatic vacation of a stay upon the expiry of 365 days, even if the Appellate Tribunal could not take up the appeal in time for no fault of the assessee. Thus, the vacation of stay in favour of the Department would ensue even if the Department is itself responsible for the delay in hearing the appeal. This will cause undue hardship to the assessee, even where he is not at fault.

In this sense, the provision is arbitrary and disproportionate so far as the assessee is concerned. Any order of stay shall stand vacated after the expiry of the period or periods mentioned in the section, only if the delay in disposing of the appeal is attributable to the assessee.

Conclusion: Therefore, automatic vacation of stay order upon the expiry of extended period of 365 days is not valid, since the delay in disposing of the appeal is not attributable to the assessee.

Note: *The facts given in the question are similar to the facts in* ***DCIT v. Pepsi Foods Ltd (2021) 433 ITR 295****, wherein the above issue came up before the Supreme Court. The above answer is based on the rationale of the Supreme Court ruling in that case.*

(ii) **Issue Involved:** The issue under consideration is whether the High Court is justified in not framing any substantial question of law itself and adjudicating merely on the questions put forth by the appellant.

Relevant provision of law: Section 260A(1) provides that an appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

As per section 260A(3) and 260A(4), if the High Court is so satisfied, it shall formulate that question and the appeal shall be heard only on the question so formulated.

Analysis: There lies a distinction between the questions proposed by the appellant for admission of the appeal to the High Court and the questions framed by the High Court. The questions, which are proposed by the appellant, fall under section 260A(2)(c) whereas the questions framed by the High Court fall under section 260A(3).

Section 260A(4) provides that the appeal is to be heard on merits only on the questions formulated by the High Court under section 260A(3) and not on the questions proposed by the appellant.

In case the High Court is of the view that the appeal did not involve any substantial question of law, it should have recorded a categorical finding to the effect that the questions proposed by the appellant either do not arise in the case or/and are not substantial questions of law so as to attract the rigour of section 260A for its admission and accordingly, should have dismissed the appeal at the preliminary stage itself.

Conclusion: However, this was not done in this case. Instead, the appeal was heard only on the questions urged by the appellant u/s 260A(2)(c). Accordingly, the action taken by the High Court was not valid, since it did not decide the appeal in conformity with the mandatory procedure prescribed in section 260A.

Note: *The facts given in the question are similar to the facts in* ***CIT v. A.A. Estate Pvt. Ltd. [2019] 413 ITR 438****, wherein the issue came up before the Supreme Court. The above answer is based on the rationale of the Supreme Court in the said case.*

(iii) Dispute Resolution Committee (DRC) would resolve dispute in the case of a person who opts for dispute resolution in respect of dispute arising from any variation in the specified order in his case and who fulfils the specified conditions.

Specified order includes an order passed under section 154, where the aggregate sum of variations made *vide* such order does not exceed ₹ 10 lakh, the total income as per such return furnished by the assessee for the assessment year relevant to such order does not exceed ₹ 50 lakhs and such order is not based on search or requisition or survey or any information received under a DTAA.

In the present case, Mr. Manish can opt for dispute resolution before DRC in respect of order passed under section 154, since it is a specified order and he satisfies the specified conditions.

Specified conditions include the condition that the person should not be a person in respect of whom an order of detention has been made under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

If detention order has been made on him then such order of detention should have been set aside by a court of competent jurisdiction in order to be eligible for DRC. Since detention order has been set aside by the court, Mr. Manish can opt for dispute resolution in respect of specified order before DRC.

(b) (i) Business profits of an enterprise can only be taxed by the Residence State. Right of Source State to tax business profits of an enterprise only exists if a Permanent Establishment (PE) exists in its jurisdiction.

As per the approach under the OECD Model Convention, once a PE is proven, the Source State can tax only such profits as are attributable to the PE.

The UN Model Convention amplifies this attribution principle by a limited Force of Attraction rule (FOA).

The FOA rule implies that when a foreign enterprise sets up a PE in State of Source, it brings itself within the fiscal jurisdiction of that State (State of Source) to such a degree that profits that the enterprise derives from State of Source, whether through the PE or not, can be taxed by it (State of Source) if the similar goods or services are involved.

(ii) Where a taxpayer believes that the treatment accorded by either or both Contracting States (CSs) is not in accordance with the provisions of the tax treaty, this Article provides for dispute resolution through bilateral negotiations between competent authorities (CAS) of both CSs.

	OECD MC	UN MC
Request for MAP	The taxpayer may make a request to either CS	**Alternative A** - Taxpayer has to approach Resident State (RS) or the country of his nationality. **Alternative B** - Reference to an arbitration process as part of MAP. The

		decision arrived at through the process is binding unless a person directly affected does not accept it.
Time limit	Stipulates a time limit of 2 years from the date when all the information required by the CAS in order to address the case need to be provided to both CAS.	An arbitration may be initiated if the competent authorities (CAS) are unable to reach an agreement on a case within 3 years from presentation of that case [Alternative B]
Who can request for Arbitration?	Arbitration must be requested in writing by the person who initiated the case	Arbitration must be requested by the CAS of one of the CS. Once such a request is made, the taxpayer will be notified [Alternative B]
Departure from arbitration by CAS	No specific provision for departure from arbitration.	The CAS may depart from the arbitration decision if they agree to do so within 6 months after the decision has been communicated to them [Alternative B]

Note: *Any of the two differences above can be stated.*

Question 6

(a) *An enquiry under Section 133(6) of the Income-tax Act, 1961 was initiated by the Income-tax Department on 18th Nov. 2025 in the case of XYZ Importers Ltd., a company engaged in import and trading activities. During the course of enquiry, the Department examined the company's financial records, import documentation and foreign remittance details.*

The investigation revealed that the company had made payments aggregating to approximately ₹ 35 crores towards freight and logistics *charges to various non-resident shipping and transport service providers during the relevant previous year. The existence and nature of such payments were substantiated by:*

- *Bills of entry and import documentation*
- *Bank remittance proofs and foreign outward remittance certificates*
- *Confirmations obtained from foreign vendors*

It was observed that no tax had been deducted at source under Section 195 on these payments. Consequently, the Assessing Officer proposed disallowance under Section 40(a)(i) under the Act.

However, in the tax audit report furnished in Form 3CD, the tax auditor had reported the expenditure as fully allowable under Clause 21, without any qualification or adverse remark. Upon being questioned, the tax auditor submitted that:

1. *The management had provided a certificate obtained from another Chartered Accountant stating that the foreign service providers did not have a Permanent Establishment (PE) in India and therefore, the payments were not chargeable to tax in India.*
2. *Based on such certificate, the management represented that there was no obligation to deduct tax under Section 195.*
3. *The tax auditor had conducted test checks primarily in respect of domestic freight payments and found them to be in order.*
4. *Relying on the management representation and the certificate produced, the auditor concluded that the expenditure was allowable and no disallowance was required to be reported in Clause 21.*

Examine the ethical implications in this case of tax auditor. ***(6 Marks)***

(b) *State with reasons whether the following Act can be considered as Tax Planning or Tax Management or Tax Evasion:*

(i) *On 2nd Jan. 2026, Mr. Darshil sold his residential house property which he had purchased on 20th May 2005, resulting in a long-term capital gain of ₹ 30,00,000.*

He invested the entire amount of ₹ 30,00,000 on 15th April 2026 in bonds issued by Indian Renewable Energy Development Agency (IREDA) which are redeemable after 5 years.

(ii) Mrs. Varsha is engaged in business and her turnover for the PY 25-26 amounts to ₹ 18 crore. She has duly complied with the provisions of Section 44AB by getting her accounts audited by a Chartered Accountant and uploading Form 3CB and Form 3CD within the prescribed time limit. ***(4 Marks)***

(c) M/s XYZ Limited, an Indian company engaged in providing Engineering Consultancy Services, entered into negotiations with M/s GTW Inc., a non-resident company incorporated in the USA, for a proposed transaction involving transfer of technical know-how and provision of specialized engineering services. Since the taxability of payments to the non-resident was uncertain, particularly with respect to characterization as royalty, fees for technical services (FTS), or business income under the Income-tax Act, 1961 and the applicable Double Taxation Avoidance Agreement (DTAA), XYZ Limited filed an application before the Board for Advance Ruling seeking determination of: Whether the consideration payable to GTW Inc. would be taxable in India and whether XYZ Limited would be required to deduct tax at source under Section 195 the applicable rate of tax, if any.

The Board rejected the application on the ground that the issue raised in the application was already pending before the High Court. Considering the facts given, explain whether such rejection by the Board of Advance Ruling is valid, what precautions the Board of Advance must take before rejecting an application and what remedies are available to the XYZ Limited against such rejection? ***(4 Marks)***

Answer

(a) Section 40(a) specifies certain amounts which shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession". Under section 40(a)(i), 100% disallowance attracted with respect to sum paid or payable to a non-resident on which tax is deductible at source and such tax has not been deducted or after deduction has not been paid on or before the due date of furnishing return of income under section 139(1).

Under clause 21, the tax auditor is required to report the details of payment on which tax is not deducted at source and also the details of payment on which tax has been deducted but not paid during the previous year or before due date of filing return of income specified under section 139(1). The tax auditor is advised to give details under this clause for each individual payee.

As per the Guidance Note on Tax Audit issued by ICAI, the tax auditor is required to report as to whether tax is deductible under any section of Chapter XVII-B and any amount is inadmissible u/s 40(a)(i) under clauses 34(a) and 21(b), respectively.

In this case, tax has not been deducted on the basis of a certificate obtained from a Chartered Accountant stating that foreign service providers did not have a Permanent Establishment (PE) in India and therefore, the payments were not chargeable to tax in India. In such case, the tax auditor is required to disclose the same in his report so as to enable the Income-tax Department to know the reason as to why tax was not deducted by the assessee.

The tax auditor should exercise due diligence while reporting under various clauses of Form 3CD. In case he has taken a view that tax is not deductible by virtue of a certificate obtained by Management from Chartered Accountant, he should disclose the same in his report.

On account of such failure, clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 for failure to exercise due diligence in discharging his professional responsibilities and failure to obtain sufficient information, may be invoked.

(b) (i) Tax Planning: For the purpose of saving tax on the long-term capital gains arising on transfer of residential house property, Mr. Darshil invested the entire amount of capital gains in bonds issued by Indian Renewable Energy Development Agency (IREDA) which are redeemable after 5 years.

As the investment was made within the prescribed time and in the bond which is notified as eligible for deduction under section 54EC, he is eligible for the tax benefits.

This act of Mr. Darshil would tantamount to "Tax Planning".

(ii) Tax Management: Mrs. Varsha complied with the provisions of section 44AB by getting her accounts audited by a Chartered Accountant and uploading form 3CB and Form 3CD within the prescribed time limit.

This is in the nature of compliance with statutory obligation under the Income-tax Act, 1961.

This act of Mrs. Varsha would tantamount to "Tax Management".

(c) The rejection of application by the Board for Advance Rulings on the ground that issue raised in application already pending before the Court, is valid.

However, the Board has to give an opportunity of being heard to the applicant before rejecting an application and the reason for rejection shall be given in the order.

A copy of every order (even a rejection order) shall be sent to the applicant and to the PCIT/CIT.

M/s XYZ Ltd., if aggrieved by the rejection order passed by the Board for Advance Rulings may appeal to the High Court against such rejection order within 60 days from the date of communication of that order.

However, where the High Court is satisfied, it may grant further period of 30 days for filing such appeal.