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Question-1 Compute tax liability in the following cases for the assessment year 2020-21.

(i) Mr. X (resident) has total income of	Rs50,05,000
(ii) Mr. X (non-resident) has total income of	Rs52,00,000
(iii) Mrs. X (resident) has total income of	Rs101,00,000
(iv) Mrs. X (non-resident) has total income of	Rs85,00,000
(v) Mr. X (resident), aged 60 years has total income of	Rs106,00,000
(vi) Mrs. X (resident), aged 60 years has total income of	Rs57,00,000
(vii) Mr. X (non-resident), aged 60 years has total income of	Rs108,00,000
(viii) Mrs. X (non-resident), aged 60 years has total income of	Rs101,50,000
(ix) Mr. X (resident), aged 80 years has total income of	Rs54,25,000
(x) Mrs. X (resident), aged 80 years has total income of	Rs102,00,000
(xi) Mr. X (non-resident), aged 80 years has total income of	Rs55,22,380
(xii) Mrs. X (non-resident), aged 80 years has total income of	Rs45,00,000
(xiii) Mr. X (resident) has total income of	Rs201,00,000
(xiv) Mr. X (resident) has total income of	Rs205,00,000
(xv) Mr. X (resident) has total income of	Rs501,00,000
(xvi) Mr. X (resident) has total income of	Rs505,00,000

Solution:

(i) Computation of Tax Liability

Total Income	50,05,000
Tax on Rs50,05,000 at slab rate	13,14,000
Add: Surcharge @ 10%	1,31,400
Tax before marginal relief	14,45,400
Less: Marginal Relief	(1,27,900)

Working Note:

Tax + surcharge on income of	Rs50,05,000	14,45,400
Tax on income of	Rs50,00,000	(13,12,500)
Increase in tax		1,32,900
Increase in income		5,000
Marginal Relief (1,32,900 – 5,000)		1,27,900

Tax after marginal relief	13,17,500
Add: HEC @ 4%	52,700
Tax Liability	13,70,200

(ii) Computation of Tax Liability

Total Income	52,00,000.00
Tax on Rs52,00,000 at slab rate	13,72,500.00
Add: Surcharge @ 10%	1,37,250.00
Tax before health & education cess	15,09,750.00
Add: HEC @ 4%	60,390.00
Tax Liability	15,70,140.00

(iii) Computation of Tax Liability

Total Income	101,00,000.00
Tax on Rs101,00,000 at slab rate	28,42,500.00
Add: Surcharge @ 15%	4,26,375.00
Tax before marginal relief	32,68,875.00
Less: Marginal Relief	(75,125.00)

Working Note:

Tax + surcharge @15% on income of Rs101,00,000	32,68,875
Tax + surcharge @10% on income of Rs100,00,000	(30,93,750)
Increase in tax	1,75,125
Increase in income	1,00,000
Marginal Relief (1,75,125 – 1,00,000)	75,125
Tax after marginal relief	31,93,750.00
Add: HEC @ 4%	1,27,750.00
Tax Liability	33,21,500.00

(iv) Computation of Tax Liability

Total Income	85,00,000.00
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Tax on Rs85,00,000 at slab rate	23,62,500.00
Add: Surcharge @ 10%	2,36,250.00
Tax before health & education cess	25,98,750.00
Add: HEC @ 4%	1,03,950.00
Tax Liability	27,02,700.00

(v) Computation of Tax Liability

Total Income	106,00,000
Tax on Rs106,00,000 at slab rate	29,90,000
Add: Surcharge @ 15%	4,48,500
Tax before health & education cess	34,38,500.00
Add: HEC @ 4%	1,37,540.00
Tax Liability	35,76,040.00

(vi) Computation of Tax Liability

Total Income	57,00,000
Tax on Rs57,00,000 at slab rate	15,20,000
Add: Surcharge @ 10%	1,52,000
Tax before health & education cess	16,72,000.00
Add: HEC @ 4%	66,880.00
Tax Liability	17,38,880.00

(vii) Computation of Tax Liability

Total Income	108,00,000.00
Tax on Rs108,00,000 at slab rate	30,52,500.00
Add: Surcharge @ 15%	4,57,875.00
Tax before health & education cess	35,10,375.00
Add: HEC @ 4%	1,40,415.00
Tax Liability	36,50,790.00

(viii) Computation of Tax Liability

Total Income	101,50,000.00
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Tax on Rs101,50,000 at slab rate	28,57,500.00
Add: Surcharge @ 15%	4,28,625.00
Tax before marginal relief	32,86,125.00
Less: Marginal Relief	(42,375.00)

Working Note:

Tax + surcharge @15% on income of Rs101,50,000	32,86,125
Tax + surcharge @10% on income of Rs100,00,000	(30,93,750)
Increase in tax	1,92,375
Increase in income	1,50,000
Marginal Relief (1,92,375 – 1,50,000)	42,375
Tax after marginal relief	32,43,750.00
Add: HEC @ 4%	1,29,750.00
Tax Liability	33,73,500.00

(ix) Computation of Tax Liability

Total Income	54,25,000.00
Tax on Rs54,25,000 at slab rate	14,27,500.00
Add: Surcharge @ 10%	1,42,750.00
Tax before health & education cess	15,70,250.00
Add: HEC @ 4%	62,810.00
Tax Liability	16,33,060.00

(x) Computation of Tax Liability

Total Income	102,00,000
Tax on Rs102,00,000 at slab rate	28,60,000
Add: Surcharge @ 15%	4,29,000
Tax before marginal relief	32,89,000
Less: Marginal Relief	(9,000)

Working Note:

Tax + surcharge @15% on income of Rs102,00,000	32,89,000
Tax + surcharge @10% on income of Rs100,00,000	(30,80,000)

Increase in tax	2,09,000
Increase in income	2,00,000
Marginal Relief (2,09,000 – 2,00,000)	9,000
Tax after marginal relief	32,80,000
Add: HEC @ 4%	1,31,200
Tax Liability	34,11,200

(xi) Computation of Tax Liability

Total Income	55,22,380.00
Tax on Rs55,22,380 at slab rate	14,69,214.00
Add: Surcharge @ 10%	1,46,921.40
Tax before health & education cess	16,16,135.40
Add: HEC @ 4%	64,645.42
Tax Liability	16,80,780.82
Rounded off u/s 288B	16,80,780.00

(xii) Computation of Tax Liability

Total Income	45,00,000.00
Tax on Rs45,00,000 at slab rate	11,62,500.00
Add: Surcharge	Nil
Tax before health & education cess	11,62,500.00
Add: HEC @ 4%	46,500.00
Tax Liability	12,09,000.00

(xiii) Computation of Tax Liability

Total Income	201,00,000
Tax on Rs201,00,000 at slab rate	58,42,500
Add: Surcharge @ 25%	14,60,625
Tax before marginal relief	73,03,125
Less: Marginal Relief	(5,18,750)

Working Note:

Tax + surcharge @25% on income of Rs201,00,000	73,03,125
Tax + surcharge @15% on income of Rs200,00,000	(66,84,375)
Increase in tax	6,18,750
Increase in income	1,00,000
Marginal Relief (6,18,750 – 1,00,000)	5,18,750
Tax after marginal relief	67,84,375
Add: HEC @ 4%	2,71,375
Tax Liability	70,55,750

(xiv) Computation of Tax Liability

Total Income	205,00,000
Tax on Rs205,00,000 at slab rate	59,62,500
Add: Surcharge @ 25%	14,90,625
Tax before marginal relief	74,53,125
Less: Marginal Relief	(2,68,750)

Working Note:

Tax + surcharge @25% on income of Rs205,00,000	74,53,125
Tax + surcharge @15% on income of Rs200,00,000	(66,84,375)
Increase in tax	7,68,750
Increase in income	5,00,000
Marginal Relief (7,68,750 – 5,00,000)	2,68,750
Tax after marginal relief	71,84,375
Add: HEC @ 4%	2,87,375
Tax Liability	74,71,750

(xv) Computation of Tax Liability

Total Income	501,00,000
Tax on Rs501,00,000 at slab rate	1,48,42,500
Add: Surcharge @ 37%	54,91,725
Tax before marginal relief	2,03,34,225

Less: Marginal Relief (17,18,600)

Working Note:

Tax + surcharge @37% on income of Rs501,00,000	203,34,725
Tax + surcharge @25% on income of Rs500,00,000	(1,85,15,625)
Increase in tax	18,18,600
Increase in income	1,00,000
Marginal Relief (18,18,600 – 1,00,000)	17,18,600
Tax after marginal relief	1,86,15,625
Add: HEC @ 4%	7,44,625
Tax Liability	1,93,60,250

(xvi) Computation of Tax Liability

Total Income	505,00,000
Tax on Rs505,00,000 at slab rate	1,49,62,500
Add: Surcharge @ 37%	55,36,125
Tax before marginal relief	2,04,98,625
Less: Marginal Relief	(14,83,000)

Working Note:

Tax + surcharge @37% on income of Rs505,00,000	2,04,98,625
Tax + surcharge @25% on income of Rs500,00,000	(1,85,15,625)
Increase in tax	19,83,000
Increase in income	5,00,000
Marginal Relief (19,83,000 – 5,00,000)	14,83,000
Tax after marginal relief	1,90,15,625
Add: HEC @ 4%	7,60,625
Tax Liability	1,97,76,250

Question 2: Write a note on Rebate under section 87A.

Answer: Rebate in case of Resident Individual Section 87A

- Rebate i.e. concession from income tax shall be allowed only to RESIDENT INDIVIDUAL (not to non-resident individual or any other person).
- Rebate shall be allowed only if total income is not exceeding Rs5,00,000
- Rebate shall be allowed upto Rs12,500.
- Health & education cess shall be applied only after permitting rebate under section 87A.
- Rebate shall be allowed even from tax on LTCG or STCG under section 111A or Casual Income.
- No Rebate shall be allowed from LTCG u/s 112A.

E.g.

Mr. X has total income of Rs5,00,000, his tax liability shall be Computation of Tax Liability

Total Income	5,00,000.00
Tax on Rs5,00,000 at slab rate	12,500.00
Less: Rebate u/s 87A	(12,500.00)
Tax before health & education cess	Nil
Add: HEC @ 4%	Nil
Tax Liability	Nil

If in the above case total income is Rs4,96,000, tax liability shall be Computation of Tax Liability

Total Income	4,96,000
Tax on Rs4,96,000 at slab rate	12,300.00
Less: Rebate u/s 87A	(12,300.00)
Tax before health & education cess	Nil
Add: HEC @ 4%	Nil
Tax Liability	Nil

If in the above case total income is Rs5,01,000, tax liability shall be Computation of Tax Liability

Total Income	5,01,000.00
Tax on Rs5,01,000 at slab rate	12,700.00
Less: Rebate u/s 87A	Nil
Tax before health & education cess	12,700.00
Add: HEC @ 4%	508.00

Tax Liability	13,208.00
Rounded off u/s 288B	13,210.00

Question-3 Mr. X has gross total income Rs5,60,000 and deduction allowed under section 80C to 80U are Rs60,000. Compute his tax liability previous year 2019-20, assessment year 2020-21.

Solution:

Computation of Tax Liability

Gross Total Income	5,60,000
Less: Deduction u/s 80C to 80U	(60,000)
Total Income	5,00,000
Tax on Rs5,00,000 at slab rate	12,500
Less: Rebate u/s 87A	(12,500)
Tax before health & education cess	Nil
Add: HEC @ 4%	Nil
Tax Liability	Nil

(b) Presume he is a resident and is aged 62 years.

Solution:

Computation of Tax Liability

Gross Total Income	5,60,000
Less: Deduction u/s 80C to 80U	(60,000)
Total Income	5,00,000
Tax on Rs5,00,000 at slab rate	10,000
Less: Rebate u/s 87A	(10,000)
Tax before health & education cess	Nil
Add: HEC @ 4%	Nil
Tax Liability	Nil

(c) Presume he is a non-resident and is aged 62 years.

Computation of Tax Liability

Gross Total Income	5,60,000
Less: Deduction u/s 80C to 80U	(60,000)
Total Income	5,00,000
Tax on Rs5,00,000 at slab rate	12,500
Less: Rebate u/s 87A	Nil
Tax before health & education cess	12,500
Add: HEC @ 4%	500
Tax Liability	13,000

(d) Presume he is a non-resident and is aged 82 years.

Computation of Tax Liability

Gross Total Income	5,60,000
Less: Deduction u/s 80C to 80U	(60,000)
Total Income	5,00,000
Tax on Rs5,00,000 at slab rate	12,500
Less: Rebate u/s 87A	Nil
Tax before health & education cess	12,500
Add: HEC @ 4%	500
Tax Liability	13,000

Question 4: Explain taxability of Casual Income.

Answer: As per section 115BB, casual income shall be taxable @ 30%. As per section 2(24)(ix), casual income means any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever.

Lottery includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called. Card game and other game of any sort includes any game show, an entertainment

programme on television or electronic mode, in which people compete to win prizes or any other similar game.

Casual income shall be taxable under the head Other Sources and it will be included in the gross total income and also total income but while computing tax liability, casual income shall be separated from total income and shall be taxable @ 30%.

If assessee has incurred any expenditure in connection with earning of casual income, such expenditure shall not be allowed to be deducted, eg. Mr. X purchased lottery tickets of Rs10,000 and he had a winning of Rs 1,00,000, in this case expenditure of Rs10,000 shall not be allowed to be deducted and income of Rs1,00,000 shall be taxable @ 30%.

As per section 58(4), deduction under section 80C to 80U shall not be allowed from casual income however as per section 87A, rebate shall be allowed.

Question-5: Mr. X has income under the head Salary Rs70,000 and casual income Rs2,50,000 and deduction u/s 80C to 80U Rs40,000. Compute his tax liability assessment year 2020-21.

Computation of Total Income And Tax Liability

Solution:

Computation of Total Income of Mr. X

Previous Year 2019-20, Assessment Year 2020-21

	Rs
Income under the head Salary	70,000.00
Income under the Other Sources (Casual income)	2,50,000.00
Gross Total Income	3,20,000.00
Less: Deduction u/s 80C to 80U	(40,000.00)
Total Income	2,80,000.00
Tax on casual income Rs2,50,000 @ 30%	75,000.00
Tax on normal income Rs30,000 at slab rate	Nil
Less: Rebate u/s 87A	(12,500.00)
Tax before health & education cess	62,500.00
Add: HEC @ 4%	2,500.00
Tax Liability	65,000.00

(b) Presume he is non-resident.

Computation of Total Income of Mr. X

Previous Year 2019-20, Assessment Year 2020-21

	Rs
Income under the head Salary	70,000.00
Income under the Other Sources (Casual income)	2,50,000.00
Gross Total Income	3,20,000.00
Less: Deduction u/s 80C to 80U	(40,000.00)
Total Income	2,80,000.00
Computation of Tax Liability	
Tax on casual income Rs2,50,000 @ 30%	75,000.00
Tax on normal income Rs30,000 at slab rate	Nil
Less: Rebate u/s 87A	Nil
Tax before health & education cess	75,000.00
Add: HEC @ 4%	3,000.00
Tax Liability	78,000.00

NOTE - A person having Total Income from Rs50 lakhs to Rs100 lakhs shall be eligible for marginal relief upto total income of Rs52,23,880 in case of casual income.

A person having Total Income from Rs100 lakhs to Rs200 lakhs shall be eligible for marginal relief upto total income of Rs102,29,000 in case of casual income.

A person having Total Income from Rs200 lakhs to Rs500 lakhs shall be eligible for marginal relief upto total income of Rs209,60,000 in case of casual income.

A person having Total Income above Rs500 lakhs shall be eligible for marginal relief upto total income of Rs530,56,030 in case of casual income.

Question 6: Explain taxability of Capital Gains.

Answer 6: If any capital asset has been transferred like land, building, gold etc. profit shall be called capital gains and if the asset has been transferred within a period of three years, capital gains shall be short term and shall be taxable at the normal rate and if asset is sold

after 3 years, it will be long term capital gain and as per section 112, it shall be taxable @ 20% and also deductions under section 80C to 80U i.e. Chapter VI-A, shall not be allowed from long term capital gains.

In case of listed shares or units of equity oriented mutual fund etc., period of three years shall be taken as one year. If any person has transferred listed equity shares or listed units of equity oriented mutual funds or listed units of a business trust and has paid securities transaction tax, in such cases long term capital gain shall be taxable @ 10% u/s 112A but only amount in excess of Rs1,00,000 and short term capital gains shall be covered under section 111A and shall be taxable @ 15% and deductions under section 80C to 80U i.e. Chapter VI-A, shall not be allowed from such short term capital gains. "equity oriented fund" means a fund set up under a scheme of a mutual fund specified under clause (23D) of section 10 and,—

(i) in a case where the fund invests in the units of another fund which is traded on a recognised stock exchange,—

(A) a minimum of ninety per cent of the total proceeds of such fund is invested in the units of such other fund; and

(B) such other fund also invests a minimum of ninety per cent of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and

(ii) in any other case, a minimum of sixty-five per cent of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange: Provided that the percentage of equity shareholding or unit held in respect of the fund, as the case may be, shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

Rebate u/s 87A shall be allowed from tax on LTCG or STCG 111A. (No Rebate u/s 87A from LTCG 112A) Special provision for resident individual In case of a resident individual if total income excluding long term capital gains and short term capital gain covered under section 111A, LTCG u/s 112A and casual income is below the amount which is exempt from income tax (i.e.2,50,000/3,00,000/5,00,000), in such cases deficiency in the exemption shall be allowed from long term capital gains or short term capital gain under section 111A or long term capital gains under section 112A as the case may be. Such benefit is not allowed to a non-resident.

Example

ABC Ltd. has one plant and machinery on 01.04.2019 with written down value Rs20,00,000 the asset is destroyed due to natural calamity and the company has received insurance claim of Rs21,00,000, in this case there will be short term capital gain of Rs1,00,000.

Question 9: Mr. X purchased Gold on 01.10.1991 for Rs2,00,000 and its fair market value on 01.04.2001 is Rs3,00,000 and he converted it into stock-in-trade on 01.10.2008 and market value of the gold on the date of conversion was Rs11,00,000 and subsequently half of the stock-in-trade was sold on 01.10.2019 for Rs6,50,000 and balance half was sold on 01.10.2020 for Rs7,50,000. Compute his total income for various years.

Solution:	Rs
Previous year 2008-09	
Computation of Capital Gains under section 45(2)	
Full value of consideration	11,00,000
Less: Indexed cost of acquisition	
= 3,00,000 / Index of 01-02 x Index of 08-09	
= 3,00,000 / 100 x 137= Rs4,11,000	(4,11,000)
Long Term Capital Gain	6,89,000
Previous year 2019-20	
Long Term Capital Gain (1/2 of Rs6,89,000)	3,44,500
Business Income	
(Rs6,50,000-Rs5,50,000)	1,00,000
Total Income	4,44,500
Previous year 2020-21	
Long Term Capital Gain (1/2 of Rs6,89,000)	3,44,500
Business Income	
(Rs7,50,000-Rs5,50,000)	2,00,000
Total Income	5,44,500

Question 10: X converts his capital asset (acquired on June 10, 2008 for Rs 60,000) into stock-in-trade on March 10, 2014. The fair market value on the date of the above conversion was Rs 3,00,000. He subsequently sells the stock-in-trade so converted for Rs 4,00,000 on June 10, 2019. Discuss the tax implication.

Solution:

In this case capital gains shall be computed in the previous year 2013-14 as given below:

FVC 3,00,000.00

Less: Indexed cost of acquisition

= 60,000 / Index of 2008-09 x Index of 2013-14

= 60,000 / 137 x 220

(96,350.36)

Long term capital gain 2,03,649.64

Income under the head Business/Profession for previous year 2019-20 shall be Rs4,00,000 – Rs3,00,000 = Rs1,00,000

Question 11: Write a note on computation of capital gains in case of transfer of a capital asset by a Person to a Firm, Association of Person or Body of Individual.

Answer: Capital gains in case of transfer of a capital asset by a person to a Firm, Association of Person or Body of Individual Section 45(3)

If any person has transferred any capital asset to the partnership firm or body of individual or association of persons as a partner or to become a partner, it will be considered to be transfer and capital gains shall be computed in the year in which capital asset has been transferred and full value of consideration shall be the amount recorded in the books of account of the firm etc. Market value shall not be taken into consideration.

Question 12: One partnership firm has purchased gold on 01.10.2005 for Rs5,00,000 and dissolution has taken place on 01.10.2019 and this gold was transferred to one of the partner in settlement of his claim of Rs25,00,000, though the market value was Rs35,00,000. Compute capital gains for assessment year 2020-21 and also its tax liability.

Solution:	Rs
Computation of Capital Gains	
Full value of consideration	35,00,000.00
Less: Indexed cost of acquisition	
= 5,00,000 / Index of 05-06 x Index of 19-20	
= 5,00,000 / 117 x 289 = Rs12,35,042.74	(12,35,042.74)
Long Term Capital Gain	22,64,957.26
Rounded off u/s 288A	22,64,960.00
Computation of Tax Liability	
Tax on Rs22,64,960 @ 20% u/s 112	4,52,992.00
Add: HEC @ 4%	18,119.68
Tax Liability	4,71,111.68
Rounded off u/s 288B	4,71,110.00

Question 12: Mr. X (Date of birth 01.10.1946) has purchased one house on 01.04.1995 for Rs4,00,000 and incurred Rs2,00,000 on its improvement on 01.10.1998. Its market value on 01.04.2001 was Rs3,00,000. This house was acquired by the Government on 01.10.2013 and the compensation fixed was Rs50,00,000 and the Government has paid half of the compensation on 01.10.2019 and balance half on 01.10.2020.

The assessee has filed an appeal for increasing the compensation and the court has given decision on 31.03.2021 directing the Government to pay additional compensation of Rs5,00,000. The Government has paid half of the amount on 01.04.2022 and balance half on 01.04.2023.

He has invested Rs72,000 in NSC in previous year 2019-20. Compute assessee's tax liability for the assessment year 2020-21 and also capital gains for various years.

Solution:

Computation of Capital Gains under section 45(5)

Capital gain shall be computed in the year in which the asset was acquired by the Government i.e. in the previous year 2013-14 and shall be taxed in the year in which the

first payment has been received by the assessee i.e. in the previous year 2019-20 RsFull value of consideration 50,00,000.00

Less: Indexed cost of acquisition

= 4,00,000 / Index of 01-02 x Index of 13-14

= 4,00,000 / 100 x 220 = Rs8,80,000 (8,80,000.00)

Long Term Capital Gain 41,20,000.00

Income under the head Capital Gain (LTCG) 41,20,000.00

Gross Total Income 41,20,000.00

Less: Deduction u/s 80C Nil

{Deduction under section 80C is not allowed from LTCG}

Total Income 41,20,000.00

Computation of Tax Liability

{Since normal income is nil, as per section 112 deficiency of Rs3,00,000 shall be allowed from long term capital gains and balance income shall be taxed at flat rate of 20%}

Tax on Rs38,20,000 (Rs41,20,000 – Rs3,00,000) @ 20% 7,64,000.00

Add: HEC @ 4% 30,560.00

Tax Liability 7,94,560.00

Computation of Capital Gain for the previous year 2022-23

Long Term Capital Gain 2,50,000.00

Computation of Capital Gain for the previous year 2023-24

Long Term Capital Gain 2,50,000.00

Question 13: Write a note on computation of capital gains on Transfer of Land or Building under specified agreement.

Answer: Computation of capital gains on Transfer of Land or Building under specified agreement Section 45 (5A) If any Individual or HUF has transferred Land or Building under a specified agreement, In such cases capital gain shall be computed in the year in which certificate of completion has been issued and full value of consideration shall be the Stamp duty value on the date of issue of certificate. If such individual or HUF has transferred any part of the building before completion to any other person, in that case capital gains shall be computed in the year of transfer for such part.

"specified agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash.

Question 14: ABC Ltd. has issued one-lakh shares of Rs10 each and the company goes into liquidation on 01.10.2019 and distributable asset of the company are valued at Rs8 lakh. The company's accumulated profits on the date of liquidation are Rs3.5 lakhs which are included in Rs8 lakhs. Mr. X has purchased 100 shares in this company on 01.10.1998 for Rs 10 each and market value of the shares on 01.04.2001 is Rs12 per share. Compute dividends in the hands of Mr. X and also capital gains.

Solution: Rs

Share of Mr. X in the distributable profits	
8,00,000 x 100/1,00,000	800
Accumulated profits	3,50,000
Proportionate share of Mr. X in accumulated profits	350
Dividends in the hands of Mr. X as per sec 2(22)(c)	350
Computation of capital gains as per section	46
Full value of consideration	450
Less: Indexed cost of acquisition	
= (12 x 100) / Index of 01-02 x Index of 19-20	
= 1,200/100 x 289 = 3,468	(3,468)
Long-term capital loss	(3,018)

Question 15: Mr. X purchased one house on 01.10.1998 for Rs2,00,000 and incurred Rs1,00,000 on its improvement on 01.10.1999. Its fair market value on 01.04.2001 is Rs4,50,000. Mr. X expired on 01.05.2005 and the house was inherited by his son Mr. Y and value for the purpose of charging stamp duty was Rs10,00,000. Mr. Y has sold the house on 01.11.2019 for Rs72,00,000. Compute tax liability of Mr. Y for the assessment year 2020-21.

Solution: Rs

Computation of Capital Gains

Full value of consideration	72,00,000.00
Less: Indexed cost of acquisition = $4,50,000 / 100 \times 289 = \text{Rs}13,00,500$	(13,00,500.00)
Long Term Capital Gain	58,99,500.00
Income under the head Capital Gain	58,99,500.00
Gross Total Income	58,99,500.00
Less: Deduction u/s 80C to 80U	Nil
Total Income	58,99,500.00

Computation of Tax Liability

{Since normal income is nil, as per section 112 deficiency of Rs2,50,000 shall be allowed from long term capital gain and balance income shall be taxed at flat rate of 20%}

Tax on Rs56,49,500 (Rs58,99,500 – Rs2,50,000) @ 20%	11,29,900.00
Add: Surcharge @ 10%	1,12,990.00
Tax before health & education cess	12,42,890.00
Add: HEC @ 4%	49,715.60
Tax Liability	12,92,605.60
Rounded off u/s 288B	12,92,610.00

(2) Any distribution of capital assets on the partition of a Hindu Undivided Family.

Question 16: Mr. X is a dealer in Delhi purchased goods for Rs 10,00,000 plus CGST 10% and SGST 10% and sold the goods at a profit of Rs 2,00,000 and he is not a registered dealer, in this case tax treatment shall be as given below:

Solution: Rs

Purchase price	10,00,000
Add: CGST @ 10%	1,00,000
Add: SGST @ 10%	1,00,000
Total	12,00,000

Input tax credit of CGST & SGST is not allowed because Mr. X is not registered.

Cost	12,00,000
Add: profit	2,00,000
Sale Value	14,00,000

(b) presume he is registered.

	Rs
Purchase price	10,00,000
Add: CGST @ 10%	1,00,000
Add: SGST @ 10%	1,00,000
Total	12,00,000

Input tax credit of CGST & SGST is allowed.

Cost	10,00,000
Add: profit	2,00,000
Sale Value	12,00,000
Add: CGST @ 10%	1,20,000
Add: SGST @ 10%	1,20,000
Total	14,40,000

Computation of Net Tax

CGST

Output	1,20,000
Less: ITC	(1,00,000)
Net Tax	20,000

SGST

Output	1,20,000
Less: ITC	(1,00,000)
Net Tax	20,000

Question 17: Mr. X is dealer registered in GST and has submitted information as given below: Goods A purchased for Rs3,00,000 + CGST @ 9% and SGST @ 9% and sold the goods at a profit of 40% on cost and charged CGST @ 9% and SGST @ 9%. Goods B purchased Rs5,00,000 + CGST @ 14% + SGST @ 14% and sold goods at a profit of Rs3,00,000 charged CGST @ 14% + SGST @ 14%. Goods C purchased Rs7,00,000 + CGST @ 6% + SGST @ 6% and

sold goods at a profit of 40% on sale and charged CGST @ 6% + SGST @ 6%. Compute Input Tax Credit /Output Tax / Net Tax.

Solution:

Computation of Net Tax Liability of Mr. X	Rs
Goods A	3,00,000
Add: CGST @ 9%	27,000
Add: SGST @ 9%	27,000
Total	3,54,000
Input tax credit	
CGST	27,000
SGST	27,000
Cost of Goods A	3,00,000
Add: Profit @ 40%	1,20,000
Transaction Value	4,20,000
Add: Output CGST @ 9%	37,800
Add: Output SGST @ 9%	37,800
Total Sale	4,95,600
Goods B	5,00,000
Add: CGST @ 14%	70,000
Add: SGST @ 14%	70,000
Total	6,40,000
Input tax credit	
CGST @ 14%	70,000
SGST @ 14%	70,000
Cost of Goods B	5,00,000
Add: Profit	3,00,000
Transaction Value	8,00,000
Add: Output CGST @ 14%	1,12,000
Add: Output SGST @ 14%	1,12,000
Total Sale	10,24,000
Goods C	7,00,000

Add: CGST @ 6%	42,000
Add: SGST @ 6%	42,000
Total	7,84,000
Input tax credit	
CGST @ 6%	42,000
SGST @ 6%	42,000
Cost of Goods C	7,00,000.00
Add: Profit @ 40% on sale ($7,00,000/60 \times 40$)	4,66,666.67
Transaction Value	11,66,666.67
Add: Output CGST @ 6%	70,000.00
Add: Output SGST @ 6%	70,000.00
Total Sale	13,06,666.67
Computation of Net Tax	
CGST	Rs
Output Tax	
Goods A	37,800
Goods B	1,12,000
Goods C 70,000	
	2,19,800
Less: ITC – GOODS A – CGST	(27,000)
Less: ITC – GOODS B – CGST	(70,000)
Less: ITC – GOODS C – CGST	(42,000)
Net Tax	80,800
SGST	
Output Tax	
Goods A	37,800
Goods B	1,12,000
Goods C	70,000
	2,19,800
Less: ITC – GOODS A – SGST	(27,000)
Less: ITC – GOODS B – SGST	(70,000)

Less: ITC – GOODS C – SGST	(42,000)
Net Tax	80,800

Question 18: Compute tax liability for the assessment year 2020-21 in the following situations:

- (i) Mr. X is resident in India and has income under the head house property Rs40,000 and income under the head salary Rs30,000 and long term capital gains Rs4,80,000.
- (ii) Presume in the above situation the assessee is Mrs. X.
- (iii) Presume in the above situation the assessee is Mrs. X and she is aged about 70 years.
- (iv) Presume in the above situation the assessee is Mr. X and he is aged about 70 years.
- (v) Presume in the above situation the assessee is Mrs. X and she is aged about 85 years.
- (vi) Presume in the above situation the assessee is Mr. X and he is aged about 85 years.
- (vii) Presume in all the above situations, the assessee is non-resident in India.

Solution: Rs

(i)

Computation of Total Income

Income under the head Salary	30,000
Income under the head House Property	40,000
Income under the head Capital Gains (LTCG)	4,80,000
Gross Total Income	5,50,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	5,50,000

Computation of Tax Liability

Tax on LTCG Rs3,00,000 (4,80,000 – 1,80,000) @ 20% u/s	112 60,000
Tax on Rs70,000 at slab rate	Nil
Tax before health & education cess	60,000
Add: HEC @ 4%	2,400
Tax Liability	62,400

(ii)

Total Income	5,50,000
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Computation of Tax Liability

Tax on LTCG Rs3,00,000 (4,80,000 – 1,80,000) @ 20% u/s	112 60,000
Tax on Rs70,000 at slab rate	Nil
Tax before health & education cess	60,000
Add: HEC @ 4%	2,400
Tax Liability	62,400

(iii)

Total Income	5,50,000
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Computation of Tax Liability

Tax on LTCG Rs2,50,000 (4,80,000 – 2,30,000) @ 20% u/s	112 50,000
Tax on Rs70,000 at slab rate	Nil
Tax before health & education cess	50,000
Add: HEC @ 4%	2,000
Tax Liability	52,000

(iv)

Total Income	5,50,000
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Computation of Tax Liability

Tax on LTCG Rs2,50,000 (4,80,000 – 2,30,000) @ 20% u/s	112 50,000
Tax on Rs70,000 at slab rate	Nil
Tax before health & education cess	50,000
Add: HEC @ 4%	2,000
Tax Liability	52,000

(v)

Total Income	5,50,000
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Computation of Tax Liability

Tax on LTCG Rs50,000 (4,80,000 – 4,30,000) @ 20% u/s	112 10,000
Tax on Rs70,000 at slab rate	Nil
Tax before health & education cess	10,000
Add: HEC @ 4%	400
Tax Liability	10,400

(vi)

Total Income	5,50,000
Computation of Tax Liability	
Tax on LTCG Rs50,000 (4,80,000 – 4,30,000) @ 20% u/s 112	10,000
Tax on Rs70,000 at slab rate	Nil
Tax before health & education cess	10,000
Add: HEC @ 4%	400
Tax Liability	10,400

(vii)

In situation (i)

Total Income	5,50,000
Computation of Tax Liability	
Tax on LTCG Rs4,80,000 @ 20% u/s 112	96,000
Tax on Rs70,000 at slab rate	Nil
Tax before health & education cess	96,000
Add: HEC @ 4%	3,840
Tax Liability	99,840

In situation (ii)

Total Income	5,50,000
Computation of Tax Liability	
Tax on LTCG Rs4,80,000 @ 20% u/s 112	96,000
Tax on Rs70,000 at slab rate	Nil
Tax before health & education cess	96,000
Add: HEC @ 4%	3,840
Tax Liability	99,840

In situation (iii)

Total Income	5,50,000
Computation of Tax Liability	
Tax on LTCG Rs4,80,000 @ 20% u/s 112	96,000
Tax on Rs70,000 at slab rate	Nil
Tax before health & education cess	96,000
Add: HEC @ 4%	3,840
Tax Liability	99,840

In situation (iv)	
Total Income	5,50,000
Computation of Tax Liability	
Tax on LTCG Rs4,80,000 @ 20% u/s 112	96,000
Tax on Rs70,000 at slab rate	Nil
Tax before health & education cess	96,000
Add: HEC @ 4%	3,840
Tax Liability	99,840
In situation (v)	
Total Income	5,50,000
Computation of Tax Liability	
Tax on LTCG Rs4,80,000 @ 20% u/s 112	96,000
Tax on Rs70,000 at slab rate	Nil
Tax before health & education cess	96,000
Add: HEC @ 4%	3,840
Tax Liability	99,840
In situation (vi)	
Total Income	5,50,000
Computation of Tax Liability	
Tax on LTCG Rs4,80,000 @ 20% u/s 112	96,000
Tax on Rs70,000 at slab rate Nil	
Tax before health & education cess	96,000
Add: HEC @ 4%	3,840
Tax Liability	99,840

Question 19: Compute tax liability for the assessment year 2020-21 in the following situations:

(i) Mr. X is resident in India and his incomes are as follows:

(a) Income under the head Salary Rs1,20,000

(b) Income under the head House Property	Rs60,000
(c) Long term capital gains	Rs2,20,000
(d) Short term capital gain under section 111A	Rs1,10,000
(e) Casual Income	Rs90,000
(f) Deduction under section 80C to 80U	Rs2,00,000 .

(ii) Presume in the above situation the assessee is Mrs. X.

(iii) Presume in the above situation the assessee is Mrs. X and she is aged about 70 years.

(iv) Presume in the above situation the assessee is Mr. X and he is aged about 70 years.

(v) Presume in the above situation the assessee is Mrs. X and she is aged about 83 years.

(vi) Presume in the above situation the assessee is Mr. X and he is aged about 83 years.

(vii) Presume in the above situation the assessee is Mr. X and he is aged about 70 years and he is nonresident.

(viii) Presume in the above situation the assessee is Mr. X and he is aged about 83 years old and he is nonresident.

Solution:

(i)	Rs	Rs
Computation of Total Income		
Income under the head Salary		1,20,000
Income under the head House Property		60,000
Income under the head Capital Gains		
Long term capital gains		2,20,000
Short term capital gains u/s 111A	1,10,000	3,30,000
Income under the head Other Sources (Casual Income)		90,000
Gross Total Income		6,00,000
Less: Deduction u/s 80C to 80U		(1,80,000)
Total Income		4,20,000
Computation of Tax Liability		
Tax on LTCG (2,20,000 – 2,20,000) @ 20% u/s 112		Nil
Tax on STCG Rs80,000 (Rs1,10,000 – 30,000) @ 15% u/s 111A		12,000
Tax on Casual income Rs90,000 @ 30% u/s 115BB		27,000

Tax on normal income at slab rate	Nil
Tax before Rebate u/s 87A	39,000
Less: Rebate u/s 87A	(12,500)
Tax before health & education cess	26,500
Add: HEC @ 4%	1,060
Tax Liability	27,560

(ii)

Total Income 4,20,000

Computation of Tax Liability

Tax on LTCG (2,20,000 – 2,20,000) @ 20% u/s 112 Nil

Tax on STCG Rs80,000 (Rs1,10,000 – 30,000) @ 15% u/s 111A 12,000

Tax on Casual income Rs90,000 @ 30% u/s 115BB 27,000

Tax on normal income at slab rate Nil

Tax before Rebate u/s 87A 39,000

Less: Rebate u/s 87A (12,500)

Tax before health & education cess 26,500

Add: HEC @ 4% 1,060

Tax Liability 27,560

(iii)

Total Income 4,20,000

Computation of Tax Liability

Tax on LTCG (2,20,000 – 2,20,000) @ 20% u/s 112 Nil

Tax on STCG Rs30,000 (1,10,000 – 80,000) @ 15% u/s 111A 4,500

Tax on Casual Income Rs90,000 @ 30% u/s 115BB 27,000

Tax on normal income at slab rate Nil

Tax before Rebate u/s 87A 31,500

Less: Rebate u/s 87A (12,500)

Tax before health & education cess 19,000

Add: HEC @ 4% 760

Tax Liability 19,760

(iv)

Total Income	4,20,000
Computation of Tax Liability	
Tax on LTCG (2,20,000 – 2,20,000) @ 20% u/s 112	Nil
Tax on STCG Rs30,000 (1,10,000 – 80,000) @ 15% u/s 111A	4,500
Tax on Casual Income Rs90,000 @ 30% u/s 115BB	27,000
Tax on normal income at slab rate	Nil
Tax before Rebate u/s 87A	31,500
Less: Rebate u/s 87A	(12,500)
Tax before health & education cess	19,000
Add: HEC @ 4%	760
Tax Liability	19,760

(v)

Total Income	4,20,000
Computation of Tax Liability	
Tax on LTCG (2,20,000 – 2,20,000) @ 20% u/s 112	Nil
Tax on STCG (1,10,000 – 1,10,000) @ 15% u/s 111A	Nil
Tax on Casual Income Rs90,000 @ 30% u/s 115BB	27,000
Tax on normal income at slab rate	Nil
Tax before Rebate u/s 87A	27,000
Less: Rebate u/s 87A	(12,500)
Tax before health & education cess	14,500
Add: HEC @ 4%	580
Tax Liability	15,080

(vi)

Total Income	4,20,000
Computation of Tax Liability	
Tax on LTCG (2,20,000 – 2,20,000) @ 20% u/s 112	Nil
Tax on STCG (1,10,000 – 1,10,000) @ 15% u/s 111A	Nil
Tax on Casual Income Rs90,000 @ 30% u/s 115BB	27,000
Tax on normal income at slab rate	Nil
Tax before Rebate u/s 87A	27,000
Less: Rebate u/s 87A	(12,500)

Tax before health & education cess	14,500
Add: HEC @ 4%	580
Tax Liability	15,080
(vii)	
Total Income	4,20,000
Computation of Tax Liability	
Tax on LTCG Rs2,20,000 @ 20% u/s 112	44,000
Tax on STCG Rs1,10,000 @ 15% u/s 111A	16,500
Tax on Casual income Rs90,000 @ 30% u/s 115BB	27,000
Tax on normal income at slab rate	Nil
Tax before Rebate u/s 87A	87,500
Less: Rebate u/s 87A	Nil
Tax before health & education cess	87,500
Add: HEC @ 4%	3,500
Tax Liability	91,000
(viii)	
Total Income	4,20,000
Computation of Tax Liability	
Tax on LTCG Rs2,20,000 @ 20% u/s 112	44,000
Tax on STCG Rs1,10,000 @ 15% u/s 111A	16,500
Tax on Casual income Rs90,000 @ 30% u/s 115BB	27,000
Tax on normal income at slab rate	Nil
Tax before Rebate u/s 87A	87,500
Less: Rebate u/s 87A	Nil
Tax before health & education cess	87,500
Add: HEC @ 4%	3,500
Tax Liability	91,000

Question 20: Write a note on taxability of income of Partnership Firm/Limited Liability Partnership Firm.

Answer: Partnership firm/LLP

Long term capital gains are taxable @ 20%, STCG u/s 111A shall be taxable @ 15% , LTCG u/s 112A shall be taxable in excess of 1,00,000 @ 10% and casual income @ 30% and other incomes are also taxable @ 30%.

Surcharge shall be applicable @ 12% provided total income is exceeding Rs 1 crore.

Marginal Relief

Marginal relief shall be allowed if income has exceeded Rs100 lakhs.

Health & education cess is applicable @ 4%

Deductions under section 80C to 80U shall be allowed in the normal manner.

Partnership firm is regulated through Partnership Act,1932 and Limited Liability Partnership firm is regulated through Limited Liability Partnership Act, 2008.

Question 21: Write a note on taxability of income of domestic company.

Answer: Domestic Company

Long term capital gains are taxable @ 20%, STCG u/s 111A shall be taxable @ 15% , LTCG u/s 112A shall be taxable in excess of 1,00,000 @ 10% and casual income @ 30% and other incomes are also taxable @ 30%.

Surcharge shall be applicable

- @ 7% provided total income is exceeding Rs100 lakhs but it is upto Rs1000 lakhs

- @ 12% provided total income is exceeding Rs1000 lakhs.

Marginal relief shall be allowed if income has exceeded Rs100 lakhs / 1000 lakhs

Health & education cess is applicable @ 4%

Deductions under section 80C to 80U shall be allowed in the normal manner.

(If total turnover or gross receipts in P.Y. 2017-18 does not exceed 400 crores, tax rate shall be 25% instead of 30%)

Example

Compute the tax liability of X Ltd., a domestic company, assuming that the total income of X Ltd. is Rs1,01,00,000 and the total income does not include any income in the nature of capital gains.

Answer

Total income	1,01,00,000
Tax on @ 30%	30,30,000
Add: Surcharge @ 7%	2,12,100
Tax before marginal relief	32,42,100
Less: Marginal Relief	(1,42,100)
Working Note:	
Tax + surcharge on income of Rs101,00,000	32,42,100
Tax on income of Rs100,00,000	(30,00,000)
Increase in tax	2,42,100
Increase in income	1,00,000
Marginal Relief (2,42,100 – 1,00,000)	1,42,100
Tax after marginal relief	31,00,000
Add: HEC @ 4%	1,24,000
Tax Liability	32,24,000

Question 22: X (HUF) has incomes as given below:

1. Income under the head Business/Profession	Rs5,00,000
2. Income under the head House Property	Rs3,00,000
3. Long term capital gains	Rs4,00,000
4. Short term capital gains under section 111A	Rs3,00,000
5. Casual Income	Rs2,00,000
6. Deductions allowed under section 80C to 80U	Rs35,000

Compute tax liability of HUF for the assessment year 2020-21.

Solution:	Rs	Rs
Computation of Total Income		
Income under the head Business/Profession		5,00,000.00
Income under the head House Property		3,00,000.00
Income under the head Capital Gains		
Long term capital gains		4,00,000
Short term capital gains u/s 111A	3,00,000	7,00,000.00

Income under the head Other Sources (Casual Income)	2,00,000.00
Gross Total Income	17,00,000.00
Less: Deduction u/s 80C to 80U	(35,000.00)
Total Income	16,65,000.00
Computation of Tax Liability	
Tax on LTCG Rs4,00,000 @ 20% u/s 112	80,000.00
Tax on STCG Rs3,00,000 @ 15% u/s 111A	45,000.00
Tax on Casual income Rs2,00,000 @ 30% u/s 115BB	60,000.00
Tax on Rs7,65,000 at slab rate	65,500.00
Tax before health & education cess	2,50,500.00
Add: HEC @ 4%	10,020.00
Tax Liability	2,60,520.00

Question 23 Discuss Partial Integration of Agricultural Income?

Or

Discuss Indirect Taxing of Agricultural Income?

Or

Under the Constitution, the power to levy a tax on agricultural income vests in the States. However, Parliament has also levied a tax on such income. Explain how this has been achieved?

Answer:

Agricultural Income Section 10(1)

Under section 10(1), any agricultural income in India is fully exempt from income tax but if the agricultural income is from outside India, it is chargeable to tax. (As per entry no. 82 of Union List, Central Government has the power to levy income tax on income except agricultural income and power to levy tax on agricultural income has been given to the State Government vide entry no. 46 of State List) Indirect taxing of agricultural income or partial integration of agricultural income (Under the constitution, the power to levy a tax on agricultural income vests in the states. However, parliament has also levied a tax on such

income. Explain how this has been achieved?) If any person has agricultural income as well as non-agricultural income, his tax liability shall be computed in the manner given below:

1. Compute tax on the total of agricultural income and non- agricultural income considering it to be total income of the assessee.
2. Compute tax on exemption limit (Rs2,50,000 / 3,00,000 / 5,00,000) and agricultural income considering it to be total income.
3. Deduct tax computed under Step 2 from Step 1 and apply surcharge if any and allow rebate if any and health & education cess.
4. Long term capital gain, casual income and short term capital gain u/s 111A shall not be taken into consideration for the purpose of partial integration
5. If Agricultural income is upto Rs5,000, or non-agricultural income is upto the limit not chargeable to tax (Rs2,50,000/3,00,000/5,00,000), partial integration is not applicable.
6. Partial integration is not applicable in case of a partnership firm or a company.

Question 24: Explain Reverse Mortgage.

Answer: As per section 47, reverse mortgage shall not be considered to be transfer for the purpose of capital gain.

Under reverse mortgage, an individual can mortgage his house property to the bank and the bank shall grant a loan against the security of house property and such loan shall be given in monthly/quarterly installments and the amount so received shall not be considered to be income of the mortgagor under section 10(43).

After the death of the mortgagor the bank shall have right to sell off the property and shall adjust loan and interest and shall compute capital gains for the deceased person and shall pay tax to the government.

The purpose of the scheme is to make available regular amount to the persons who do not have regular income but are the owners of the house property.

In general, the mortgagor repay the loan in installments but in this case mortgagee i.e. bank is paying installment to the mortgagor and hence it is called reverse mortgage.

Question 25 Write a note on full value of consideration in certain cases.

Answer: Special provision for full value of consideration in certain cases Section 50C

If any person has transferred land or building and stamp duty value is upto 105% of the FVC claimed by the assessee, in such cases FVC shall be the consideration claimed by the assessee but if stamp duty value is more than 105% of the consideration claimed by the assessee, in that case FVC shall be the Stamp duty value.

If the assessee has disputed such amount, assessing officer may refer the matter to the Valuation Officer and value determined by Valuation Officer shall be taken into consideration but if the value determined by Valuation Officer is more than the stamp duty value, in that case stamp duty value shall be considered to be FVC and capital gains shall be computed accordingly. Valuation Officer means an expert employed by Income Tax Department to determine the value.

If the date of agreement and date of registration are different, in that case value on the date of agreement shall be taken into consideration provided some advance was given otherwise than in cash on or before the date of agreement.

Example

Mr. X sold one house property for Rs 60,00,000 but stamp duty value is Rs 70,00,000, in this case FVC shall be taken to be Rs 70,00,000. In case of dispute matter shall be referred to the Valuation Officer. If value determined by Valuation Officer is Rs 65,00,000, FVC shall be Rs 65,00,000 but if value determined is Rs75,00,000, FVC shall be Rs 70,00,000.

Question 26 Write a note on exemption under section 54.

Answer: Profit on sale of property used for residence Section 54

1. Assessee: The assessee should be individual or a Hindu Undivided Family. (i.e. exemption is not allowed to firm, company, association of person or body of individual etc.)
2. Asset: Capital asset transferred should be buildings or lands appurtenant thereto, being a residential house, the income of which is chargeable under the head "Income from house property".
3. Type of capital gain: Capital gain should be long term.

4. Investment: The assessee has within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, one residential house in India (no exemption for house outside India).
5. Amount of exemption: Exemption shall be allowed to be the extent of investment.
6. Withdrawal of exemption: The house so purchased/constructed must not be transferred within a period of three years otherwise exemption given shall be withdrawn and for this purpose while computing capital gains, its cost of acquisition shall be reduced by the amount of the exemption earlier allowed.
7. Capital gains account Scheme 1988: The amount of capital gain has to be utilised till the last date of furnishing of return of income otherwise amount should be deposited in capital gains account scheme 1988 and proof of such deposit should be enclosed with the return of income. Subsequently the amount should be withdrawn from this scheme and should be utilised for the specified purpose otherwise it will be considered to be long term capital gain of the year in which the prescribed period has expired.
8. Extension of time for acquiring new asset or depositing or investing amount of capital gain section 54H: If the asset has been acquired compulsorily by the Government, period of investment shall be determined from the date of payment instead of the date of compulsory acquisition.
9. If any person has purchased a house and has deposited some amount in capital gain account scheme for construction on the same house, In that case exemption shall be allowed even for the amount so deposited as decided in B.B. Sarkar vs Commissioner Of Income-Tax (CALCUTTA HC)

Question 27: Mr. X purchased one residential house on 01-07-2001 for Rs2,00,000 and it was sold by him on 01-07-2019 for Rs100 lakhs and he purchased one house in 01-07-2020 for Rs20,00,000. He sold this house on 01-07-2021 for Rs22,00,000. Compute his Tax Liability for A.Y. 2020-21 and also capital gains for various years.

Solution:	Rs
Full value of consideration	1,00,00,000.00
Less: Indexed cost of acquisition	

= 2,00,000 / 100 x 289 = Rs5,78,000	(5,78,000.00)
Long Term Capital Gains	94,22,000.00
Less: Exemption u/s 54	(20,00,000.00)
Long Term Capital Gains	74,22,000.00
Income under the head Capital Gain (LTCG)	74,22,000.00
Gross Total Income	74,22,000.00
Less: Deduction u/s 80C to 80U	Nil
Total Income	74,22,000.00

Computation of Tax Liability

{Since normal income is nil, as per section 112 deficiency of Rs2,50,000 shall be allowed from long term capital gain and balance income shall be taxed at flat rate of 20%}

Tax on Rs71,72,000 (Rs74,22,000 – Rs2,50,000) @ 20%	14,34,400.00
Add: Surcharge @ 10%	1,43,440.00
Tax before health & education cess	15,77,840.00
Add: HEC @ 4%	63,113.60
Tax Liability	16,40,953.60
Rounded off u/s 288B	16,40,950.00

Computation of Capital Gain for the assessment year 2022-23

Capital gain on sale of House	
Full value of consideration	22,00,000.00
Less: Cost of acquisition (Rs20,00,000 – Rs20,00,000)	(Nil)
Short Term Capital Gain	22,00,000.00

Question 28 Write a note on exemption under section 54B.

Answer: Capital gain on transfer of land used for agricultural purposes not to be charged in certain cases Section 54B

1. Assessee: The assessee should be individual or a Hindu Undivided Family. (i.e. exemption is not allowed to firm, company, association of person or body of individual etc.)

2. Asset: The asset transferred should be land which, in the two years immediately preceding the date on which the transfer took place, was being used by the assessee or a parent of his for agricultural purposes.
3. Type of capital gain: It may be short term or long term.
4. Investment: The assessee has, within a period of two years after that date, purchased any other land for being used for agricultural purposes.
5. Amount of exemption: Exemption allowed shall be equal to the amount invested.
6. Withdrawal of exemption: The land so purchased must not be transferred within a period of three years otherwise exemption given shall be withdrawn and for this purpose while computing capital gains on the transfer of new asset, its cost of acquisition shall be reduced by the amount of the exemption earlier allowed.
7. Capital gains account Scheme 1988: The amount of capital gain has to be utilised till the last date of furnishing of return of income otherwise amount should be deposited in capital gains account scheme 1988 and proof of such deposit should be enclosed with the return of income and subsequently the amount should be withdrawn from this scheme and should be utilised for the specified purpose otherwise it will be considered to be capital gain of the year in which the prescribed period has expired. Capital gains in case of compulsory acquisition of agricultural land Section 10(37) If any individual or Hindu Undivided Family has agricultural land and this land was being used by him for agricultural purposes for a period of at least 2 years when it was acquired by the government, in this case capital gains shall be exempt from income tax.

Question 29 Write a note on exemption under section 54EC.

Answer: Capital gain not to be charged on investment in certain bonds Section 54EC

1. Assessee: Exemption is allowed to all the assessee.
2. Asset: The assessee can transfer any land or building.
3. Type of capital gain: It should be only long term capital gain.
4. Investment: The assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset.

“Long-term specified asset” means any bond redeemable after five years, issued by,—

- (i) National Highways Authority of India
- (ii) Rural Electrification Corporation Limited
- (iii) Power Finance Corporation Limited.
- (iv) Indian Railway Finance Corporation Limited.

5. Amount of exemption: Maximum exemption allowed in a particular previous year shall be Rs50 lakh.

6. Withdrawal of exemption: If the long term specified asset is transferred or converted into cash within a period of 5 years, exemption earlier allowed shall be considered to be long term capital gains of the year in which such asset was transferred or converted into cash. Converting into cash means taking a loan on the security of the specified asset.

7. Capital gains account scheme 1988: Capital gain account scheme shall not apply.

8. Extension of time for acquiring new asset or depositing or investing amount of capital gain section 54H: If the asset has been acquired compulsorily by the Government, period of investment shall be determined from the date of payment instead of the date of compulsory acquisition.

Question 30: ABC Ltd. is registered under GST Act and has submitted particulars as given below:-

- Purchased Raw Material 'A' Rs1,00,000 + CGST @10% and SGST @10%
- Purchased Raw Material 'B' Rs2,00,000 + IGST @ 20%.
- Purchased plant and machinery Rs20,00,000 + CGST @10% and SGST @10%.

Life of plant and machinery is 5 years. Depreciation is allowed on SLM basis.

- Service taken Rs3,00,000 + CGST @10% and SGST @10%.
- Processing charges 4,00,000
- Profit 5,00,000

All the goods were sold CGST @10% and SGST @10%

Show tax treatment and compute net tax payable.

Solution:	Rs
Raw Material 'A'	
Cost of Raw Material 'A'	1,00,000
Add: CGST @10%	10,000

Add: SGST @10%	10,000
	1,20,000
Input Tax Credit	
CGST	10,000
SGST	10,000
Cost of Raw Material	1,00,000
Raw Material "B'	
Cost of Raw Material 'B'	2,00,000
Add: IGST @ 20%	40,000
	2,40,000
Input Tax Credit	
IGST	40,000
Cost of Raw Material	2,00,000
Plant and Machinery	
Plant and Machinery	20,00,000
Add: CGST @10%	2,00,000
Add: SGST @10%	2,00,000
	24,00,000
Input Tax Credit	
CGST	2,00,000
SGST	2,00,000
Cost of Assets	20,00,000
Services	
Services	3,00,000
Add: CGST @10%	30,000
Add: SGST @10%	30,000
	3,60,000
Input Tax Credit	
CGST	30,000
SGST	30,000
Cost of service	3,00,000

Cost of finished product	
Raw Material A	1,00,000
Raw Material B	2,00,000
Depreciation on capital goods (20% of 20,00,000)	4,00,000
Services	3,00,000
Processing	4,00,000
Profit	5,00,000
Transaction value	19,00,000
Add: CGST @10%	1,90,000
Add: SGST @10%	1,90,000
Computation of Net Tax Payable	
CGST	Rs
Output Tax	1,90,000
Less:	
ITC Raw Material 'B' – IGST	(40,000)
ITC Raw Material 'A' – CGST	(10,000)
ITC Plant & Machinery – CGST	(1,40,000)
Net Tax Payable	Nil
SGST	Rs
Output Tax	1,90,000
Less:	
ITC Raw Material 'A' – SGST	(10,000)
ITC Plant & Machinery – SGST	(1,80,000)
Net Tax Payable	Nil
Excess tax credit - CGST	Rs 90,000
Excess tax credit - SGST	Rs 50,000

Excess tax credit shall be carried forward or refund can be claimed as per section 54.

Question 31:

Case-1: Supply of Goods/services by A of State 1 to B of State 1

	Rs
Value charged for supply of goods/services	20,000

Add: CGST @ 9%	1,800
Add: SGST @ 9%	1,800
Total price charged by A to B for local supply of goods/services	23,600

A is the first stage supplier of goods/services and hence, does not have credit of CGST, SGST or IGST.

Case-2: Supply of Goods/services by B of State 1 to C of State 2 – Value addition 30%

	Rs
Value charged for supply of goods/services (20,000 x 130%)	26,000
Add: IGST @ 18% 4,680	
Total price charged by B to C for inter - State supply of goods/services	30,680
Computation of IGST payable by B to Government	
IGST Payable	4,680
Less: ITC Goods - CGST	(1,800)
Less: ITC Goods - SGST	(1,800)
IGST payable to Central Government	1,080

The IGST charged on C of State 2 for supply of goods/services will be remitted by B of State 1 to the appropriate account of Central Government. State 1 (Exporting State) will transfer SGST credit of Rs 1,800 utilised in the payment of IGST of the central Government.

Case-3: Supply of Goods/services by C of State 2 to D to State 2 – Value addition 30%

	Rs
Value charged for supply of goods/services (26,000 x 130%)	33,800
Add: CGST @ 9%	3,042
Add: SGST @ 9%	3,042
Total price charged by C to D for local supply of goods/services	39,884
Computation of CGST & SGST payable by C to Government	
CGST Payable	3,042
Less: ITC Goods – IGST	(3,042)
CGST payable to Central Government	Nil
SGST Payable	3,042
Less: ITC Goods - IGST	(1,638)

SGST payable to State Government

1,404

Central Government will transfer IGST credit of Rs1,638 utilised in the payment of SGST of State 2(Importing state).

Question 32

Miss Himanshi (68 years) is a resident individual. During the assessment year 2020-21, she has income from Long-term capital gain on transfer of equity shares Rs3,80,000 (Securities transaction has been paid on acquisition and transfer of the said shares) and income from Other sources Rs 2,75,000. Compute her tax liability for Assessment year 2020-21.

Solution:

Solution:

Computation of Total Income	Rs
Long term capital gains u/s 112A	3,80,000
Income from other sources	2,75,000
Gross Total Income	5,55,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	5,55,000
Computation of Tax Liability	
Tax on Loan term capital gains 2,55,000 (3,80,000-1,00,000-25,000) @ 10% u/s 112A	25,500
Tax on normal income Nil (2,75,000-2,75,000)	Nil
Tax before health & education cess	25,500
Add: HEC @ 4%	1,020
Tax Liability	26,520

Note:

1. Rebate u/s 87A shall not be allowed since income is more than Rs5,00,000.
2. Basic exemption allowed is Rs3,00,000 as Miss Himanshi is 68 years old.

Question 33

Mr.RajatSaini, aged 32 years, furnishes the following details of his total income for the A.Y. 2020-21:

Income under the head Salary	27,88,000
Income under the head House Property	15,80,000
Income under the head Other sources	7,22,000

He has not claimed any deduction under chapter VIA. You are required to compute tax liability of Mr.RajatSaini as per the provisions of Income Tax Act, 1961.

Solution:

Computation of Total Income	Rs
Income under the head Salary	27,88,000
Income under the head House Property	15,80,000
Income under the head Other sources	7,22,000
Gross Total Income	50,90,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	50,90,000

Computation of Tax Liability	
Total Income	50,90,000
Tax on Rs50,90,000 at slab rate	13,39,500
Add: Surcharge @ 10%	1,33,950
Tax before marginal relief	14,73,450
Less: Marginal Relief	(70,950)

Working Note:

Tax + surcharge on income of Rs50,90,000	14,73,450
Tax on income of Rs50,00,000	(13,12,500)
Increase in tax	1,60,950
Increase in income	90,000
Marginal Relief (1,60,950 – 90,000)	70,950
Tax after marginal relief	14,02,500
Add: HEC @ 4%	56,100
Tax Liability	14,58,600

Question 34

Discuss the taxability of agricultural income under the Income Tax Act, 1961. How will income be computed where an individual derives agricultural and non-agricultural income?

Answer: Under section 10(1), any agricultural income in India is fully exempt from income tax but if the agricultural income is from outside India, it is chargeable to tax.

Indirect taxing of agricultural income or partial integration of agricultural income (Under the constitution, the power to levy a tax on agricultural income vests in the states. However, parliament has also levied a tax on such income. Explain how this has been achieved?) If any person has agricultural income as well as non-agricultural income, his tax liability shall be computed in the manner given below:

1. Compute tax on the total of agricultural income and non- agricultural income considering it to be total income of the assessee.
2. Compute tax on exemption limit (Rs2,50,000 / 3,00,000 / 5,00,000) and agricultural income considering it to be total income.
3. Deduct tax computed under Step 2 from Step 1 and apply health & education cess.
4. Long term capital gain, casual income and short term capital gain u/s 111A shall not be taken into consideration for the purpose of partial integration
5. If Agricultural income is upto Rs5,000, or non-agricultural income is upto the limit not chargeable to tax (Rs2,50,000/3,00,000/5,00,000), partial integration is not applicable.
6. Partial integration is not applicable in case of a partnership firm or a company.

Question 35: Explain taxability of gift.

Answer:

Gift received by any person shall be taxable and the gifts shall be divided into 3 parts.

1. Gift of sum of money
2. Gift of any property other than immovable property
3. Gift of immovable property

Taxability is as given below:

1. Gift of sum of money

If any person has received any sum of money from one or more persons without consideration and the aggregate value of all such gifts received during the year exceeds fifty thousand rupees, the whole of the aggregate value of such sum shall be taxable under the head Other Sources but if the aggregate value is upto Rs50,000, entire amount shall be exempt from income tax. E.g. Mr. X has received 3 gifts of Rs15,000 each from his 3 friends, entire amount of Rs45,000 is exempt from income tax but if he has received 3 gifts of Rs20,000 each, entire amount of Rs60,000 shall be taxable. Further it will be considered to be normal income.

2. Gift of any property other than immovable property

If any person has received gift of any property other than immovable property without consideration and the aggregate fair market value of such properties received during a particular year exceeds Rs50,000, it will be taxable under the head Other Sources but if aggregate value of all such properties is upto Rs50,000, it will be exempt from income tax.

If the consideration is less than the aggregate fair market value of such properties by an amount exceeding Rs50,000, aggregate fair market value as exceeds such consideration shall be taxable under the head Other Sources. Further it will be considered to be normal income.

3. Gift of immovable property

If any person has received any immovable property without consideration, it will be exempt if stamp duty value is upto Rs50,000 but if the stamp duty value exceeds fifty thousand rupees, entire stamp duty value shall be taxable under the head Other Sources. Value of individual immovable property shall be taken into consideration instead of aggregate value of all such properties.

(If any person is selling immovable property, its Conveyance Deed shall be prepared in the office of Registrar and some tax has to be paid to the State Government for transferring the property and it is called stamp duty and the value on which such duty is charged is called stamp duty value (also called circle rate). A person may not disclose the right value hence the value is determined by State Government.)

If immovable property has been received for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees and also stamp

duty value is exceeding by more than 5% of the actual consideration, in such cases taxable amount shall be the stamp duty value of such property as exceeds such consideration.

Example

(i) Mr. X purchased immovable property for Rs3,00,000 but stamp duty value is Rs5,00,000, taxable amount shall be Rs2,00,000

(ii) Mr. X has sold immovable property to Mr. Y for Rs100,00,000 but stamp duty value is Rs105,00,000, in this taxable amount shall be Nil because stamp duty value is not exceeding the actual consideration by more than 5% but if stamp duty value is Rs 106,00,000, taxable amount shall be Rs 6,00,000 because stamp duty is exceeding by more than 5% of actual consideration.

If the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same and in such cases, the stamp duty value on the date of the agreement shall be taken into consideration but part of consideration should have been paid by account payee cheque, an account payee bank draft or by use of electronic clearing system through a bank account on or before the date of agreement. E.g. Mr. X has entered into agreement with a builder ABC Limited on 01.07.2015 for purchase of one building for Rs20,00,000 but stamp duty value was Rs27,00,000 and advance of Rs3,00,000 was given by cheque but property was transferred in his name on 01.07.2019 and on that date stamp duty value was Rs35,00,000, in this case amount of gift shall be Rs7,00,000 (27,00,000 – 20,00,000). (Difference amount is more than Rs50,000 and more than 5% of the consideration). Similarly, it will also be considered to be normal income.

The gift is exempt in the following cases

(a) If any individual has received any gift from any of his relative, it will be exempt from income tax. The term relative shall include

- (a) spouse of the individual;
- (b) brother or sister of the individual;
- (c) brother or sister of the spouse of the individual;
- (d) brother or sister of either of the parents of the individual;
- (e) any lineal ascendant or descendant of the individual; (ascendant means mother/ father/ grand mother / grand father and so on: Descendant means son / daughter / grand son / grand daughter etc.

(f) any lineal ascendant or descendant of the spouse of the individual;

(g) spouse of the person referred to in items (b) to (f)

(b) If any individual has received any gift from any person of any amount on the occasion of his/her marriage. If gift is received by the parents of such individual, in that case it will be taxable. If any individual has received gift on the occasion of anniversary, it will be taxable.

(c) If any person has received any gift under a will/ inheritance, it will be exempt from income tax.

(d) in contemplation of death of the payer or donor (Contemplation of Death means the apprehension of an individual that his life will end in the immediate future by a particular illness etc.)

(e) from any local authority or charitable hospital or charitable educational institution or charitable trust or other similar organisation.

Question 36: Mr. X purchased agricultural land in the urban area on 01.04.2001 for Rs2,00,000. It was being used for agricultural purposes since then and was sold by the assessee on 01.07.2019 for Rs123,00,000. He made following investments:

(i) Bonds of National Bank for Agriculture and Rural Development on 01.06.2019 for Rs1,50,000 which are redeemable after 5 years.

(ii) He purchased agricultural land on 01.09.2019 for Rs2,00,000.

(iii) He has invested Rs75,000 on 01.10.2019 in the bonds of National Highway Authority of India redeemable after five years.

He sold the bonds of National Highway Authority of India on 15.04.2020 for Rs3,00,000.

Compute his capital gains for various years and also tax liability for assessment year 2020-21.

Solution:

Rs

Previous year 2019-20

Computation of Capital gains

Full value of consideration 123,00,000.00

Less: Indexed cost of acquisition

= $2,00,000 / 100 \times 289 = \text{Rs}5,78,000$ (5,78,000.00)

Long Term Capital Gain 117,22,000.00

Less: Exemption u/s 54B	(2,00,000.00)
Less: Exemption u/s 54EC	(75,000.00)
Long Term Capital Gain	114,47,000.00
Income under the head Capital Gain (LTCG)	114,47,000.00
Gross Total Income	114,47,000.00
Less: Deduction u/s 80C to 80U	Nil
Total Income	114,47,000.00

Computation of Tax Liability

{Since normal income is nil, as per section 112 deficiency of Rs2,50,000 shall be allowed from long term capital gain and balance income shall be taxed at flat rate of 20%}

Tax on Rs111,97,000 (Rs114,47,000 – Rs2,50,000) @ 20%	22,39,400.00
Tax before Surcharge	22,39,400.00
Add: Surcharge @ 15%	3,35,910.00
Tax before health & education cess	25,75,310.00
Add: HEC @ 4%	1,03,012.40
Tax Liability	26,78,322.40
Rounded off u/s 288B	26,78,320.00
Previous year 2020-21	
Full value of consideration	3,00,000.00
Less: Cost of acquisition	(75,000.00)
Short Term Capital Gain	2,25,000.00
Long Term Capital Gain (withdrawal of exemption)	75,000.00

Question 37: Mr. X sold gold for Rs5,50,000 on 01.10.2019 which had been acquired by him in October, 2004 for Rs55,000. He wants to utilize the said amount of sale consideration for purchase or construction of a new residential house. He already owns one residential house at the time of sale of the gold on 01.10.2019. He has deposited Rs4,00,000 under the capital gains deposit scheme with a specified bank on 30.04.2020.

Ascertain the capital gains taxable in Mr. X's hands for assessment year 2020-21 and advise him as to what further action he has to take to avail the exemption.

Solution:	Rs
Computation of Capital Gains	
Full value of consideration	5,50,000.00
Less: Indexed cost of acquisition	
= $55,000 / 113 \times 289 = \text{Rs}1,40,663.72$	(1,40,663.72)
Long Term Capital Gain	4,09,336.28
Less: Exemption u/s 54F	
= $4,09,336.28 / 5,50,000 \times 4,00,000 = \text{Rs}2,97,699.11$	(2,97,699.11)
Long Term Capital Gain	1,11,637.16

X has to fulfill the following conditions so as to avail exemption of section 54F

He should acquire a residential house property by withdrawing from the deposit account. The new house can be purchased at any time upto 30.09.2021 or it can be constructed upto 30.09.2022. If the amount utilised is lower than Rs4,00,000 then the following amount will become chargeable to tax as long term capital gain for the assessment year 2023-24 = $[\text{Rs}4,00,000 - \text{Amount utilised}] / 5,50,000 \times 4,09,336.28$

- He should not transfer the new house within 3 years
- He should not purchase another residential house upto 30.09.2021 and he should not complete construction of another residential house property upto 30.09.2022.

Question 38 Write a note on reference to Valuation Officer.

Answer: Reference to Valuation Officer Section 55A Rule 111AA

If the Assessing Officer is of the view that the fair market value of a capital asset computed by the assessee is not correct, Assessing Officer may refer the valuation to the Valuation Officer in the following circumstances:

(i) If the value in the opinion of the Assessing Officer is exceeding by more than 15% of the value computed by the assessee or it is exceeding by more than Rs25,000 of the value computed by the assessee.

Example

Mr. X has converted one capital asset into stock in trade and its market value computed by the assessee is Rs1,00,000 but in the opinion of the Assessing Officer, value should be Rs1,10,000, in this case valuation can not be referred to the Valuation Officer. But if the

value in the opinion of the Assessing Officer is Rs1,20,000, in this case matter can be referred to the Valuation Officer.

Similarly, if the value computed by the assessee is Rs2,00,000 but in the opinion of the Assessing Officer value should be Rs2,27,000, matter can be referred to the Valuation Officer.

(ii) in a case where the value of the asset has been estimated by a registered valuer, if the Assessing Officer is of opinion that the value so claimed is at variance with its fair market value.

“Valuation Officer” means an expert employed by Income Tax Department to determine the value of various assets.

Question 39: What types of transactions are included in the term ‘transfer’ in relation to a capital asset?

Answer: Meaning of ‘transfer’ in relation to a capital asset Transfer Section 2(47) Capital gains shall be computed in case of transfer of capital asset and term transfer shall include

1. Sale of the asset
2. Compulsory acquisition of land or building
3. Conversion of capital asset into stock-in trade
4. The relinquishment of the asset e.g. Mr. X has received the right to purchase the right shares but he has relinquished his right to purchase the share in favour of some other person by charging Rs1,00,000, in this case, he has capital gain of Rs1,00,000.
5. The extinguishment of any rights/asset e.g. Mr. X was holding shares in ABC Ltd. The company has gone into liquidation and Mr. X has received Rs2,00,000 being the full value of consideration and the cost of acquisition was Rs1,50,000, in this case there is a capital gain of Rs50,000.
6. The maturity or redemption of a zero coupon bond.
7. If any person has given possession of immovable property and has taken full payment but ownership in documents has not yet been transferred. It will also be considered to be transfer and capital gains shall be computed e.g. Mr. X enters into an agreement for the sale of his house. The purchaser gives the entire sale consideration to Mr. X. Mr. X hands over

complete rights of possession to the purchaser since he has realised the entire sales consideration. The above transaction is considered as transfer.

Question 40.

Mr. X acquired a residential house in January, 1999 for Rs2,00,000 and its market value on 01.04.2001 is Rs1,80,000 and he constructed its 1st floor in September' 2007 by incurring Rs3,00,000 and constructed second floor in October' 2011 by incurring Rs4,00,000 and constructed its third floor in February' 2013 by incurring Rs5,00,000 and sold the house on 01.01.2020 for Rs100,00,000 and paid brokerage @ 1% and he invested Rs20,000 in equity shares of infrastructure development company notified under section 80C. Compute his tax liability for assessment year 2020-21.

Solution: Rs

Computation of income under the head Capital Gain

Full value of consideration	100,00,000.00
Less: Indexed cost of acquisition	
= 2,00,000 / Index of 01-02 x Index of 19-20	
= 2,00,000 / 100 x 289 = Rs5,78,000	(5,78,000.00)
Less: Indexed cost of improvement	
Cost of constructing first floor	
= 3,00,000 / Index of 07-08 x Index of 19-20	
= 3,00,000 / 129 x 289 = Rs6,72,093.02	(6,72,093.02)
Less: Indexed cost of improvement	
Cost of constructing second floor	
= 4,00,000 / Index of 11-12 x Index of 19-20	
= 4,00,000 / 184 x 289 = Rs6,28,260.87	(6,28,260.87)
Less: Indexed cost of improvement	
Cost of constructing third floor	
= 5,00,000 / Index of 12-13 x Index of 19-20	
= 5,00,000 / 200 x 289 = Rs7,22,500	(7,22,500.00)
Less: Brokerage @ 1%	
= 1% of Rs100,00,000 = Rs1,00,000	(1,00,000.00)

Long Term Capital Gain	72,99,146.11
Income under the head Capital Gain (LTCG)	72,99,146.11
Gross Total Income	72,99,146.11
Less: Deduction u/s 80C to 80U	Nil
Total Income	72,99,146.11
Rounded off u/s 288A	72,99,150.00
Computation of Tax Liability	
Tax on Rs 70,49,150 (Rs72,99,150 – Rs2,50,000) @ 20%	14,09,830.00
Add: Surcharge @10%	1,40,983.00
Tax before health & education cess	15,50,813.00
Add: HEC @ 4%	62,032.52
Tax Liability	16,12,845.52
Rounded off u/s 288B	16,12,850.00

Question 41

Mr. Ajay, a registered supplier of goods, pays GST under regular scheme and provides the following information for the month of August 2019:

Particulars	(Rs)
(i) Inter-state taxable supply of goods	10,00,000
(ii) Intra state taxable supply of goods	2,00,000
(iii) Intra state purchase of taxable goods	5,00,000

He has the following Input tax credit at the beginning of August 2019:

Nature	ITC Amount in (Rs)
CGST	20,000
SGST	30,000
IGST	25,000

Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively.

Both inward and outward supplies are exclusive of taxes wherever applicable.

All the conditions necessary for availing the ITC have been fulfilled.

Compute the net GST payable by Mr. Ajay for the month of August 2019.

Solution: Computation of net GST payable by Mr. Ajay for the month of August 2019

	Rs
Purchase price	5,00,000
Add: CGST @ 9%	45,000
Add: SGST @ 9%	45,000
Total	5,90,000

Input tax credit of CGST & SGST is allowed.

Output Tax

Inter-state taxable supply of goods

Sale Value	10,00,000
Add: IGST @ 18%	1,80,000
Total	11,80,000

Intra-state taxable supply of goods

Sale Value	2,00,000
Add: CGST @ 9%	18,000
Add: SGST @ 9%	18,000
Total	2,36,000

Computation of Net Tax

IGST Rs

Output tax	1,80,000
Less: ITC b/f – IGST	(25,000)
Less: ITC – CGST	(47,000)
Less: ITC – SGST	(57,000)
Net Tax Payable	51,000

CGST Rs

Output tax	18,000
Less: ITC Goods – CGST	(18,000)
Net Tax Payable	Nil

SGST Rs

Output tax	18,000
Less: ITC Goods – SGST	(18,000)
Net Tax Payable	Nil

Question 42

Mr.Nimit, a supplier of goods, pays GST under regular scheme. He is not eligible for any threshold exemption. He has made the following outward taxable supplies in the month of August, 2019:-

Intra state supplies of goods Rs6,00,000

Inter state supplies of goods Rs2,00,000

He has also furnished following information in respect of purchases made by him from registered dealers during August, 2019:-

Intra state purchase of goods Rs4,00,000

Inter state purchase of goods Rs50,000

Balance of ITC available at the beginning of the August 2019:-

CGST Rs15,000

SGST Rs35,000

IGST Rs20,000

Note:

(i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively, on both inward and outward supplies.

(ii) Both inward and outward supplies given above are exclusive of taxes, wherever applicable.

(iii) All the conditions necessary for availing the ITC have been fulfilled.

Compute the net GST payable by Mr.Nimit for the month of August, 2019.

Solution: Computation of net GST payable by Mr.Nimit for the month of August 2019

	Rs
Purchase price	4,00,000
Add: CGST @ 9%	36,000
Add: SGST @ 9%	36,000
Total	4,72,000
Input tax credit of CGST & SGST is allowed.	
Purchase price	50,000

Add: IGST @ 18% 9,000

Total 59,000

Input tax credit of IGST is allowed.

Output Tax

Inter-state taxable supply of goods

Sale Value 2,00,000

Add: IGST @ 18% 36,000

Total 2,36,000

Intra-state taxable supply of goods

Sale Value 6,00,000

Add: CGST @ 9% 54,000

Add: SGST @ 9% 54,000

Total 7,08,000

Computation of Net Tax

IGST Rs

Output tax 36,000

Less: ITC b/f – IGST (20,000)

Less: ITC – IGST (9,000)

Less: ITC – SGST (7,000)

Net Tax Payable Nil

CGST Rs

Output tax 54,000

Less: ITC Goods – CGST (36,000)

Less: ITC b/f – CGST (15,000)

Net Tax Payable 3,000

SGST Rs

Output tax 54,000

Less: ITC Goods – SGST (36,000)

Less: ITC b/f – SGST (18,000)

Net Tax Payable Nil

Excess credit of SGST shall be carried forward $(36,000 + 35,000 - 54,000 - 7,000) = 10,000$. Credit of SGST

shall not be allowed to be adjusted from CGST.

Question 43: Explain Eligibility and conditions for taking Tax Credit under GST.

Answer: Eligibility and condition for taking input tax credit. Section 16/ Rule 36 & 37

As per section 16(1), Every registered person shall be entitled to take credit of Input tax charged on any supply of goods or services which are used or intended to be used in the course of business and the said amount shall be credited to electronic credit ledger.

As per section 16(2), A registered person shall be allowed to take input tax credit if he has complied with the following conditions

(a) Registered person is in possession of a tax invoice or debit note or a bill of entry (in case of import) or other such documents.

As per section 31(3)(f), A registered person who is liable to pay tax under reverse charge shall issue an invoice in respect of supply received by him from the supplier who is not registered. If supplier is registered, invoice should be issued by the supplier. Also ITC shall be allowed only if tax has been paid to the Government for such supply by the recipient under reverse charge.

(b) Registered person has received the goods / services. If goods have been received by an agent of such person or by any other person on behalf of the registered person, it will also be considered to be receipt of goods. If the goods are received in installments, tax credit shall be allowed only when last installment has been received. Similarly if services have been provided to any person on the direction of recipient, it will be considered that recipient has received the services

(c) the tax charged in respect of such supply has been actually paid to the Government by the supplier. but in case of reverse charge, it should be paid by the recipient.

(d) registered person has furnished GSTR-3B.

(e) If registered person has not made the payment to the supplier, even in that case tax credit shall be allowed but such registered person should make payment for supply plus tax within 180 days from the date of issue of invoice otherwise amount of ITC is to be paid along with Interest. However this condition is not applicable in case of reverse charge. As per section 50 interest shall be paid @ 18% per annum from the date of availing credit till the date when the amount is added to output tax liability. If payment is made subsequently

he can again take tax credit. Further restriction of time limit of section 16(4), shall not be applicable.

Example: ABC limited purchase goods from XYZ limited for Rs 10,00,000 plus GST Rs 2,00,000 on 18th July 2019 and received invoice on 18th July 2019 and has taken credit on 20th August 2019 at the time of payment of GST but ABC limited has not made payment to XYZ limited within 180 days from the date of invoice i.e. 18th July 2019. In this case 180 days shall expire on 13-01-2020 (July -14, Aug - 31, Sept – 30, Oct-31, Nov- 30, Dec - 31, Jan -13) i.e. in the month of January 2020. ABC limited should report it in the month of Feb 2020 and should pay Rs 2,00,000 on 20th March 2020 alongwith Interest on Rs 2,00,000 @ 18% per annum for 7 months i.e. from 20th August to 20th March. As per section 16(3), While claiming depreciation on capital assets, such ITC shall not form part of actual cost i.e. if registered person has taken tax credit, input tax shall not be added to the cost of capital assets, eg. ABC limited purchased one plant for Rs 30,00,000 and paid GST of Rs 6,00,000 and has taken ITC, in this case depreciation shall be allowed on Rs 30,00,000.

Time limit for availing ITC

As per section 16(4), A registered person shall not be entitled to take input tax credit

- after the due date of furnishing of the return under section 39 (GSTR-3) for the month of September following the end of financial year (20TH October) to which such invoice pertains or
- furnishing of the relevant annual return whichever is earlier.

Example: ABC limited has received invoice dated 10th December, 2019, In this case last date for taking ITC shall be 20th October 2020 but if annual return has been filed on 31st July 2020, last date shall be 31st July 2020.

If any debit note has been issued in connection with any invoice, date of invoice shall be taken into consideration for the purpose of determining the time limit and not the date of debit note, eg. Invoice is issued on 10/01/2020 and debit note is issued on 20/04/2020 in this case ITC can be taken maximum upto 20/10/2020 or the date of filing annual return whichever is earlier.

Example 1

A is a trader who places an order on B for a consignment of soda. A receives a buying order from C for the same quantity of soda. A instructs B to deliver the goods to C, and in turn he raises an invoice on C. Though the goods are not physically received at the premises of A, in this case it will be deemed to be a delivery to Mr. A and Mr. A is entitled to ITC on the consignment.

Example 2

XYZ makes an advance payment in August and orders 10 quintals of a particular chemical which is in short supply. The supplier of the chemical raises a bill for the entire amount in August and collects GST from XYZ on the advance paid. The chemical is delivered in lots over a period of three months and the supply is completed in November. Though XYZ paid some tax in advance as early as August, it can take the ITC only on receipt of last instalment of the chemical in the month of November.

Example 3

Due to a quality dispute, P Ltd withheld payment on a machine supplied by a vendor till it could be rectified.

Over 180 days went by in this dispute. The credit taken by P on the invoice got added to the output tax liability of P and thus, it had to pay back the credit. Only after the vendor rectified the machine and P released the payment, P can take the credit again.

Example 4

Hercules Machinery delivered a machine to XYZ in January 2020 under Invoice no. 49 dated 28th January, 2020 for Rs 4,15,000 plus GST, and undertook trial runs and calibration of the machine as per the requirements of XYZ. The amount chargeable for the post-delivery activities was covered in a debit note raised in April 2020 for Rs50,000 plus GST.

Though the debit note was received in the next financial year, it relates to an invoice received in the financial year ending March 2020. Therefore, the time limit for XYZ for taking ITC available on Rs 50,000 as well as on Rs 4,15,000 is 20th October, 2020; earlier of the date of filing the annual return for 2019-20 or the return for September 2020.

Question 44: Explain tax credits in case of Inputs/Capital Goods are used for taxable as well as exempted supply.

Answer: Apportionment of credit Section 17 (1)/17 (2)/ 17 (3) / Rule 42/43. 17 (1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

17 (2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies including zero-rated supplies.

17 (3) The value of exempt supply shall be computed as per rule 42 and 43. Exempt supplies shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and building. If Goods/Services have been supplied by a person and GST is to be paid by the recipient under reverse charge, it will be considered to be exempt supply for the supplier and tax credit is not allowed, eg. If goods transport agency has transported goods for a company and reverse charge is applicable, it will be considered to be exempt supply for goods transport agency.

In case of sale of land or building, no GST is payable rather stamp duty is payable, hence tax credit of GST on Inputs/ Input services etc. is not allowed.

In case of sale of shares or units of mutual funds, no GST is payable rather securities transaction tax is payable, hence tax credit of GST on Inputs/ Input services etc. is not allowed.

Where the goods / services are used by the registered person for taxable supplies as well as exempt supplies, the registered person shall be allowed to take ITC on such inputs/ capital goods but subsequently ITC relating to exempt goods has to be reversed on the basis of turnover. If goods are used for non-business purpose /personal purpose, ITC shall be reversed for such turnover also. If the goods are zero rated i.e. goods are being supplied to SEZ unit/ SEZ developer or it is being exported, ITC shall be allowed and also refund of ITC shall be allowed.

‘Explanation.—For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.’

Example 1

Out of 10 containers purchased by a registered person engaged in taxable supply of goods, 5 are used for storing non-taxable goods (exempt supply) such as petroleum (petroleum is out of GST gamut till the time the GST Council takes a decision in this regard). ITC on 5 containers used for non-taxable goods cannot be availed.

Example 2

A registered person (partnership firm) purchases 5 laptops but one of the laptop is being used by the son of one of the partners of the firm. ITC will not be available on such laptop as it is used for personal purposes.

Apportionment of ITC of Inputs Rule 42

As per Rule 42, In case of Inputs, tax credit shall be allowed but subsequently proportionate amount relating to exempt supplies shall be reversed on the basis of turnover, eg. ABC limited is manufacturing two type of shoes one low cost exempt and other high cost taxable and company purchased leather and other material to be used in both type of shoes and paid Rs 5,00,000 plus CGST @ 10% plus SGST @ 10% and company has taken ITC, In this case, if total turnover during the month is Rs12,00,000 out of which exempt is Rs4,00,000 and taxable is Rs 8,00,000, in this case tax credit to be reversed shall be

CGST = $50,000 / 12,00,000 \times 4,00,000 = \text{Rs}16,666.67$ rounded off u/s 170 Rs16,667

SGST = $50,000 / 12,00,000 \times 4,00,000 = \text{Rs}16,666.67$ rounded off u/s 170 Rs16,667

Question 45 . A garment factory receives a Government order for making uniforms for a commando unit. This supply is exempt from tax under a special notification. The fabric is separately procured for the supply, but thread and lining material for the collars are the ones which are used for other taxable products of the factory. The turnover of the other products of the factory and exempted uniforms in July is Rs4 crore and Rs1 crore respectively, the ITC on thread and lining material procured in July is Rs5000 and Rs15000 respectively. Calculate the eligible ITC on thread and lining material.

Answer: Thread and lining material are inputs which are used for making taxable as well as exempt supplies. Therefore, credit on such items will be apportioned and credit attributable to exempt supplies will be added to the output tax liability in terms of rule 42 of the CGST Rules, 2017.

Credit attributable to exempt supplies = Common credit x (Exempt turnover/ Total turnover)

Common credit = Rs15,000 + Rs5,000 = Rs20,000

Exempt turnover = Rs1 crore

Total turnover = Rs5 crore [Rs1 crore + Rs4 crore]

Credit attributable to exempt supplies = (Rs1 crore /Rs5 crore) x Rs20,000 = Rs4,000.

Ineligible credit of Rs4,000 will be added to the output tax liability for the month of July.

Apportionment of ITC of Capital Goods Rule 43

As per Rule 43, In case of capital goods also tax credit shall be availed in the beginning but proportionate amount of ITC shall be reversed every month on the basis of turnover. Life of every capital goods shall be taken to be 60 month.

Example 1

ABC Limited purchased one plant and machinery Rs20,00,000 and paid input tax Rs3,00,000 and tax credit has been taken and it is being used for taxable as well as exempt goods. In this case, if monthly turnover of taxable goods is Rs6,00,000 and turnover of exempt goods is Rs2,00,000 , tax credit to be reversed every month shall be $3,00,000/60 \times 2,00,000/8,00,000 = Rs1,250$

Example 2

ABC Limited purchased one plant and machinery Rs20,00,000 and paid input tax Rs3,00,000 and it is being used for exempted goods but after 11 months and 10 days , it is used for exempted as well as taxable goods. In this case, if a turnover of a particular month is: taxable Rs4,00,000 and exempt Rs2,00,000, Credit amount to be reversed every month shall be The company shall be allowed to avail ITC after reducing input tax @ 5% per quarter or part there of Amount of input tax 3,00,000

Less: $3,00,000 \times (5\% \times 4) = (60,000)$

2,40,000

Amount to be reversed every month

Remaining useful life = 48 months and 20 days

Ignore 20 days i.e. 48 months

$2,40,000 /48 \times 2,00,000/6,00,000 = Rs1,666.67$

Question 46: Explain ITC in case of a banking Company Section

Answer: ITC in case of a banking Company Section 17 (4)/ Rule 38

A banking company or a financial institution, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option either to take proportionate ITC or avail every month, an amount equal to fifty per cent of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse. Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty per cent shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

Question 47.

Following gifts are received by Mrs. X, who is carrying on jewellery business, during the previous year 2019-20:

- (i) On the occasion of her marriage on 07.09.2019, she has received Rs1,20,000 as gift out of which Rs85,000 are from relatives and balance from friends.
- (ii) On 03.10.2019, she has received cash gift of Rs2,50,000 from cousin of her mother.
- (iii) A mobile phone worth Rs15,000 is gifted by her friend on 21.09.2019.
- (iv) She gets a cash gift of Rs2,40,000 from the elder brother of her husband's grandfather on 10.12.2019.
- (v) She has received a cash gift of Rs6,00,000 from her friend on 27.01.2020.
- (vi) She has received bullion, the fair market value of which was Rs4,75,000 on her birthday, 19.01.2020.

Mrs. X purchased from her friend, who is also carrying jewellery business, jewellery at Rs 2,50,000 on 25.01.2020, the fair market value of which was Rs5,00,000 on that date.

Compute total income and tax liability of Mrs. X for A.Y.2020-21.

Solution:

Computation of Total Income of Mrs. X for the A.Y. 2020-21 Rs

Gift received on the occasion of marriage are exempt --

Cash gift received from cousin of Mrs. X's mother is taxable under section 56(2)(x) 2,50,000 (Cousin of Mrs. X's mother is not a relative)	
Mobile phone gifted by her friend is not taxable since it is not included in the definition of "property" under section 56(2)(x) --	
Cash gift received from elder brother of husband's grandfather is taxable (Brother of husband's grandfather is not a relative)	2,40,000
Cash gift from friend is taxable	6,00,000
Since bullion is included in the definition of property, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds Rs50,000	4,75,000
Difference of Rs2.5 lakh in the value of jewellery purchased from her friend, is not taxable as it represents the stock-in-trade of Mrs. X. Since Mrs. X is carrying jewellery business and it has been mentioned that the jewellery were subsequently sold in the course of her business, such jewellery represent the stock-in-trade of Mrs. X.	Nil
Income under the head Other Sources	15,65,000
Gross Total Income	15,65,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	15,65,000
Computation of Tax Liability	
Tax on Rs 15,65,000 at slab rate	2,82,000
Add: HEC @ 4%	11,280
Tax Liability	2,93,280

Question 48.

Mr. X submits the particulars for the previous year 2019-20 as given below:

1. He has received a gift of Rs27,000 from one of his friend on 01.09.2019.
2. He has received a gift of Rs11,000 on 01.10.2019 from his wife Mrs. X.
3. He has received a gift of Rs29,000 from his step daughter on 01.01.2020.
4. He has received a gift of Rs27,000 from grand mother of Mrs. X on 07.01.2020.
5. He has received a gift of Rs20,000 in kind from his employer on 01.03.2020.
6. He has received gold as gift from his friend on 01.12.2019 with value Rs2,00,000.
7. He has received Rs27,000 as gift from his maternal aunt (mother's sister) on 10.12.2019.

8. He has received dividend of Rs2,00,000 from a domestic company on 31.03.2020.

9. He has received two gifts of Rs30,000 each from his neighbours on 01.06.2019.

Compute his tax liability for assessment year 2020-21.

Solution:Rs

Computation of income under the head Salary

Gift in kind from his employer (20,000 – 5,000)	15,000.00
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Income under the head Salary	15,000.00
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Computation of income under the head Other Sources

Gift received from friend	27,000.00
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Gifts received from neighbours	60,000.00
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Gift received from friend in kind	2,00,000.00
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Income under the head Other Sources	2,87,000.00
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Gross Total Income	3,02,000.00
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Less: Deduction u/s 80C to 80U	Nil
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Total Income	3,02,000.00
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Computation of Tax Liability

Tax on Rs3,02,000 at slab rate	2,600.00
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Less: Rebate u/s 87A	(2,600.00)
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Tax before health & education cess	Nil
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Add: HEC @ 4%	Nil
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Tax Liability	Nil
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Rounded off u/s 288B	Nil
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Note: Dividend received by Mr. X from domestic company is exempt u/s 10(34).

Question 49

Discuss the taxability of the following receipts in the hands of Mr. Sanjay Kamboj under the Income Tax Act, 1961 for A.Y.2020-21:

(i) Rs51,000 received from his sister living in US on 1-6-2019.

(ii) Received a car from his friend on payment of Rs2,50,000 the FMV of which was Rs5,50,000. Provisions of taxability or Non-taxability must be discussed.

Answer:

(i) As per section 56(2), Gift received from relative is not taxable. In the given case, Sister is covered under the definition of relative and Gift received from her is not taxable.

(ii) As per section 56(2), Gift in Kind exceeding Rs50,000 received from non - relative is taxable but in the given case Car is not covered under the definition of Gift in Kind hence Car received from non-relative is not taxable.

Question 50

Mrs. X has received the following gifts during previous year 2019-20.

(i) On the occasion of her marriage on 14.08.2019, she has received Rs90,000 as gift out of which Rs70,000 are from relatives and balance from friends.

(ii) On 12.09.2019, she has received gift of Rs18,000 from cousin of her mother.

(iii) A cell phone of Rs21,000 is gifted by her employer on 15.08.2019.

(iv) She gets a gift of Rs25,000 from the elder brother of her husband's grandfather on 25.10.2019.

(v) She has received a gift of Rs2,000 from her friend on 14.04.2019.

(vi) She has won Rs4 lakh from a game show on electronic media.

Compute her tax liability for assessment year 2020-21.

Answer:

Computation of taxable income of Mrs. X from gifts for A.Y. 2020-21

Particulars Taxable amount Reason for taxability or Rs otherwise of each gift

- Relatives and friends Nil Gifts received on the occasion of marriage are not taxable.
- Cousin of Mrs. X's mother 18,000 Cousin of Mrs. X's mother is not a relative. Hence, the gift is taxable.
- Elder brother of husband's grandfather 25,000 Brother of husband's grandfather is not a relative. Hence, the gift is taxable.
- Friend 2,000 Gift from friend is taxable.

Aggregate value of gifts 45,000

Since the aggregate value of gifts received by Mrs. X during the previous year 2019-20 does not exceed Rs50,000, the same is not chargeable to tax under section 56(2)(x) of the Income-Tax Act, 1961.

Gift received from the employer in kind upto Rs5,000 is exempt from income tax but excess over it is taxable hence in this case taxable amount of gift shall be Rs16,000 (21,000 – 5,000) and it will be taxable under the head Salary.

Income under the head Salary	16,000
Income under the head Other Sources	4,00,000
Gross Total Income	4,16,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	4,16,000
Computation of Tax Liability	
Tax on Rs16,000 at slab rate	Nil
Tax on Rs4,00,000 @ 30%	1,20,000
Less: Rebate u/s 87A	(12,500)
Tax before HEC	1,07,500
Add: HEC @ 4%	4,300
Tax Liability	1,11,800

Question 51: Write a note on payment of interest for late payment of income tax

Answer: As per section 234C, if any person has defaulted in payment of advance tax, interest shall be charged @ 1% per month for a period of 3 months on the amount of default in each installment, but for the last installment, interest shall be charged only for one month. Income tax paid upto 31st March of previous year is also called advance tax. As per section 234B, if advance tax paid is less than 90% of actual tax liability, assessee shall be required to pay interest @ 1% per month or part of a month from 1st April of assessment year upto the date of payment. If advance tax paid is 90% or more of actual tax liability, no interest is payable. As per section 234A, if any person has paid income tax after expiry of the last date of filing of return of income, interest shall be payable @ 1% p.m. or part of the month for the period subsequent to the last date of filing of return of income.

Question 52: ABC Ltd. has tax liability of Rs7,00,000 for the previous year 2019-20 and the company has not paid any advance tax and entire tax amount was paid by the company on 31.12.2020. In this case, interest shall be calculated in the manner given below:

1. Interest u/s 234C

Rs

$$15.06.2019 \ 1,05,000 \times 1\% \times 3 = 3,150$$

$$15.09.2019 \ 3,15,000 \times 1\% \times 3 = 9,450$$

$$15.12.2019 \ 5,25,000 \times 1\% \times 3 = 15,750$$

$$15.03.2020 \ 7,00,000 \times 1\% \times 1 = 7,000$$

Total interest payable 35,350

2. Interest u/s 234B (01-04-2020 to 31-12-2020)

$$7,00,000 \times 1\% \times 9 = \quad \quad \quad 63,000$$

3. Interest u/s 234A (01-10-2020 to 31-12-2020)

$$7,00,000 \times 1\% \times 3 = \quad \quad \quad 21,000$$

Total Interest Payable 1,19,350

Question 53: A partnership firm made the following payments of advance tax during the financial year 2019-20: Rs

Upto June 15, 2019 4,15,000

Upto September 15, 2019 8,25,000

Upto December 15, 2019 16,64,000

Upto March 15, 2020 26,23,000

Return of income filed by the firm is Rs88,00,000 under the head “profits and gains of business or profession” and Rs9,50,000 by way of long term capital gains on sale of a property effected on December 1, 2019. What is the interest payable by the assessee under section 234B and section 234C for assessment year 2020-21?

Assume that the return of income was filed on 30.09.2020 i.e. the due date and tax was fully paid on self assessment.

Solution: Computation of Tax Liability

	Rs
Business income	88,00,000
Long term capital gains	9,50,000
Total Income	97,50,000
Tax on Rs88,00,000 @ 30%	26,40,000
Tax on Rs9,50,000 @ 20%	1,90,000
Add: HEC @ 4%	1,13,200
Tax Liability	29,43,200
(Tax liability excluding capital gains Rs97,50,000 - Rs9,50,000 = Rs88,00,000 x 30% + HEC@ 4% 27,45,600)	

Question 54: How to determine Residential status of individuals Section 6(1)/6(6)(a)

Answer: Under section 6(1), an individual is said to be resident in India in any previous year, if he satisfies any one of the following conditions:

- (i) He stays in India for 182 days or more during the relevant previous year
- (ii) He stays in India for 60 days or more and also for 365 days or more during 4 years preceding the relevant previous year.

If the individual satisfies any one of the conditions mentioned above, he is a resident, otherwise the individual is a non-resident. e.g. Mr. X stayed in India for 200 days in previous year 2019-20, in this case he will be considered to be resident in India.

If Mr. X stayed in India for 100 days in previous year 2019-20 and also for 365 days during 4 years preceding the previous year 2019-20, he will be considered to be resident in India.

If Mr. X stayed in India during previous year 2019-20 for 59 days, he will be considered to be non-resident in previous year 2019-20.

The term "stay in India" includes stay in the territorial waters of India (i.e. 12 nautical miles into the sea from the Indian coastline). Even the stay in a ship or boat in the territorial waters of India shall be considered to be stay in India. (1 nautical mile = 1.1515 miles = 1.852 Kms). It is not necessary that the period of stay must be continuous nor is it essential that the stay should be at the usual place of residence, business or employment of the individual. For the purpose of counting the number of days stayed in India, both the date of departure as well as the date of arrival are considered to be in India. Meaning of Not-

ordinarily resident Section 6(6)(a) An individual who is resident of India shall be considered to be NOR if he has complied with at least one of the conditions given below:

(i) If such individual has during the 7 previous years preceding the relevant previous year been in India for a period of 729 days or less or

(ii) If such individual has been non-resident in India in 9 years out of 10 previous years preceding the relevant previous year

If he has not complied with even a single condition, he will be considered to be ROR.

Income Tax Act has defined NOR but we can define ROR in the manner given below:

An individual is said to be a resident and ordinarily resident if he satisfies both the following conditions:

(i) He is a resident in any 2 out of the last 10 years preceding the relevant previous year, and

(ii) His total stay in India in the last 7 years preceding the relevant previous year is 730 days or more.

If the individual satisfies both the conditions mentioned above, he is a resident and ordinarily resident but if only one or none of the conditions are satisfied, the individual is a resident but not ordinarily resident.

Question 55: Mr. X an American citizen has come to India for the first time on 10.07.2015, as an employee of a multinational company. The particulars of his arrival and departure are as given below:

Date of arrival Date of departure

10.07.2015 07.08.2016

07.10.2016 27.11.2017

01.03.2018 01.02.2019

10.05.2019 30.03.2020

Not yet returned

Determine his residential status for previous year 2015-16 to 2019-20.

Solution:

Previous Year 2015-16

{July – 22, August – 31, September 30, October 31, November 30, December 31, January 31, February – 29, March – 31}

Days of stay in India are 266.

As per section 6(1), Stay in India is 182 days or more during the relevant previous year, hence he is resident. and his stay during 7 years is Nil hence he is able to comply with first condition of section 6(6)(a). hence he is NOR.

Previous Year 2016-17

{April – 30, May – 31, June – 30, July – 31, August – 7, October – 25, November – 30, December – 31, January – 31, February – 28, March – 31}

Days of stay in India are 305.

As per section 6(1), Stay in India is 182 days or more during the relevant previous year, hence he is resident. and his stay during 7 years is 265 days hence he is able to comply with first condition of section 6(6)(a). hence he is NOR.

Previous Year 2017-18

{April – 30, May – 31, June – 30, July – 31, August – 31, September – 30, October – 31, November – 27, March – 31}

Days of stay in India are 272, so Mr. X is Resident.

As per section 6(1), Stay in India is 182 days or more during the relevant previous year, hence he is resident. and his stay during 7 years is 571 days hence he is able to comply with first condition of section 6(6)(a). hence he is NOR.

Previous Year 2018-19

{April – 30, May – 31, June – 30, July – 31, August – 31, September – 30, October – 31, November – 30, December – 31, January – 31, February – 1}

Days of stay in India are 307.

As per section 6(1), Stay in India is 182 days or more during the relevant previous year, hence he is resident. and his stay during 7 years is more than 729 days hence he is not able to comply with first condition of section 6(6)(a) and he is not able to comply second condition also i.e. non-resident in atleast 9 years out of 10 years preceding the relevant previous year. hence he is ROR.

Previous Year 2019-20

{May – 22, June – 30, July – 31, August – 31, September – 30, October – 31, November – 30, December – 31, January – 31, February – 29, March - 30}

Days of stay in India are 326.

As per section 6(1), Stay in India is 182 days or more during the relevant previous year, hence he is resident. and his stay during 7 years is more than 729 days hence he is not able to comply with first condition of section 6(6)(a) and he is not able to comply second condition of section 6(6)(a) also i.e. non-resident in atleast 9 years out of 10 years preceding the relevant previous year. hence he is ROR.

Question 56: Explain how to determine residential status of HUF Section 6(2)/6(6)(b).

Answer: As per section 6(2), an HUF would be resident in India if the control and management of its affairs is situated wholly or partly in India. If the control and management of the affairs is situated wholly outside India it will be considered to be non-resident. Since control and management of HUF is in the hands of its Karta hence place of stay of Karta shall be taken into consideration i.e. if Karta is out of India throughout the year, HUF shall be Non-resident but if Karta has come to India for a few days, HUF shall be resident.

The expression 'control and management' refers to the central control and management and not to the carrying on of day-to-day business by servants, employees or agents.

Meaning of Not-ordinarily resident Section 6(6)(b)

If an HUF is resident, as per section 6(6)(b), it will be considered to be NOR if its Karta has complied with at least one of the conditions given below:

(i) If the karta is in India during the 7 previous years preceding the relevant previous year for a period of 729 days or less.

(ii) If the karta is non-resident in India in any 9 out of the 10 previous years preceding the relevant previous year, or If karta has not complied with even a single condition, HUF shall be ROR.

Question 57

Mr. Deepak has a residential house property taxable u/s 22. Such property was acquired on 12-08-2005 for Rs 2,00,000. The property is sold for Rs 23,00,000. The sub-register refused to register the documents for the said value, as according to him, stamp value valuation,

based on State Government guidelines was 28,00,000. Mr. Deepak preferred an appeal to the revenue divisional officer who fixed the value of the house Rs 25,00,000. He acquired another residential house on 31-03-2020 for Rs 17,00,000 for self-occupation. On 01-03-2021, he sold such new residential house for Rs 30,00,000. Compute his capital gain for the A.Y. 2020- 21 and 2021-22. (Cost of indexation : 2001-02; 2005-06 and 2019-20 are, 100; 117 and 289)

Solution:

Computation of Capital Gains for the A.Y. 2020-2021 & 2021-22

Sale consideration	Rs 23,00,000
Valuation made by Sub Register for stamp duty	Rs 28,00,000
Valuation made by the Divisional Revenue officer on a reference	Rs 25,00,000
Applying the provisions of section 50C to the present case,	Rs 25,00,000,
being, the value adopted by the Divisional Revenue officer for stamp duty, shall be taken as the sale consideration for the purpose of charge of capital gain.	

A.Y. 2020-2021

Computation of Capital Gains

Full value of consideration (section 50C)	25,00,000.00
Less: Indexed cost of acquisition	
= $2,00,000 / 117 \times 289 = \text{Rs } 4,94,017.09$	(4,94,017.09)
Long Term Capital Gain	20,05,982.91
Less: Exemption u/s 54	(17,00,000.00)
Long Term Capital Gain	3,05,982.91

A.Y. 2021-2022

Since new house is sold within one year which is less than one year hence gain shall be treated as short term

Computation of Capital Gains

Full value of consideration	30,00,000.00
Less: cost of acquisition	
= (17,00,000-17,00,000)	Nil
Short Term Capital Gain	30,00,000.00

Question 58

Mr.Subramani sold a house plot to Mrs.Vimala for Rs45 lakhs on 12-5-2019. The valuation determined by the stamp valuation authority was Rs53 lakhs. Discuss the tax consequences of above, in the hands of each one of them, viz, Mr.Subramani&Mrs.Vimala. Mrs.Vimala has sold this plot to Ms.Padmaja on 21-3-2020 for Rs55 lakhs. The valuation as per stamp valuation authority remains the same at Rs53 lakhs. Compute the capital gains arising on sale of the house plot by Mrs.Vimala.

Note: None of the parties vizMr.Subramani, Mrs.Vimala&Ms.Padmaja are related to each other; the transactions are between outsiders.

Solution:

As per section 50C, where the consideration received as a result of transfer of capital asset being land or building or both is less then the stamp duty value then stamp duty value shall be full value of consideration.

In the given case Mr.Subramani sold a house for Rs45 lakhs which is less then stamp duty value i.e. Rs53 lakhs hence Rs53 lakhs shall be full value of consideration in the hands of Mr.Subramani.

As per section 56 (2) (x), if any person receives any immovable property for a consideration which is less than the stamp duty value then excess amount shall be considered as gift in the hands of the receiver. In the given case, Mrs.Vimala purchased the house which is less than the stamp duty value hence difference amount of Rs8 lakhs (Rs53-Rs45) shall be taxable under the head other sources. Period of holding is less than 2 year hence gains shall be short term. Computation of capital gains in the hands of Mrs.Vimala

Full Value of consideration	55,00,000
Less: Cost of Acquisition	(53,00,000)
Short term capital Gains	2,00,000

Question 59

Mrs.Mahalakshmi an individual, aged 68 years, mortgaged her Residential Property, purchased for Rs3 lakhs on 01-10-2002, with a bank, under a notified reverse mortgage scheme and was sanctioned a loan of Rs20 lakh. As per the said scheme she was receiving

the loan amount in equal monthly installments of Rs30 thousand per month from the bank. Mrs.Mahalakshmi was not able to repay the loan on maturity and in lieu of settlement of the loan surrenders the residential property to the bank. Bank sold the property for Rs25 lakhs on 22-02-2020. She had no other income during the year.

Discuss the Tax consequences and compute tax for the Asst. Year 2020-21.

Cost inflation index

2002-03 - 105

2019-20 - 289

Solution:

As per section 47, reverse mortgage shall not be considered to be transfer for the purpose of capital gain. Under reverse mortgage, an individual can mortgage his house property to the bank and the bank shall grant a loan against the security of house property and such loan shall be given in monthly/quarterly installments and the amount so received shall not be considered to be income of the mortgagor under section 10(43).

After the death of the mortgagor the bank shall have right to sell off the property and shall adjust loan and interest and shall compute capital gains for the deceased person and shall pay tax to the government. The purpose of the scheme is to make available regular amount to the persons who do not have regular income but are the owners of the house property.

In general, the mortgagor repay the loan in installments but in this case mortgagee i.e. bank is paying installment to the mortgagor and hence it is called reverse mortgage.

Computation of Capital Gains in the hands of Mrs.Mahalashmi AY 20-21

Full Value of Consideration	25,00,000.00
Less: Indexed Cost of Acquisition (3,00,000/105 x 289)	(8,25,714.29)
Long term Capital Gains	16,74,285.71
Gross Total Income	16,74,285.71
Less: Deduction u/s 80C to 80U	Nil
Total Income	16,74,285.71
Rounded off u/s 288A	16,74,290.00

Computation of Tax Liability

Tax on LTCG u/s 112 on 13,74,290 (16,74,290-3,00,000) @ 20%	2,74,858.00
Add: HEC @ 4%	10,994.32

Tax Liability	2,85,852.32
Rounded off u/s 288B	2,85,850.00

Question 60

Mr. Y bought a vacant Land for Rs80 lakhs in May 2004. Registration and other expenses were 10% of the cost of land. He constructed a residential building on the said land for Rs100 lakhs during the financial year 2006-07.

He entered into an agreement for sale of the above said residential house with Mr. John (not a relative) in April 2016. The sale consideration was fixed at Rs700 lakhs and on 23-4-2016, Mr. Y received Rs20 lakhs as advance in cash by executing an agreement.

The sale deed was executed and registered on 14-1-2020 for the agreed consideration. However, the State stamp valuation authority had revised the values; hence the value of property for stamp duty purposes was Rs770 lakhs. Mr. Y, paid 1% as brokerage on sale consideration received.

Subsequent to sale, Mr. Y made following investments:

- (i) Acquired a residential house at Delhi for Rs110 lakhs.
- (ii) Acquired a residential house at London for Rs190 lakhs.
- (iii) Subscribed to NHA capital gains bond (approved under section 54EC) for Rs45 lakhs on 29-3-2020 and for 50 lakhs on 12-5-2020.

Compute the income chargeable under the head ' Capital Gains '. The choice of exemption must be beneficial to the assessee.

Cost Inflation Index: F.Y.2004-05 = 113

F.Y.2006-07 = 122

F.Y.2019-20 = 289

Solution:

Computation of Capital Gains of Mr. Y for the Assessment Year 2020-21 Rs

Full value of consideration	770,00,000.00
Less: Indexed cost of acquisition	
Indexed cost of land $(88,00,000 / 113 \times 289)$	(225,06,194.69)
Indexed cost of building $(100,00,000 / 122 \times 289)$	(236,88,524.59)

Less: Brokerage	(7,00,000.00)
Long term capital gain	301,05,280.72
Less: Investment in house property section 54	(110,00,000.00)
Less: Investment in NHAI section 54EC (assumed redeemable after 5 years) (50,00,000.00)	
Long Term Capital Gains	141,05,280.72

Note:

1. Registration and other expenses paid at the time of purchase shall be part of the cost.
2. Stamp duty value on the date of actual sale shall be taken in to consideration as per section 50C because advance was paid in cash.
3. Maximum Deduction allowed u/s 54EC during a particular previous year shall be Rs50,00,000.
4. Residential house purchased in India is eligible for exemption u/s 54. (Residential house purchased outside India is not eligible for exemption u/s 54.)

Question 61

Mr. X sold his residential house property on 08.06.2019 for Rs70 lakhs which was purchased by him for Rs20 lakhs on 05.05.2006.

He paid Rs1 lakh as brokerage for the sale of said property. The stamp duty valuation assessed by sub registrar was Rs80 lakhs.

He bought another house property on 25.12.2019 for 11 lakhs.

He deposited Rs8 lakhs on 10.11.2019 in the capital gain bond of National Highway Authority of India (NHAI).

He deposited another Rs10 lakhs on 10.07.2020 in the capital gain deposit scheme with SBI for construction of additional floor of house property.

Compute income under the head "Capital Gains" for A.Y. 2020-21 as per Income Tax Act 1961 and also Income tax payable on the assumption that he has no other income chargeable to tax.

Cost inflation index for Financial Year 2006-07 = 122 and 2019-20 = 289

Solution:

Computation of Capital Gains of Mr. X for the Assessment Year 2020-21	Rs
Full value of consideration	80,00,000.00

Less: Indexed cost of acquisition	
Indexed cost of building (20,00,000 / 122 x 289)	(47,37,704.92)
Less: Brokerage	(1,00,000.00)
Long term capital gain 3	1,62,295.08
Less: Investment in house property section 54	(11,00,000.00)
Less: Investment in NHAI section 54EC (assumed redeemable after 5 years) (8,00,000.00)	
Less: Deposited in Capital Gain Account Scheme	(10,00,000.00)
Long Term Capital Gains	2,62,295.08
Gross Total Income	2,62,295.08
Less: Deduction from 80C to 80U	Nil
Total Income	2,62,295.08
Rounded off u/s 288A	2,62,300.00
Computation of Tax Liability	
Tax on LTCG Rs 12,300 (Rs2,62,300 – 2,50,000) @ 20%	2,460.00
Less: Rebate u/s 87A	(2,460.00)
Tax Liability	Nil

Question 62

Mr. X, acquired a residential house in January, 2002 for Rs10,00,000 and made some improvements by way of additional construction to the house, incurring expenditure of Rs2,00,000 in October, 2004. He sold the house property in October, 2019 for Rs75,00,000. The value of property was adopted as Rs80,00,000 by the State stamp valuation authority for registration purpose. He acquired a residential house in January, 2019 for Rs25,00,000. He deposited Rs20,00,000 in capital gains bonds issued by National Highways Authority of India (NHAI) in June 2020.

Compute the capital gain chargeable to tax for the assessment year 2020-21.

What would be the tax consequence and in which assessment year it would be taxable, if the house property acquired in January, 2019 is sold for Rs40,00,000 in December, 2020?

Cost inflation index: F.Y. 2001-2002 = 100

F.Y. 2004-2005 = 113

F.Y. 2019-2020 = 289

Solution: Computation of capital gains for A.Y. 2020-21		Rs
Full value of consideration		80,00,000.00
(See Note-1)		
Less: Indexed cost of acquisition		
= 10,00,000 / Index of 2001-2002 x Index of 2019-2020		
= 10,00,000 / 100 x 289 = Rs28,90,000		(28,90,000.00)
Less: Indexed cost of improvement		
= 2,00,000 / Index of 2004-2005 x Index of 2019-2020		
= 2,00,000 / 113 x 289 = Rs5,11,504.42		(5,11,504.42)
Long term capital gain		45,98,495.58
Less: Exempted u/s 54		
-Purchase of new house		(25,00,000.00)
Long term capital gain		20,98,495.58
Gross Total Income		20,98,495.58
Less: Deduction u/s 80C to 80U		Nil
Total Income (rounded off u/s 288A)		20,98,500.00

Note:1- Since the value adopted by stamp valuation authority is higher than the sale value, hence, the value determined by stamp valuation authority shall be the sale consideration.

Note:-2 No exemption u/s 54EC is available since capital gain bonds are purchased after 6 months from the date of sale

Tax consequences in case the property purchased in January 2019 sold on December 2020

Tax consequences shall be for the Assessment Year 2021-22

Full value of consideration	40,00,000.00
Less: Cost of Acquisition	NIL
(25,00,000-25,00,000)	
Short term capital gain	40,00,000.00

Question 63

Mr. X sold a house to his friend Mr. Y on 1st November, 2019 for a consideration of Rs25,00,000. The Sub- Registrar refused to register the document for the said value, as according to him, stamp duty had to be paid on Rs45,00,000, which was the Government

guideline value. Mr. X preferred an appeal to the Revenue Divisional Officer, who fixed the value of the house as Rs32,00,000 (Rs22,00,000 for land balance for building portion). The differential stamp duty was paid, accepting the said value determined. Assuming that the fair market value is Rs32,00,000, what are the tax implications in the hands of Mr. X and Mr. Y for the assessment year 2020-21? Mr. X had purchased the land on the 1st June, 2008 for Rs5,19,000 and completed the construction of house on 1st March, 2018 for Rs14,00,000. Cost inflation indices may be taken as 137 for the financial year 2008-09, 272 for the financial year 2017-18 and 289 for the financial year 2019-20.

Answer.

As per section 50C, FVC shall be taken to be Rs22,00,000 for land and Rs10,00,000 for the building and capital gains shall be computed separately for land and building. In the given problem, land has been held for a period exceeding 24 months and building for a period less than 24 months. Therefore, land is a long-term capital asset, whereas building is a short-term capital asset.

Particulars Rs

Long term capital gain on sale of land

Full value of consideration	22,00,000.00
Less: Indexed cost of acquisition $5,19,000 / 137 \times 289$	(10,94,824.82)
Long-term capital gain	11,05,175.18

Short-term capital loss on sale of building

Full value of consideration	10,00,000
Less: Cost of acquisition	(14,00,000)
Short term capital loss	(4,00,000)

As per section 70, short-term capital loss can be set-off against long-term capital gains. Therefore, the net taxable long-term capital gains would be Rs7,05,175.18 (i.e., Rs11,05,175.18 – Rs4,00,000).

Question 64

XYZ Ltd. A domestic company, declared dividend of Rs160 lakh For the Financial Year 2018-19 and distributed the same on 31-07-2019. Mr. A holding 10% share XYZ Ltd. Received

dividend of Rs16 lakh in July, 2019. Mr. B holding 5 % share in XYZ Ltd. received dividend of Rs8 lakh in July 2019. Discuss the tax liabilities in the hands of Mr. A and Mr. B assuming that Mr. A and Mr. B have not received dividend from any other domestic company during the year.

Answer: As per section 115BBDA, Dividend received by All Assessee except a domestic company or a fund or institution or trust or any university, exceeding Rs10 lakh shall be taxable @ 10%. No further deduction or expenditure shall be allowed from such income.

Tax Liability of Mr. A

Dividend received	16,00,000
Less: Exempt	(10,00,000)
Balance Taxable @ 10% u/s 115BBDA	6,00,000
Computation of Tax Liability	
Tax on Rs 6,00,000 @ 10% u/s 115BBDA	60,000
Add: HEC @ 4%	2,400
Tax Liability	62,400

Tax Liability of Mr. B

Dividend received	8,00,000
Less: Exempt	(8,00,000)
Balance Taxable	Nil
Tax Liability	Nil

Question 65: Explain taxability of gift.

Answer:

Gift received by any person shall be taxable and the gifts shall be divided into 3 parts.

1. Gift of sum of money
2. Gift of any property other than immovable property
3. Gift of immovable property

Taxability is as given below:

1. Gift of sum of money

If any person has received any sum of money from one or more persons without consideration and the aggregate value of all such gifts received during the year exceeds fifty thousand rupees, the whole of the aggregate value of such sum shall be taxable under the head Other Sources but if the aggregate value is upto Rs50,000, entire amount shall be exempt from income tax. E.g. Mr. X has received 3 gifts of Rs15,000 each from his 3 friends, entire amount of Rs45,000 is exempt from income tax but if he has received 3 gifts of Rs20,000 each, entire amount of Rs60,000 shall be taxable. Further it will be considered to be normal income.

2. Gift of any property other than immovable property

If any person has received gift of any property other than immovable property without consideration and the aggregate fair market value of such properties received during a particular year exceeds Rs50,000, it will be taxable under the head Other Sources but if aggregate value of all such properties is upto Rs50,000, it will be exempt from income tax. If the consideration is less than the aggregate fair market value of such properties by an amount exceeding Rs50,000, aggregate fair market value as exceeds such consideration shall be taxable under the head Other Sources. Further it will be considered to be normal income.

3. Gift of immovable property

If any person has received any immovable property without consideration, it will be exempt if stamp duty value is upto Rs50,000 but if the stamp duty value exceeds fifty thousand rupees, entire stamp duty value shall be taxable under the head Other Sources. Value of individual immovable property shall be taken into consideration instead of aggregate value of all such properties.

(If any person is selling immovable property, its Conveyance Deed shall be prepared in the office of Registrar and some tax has to be paid to the State Government for transferring the property and it is called stamp duty and the value on which such duty is charged is called stamp duty value (also called circle rate). A person may not disclose the right value hence the value is determined by State Government.)

If immovable property has been received for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees and also stamp duty value is exceeding by more than 5% of the actual consideration, in such cases taxable amount shall be the stamp duty value of such property as exceeds such consideration.

Example

(i) Mr. X purchased immovable property for Rs3,00,000 but stamp duty value is Rs5,00,000, taxable amount shall be Rs2,00,000

(ii) Mr. X has sold immovable property to Mr. Y for Rs100,00,000 but stamp duty value is Rs105,00,000, in this taxable amount shall be Nil because stamp duty value is not exceeding the actual consideration by more than 5% but if stamp duty value is Rs 106,00,000, taxable amount shall be Rs 6,00,000 because stamp duty is exceeding by more than 5% of actual consideration.

If the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same and in such cases, the stamp duty value on the date of the agreement shall be taken into consideration but part of consideration should have been paid by account payee cheque, an account payee bank draft or by use of electronic clearing system through a bank account on or before

the date of agreement. E.g. Mr. X has entered into agreement with a builder ABC Limited on 01.07.2015 for purchase of one building for Rs20,00,000 but stamp duty value was Rs27,00,000 and advance of Rs3,00,000 was given by cheque but property was transferred in his name on 01.07.2019 and on that date stamp duty value was Rs35,00,000, in this case amount of gift shall be Rs7,00,000 (27,00,000 – 20,00,000). (Difference amount is more than Rs50,000 and more than 5% of the consideration). Similarly, it will also be considered to be normal income.

The gift is exempt in the following cases

(a) If any individual has received any gift from any of his relative, it will be exempt from income tax. The term relative shall include

(a) spouse of the individual;

(b) brother or sister of the individual;

(c) brother or sister of the spouse of the individual;

(d) brother or sister of either of the parents of the individual;

(e) any lineal ascendant or descendant of the individual; (ascendant means mother/ father/ grand mother / grand father and so on: Descendant means son / daughter / grand son / grand daughter etc.

(f) any lineal ascendant or descendant of the spouse of the individual;

(g) spouse of the person referred to in items (b) to (f)

(b) If any individual has received any gift from any person of any amount on the occasion of his/her marriage. If gift is received by the parents of such individual, in that case it will be taxable. If any individual has received gift on the occasion of anniversary, it will be taxable.

(c) If any person has received any gift under a will/ inheritance, it will be exempt from income tax.

(d) in contemplation of death of the payer or donor (Contemplation of Death means the apprehension of an individual that his life will end in the immediate future by a particular illness etc.)

(e) from any local authority or charitable hospital or charitable educational institution or charitable trust or other similar organisation.

Question 66.

Following gifts are received by Mrs. X, who is carrying on jewellery business, during the previous year 2019-20:

(i) On the occasion of her marriage on 07.09.2019, she has received Rs1,20,000 as gift out of which Rs85,000 are from relatives and balance from friends.

(ii) On 03.10.2019, she has received cash gift of Rs2,50,000 from cousin of her mother.

(iii) A mobile phone worth Rs15,000 is gifted by her friend on 21.09.2019.

(iv) She gets a cash gift of Rs2,40,000 from the elder brother of her husband's grandfather on 10.12.2019.

(v) She has received a cash gift of Rs6,00,000 from her friend on 27.01.2020.

(vi) She has received bullion, the fair market value of which was Rs4,75,000 on her birthday, 19.01.2020.

Mrs. X purchased from her friend, who is also carrying jewellery business, jewellery at Rs 2,50,000 on 25.01.2020, the fair market value of which was Rs5,00,000 on that date.

Compute total income and tax liability of Mrs. X for A.Y.2020-21.

Computation of Total Income of Mrs. X for the A.Y. 2020-21 Rs

Gift received on the occasion of marriage are exempt --

Cash gift received from cousin of Mrs. X's mother is taxable under section 56(2)(x) 2,50,000
(Cousin of Mrs. X's mother is not a relative)

Mobile phone gifted by her friend is not taxable since it is not included in the definition of "property" under section 56(2)(x) --

Cash gift received from elder brother of husband's grandfather is taxable 2,40,000

(Brother of husband's grandfather is not a relative)

Cash gift from friend is taxable 6,00,000

Since bullion is included in the definition of property, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds Rs50,000 4,75,000

Difference of Rs2.5 lakh in the value of jewellery purchased from her friend, is not taxable as it represents the stock-in-trade of Mrs. X. Since Mrs. X is carrying jewellery business and it has been mentioned that the jewellery were subsequently sold in the course of her business, such jewellery represent the stock-in-trade of Mrs. X.

Income under the head Other Sources	15,65,000
Gross Total Income	15,65,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	15,65,000
Computation of Tax Liability	
Tax on Rs 15,65,000 at slab rate	2,82,000
Add: HEC @ 4%	11,280
Tax Liability	2,93,280

Question 67 (From supplementary): X Ltd. set up a manufacturing unit in notified backward area in the state of Telangana on 01.06.2019. It invested Rs30 crore in new plant and machinery on 01.06.2019. Further, it invested Rs25 crore in the plant and machinery on 01.11.2019, out of which Rs5 crore was second hand plant and machinery. Compute the depreciation allowable under section 32. Is X Ltd. entitled for any other benefit in respect of such investment? If so, what is the benefit available?

Solution: Computation of depreciation under section 32 for X Ltd. for A.Y. 2020-21

Particulars	Rs in crores
Plant and machinery acquired on 01.06.2019	30.000

Plant and machinery acquired on 01.11.2019	25.000
WDV as on 31.03.2020	55.000
Less: Depreciation @ 15% on Rs30 crore	4.500
Depreciation @ 7.5% (50% of 15%) on Rs25 crore	1.875
Additional Depreciation @ 35% on Rs30 crore	10.500
Additional Depreciation @ 17.5% (50% of 35%) on Rs20 crore	3.500
WDV as on 01.04.2020	34.625

Computation of deduction under section 32AD for X Ltd. for A.Y. 2020-21

Particulars	Rs in crores
Deduction under section 32AD @ 15% on Rs50 crore	7.50

Question 68: Write a note on expenditure on Scientific Research.

Answer: Expenditure on Scientific Research Section 35

If any person has incurred expenditure whether revenue or capital in connection with scientific research relating to business, such expenditure is allowed to be debited without any restriction however expenditure incurred on land is not allowed. If the assessee has incurred expenditure on purchase/construction of building, expenditure is allowed excluding the value of land.

Example

ABC Ltd. engaged in manufacturing of cement has incurred Rs3 lakhs on scientific research, in this case, expenditure is allowed, but if the research is not related to the business of the assessee, expenditure is not allowed.

Example

ABC Ltd. has purchased one plant and machinery on 01.07.2019 for the purpose of scientific research for Rs30 lakhs, in this case, entire amount is allowed to be debited to the profit and loss account in the year 2019- 20. But if the company has purchased land for the purpose of scientific research, expenditure is not allowed.

Similarly if a building has been purchased for Rs40,00,000 and cost of land is Rs25,00,000, expenditure allowed shall be Rs15,00,000.

Expenditure before commencement of business

If expenditure is incurred before commencement of business but within 3 years prior to commencement, capital expenditure is allowed without any limit in the year of commencement of business but revenue expenditure is allowed only to the extent permitted by prescribed authority. Similarly payment of salary except perquisite (facilities) are allowed only to the extent permitted by the prescribed authority.

Example

ABC Ltd. has commenced its business on 01.07.2019, but before commencement, the company has incurred revenue expenditure of Rs2 lakhs on scientific research from 01.07.2016 onwards and the prescribed authority has certified expenditure of Rs1.5 lakhs, in this case Rs 1.5 lakhs shall be allowed in the previous year 2019- 20, but if any expenditure has been incurred prior to 01.07.2016, expenditure is not allowed.

Donation/contribution to research association

If any assessee has given donation to the notified research association, assessee shall be allowed to debit the amount to the profit and loss account in the manner given below:

(i) As per section 35(1)(ii)/35 (2AA), an amount equal to 1.50 times of donation given to an approved scientific research association like National Laboratory, Indian Institute of Technology or approved university, college etc. shall be allowed to be debited to profit and loss account. E.g. ABC Ltd. has donated Rs10,00,000 to an approved research association for scientific research, company is allowed to debit Rs15,00,000 to profit and loss account.

(ii) As per section 35(1)(iia), if donation is given to an Indian company approved by prescribed authority for the purpose of scientific research, deduction allowed shall be equal to the donation.

(iii) As per section 35(1)(iii), deduction allowed shall be equal to the donation if donation is given to any approved institution for the purpose of research in social science or statistical research.

Further there is no condition that the research should be related to the business or profession of the assessee.

(If any assessee do not have business/profession, such assessee can claim deduction under section 80GGA.)

Question 69: Mr. X commenced operations of the businesses of setting up a warehousing facility for storage of food grains, sugar and edible oil on 01.04.2019. He incurred capital expenditure of Rs80 lakh, Rs60 lakh and Rs50 lakh, respectively, on purchase of land and building during the period January, 2019 to March, 2019 exclusively for the above businesses, and capitalized the same in its books of account as on 1st April, 2019. The cost of land included in the above figures are Rs50 lakh, Rs40 lakh and Rs30 lakh, respectively. Further, during the P.Y.2019-20, it incurred capital expenditure of Rs20 lakh, Rs15 lakh & Rs10 lakh, respectively, for extension/ reconstruction of the building purchased and used exclusively for the above businesses. Compute the income under the head “Profits and gains of business or profession” for the A.Y.2020-21 and the loss to be carried forward, assuming that Mr. X has fulfilled all the conditions specified for claim of deduction under section 35AD. The profits from the business of setting up a warehousing facility (before claiming deduction under section 35AD and section 32) for the A.Y. 2020-21 is Rs16 lakhs, Rs14 lakhs and Rs31 lakhs, respectively.

Solution:

Particulars	Rs (in lakhs)
1. Profit from business of setting up of warehouse for storage of food grains	16
Less: 80 lakhs – 50 lakhs + 20 lakhs = 50 lakhs	(50)
Loss from business	(34)
2. Profit from business of setting up of warehouse for storage of sugar	14
Less: 60 lakhs – 40 lakhs + 15 lakhs = 35 lakhs	(35)
Loss from business	(21)
3. Profit from business of setting up of warehouse for storage of edible oil	31
Less: Depreciation under section	32
10% of Rs 30 lakh, being (Rs 50 lakh – Rs 30 lakh + Rs 10 lakh)	(3)
Income from business	28
Loss from specified business shall not be allowed to set off from incomes of other business	

Question 70: XYZ Ltd. commenced operations of the business of a new three-star hotel in Madurai, Tamil Nadu on 01.04.2019. The company incurred capital expenditure of Rs50 lakh during the period January, 2019 to March, 2019 exclusively for the above business, and capitalized the same in its books of account as on 1st April, 2019. Further, during the P.Y.2019-20, it incurred capital expenditure of Rs2 crore (out of which Rs1.50 crore was for acquisition of land) exclusively for the above business. Compute the income under the head “Profits and gains of business or profession” for the A.Y.2020-21, assuming that XYZ Ltd. has fulfilled all the conditions specified for claim of deduction under section 35AD. The profits from the business of running this hotel (before claiming deduction under section 35AD) for the A.Y.2020- 21 is Rs25 lakhs.

Assume that the company also has another existing business (specified business) of running a four-star hotel in Coimbatore, which commenced operations 2 years back, the profits from which are Rs 120 lakhs for the A.Y.2020-21.

Solution:

Particulars	Rs
Profits from the specified business of new hotel in Madurai	25 lakh
Less:	
1. Capital expenditure incurred during the P.Y.2019-20 (excluding the expenditure incurred on acquisition of land) = Rs 200 lakh –Rs 150 lakh	(50 lakh)
2. Capital expenditure incurred prior to 01.04.2019	(50 lakh)
Loss from the specified business of new hotel in Madurai	(75 lakh)
Profit from the existing business of running a hotel in Coimbatore	120 lakh
Net profit from business after set-off of loss of specified business against profits of another specified business under section 73A	45 lakh

Question 71 [Imp.]: Explain briefly the provisions of amortisation of Preliminary Expenses.

Answer: Amortisation of certain Preliminary Expenses Section 35D

Expenditure incurred before commencement of business shall be called preliminary expenses and shall be allowed to be debited in 5 annual equal installments after

commencement of business and such expenses are allowed to an Indian company and also to resident assessee i.e. it is not allowed to non-residents and to foreign company.

Only the notified expenditure incurred before commencement of business shall be allowed and such expenses may be

1. Expenditure in connection with—

(i) preparation of feasibility report.

(ii) preparation of project report.

(iii) conducting market survey or any other survey necessary for the business of the assessee.

(iv) engineering services relating to the business of the assessee.

Provided that the work in connection with the above is carried out by the assessee himself or by a concern which is approved by the Central Board of Direct Taxes.

2. Legal charges for drafting any agreement between the assessee and any other person for purpose of the business of the assessee.

3. Where the assessee is a company, also expenditure—

(i) by way of legal charges for drafting the Memorandum and Articles of Association of the company.

(ii) on printing of the Memorandum and Articles of Association.

(iii) by way of fees for registering the company under the provisions of the Companies Act.

(iv) in connection with the issue of shares or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus.

Maximum expenditure allowed shall be upto 5% of the project cost but an Indian company has the option to take 5% of the capital employed.

Example

ABC Ltd. has incurred expenditure of Rs30,00,000 and its project cost is Rs100,00,000 and capital employed is Rs120,00,000, instalment allowed to the company shall be

Rs30,00,000 but subject to a maximum of $(120,00,000 \times 5\%)$ i.e. Rs6,00,000

Instalment allowed shall be $= 6,00,000 / 5 = \text{Rs}1,20,000$

“Cost of the project” means in a case of new business, the actual cost of the fixed assets, being land, buildings, plant, machinery, furniture, fittings etc. as on the last day of the year in which the assessee has commenced the business.

“Capital employed” means in a case of new business, the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the business of the company commences.

In case of an existing business if there is extension of such business, expenses incurred in connection with such extension shall also be allowed in the similar manner as in case of new business and project cost and capital employed shall be taken into consideration relating to extension of business.

Question 72 State the conditions to be satisfied for claiming deduction under section 37(1) of the Act.

Answer: As per section 37(1), if any expenditure is neither allowed nor disallowed specifically under any particular section, such expenditure is allowed to be debited if it is related to business or profession and is revenue in nature. If it is capital expenditure, depreciation is allowed. Personal expenditure is never allowed. Illegal expense is not allowed. Any fine or penalty for an offence is not allowed. Various expenditure which may be allowed under section 37(1) are as given below:

1. Expenditure in connection with advertisement e.g. ABC Ltd. has incurred Rs20,000 on printing of diaries and calendars, the expenditure is allowed. Similarly if expenditure has been incurred on advertisement in newspaper/magazine/ radio / TV / Internet etc., it will be allowed. If the expenditure incurred is capital nature, depreciation is allowed.
2. Expenditure on travelling including the expenses of boarding and lodging in connection with business/profession.
3. Salary paid to the employees.
4. Expenditure in connection with entertainment/amusement of the employees or the customers.
5. Expenditure in connection with opening ceremony (Mahurat) of the business/profession. E.g. ABC Ltd. has incurred Rs50,000 in connection with ‘shamiana’ and refreshments on occasion of opening ceremony.

6. Expenditure on the occasion of various festivals like Diwali etc. for employees or customers.
7. Incentives given to the articled assistant by a Chartered Accountant.
8. Interest on late payment of GST.
9. Expenditure in connection with legal proceedings.
10. Professional tax paid by a person carrying on business or profession.
11. Expenditure on the filing of return of income, filing of appeal or audit fee etc. is allowed.
12. Any other expenditure which is revenue in nature and it is related to business or profession.

Any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

Mr. X, a hotelier, claimed expenditure on replacement of Linen and carpets in his hotel as revenue expenditure.

Answer. The expenditure on replacement of linen and carpets in a hotel are in the nature of expenses

incurred for the business and are allowable as revenue expenses under section 37(1).

Question 73 [V. Imp.]: Write a note on deductibility of expenditure on which tax has not been deducted at source.

Answer: Tax deduction at source for payment of interest, royalty etc. outside India Section 40(a)(i) If any person has paid any interest, royalty or technical fee or other sum chargeable to income tax and the amount is being paid outside India or it has been paid in India to a non-resident or to any foreign company, amount shall be allowed to be debited only if tax has been deducted at source upto the end of the year and also tax has been paid to the government upto the last date of filing of return of income otherwise expenditure is disallowed however it is allowed in the year in which tax has been paid to the government. (As per section 195, every person has to deduct tax at source on every payment made outside India)

Example: ABC Ltd. has paid Rs20 lakhs as interest outside India on 03.01.2020 and tax was deducted at source on 10.03.2020 and it was paid to the Government on 30.09.2020, expenditure is allowed in previous year 2019-20 but if tax was deducted at source on 01.04.2020, expenditure is not allowed in previous year 2019-20 but it is allowed in previous year 2020-21. If tax was deducted at source on 10.03.2020 but it was paid to the Government on 01.10.2020, expenditure is not allowed in previous year 2019-20 however it is allowed in previous year 2020-21.

Tax deduction at source for payment of interest, commission, brokerage etc. in India Section 40(a)(ia) If any person has to pay any sum to a resident on which tax is to be deducted at source, in that case such person must deduct tax at source upto the end of the relevant previous year and also payment should be made upto the last date of ROI otherwise 30% of such expenditure is disallowed however it is allowed in the year in which tax has been paid to the government.

Example: ABC Ltd. has paid rent of Rs10 lakhs to XYZ Ltd. in India on 31.12.2019 and tax was deducted at source on 31.03.2020 and was paid to the Government on 30.09.2020, expenditure is allowed in previous year 2019-20 but if tax is deducted at source after 31.03.2020 or payment is made to the Government after 30.09.2020, expenditure allowed in previous year 2019-20 shall be $10,00,000 \times 70\% = 7,00,000$ and balance Rs3,00,000 is disallowed however it will be allowed in the year in which tax has been paid to the Government.

If any person has not deducted tax at source but person who received the payment has paid tax and filed return and it is confirmed by the Chartered Accountant, in that case it will be presumed that such person has deducted and paid tax on the date of filing of ROI by the person receiving payment. (applicable in section 40(a)(ia) & 40(a)(ia))

Example: ABC Ltd. has paid rent of Rs10 lakhs to XYZ Ltd. in India on 31.12.2019 and company has not deducted tax at source but XYZ Ltd. has deposited the tax and filed return on 30.09.2020, in this case it will be presumed that tax has been deducted on 30.09.2020 and paid to the Government on 30.09.2020 and 70% expenditure shall be allowed to ABC Ltd. in previous year 2019-20 and balance 30% in previous year 2020- 21.

e.g. ABC Ltd. has paid Rs1,00,000 to XYZ Ltd. being the amount of rent and no tax has been deducted at source, in this case expenditure is allowed because as per section 194-I, TDS is not applicable if rent payable is upto Rs1,80,000.

Question 74 Write a note on payment to Relative/Related person.

Answer: Payment to Relative/Related Person Section 40A(2)

If the assessee incurs any expenditure and payment has been given to any person mentioned below and such expenditure is excessive or unreasonable having regard to the fair market value of the goods, services or facilities, so much of the expenditure as is so considered to be excessive or unreasonable shall not be allowed as a deduction. E.g. Mr. X has purchased raw material for his business from his brother and has paid Rs5,00,000 but market value is Rs3,00,000, in this case expenditure disallowed shall be Rs2,00,000. The persons covered in this category are –

1. If any individual has made any payment to his relative. As per section 2(41) Relative, in relation to an individual, means the husband, wife, brother or sister or any lineal ascendant or descendant of that individual.
2. If the assessee is a company, firm, association of persons or Hindu Undivided Family etc. and it has made payment to any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member etc.
3. If any person made payment to any other person who has substantial interest in the business of the assessee e.g. ABC Ltd. has paid Rs5,00,000 to XYZ Ltd. and XYZ Ltd. is holding 20% shares of ABC Ltd., in this case excessive payment is disallowed.
4. Any other person covered under section 40A(2).

Question 75 Discuss provisions relating to payments in excess of Rs10,000.

Answer: Payment in excess of Rs10,000 Section 40A(3) Rule 6DD

If an assessee has incurred any revenue expenditure or capital expenditure and the payment or the aggregate of the payments made to a person with regard to such expenditure on any single day exceeds Rs10,000 and payment was made otherwise than

through account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, in such cases entire expenditure is disallowed.

In case of payment made for plying, hiring or leasing goods carriages, the ceiling of ten thousand rupees shall be enhanced to thirty-five thousand rupees.

Example

Mr. X has incurred an expenditure of Rs29,000. Mr. X makes separate payments of Rs9,000, Rs8,000 and Rs12,000 all by cash, to the person concerned in a single day. The aggregate amount of payment made to a person in a day, in this case, is Rs29,000. Since, the aggregate payment by cash exceeds Rs10,000, Rs29,000 will not be allowed as a deduction in computing the total income of Mr. X.

Example

- (i) If ABC Ltd. has paid Rs65,000 in cash, expenditure disallowed shall be Rs65,000.
- (ii) If Mr. X has paid Rs11,000 by a bearer cheque, amount disallowed shall be Rs11,000.
- (iii) If ABC Ltd. has paid Rs10,050 by a crossed cheque, amount disallowed shall be Rs10,050.
- (iv) ABC Ltd. has paid Rs35,000 by an account payee cheque, entire amount is allowed.
- (v) Mr. X pays a salary to his employee Rs15,000 by crossed cheque, in this case entire expenditure is disallowed.
- (vi) ABC Ltd. has paid Rs32,000 in cash to a goods transport agency for transportation of goods, expenditure is allowed.
- (vii) Mr. X purchases goods worth Rs75,000 on 01.01.2020 and payment was made Rs60,000 on 03.01.2020 by account payee cheque and Rs8,000 in cash on 03.01.2020 and Rs7,000 in cash on 05.01.2020, in this case expenditure is allowed.
- (viii) Mr. X purchases goods worth Rs8,000 and Rs5,000 against two bills from Mr. Y and makes the payment Rs13,000 in cash in a single day, in that case entire expenditure is allowed.
- (ix) Mr. X purchases goods worth Rs15,000 from Mr. Y against one bill but makes payment of Rs7,500 and Rs7,500 at different times on the same date, in that case entire expenditure is disallowed.

Exceptions under rule 6DD

As per rule 6DD the above provisions are not applicable with regard to following payments:

1. Payment made to Reserve Bank of India, State Bank of India or other banking institutions, LIC, UTI / Central/State Government etc.
2. If the payment is made in a village or town and there is no bank at such place on the date of making the payment and payment is being given to any person who ordinarily resides at that place or has his business or profession at that place.
3. Where the payment is made for the purchase of
 - (i) agricultural or forest produce ; or
 - (ii) the produce of animal husbandry or dairy or poultry farming ; or
 - (iii) fish or fish products ; or
 - (iv) the products of horticulture or apiculture,to the cultivator, grower or producer of such articles, produce or products.
4. Where the payment is made for the purchase of the products manufactured in a cottage industry, to the producer of such products.
5. Where the payment is made by transferring funds from one bank account to the other or payment is being made by any credit card/ a debit card/ letter of credit etc., payment is allowed.
6. If payment is being made to an employee after retirement or to his family member after the death of the employee and payment is in connection with gratuity etc. and payment is not exceeding Rs50,000.
7. If payment is to be made on a particular day but banks are closed on that day because of holiday or strike.
8. Any other situation given under Rule 6DD.

Question 76

There is a dairy farm selling milk and milk products in Delhi. The turnover of his dairy farm is as below:

Milk (Exempted): Rs39,90,000

Butter (Taxable): Rs50,000

What is the registration liability under GST for the above mentioned person assuming he has same PAN?

Answer:

As per section 22, every supplier of goods shall be liable to be registered in the State / Union Territory if his aggregate turnover in a financial year exceeds Rs40,00,000.

As per section 23, If any person supplying only exempt supply then he is not liable for registration.

As per section 2(6), "aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.

In the given case, as per the definition of aggregate turnover it includes value of all taxable supplies as well as exempt supplies and in the given case aggregate turnover exceeds Rs40,00,000 so dairy firm is liable for registration and as per section 25, dairy firm has to apply within 30 days from the date on which he becomes liable for registration.

Question 77

Determine the effective date of registration under CGST Act, 2017 in respect of the following cases with explanation:

(i) The aggregate turnover of Varun Industries of Mumbai engaged in taxable supply of goods has exceeded Rs40 lakhs on 1st August, 2019. It submits the application for registration on 20th August, 2019. Registration certificate granted on 25th August, 2019.

Answer: As per section 22 of the CGST Act, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods, if his aggregate turnover in a financial year exceeds Rs40 lakh, within 30 days from the date on which it becomes so liable to registration. Where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration otherwise it is the date of grant of registration.

In the given case Varun Industries applies for registration before the expiry of 30 days from the date on which it becomes liable for registration, the effective date of registration in its case is 01.08.2019.

(ii) Sweta InfoTech Services are the provider of internet services in Pune. The aggregate turnover of them exceeds Rs20 lakhs on 25th September, 2019. It submits the application for registration on 27th October, 2019. Registration certificate is granted on the 5 November, 2019.

As per section 22 of the CGST Act, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of services, if his aggregate turnover in a financial year exceeds Rs20 lakh, within 30 days from the date on which it becomes so liable to registration. Where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration otherwise it is the date of grant of registration.

In the given case Sweta InfoTech services applies for registration after the expiry of 30 days from the date on which it becomes liable for registration, the effective date of registration in its case is 05.11.2019.

Question 78: Write a note on separate registration for multiple places of business within a state or union territory

Answer: Separate registration for multiple places of business within a State or a Union territory Rule 11

(1) Any person having multiple places of business within a State or a Union territory, requiring a separate registration for any such place of business shall be granted separate registration in respect of each such place of business subject to the following conditions, namely:-

(a) such person has more than one place of business as defined in clause (85) of section 2;

(b) such person shall not pay tax under section 10 for any of his places of business if he is paying tax under section 9 for any other place of business;

(c) all separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of

business of such person and issue a tax invoice or a bill of supply, as the case may be, for such supply.

Explanation. - For the purposes of clause (b), it is hereby clarified that where any place of business of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other registered places of business of the said person shall become ineligible to pay tax under the said section.

(2) A registered person opting to obtain separate registration for a place of business shall submit a separate application in FORM GST REG-01 in respect of such place of business.

(3) The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.

Section 2(85) "Place of business" includes—

(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

(b) a place where a taxable person maintains his books of account; or

(c) a place where a taxable person is engaged in business through an agent, by whatever name called Rule 41A. Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory.

(1) A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of thirty days from obtaining such separate registrations, the details in FORM GST ITC- 02A electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:

Provided that the input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.

Explanation.- For the purposes of this sub-rule, it is hereby clarified that the 'value of assets' means the value of the entire assets of the business whether or not input tax credit has been availed thereon.

(2) The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such acceptance, the unutilised input tax credit specified in FORM GST ITC-02A shall be credited to his electronic credit ledger.”.

Question 79

Answer the following questions with respect to casual taxable person under the CGST Act, 2017:

- (i) Who is a casual taxable person?
- (ii) Can a casual taxable person opt for the composition scheme?
- (iii) When is the casual taxable person liable to get registered?
- (iv) What is the validity period of the registration certificate issued to a casual taxable person?
- (v) Can the validity of registration certificate issued to a casual taxable person be extended? If yes, what will be the period of extension?

Answer:

- (i) As per section 2 (20), "casual taxable person" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.
- (ii) As per rule 5, a casual taxable person cannot opt for composition scheme.
- (iii) As per section 24, Every casual taxable person shall also be required to take registration irrespective of the turnover and procedure shall be same. He should apply for registration atleast 5 days prior to commencement of business. Registration shall be granted only after the applicant has paid estimated amount of GST in advance.
- (iv) As per section 27, Certificate shall be valid for the specified period but maximum 90 days.
- (v) Yes it can be extended. Proper officer may extend it further but for maximum 90 days i.e. total period can be maximum 180 days. Such person shall make advance deposit of GST as estimated by him.

Question 80

Sophomore of USA intends to start business as an aggregator in India. He wants to understand his obligations under GST law as an aggregator. He requires your advice of how he has to go about in discharging the tax liability as an aggregator, while he continues to reside in USA.

Answer: As per section 9(5), any electronic commerce operator who is providing services under his own brand name and is also collecting payment on behalf of the supplier, in such cases such person shall be liable to pay GST and such person may be called aggregator. Aggregator means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator” , eg. UBER cabs/ OLA cabs etc. Similarly it will include services relating to providing accommodation in hotels, inns, and guest house etc. as notified by the Government, where payment is collected by such ECO. Such ECO shall also be required to take registration u/s 9(5).

Example: Mr. X has taken services of UBER cabs and has paid Rs 10,000 plus GST Rs 1,000 in this case UBER cabs shall be responsible to pay GST of Rs 1,000 to the Government. Further the real owner of the cab shall charge amount from UBER cabs and if such amount is Rs 8,000, it will be paid by UBER cabs to the real owner but if real owner is also registered under GST, he will charge Rs 8,000 plus GST 800 and UBER cabs shall take ITC of Rs 800 and pay Rs 200 to the Government. Provided that aggregator shall not include such person who enables a potential customer to connect with persons providing services and where payment is collected directly by the supplier of services and not by such electronic commerce operator. In such cases GST shall be payable by the actual supplier and not by ECO. Such ECO shall get his commission from the supplier and the amount of commission shall be subject to GST, eg. URBAN CLAP. If Mr. X an architect is registered with URBAN CLAP and they have referred a client to Mr. X and Mr. X charged Rs 1,00,000 plus GST Rs 18,000, Mr. X shall be liable to pay GST to the Government. If URBAN CLAP has taken commission of Rs10,000 plus GST Rs 1,800, Mr. X shall claim ITC of Rs 1,800 and shall pay to the Government balance amount of Rs 16,200

Question 81: Mr. X is a registered person in GST in Delhi and he is in Composition scheme.

He Purchased goods A Rs20,00,000 + CGST @ 10% + SGST @ 10% on 01/08/2019 and also plant machinery Rs30,00,000 + CGST @ 12% + SGST @ 12%.

He shifted to the normal scheme on 10/02/2020 and upto 10/02/2020, he has sold half of goods (not P & M).

He purchased goods B Rs18,00,000 on 01/03/2020 + CGST@ 10 % + SGST @ 10% and sold goods Rs30,00,000 + CGST @ 10% + SGST @ 10%.

Compute ITC /Output tax and Net Tax.

Solution:

At the time of shifting to the normal scheme he shall be allowed to take ITC of the goods lying in the stock hence tax credit allowed shall be as given below:

	Rs
Goods A in stock	10,00,000
Add: CGST @10%	1,00,000
Add: SGST @10%	1,00,000
Total	12,00,000
ITC allowed	
CGST	1,00,000
SGST	1,00,000
Plant & Machinery	30,00,000
Add: CGST @12%	3,60,000
Add: SGST @12%	3,60,000
Total	37,20,000

ITC Allowed shall be as given below:

CGST	3,60,000
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Asset already used 01/08/2019 to 10/02/2020 = 6 month and 10 days = 3 Quarters

Less: Tax Credit not allowed (3,60,000 x (3 x 5%))	(54,000)
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Amount of Tax Credit allowed	3,06,000
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SGST	3,60,000
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Asset already used 01/08/2019 to 10/02/2020 = 6 month and 10 days = 3 Quarters

Less: Tax Credit not allowed (3,60,000 x (3 x 5%))	(54,000)
Amount of Tax Credit allowed	3,06,000
Purchased goods B	18,00,000
Add: CGST @10%	1,80,000
Add: SGST @10%	1,80,000
Total	21,60,000
Less: ITC allowed	
CGST	1,80,000
SGST	1,80,000
Output Tax	
Transaction Value	30,00,000
Add: CGST @10%	3,00,000
Add: SGST @10%	3,00,000
Total	36,00,000
Computation of Net Tax Payable	
CGST	
Output Tax	3,00,000
Less: ITC Goods A	(1,00,000)
Less: ITC Plant & Machinery	(3,06,000)
Less: ITC Goods B	(1,80,000)
Excess credit to be carried forward	(2,86,000)
SGST	
Output Tax	3,00,000
Less: ITC Goods A	(1,00,000)
Less: ITC Plant & Machinery	(3,06,000)
Less: ITC Goods B	(1,80,000)
Excess credit to be carried forward	(2,86,000)

Question 82

The following details have been furnished by Mrs. X, pertaining to the year ended 31.03.2020:

(i) Cash gift of Rs51,000 received from her friend on the occasion of her "ShastiaphthaPoorthi", a wedding function celebrated on her husband completing 60 years of age. This was also her 25th wedding anniversary.

(ii) On the above occasion, a diamond necklace worth Rs2 lacs was presented by her sister living in Dubai.

(iii) When she celebrated her daughter's wedding on 21.02.2020, her friend assigned in Mrs. X's favour, a fixed deposit held by the said friend in a scheduled bank; the value of the fixed deposit and the accrued interest on the said date was Rs51,000.

(iv) She has short term capital gains under section 111A Rs10 lakhs.

Compute total income and tax liability for assessment year 2020-21.

Answer: (i) Any sum of money received by an individual on the occasion of the marriage of the individual is exempt. This provision is, however, not applicable to a cash gift received during a wedding function celebrated on completion of 60 years of age.

The gift of Rs51,000 received from a non-relative is, therefore, chargeable to tax under section 56(2)(x) in the hands of Mrs. X.

(ii) The provisions of section 56(2)(x) are not attracted in respect of any sum of money or property received from a relative. Thus, the gift of diamond necklace received from her sister is not taxable under section 56(2)(x), even though jewellery falls within the definition of "property".

(iii) To be exempt from applicability of section 56(2)(x), the property should be received on the occasion of the marriage of the individual, not that of the individual's son or daughter. Therefore, this exemption provision is not attracted in this case.

Any sum of money received without consideration by an individual is chargeable to tax under section 56(2)(x), if the aggregate value exceeds Rs50,000 in a year. "Sum of money" has, however, not been defined under section 56(2)(x).

Therefore, there are two possible views in respect of the value of fixed deposit assigned in favour of Mrs. X—

(1)The first view is that fixed deposit does not fall within the meaning of "sum of money" and therefore, the provisions of section 56(2)(x) are not attracted. Fixed deposit is also not included in the definition of "property".

(2) However, another possible view is that fixed deposit assigned in favour of Mrs. X falls within the meaning of “sum of money” received.

Income assessable as “Income from other sources”

If the first view is taken, the total amount chargeable to tax as “Income from other sources” would be Rs51,000, being cash gift received from a friend on her ShastiapthaPoorthi.

As per the second view, the provisions of section 56(2)(x) would be attracted in respect of the fixed deposit assigned and the “Income from other sources” of Mrs. X would be Rs1,02,000 (Rs51,000 + Rs51,000).

Tax liability as per first view

Income under the head Other Sources	51,000.00
Income under the head Capital Gains (STCG u/s 111A)	10,00,000.00
Gross Total Income	10,51,000.00
Less: Deduction u/s 80C to 80U	Nil
Total Income	10,51,000.00

Computation of Tax Liability

Tax on Rs51,000 at slab rate	Nil
Tax on Rs8,01,000 (Rs10,00,000 – Rs1,99,000) @ 15%	1,20,150.00
Add: HEC @ 4%	4,806.00
Tax Liability	1,24,956.00
Rounded off u/s 288B	1,24,960.00

Tax liability as per second view

Income under the head Other Sources	1,02,000.00
Income under the head Capital Gains (STCG u/s 111A)	10,00,000.00
Gross Total Income	11,02,000.00
Less: Deduction u/s 80C to 80U	Nil
Total Income	11,02,000.00

Computation of Tax Liability

Tax on Rs1,02,000 at slab rate	Nil
Tax on Rs8,52,000 (Rs10,00,000 – Rs1,48,000) @ 15%	1,27,800.00
Add: HEC @ 4%	5,112.00
Tax Liability	1,32,912.00

Question 83: Explain how to determine residential status of HUF Section 6(2)/6(6)(b).

Answer: As per section 6(2), an HUF would be resident in India if the control and management of its affairs is situated wholly or partly in India. If the control and management of the affairs is situated wholly outside India it will be considered to be non-resident. Since control and management of HUF is in the hands of its Karta hence place of stay of Karta shall be taken into consideration i.e. if Karta is out of India throughout the year, HUF shall be Non-resident but if Karta has come to India for a few days, HUF shall be resident.

The expression 'control and management' refers to the central control and management and not to the carrying on of day-to-day business by servants, employees or agents.

Meaning of Not-ordinarily resident Section 6(6)(b)

If an HUF is resident, as per section 6(6)(b), it will be considered to be NOR if its Karta has complied with at least one of the conditions given below:

(i) If the karta is in India during the 7 previous years preceding the relevant previous year for a period of 729 days or less.

(ii) If the karta is non-resident in India in any 9 out of the 10 previous years preceding the relevant previous year, or

If karta has not complied with even a single condition, HUF shall be ROR.

Question 84: Write a note on scope of total income or tax incidence.

Answer: As per section 5, scope of total income or tax incidence in various status shall be as given below:

(1) Resident and ordinarily resident – In case of ROR, the following incomes shall be taxable.

(i) income accruing / arising in India.

(ii) income received or deemed to be received in India even if accruing /arising abroad.

(iii) income accruing / arising aboard and received aboard.

In simpler terms, ROR has to pay tax on his world income in India.

Meaning of income received in India

Income shall be considered to be received in India if it has been received directly in India from its source i.e. if the income has been received outside India and after that it was transferred to India, it will not be considered to be income received in India rather it is income received abroad.

Therefore, when once an amount is received as income, remittance or transmission of that amount from one place or person to another does not constitute receipt of income in the hands of the subsequent recipient or at the place of subsequent receipt.

Example

Mr. X has one house in USA and rent has been received directly in India. It will be considered to be income received in India and it is chargeable to tax in case of all the three status, but if Mr. X has one bank account with Bank of America, New York and rent has been deposited in that account and subsequently the bank has transferred the amount to Mr. X in India, it will be considered to be income received outside India, because income has already been received outside India and subsequently it was remitted to India.

Similarly, if Mr. X has income in Nepal and it was deposited in the branch of an Indian bank in Nepal, subsequently the amount was remitted in India, it will be considered to be income received outside India.

(2) Resident but not ordinarily resident – The following incomes shall be taxable.

(i) income accruing / arising in India.

(ii) income received or deemed to be received in India even if accruing /arising abroad.

(iii) income accruing / arising aboard and received aboard but from a business controlled from India or from a profession which was set up in India.

Meaning of profession setup in India

Profession set up in India means that it was originally setup in India and subsequently there was an expansion outside India. E.g. Mr. X started his profession of an advocate in Delhi and subsequently he opened his branch outside India, it will be called profession setup in India.

(3) Non-resident –The following incomes shall be taxable.

(i) income accruing /arising in India.

(ii) income received or deemed to be received in India even if accruing /arising abroad.

Question 85 [V. Imp.]: Write short note on Compulsory Tax Audit.

Answer: Compulsory Tax Audit

Audit of accounts of certain persons carrying on business or profession Section 44AB

The following persons have to get their accounts audited.

1. Every person carrying on business, if his total sales turnover or gross receipts, in business exceeds Rs100 lakh during the previous year.
2. Every person carrying on profession if his gross receipts in profession exceed Rs50 lakh during the previous year.
3. If income of any person is to be computed under section 44AD or 44ADA or 44AE on presumptive basis but such person has rejected presumptive income, in such cases such person shall be required to get the accounts audited.

The accounts should be audited by a Chartered Accountant and audit report should be submitted latest by the last date of filing of return of income

This section shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of section 44AD and his total sales, turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year.

Penalty for violating provisions of Section 44AB Section 271B

If any person fails to get his accounts audited or fails to submit audit report in time, penalties may be imposed under section 271B equal to ½% of total turnover or gross receipt subject to a maximum of Rs1,50,000.

Example

Mr. X has turnover of his business Rs105 lakhs but he has failed to get his accounts audited, in this case penalties may be imposed amounting to Rs52,500 but if his turnover was Rs400 lakhs, penalties imposable shall be Rs2,00,000 but maximum Rs1,50,000.

Question 86 [V. Imp.]. Briefly describe provisions of income tax act for computing profit and gains of business on Presumptive Basis.

Answer: Special provision for computing profits and gains of business on presumptive basis.

Section 44AD

1. If any assessee has turnover of his business upto Rs200 lakhs, such assessee is allowed to compute income on presumptive basis and income under the head business/profession shall be presumed to be 8% of the turnover and no further deduction is allowed under section 30 to 38.

2. Such option is allowed only to an Individual/ HUF / Firm who are resident but not to LLP or Company.

3. Section 44AD is applicable only to business and not to specified profession and also it is not applicable for the persons having earning as commission or brokerage.

4. Such assessee shall be required to pay advance tax to the extent of 100% of tax liability on or before 15th March of the relevant previous year otherwise interest shall be charged @ 1% for one month on the amount of deposit default.

5. Brought forward business loss is allowed to be adjusted from such income but brought forward depreciation is not allowed to be adjusted from such income.

6. The assessee shall be exempt from maintaining books of accounts or audit.

7. If an assessee has opted for presumptive income under section 44AD and in the subsequent 5 years he has rejected presumptive income, in that case he will not be allowed to opt for presumptive income for next 5 years. If assessee has rejected the presumptive income, he will be required to maintain any books of accounts and also audit is required.

e.g. Mr. X has opted for presumptive income under section 44AD in the

previous year 2019-20, in this case he cannot reject 44AD during the subsequent 5 previous years i.e. previous year 2020-21, 2021-22, 2022-23, 2023-24, 2024-25. If he has rejected 44AD in any of these 5 years, he will not be allowed to opt for 44AD in next 5 years. If he has rejected 44AD in previous year 2021-22, he cannot opt for 44AD during the previous year 2022-23, 2023-24, 2024-25, 2025-26, 2026-27. Rate of 6% shall be applied instead of 8% if the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed during the previous

year or before the due date specified in subsection (1) of section 139 in respect of that previous year.

Question 87: ABC Ltd. presents the following information to you pertaining to the year ending March 31st, 2020:

1. Having regard to the vast purchase of a particular chemical by the company, the supplier of the chemical presents a car worth Rs 2,50,000, which is used for business purposes by the company.
2. Expenditure towards acquisition of technical know-how paid to a foreign company in a lump sum Rs6 lakhs by account payee cheque.
3. The company has paid income-tax of Rs 60,000 being the tax in respect to non-monetary perquisites of an employee.
4. The company wanted to start a new plant for manufacturing of a new product. Y Ltd., paid to the company Rs 10 lakh in order not to start the same and not to compete with it.
5. The company has paid Rs 20 lakh to four employees at the time of their voluntary retirement, in accordance with the approved scheme of voluntary retirement.
6. The company has borrowed Rs 15 lakh for acquiring a machinery. Interest paid is Rs90,000. The machinery is not put to use during the year.
7. Payment of Rs 40,000 is made to a Don for ensuring that the employees will not indulge in strike.
8. The company has incurred expenditure of Rs 34,000 in respect of exempt income. This forms part of administrative expenses.

You are requested to briefly state with reasons as to how the above are to be dealt with in computing the total income of the company for the assessment year 2020-21. The total income need not be computed.

Solution:

1. As per section 28, Any gift received in connection with business/profession shall be considered to be income under the head business/ profession hence Rs 2,50,000 being value of the motor car shall be considered to be income under the head business/profession. Since car is being used for the purpose of business, depreciation shall be allowed as per section 32.

2. As per section 32, depreciation shall be allowed even for intangible assets, hence Rs 6 lakh qualifies for depreciation @ 25%.
3. As per section 40(a), while calculating income of the employer, the tax paid by the employer on nonmonetary perquisites to employees is not deductible.
4. As per section 28, any sum received for not carrying out any activity in relation to any business is chargeable to tax as business income. Thus, Rs 10 lakh is taxable as business income being noncompetee fee.
5. Section 35DDA provides that where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee at the time of his voluntary retirement under any scheme of voluntary retirement, one fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance shall be deducted in equal instalments for each of the four immediately succeeding previous years. In view of the aforesaid provisions, Rs 4 lakh shall be allowable as deduction in the assessment year 2020-21.
6. As per section 43(1), all expenses upto the date of putting the asset to use shall be capitalized i.e. it will be added to the actual cost but in the given case asset has not been put to use till the end of the year hence neither the amount can be debited to profit and loss account nor depreciation is allowed.
7. As per section 37(1), in order to claim deduction the expenditure should not have been incurred for any purpose, which is an offence or is prohibited by any law. Since the payment of Rs40,000 to Don is unlawful, it is not allowable as deduction.
8. As per section 14A, no deduction shall be made in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income. Rs34,000 is, therefore, not allowable as deduction.

Question 88

Mr.Dheeraj, a resident individual, is a dealer of food grains. During the previous year 2019-2020, total turnover of his business was Rs80 lakhs. (out of which Rs15 lakhs was received in account payee cheques and balance in cash). He estimates similar turnover in the previous year 2020-2021. As suggested by his tax consultant, Mr.Dheeraj wants to opt for

computation of profit and gains of business on presumption basis under section 44AD for the previous year 2020-2021.

Guide Mr.Dheeraj relating to the provisions of advance tax with its due date along with the amount payable, if he opts for the above mentioned presumptive taxation.

Solution:

Special provision for computing profits and gains of business on presumptive basis. Section 44AD

1. If any assessee has turnover of his business upto Rs200 lakhs, such assessee is allowed to compute income on presumptive basis and income under the head business/profession shall be presumed to be 8% of the turnover and no further deduction is allowed under section 30 to 38.

2. Such option is allowed only to an Individual/ HUF / Firm who are resident but not to LLP or Company.

3. Section 44AD is applicable only to business and not to specified profession and also it is not applicable for the persons having earning as commission or brokerage.

4. Such assessee shall be required to pay advance tax to the extent of 100% of tax liability on or before 15th March of the relevant previous year otherwise interest shall be charged @ 1% for one month on the amount of deposit default.

5. The assessee shall be exempt from maintaining books of accounts or audit.

Rate of 6% shall be applied instead of 8% if the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in subsection (1) of section 139 in respect of that previous year.

As per the above provision, Mr.Dheeraj can opt for presumptive taxation u/s 44AD and 100% of his tax liability shall be payable as advance tax on or before 15th March of the relevant previous year otherwise 1% interest shall be charged for one month on the amount of default.

As per above provision, 8% of turnover shall be considered as business income if payment is received in cash and 6% of turnover is payable in case payment is received in account payee cheque.

Income under the head business/profession

8% of 65,00,000 5,20,000

6% of 15,00,000 90,000

Income under the head business/profession 6,10,000

Question 89: Explain Furnishing of Return of outward supplies under section 37 / Rule 59 (GSTR-1)

Answer: Furnishing of Return of outward supplies under section 37 / Rule 59 (GSTR-1)

Every registered person shall be required to submit a return containing details of outward supplies in form no. GSTR-1 upto 11th of the subsequent month.

As per notification no. CT- 71/2017 dated 29.12.2017, Registered persons having aggregate turnover upto 1.5 crore in preceding financial year or current financial year shall be required to file the return on quarterly basis. (for the time being return is to be filed upto the end of month subsequent to the relevant quarter.eg, return for the quarter April to June 2020 should be filed upto 31st July 2020.) Any error / omission can be corrected upto 20th October of the subsequent year or furnishing of the relevant annual return u/s 44, whichever is earlier.

The return shall contain the following particulars:

Table No. 1. GSTIN

Table No. 2. Legal name / Trade name.

Table No. 3. Aggregate Turnover in the preceding financial year

Table No. 4. Taxable outward supplies (invoice wise) made to registered persons other than zero rated supply.

Table No. 5. Taxable outward Inter-State supplies (invoice wise) to unregistered persons where the invoice value is more than Rs2.5 lakh.

Table No. 6. Zero rated supplies

Table No. 7. Consolidated details of Taxable Supplies to unregistered persons except table 5 (Rate wise and State wise)

Table No. 8. Nil rated, exempted and non GST outward supplies

Table No. 9. Amendments to table 4,5,6 including debit note, credit note etc.

Table No. 10. Amendments to table no. 7

Table No. 11. Consolidated statement of advances received/advance adjusted in the current tax Period / Amendments of information furnished in earlier tax period.

Table No. 12. HSN-wise summary of outward supplies

Table No. 13. Serial number of Documents issued during the tax period.

A taxpayer cannot file GSTR-1 before the end of the current tax period. However, following are the exceptions to this rule:

- a. Casual taxpayers, after the closure of their business
- b. Cancellation of GSTIN of a normal taxpayer

A taxpayer who has applied for cancellation of registration will be allowed to file GSTR-1 after confirming receipt of the application.

Question 90

Mr. Ram Narayan, a registered supplier under GST, wants to first discharge his self assessed tax liability for the current period before settling the dues for the previous tax period. Examine briefly whether he can do so?

Answer

As per section 49(8) of the CGST Act, 2017, the liability of a taxable person has to be discharged in a chronological order as under:-

- (a) self -assessed tax and other dues for the previous tax periods have to be discharged first;
- (b) the self -assessed tax and other dues for the current period have to be discharged next;
- (c) Once these two steps are exhausted, thereafter any other amount payable including demand determined under section 73 or section 74 of the CGST Act, 2017 to be discharged. In other words, the liability if any, arising out of demand notice and adjudication proceedings comes last.

This sequence has to be mandatorily followed.

Thus, in view of the above-mentioned provisions, Mr. Ram Narayan cannot discharge his self-assessed tax liability for the current period before settling the dues for the previous tax period.

Question 91: Explain meaning of income deemed to accrue or arise in India Section 9.

Answer:

Income deemed to be accruing/arising in India shall be taxable in all the three status i.e. ROR/NOR/NR.

As per section 9, the following incomes shall be deemed to be accruing / arising in India.

1. If any income has its source in India, such income shall be considered to be accruing / arising in India i.e. employment/house property/business/profession/capital asset or any other source of income is in India but if source is partly in India and partly outside India, income shall be accruing / arising in India only to the extent the source is in India e.g. Mr. X is employed in Punjab National Bank and is posted in Delhi branch on a salary of Rs1,00,000 p.m. In this case, his income shall be deemed to be accruing/arising in India but if he is transferred to the London branch w.e.f 01.01.2020, his income accruing/arising in India shall be Rs9,00,000 i.e. salary upto 31.12.2019 and the income which is accruing/arising abroad shall be Rs3,00,000 (i.e. salary from 01.01.2020 to 31.03.2020)

Business connection

If any person has business in India as well as outside India, it will be called business connection and in case of such business, the income of the business deemed to accrue or arise in India shall be only such part of the income as is reasonably attributable to the operations carried out in India and as per rule 10, assessing officer shall have the powers to determine the extent upto which income is accruing/arising in India.

There will be a business connection if any non-resident has business outside India but has agent in India who

- (a) habitually secures orders in India, for the non-resident.
- (b) habitually maintains in India a stock of goods from which he regularly delivers goods on behalf of the non-resident or
- (c) habitually concludes contracts on behalf of the non-resident or plays the principal role leading to conclusion of contracts and the contracts are in the name of non - resident or the contracts are for the transfer of ownership or for granting of right to use property owned by that non- resident or the provision of services by the non - resident.

Significant economic presence of a non-resident in India shall also be considered to be business connection and SEP means -

- (a) transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India, if the aggregate of

payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed; or

(b) systematic and continuous soliciting of business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means:

Provided that the transactions or activities shall constitute significant economic presence in India, whether or not,—

(i) the agreement for such transactions or activities is entered in India;

(ii) the non-resident has a residence or place of business in India; or

(iii) the non-resident renders services in India:

Provided further that only so much of income as is attributable to the transactions or activities referred to in clause (a) or clause (b) shall be deemed to accrue or arise in India.’.

There is no business connection in the following three cases:

(a) If any non-resident has business outside India but such person is purchasing goods from India and do not have any other activity in India, in this case there is no business connection but if such person has any other activity in India, it will be considered to be business connection. e.g. Mr. X a non-resident has one shop in New York for selling Indian goods and all these goods are purchased from India. In this case, there is no business connection. However, if assessee is carrying out any other activity in India, it will be considered to be business connection.

If in the above case the assessee has manufacturing unit in India, it will be considered to be a business connection.

(b) If any non-resident has the business of running a news agency or of publishing newspapers, magazines or journals etc. outside India, no income shall be deemed to accrue or arise in India to him from activities which are confined to the collection of news and views in India for transmission out of India but if newspaper etc. is being sold in India, there will be business connection or if there is telecasting or broadcasting of such news/views etc. in India, there will be business connection and income shall be taxable to that extent.

(c) If any non-resident is doing shooting of any cinematograph film in India, there is no business connection but if such film is being shown in India, there will be business connection.

2. If any person is holding shares of any Indian company, any capital gain on transfer of such shares shall be considered to be income accruing/arising in India even if shares were sold outside India.

In case of shares of a foreign company, capital gains shall be accruing / arising in India if the value of the shares is because of the assets located in India or because of business in India (the amendment is to overrule the judgment in Vodafone case).

3. If any individual is a citizen of India and is an employee of the government and is posted outside India, his salary income shall be accruing / arising in India e.g. Mr. X is citizen of India and is an IFS. He is posted in Indian embassy in USA, in this case, his salary income shall be accruing/arising in India.

4. If any loan has been taken by the government from outside India, interest paid by the government shall be considered to be income of the person who has received such interest and it is accruing / arising in India and it do not matter whether loan was used in India or outside India. e.g. If Central Government has taken a loan from an agency in USA, equivalent to Indian Rs1,000 lakh @ 10%, in this case, interest of Rs100 lakhs paid by the Government to such agency shall be considered to be the income of such agency accruing/arising in India.

If such loan has been taken by a person who is resident in India, interest income shall be accruing / arising in India only if loan amount has been used in India but if loan amount has been utilized outside India it will be accruing / arising abroad. E.g. ABC Ltd. an Indian company has taken a loan from an agency in USA and the amount was utilized in USA. In this case, interest income shall be accruing/arising in USA but if loan amount is used in India in any source, it will be accruing / arising in India If such loan has been taken by a non-resident, interest income shall be accruing / arising in India only if loan amount has been utilised in India in business/profession but if loan amount is utilised in any other source in India or it has been used outside India, interest income shall be accruing / arising abroad. E.g. X Ltd. a nonresident company has taken a loan from outside India and loan amount was utilized in India in house property. In this case, interest paid by the company shall be income of the recipient accruing/arising abroad but if loan amount was utilised in India in business/profession, interest income shall be considered to be accruing/arising in India. The person receiving interest shall be liable to pay income tax on such income even if such

person do not have any Territorial Nexus with India i.e. such non-resident do not have a residence or place of business or business connection in India

Q-92: Mr. X has let out one house property to Mr. Y @ Rs80,000 p.m. Fair rent Rs90,000 p.m. Municipal valuation Rs80,000 p.m. and Standard rent of the house Rs76,000 p.m. The house remained vacant for 2 months and there was unrealised rent for 3 months. Mr. X has paid municipal tax of Rs60,000 and interest on loan for construction of house property is Rs69,000. Compute his Income Tax Liability for A.Y.2020-21.

Solution:	Rs
Computation of income under the head house property	
Gross Annual Value	9,12,000.00

Working Note:	Rs
(a) Fair Rent (90,000 x 12)	10,80,000
(b) Municipal Valuation (80,000 x 12)	9,60,000
(c) Higher of (a) or (b)	10,80,000
(d) Standard Rent (76,000 x 12)	9,12,000
(e) Expected Rent {Lower of (c) or (d)}	9,12,000
(f) Rent received /receivable (80,000 x 7)	5,60,000

If there was no vacancy, in that case rent received receivable would have been Rs7,20,000 and it was still less than expected rent ,therefore GAV shall be expected rent GAV 9,12,000

Less: Municipal Tax	(60,000.00)
Net Annual Value	8,52,000.00
Less: 30% of NAV u/s 24(a)	(2,55,600.00)
Less: Interest on capital borrowed u/s 24(b)	(69,000.00)
Income under the head House Property	5,27,400.00
Gross Total Income	5,27,400.00
Less: Deduction u/s 80C to 80U	NIL
Total Income	5,27,400.00
Computation of Tax Liability	

Tax on Rs5,27,400 at slab rate	17,980.00
Add: HEC @ 4%	719.20
Tax Liability	18,699.20
Rounded off u/s 288B	18,700.00

Question 93: Write a note on house which is self-occupied.

Answer: House which is self-occupied Section 23(2)

If any person has house which is self-occupied (maximum two house), its GAV shall be nil and municipal tax are not allowed to be deducted and NAV shall also be nil and deduction under section 24(a) is not allowed but deduction under section 24(b) is allowed but maximum Rs30,000 however it will be maximum Rs2,00,000 if loan has been taken w.e.f 01st April 1999 onwards for purchase or construction and house has been purchased or constructed within 5 years from the end of the year in which the assessee has taken loan and also assessee should submit a certificate from the lender certifying the amount of interest. If loan is taken for repairs / renovations etc. maximum interest allowed shall be Rs30,000. If the house is self occupied as well as vacant, its income shall be computed as if it is self occupied house. E.g. Mr. X has one house which is vacant for 3 months and self occupied for 9 months, its income shall be computed considering it to be self occupied house.

The ceiling prescribed for two self-occupied property as above in respect of interest on loan borrowed does not apply to a deemed let-out property.

Q-94 Mr. X commenced construction of a residential house intended exclusively for his residence, on 01.11.2018.

He raised a loan from PNB of Rs5,00,000 at 16 per cent interest for the purpose of construction on

01.11.2018. Finding that there was an over-run in the cost of construction he raised a further loan of Rs8,00,000 at the same rate of interest on 01.10.2019. The assessee has submitted a certificate confirming the amount of interest. What is the interest allowable under section 24, assuming that the construction was completed by 31.03.2020?

Answer:

Since the house was for self-occupation only, the annual value of the property would be 'nil' under section 23(2). The interest allowable for the current year has to be considered with respect to both the loans.

Interest on loan borrowed after 01.04.1999 is eligible for deduction subject to a maximum of Rs2,00,000 in the case of self occupied property.

Prior period interest (upto 31.03.2019)

$(5,00,000 \times 16\% \times 5 / 12)$

This is to be allowed over 5 years beginning with assessment year 2020-21. Amount allowable for each year

33,333

6,667

Interest eligible for deduction for the assessment year 2020-21

Prior period interest : One-fifth of Rs33,333 6,667

Interest on first loan : Current year interest : 5,00,000 @ 16% 80,000

Interest on second loan : 8,00,000 @ 16% x 6/12 64,000

Total interest 1,50,667

Therefore, interest allowable under section 24 would be Rs1,50,667

Question 95

M/s. Keshav Enterprises, a sole proprietorship own four machines, put in use for business in March, 2018.

The depreciation on these machines is charged @ 15%. The written down value of these machines as on 1st

April, 2019 was Rs7,70,000. Two of the old machines were sold on 15th July, 2019 for Rs10,00,000. A second hand plant was bought for Rs6,10,000 on 30th December, 2019. You are required to:

(i) Determine the claim of depreciation for Assessment Year 2020-21.

(ii) Compute the capital gains liable to tax for Assessment Year 2020-21.

(iii) If Keshav Enterprises has sold the two machines in July, 2019 for Rs15,00,000, explain, will there be any difference in your above workings?

Solution:

(i) Computation of Depreciation for the A.Y. 2020-21

WDV of Machines as on 01st April 2019	7,70,000
Add: Addition during the year (on 30th December 2019)	6,10,000
Less: Sold during the year (on 15th July 2019)	(10,00,000)
WDV as on 31st March 2020	3,80,000
Depreciation during the year (3,80,000 x 7.5%)	28,500

(ii) Computation of Capital Gains for the A.Y. 2020-21

Since block of asset exists at the end of the year and WDV is also there at the end of the year hence no capital gains shall be computed.

(iii) If asset sold for	15,00,000
WDV of Machines as on 01st April 2019	7,70,000
Add: Addition during the year (on 30th December 2019)	6,10,000
Less: Sold during the year (on 15th July 2019)	(15,00,000)
WDV as on 31st March 2020	Nil
Depreciation during the year	Nil

If there is a negative balance at the end of the year, it will be considered to be short term capital gains as per section 50.

Short term Capital Gains

Sale Consideration	15,00,000
Less: Cost of Asset	(13,80,000)
Short term capital gains	1,20,000

Question 96

Mr.Dheeraj, a resident individual, is a dealer of food grains. During the previous year 2019-2020, total turnover of his business was Rs80 lakhs. (out of which Rs15 lakhs was received in account payee cheques and balance in cash). He estimates similar turnover in the previous year 2020-2021. As suggested by his tax consultant, Mr.Dheeraj wants to opt for computation of profit and gains of business on presumption basis under section 44AD for the previous year 2020-2021.

Guide Mr.Dheeraj relating to the provisions of advance tax with its due date along with the amount payable, if he opts for the above mentioned presumptive taxation.

Solution: Special provision for computing profits and gains of business on presumptive basis.

Section 44AD

1. If any assessee has turnover of his business upto Rs 200 lakhs, such assessee is allowed to compute income on presumptive basis and income under the head business/profession shall be presumed to be 8% of the turnover and no further deduction is allowed under section 30 to 38.

2. Such option is allowed only to an Individual/ HUF / Firm who are resident but not to LLP or Company.

3. Section 44AD is applicable only to business and not to specified profession and also it is not applicable for the persons having earning as commission or brokerage.

4. Such assessee shall be required to pay advance tax to the extent of 100% of tax liability on or before 15th

March of the relevant previous year otherwise interest shall be charged @ 1% for one month on the amount of deposit default.

5. The assessee shall be exempt from maintaining books of accounts or audit.

Rate of 6% shall be applied instead of 8% if the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in subsection (1) of section 139 in respect of that previous year.

As per the above provision, Mr.Dheeraj can opt for presumptive taxation u/s 44AD and 100% of his tax liability shall be payable as advance tax on or before 15th March of the relevant previous year otherwise 1% interest shall be charged for one month on the amount of default.

As per above provision, 8% of turnover shall be considered as business income if payment is received in cash and 6% of turnover is payable in case payment is received in account payee cheque.

Income under the head business/profession

8% of 65,00,000 5,20,000

6% of 15,00,000 90,000

Income under the head business/profession 6,10,000

Question 97

Mr. Querashi is a business man. During the year ended 31-03-2020 he was engaged in the business of Hypermarket and Super Market. He maintains proper books of accounts for both businesses in mercantile system. Sales from Hypermarket achieved a turnover of Rs75 lakhs and all receipts were in cash. However,

Supermarket business is through online and entire receipts of Rs50 lakhs during the year were received through online in his bank account. The expenses were incurred in ratio 65:35. Following additional information is furnished

	Rs
To salary	10,00,000
To repairs on building	1,81,000
To Interest	1,10,000
To Travelling	1,30,550
To depreciation	8,12,000
Net profit	3,93,950

(a) In addition to the above, repairs of Rs1,00,000 was incurred for building anew room which was debited to P & L a/c.

(b) Depreciation as per income tax Act is Rs7,17,000.

(c) Rs75,000 was paid in cash on 30-09-19 to Mrs. Ann, accountant for preparation of the accounts for the year ended 31-03-2019 and adjusted under the head "expenses payable" account.

(d) He was forced to shutdown his furniture business in the year 2016 as his accountant absconded business loss of furniture business is Rs3 lakhs. Rs4 lakhs was received as insurance compensation on 31-03-2020 for the cash theft.

Mr. Querashi wants to declare income under "Presumptive income" basis. Compute the income chargeable under the head profits and gains of business or profession of Mr. Querashi under Presumptive Income scheme under section 44AD and his Total Income for the year ended 31-03-2020.

Solution:

As per section 44AD, If any assessee has turnover of his business upto Rs 200 lakhs, such assessee is allowed to compute income on presumptive basis and income under the head business/profession shall be presumed to be 8% of the turnover and no further deduction is allowed under section 30 to 38. Brought forward business loss is allowed to be adjusted from such income but brought forward depreciation is not allowed to be adjusted from such income.

Rate of 6% shall be applied instead of 8% if the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account during the previous year.

Computation of Total Income	Rs
Sales from Hyper Market in cash	75,00,000
Presumptive Income u/s 44AD (8% of 75,00,000)	6,00,000
Sales from Super Market online	50,00,000
Presumptive Income u/s 44AD (6% of 50,00,000)	3,00,000
Income under the head Business Profession	9,00,000
Insurance compensation received section 41(1)	4,00,000
Less: B/F business loss section 72	(3,00,000)
Income under the head Business Profession	10,00,000
Gross Total Income	10,00,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	10,00,000

Question 97

Mr. Prakash furnishes you the following details in respect of the Financial Year 2019-20.

(i) Loss from the business carried on by him as a proprietor :	Rs 11,20,000
(ii) Unabsorbed Depreciation:	Rs 4,80,000
(iii) Loss from House Property:	Rs 2,50,000

The due date for filing the return for Mr. Prakash was 31st July, 2020 under section 139(1). However, he filed the return on 29.9.2020. Discuss with reference to the relevant provisions of Income-Tax Act, 1961 if the losses could be carried forward by Mr. Prakash.

Answer:

In general unadjusted losses are allowed to be carried forward but as per section 139(3), the return of loss has to be filed further as per section 80 it should be filed in time otherwise carry forward is not allowed. In the given case return is filed after the due date hence carry forward of losses is not allowed. Section 139(3) do not cover loss from house property and also unabsorbed depreciation, hence carry forward of HP loss and Depreciation is allowed. As per section 71B, Loss of House property is allowed to be carried forward for a period of 8 years. As per section 32(2), Carry forward of unabsorbed depreciation shall be allowed for unlimited period.

Losses/Depreciation could be carried forward shall be as given below:

Loss from House Property Rs2,50,000

Unabsorbed Depreciation Rs4,80,000

Q-98. The aggregate turnover of Sangri Services Ltd. exceeded Rs20 lakh on 12th August. It applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advise Sangri Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices.

Answer: As per section 25 read with CGST Rules, 2017, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Sangri Services Ltd.'s turnover exceeded Rs20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August. As per section 31 read with CGST Rules, 2017, every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in

respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

Question 99: Explain Value of Supply under GST.

Answer: Value of taxable supply Section 15

As per section 15(1), The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

As per section 15 (2), The value of supply shall include—

(a) Any tax or duty etc except GST, eg. Mr. X imported certain goods and has paid basic custom duty and IGST, in this case IGST shall be charged on the total of value of goods plus custom duty i.e.

IGST shall be charged even on the amount of custom duty.

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both.

Example: Samriddhi Advertisers conceptualised and designed the advertising campaign for a new product launched by New Moon Pvt Ltd. Samriddhi Advertisers owed Rs20,000 to one of its vendors in relation to the advertising service provided by it to New Moon Pvt Ltd. Such liability of Samriddhi Advertisers was discharged by New Moon Pvt Ltd. and it paid Rs20,000 plus interest of Rs15,000 to such person and also Rs5,00,000 to Samriddhi Advertisers.

In this case, Taxable Value and GST payable (CGST @ 10% , SGST @ 10%, all amounts given are exclusive of tax) shall be as given below:

Service charges	5,00,000
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Payment made by New Moon Pvt. Ltd to vendor of Samriddhi Advertisers	20,000
[Liability of the supplier being discharged by the recipient, is includible in the value in terms of section 15]	
Interest for delay in payment of consideration	15,000
[Includible in the value in terms of section 15]	
Value of taxable supply	5,35,000
CGST @ 10%	53,500
SGST @ 10%	53,500

(c) incidental expenses, including commission, packing or weightment charges, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services.

Example: AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten or specified chemical residues. AKJ Foods Pvt.Ltd. does the testing and charges a testing fee for the same from the customer. AKJ Foods Pvt. Ltd. argues that such testing fess should not form part of the consideration for the sale as it is a separate activity. Is his argument correct in the light of section 15?

Answer: Section 15 mandates the addition of certain elements to transaction value to arrive at taxable value. Section 15 specifies that amount charged for anything done by the supplier in respect of the supply at the time of or before delivery of goods or supply of services shall beincluded in taxable value. Since AKJ Foods Pvt. Ltd. does the testing before the delivery of goods,the charges therefor will be included in the taxable value. Therefore, AKJ Foods Pvt.Ltd.'s argument is not correct. The testing fee should be added to the price to arrive at taxable value of the consignment.

(d) interest or late fee or penalty for delayed payment of any consideration for any supply;
and Example: ABC limited sold certain goods for Rs10,00,000 plus GST 2,00,000 on credit and payment was received by the company after 6 months and the company has received interest Rs

Question 100: Explain Supply under GST.

Answer: Scope of supply Section 7.

(1) For the purposes of this Act, the expression "supply" includes—

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(b) import of services for a consideration whether or not in the course or furtherance of business and;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration

(1A) Where certain activities or transactions constitute a supply in accordance with the provisions of subsection

(1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),—

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall neither be a supply of goods nor a supply of services. As per notification no. CT(R) - 14/17 dated 28.06.2017, Services notified by the Government is:

☑ Services by way of any activity in relation to a function entrusted to a Panchayat or municipality under article 243G/243W of the Constitution. Such functions are given in eleventh/twelfth schedule of Constitution, eg. Khadi, village and cottage industries, Drinking water, Roads, culverts, bridges, ferries, waterways and other means of communication, Libraries, Cultural activities, Markets and fairs.

☑ Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called.

(3) Subject to the provisions of sub-sections (1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

Example

(i) ABC limited has sold certain goods for a consideration of Rs10,00,000, in this case it will be considered to be supply and company shall charge GST from the buyer and pay it to the Government.

(ii) A Chartered Accountant has supplied services to a client for a consideration of Rs10,00,000, in this case it will be considered to be supply and CA will charge GST from the client and pay it to the Government.

(iii) A dealer of laptop has taken one LCD from a dealer of LCD as a barter, in this case GST shall be payable on the transaction value as per section 15 i.e. value applicable in general and if such value is Rs 50,000, each of the dealer shall pay GST.

(iv) If a dealer of Maruti car has given one motor for Rs 8,00,000 and has also taken used motor car of the customer, in this GST is payable on the transaction value and if such value is Rs10,00,000, GST is payable on Rs 10,00,000 but no GST by the customer because it is not in the course of business.

The term goods shall not include money, security, Land and Building, hence it is not a supply and no GST is payable.

The term actionable claim is covered in the definition of Goods but only three actionable claims shall be considered to be supply and are: lottery, gambling and betting (but other actionable claims are not taxable as per schedule III.)

Q-101: Examine whether the following activities would amount to supply under section 7 of the CGST Act.

(a) Damodar Charitable Trust, a trust who gets the eye treatment of needy people done free of cost, donates clothes and toys to children living in slum area.

(b) Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.

Answer:

(a) Section 7 of the CGST Act, inter alia, provides that supply must be made for a consideration except the activities specified in Schedule I and in course or furtherance of business. Since, both these elements are missing, donation of clothes and toys to children living in slum area would not amount to supply under section 7 of the CGST Act.

(b) Schedule I of CGST Act, inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons, is supply even without consideration provided it is made in the course or furtherance of business. Further, where a person who has obtained or is required to obtain registration in a State in respect of an establishment, has an establishment in another State, then such establishments shall be treated as establishments of distinct persons. In view of the same, factory and depot of SulekhaManufacturers are establishments of two distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 of the CGST Act.

Question 102: Write a note on treatment of income from co-owned property.

Answer: Treatment of income from co-owned property Section 26

If any house property is owned by co-owners and their shares are given, in such cases each such co-owner has to pay tax on his share in the income of house property but if shares are not given, it will be considered to be income of co-owners (BOI/AOP) e.g. Mr. X and Mr. Y are co-owners of a house property and their shares are not given and income is Rs20 lakhs, in this case it will be taxable as income of co-owners but if share of each one is 50%, Mr. X will pay tax on income of Rs10 lakh and Mr. Y will pay tax on income of Rs10 lakh.

Where the house property owned by co-owners is self occupied by each of the co-owners, the annual value of the property of each co-owner will be Nil and each co-owner shall be entitled to a deduction of Rs30,000 / Rs2,00,000, as the case may be, under section 24(b) on account of interest on borrowed capital e.g. Mr. X and Mr. Y are co-owners of a particular house property and it is self occupied by each one of them and each one has share of 50% and interest on loan taken for construction of a house is Rs5 lakh and loan was taken w.e.f 01.04.1999 onwards and house was completed within 5 years and a certificate has been submitted confirming the amount of interest, in this case loss of Mr. X shall be Rs2 lakh and loss of Mr. Y shall be Rs2lakh.

If share of individual, co-owner is not given, it will be considered to be loss of BOI and loss can be maximum Rs2,00,000.

If any house property is owned by a partnership firm or company, it will be considered to be income of partnership firm or company and not that of partners or shareholders.

Question 103. Write a note on deduction under Section 80C.

Answer: Deduction under section 80C shall be allowed only to

(i) an individual

(ii) Hindu Undivided Family

(Deduction under section 80C is not allowed to any partnership firm or a company etc.)

Deduction shall be allowed to the extent of the following investments but as per section 80CCE, maximum deduction allowed shall be Rs1,50,000 (Including deduction under section 80CCC and section 80CCD).

1. Deduction shall be allowed if amount has been invested in National Saving Certificate (NSC) and NSC are just like a fixed deposit with a bank. Amount can be invested in the name of self, spouse or minor children and HUF can invest the amount in the name of any of its members. Deduction shall be allowed equal to the amount invested and amount received on maturity shall be exempt from income tax but interest shall be taxable every year on accrual basis but payment of interest shall be received on maturity.

Deduction under section 80C shall also be allowed for such accrued interest but no deduction shall be allowed for accrued interest of the year in which assessee has received payment. NSC are issued for 5 years / 10 years.

Example

Mr. X has income under the head House Property Rs10 lakh and he invested Rs50,000 in NSC on 01.10.2019. He has invested Rs40,000 in previous year 2018-19 also and there is accrued interest of Rs4,000 in previous year 2019-20. He has also received Rs1,00,000 on maturity of NSC which were invested in the earlier year and original amount is Rs60,000 and interest for current year is Rs8,000, in this case his tax liability shall be

Income under the head House Property	10,00,000
Income under the head Other Sources (4,000+ 8,000)	12,000
Gross Total Income	10,12,000

Less: Deduction u/s 80C	
Investment in current year	50,000
Accrued interest 4,000	(54,000)
(no deduction shall be allowed for interest received on maturity)	
Total Income	9,58,000
Tax on Rs9,58,000 at slab rate	1,04,100
Add: HEC @ 4%	4,164
Tax Liability 1,08,264 Rounded off u/s 288B	1,08,260

2. Public provident fund is a deposit scheme run by Central Government and account can be opened in the bank or post office and maturity shall be after 15 years and the account can be opened in the name of self, spouse or children. HUF can open the account in the name of any of its members. Amount received on maturity shall be exempt from income tax and also interest is exempt from income tax. No deduction is allowed under section 80C for interest.

3. Investment in fixed deposit for a period of 5 years or more with scheduled banks, provided the term deposit are issued in accordance with a scheme notified by the Central Government. (Bank Term Deposit Scheme, 2006 – depositor can be individual or Hindu Undivided Family. The deposit should be for a minimum period of 5 years. Interest income shall be taxable on accrual basis and it will not qualify for deduction under section 80C.) Principal amount received on maturity shall be exempt. Individual can deposit the amount only in his own name and HUF can deposit the amount in the name of any of its member.

4. Five Year Post Office Time Deposit Account. An assessee is allowed to invest the amount in five year post office time deposit account and deduction shall be allowed equal to the amount invested. Interest shall be paid on annual basis and it will be taxable and deduction under section 80C is not allowed. Amount received on maturity shall be exempt. Individual can invest the amount in his name and HUF can invest the amount in the name of any of its member.

Pre-mature payment is allowed but amount received on pre-mature payment shall be taxable.

5. If an assessee has taken a loan from a notified organization like banks or financial institution etc. for purchase or construction of a residential house, in such cases deduction shall be allowed equal to the amount re-paid by the assessee towards principal (not towards interest).

If loan has been taken for Addition, Alteration, or Repairs etc of the house property, no deduction is allowed.

If the assessee has transferred the house property before the expiry of 5 years from the end of the financial year in which possession of such properties was taken by him, no deduction shall be allowable in the previous year in which the house property has been transferred. The deduction allowed in the past years shall be considered to be income of the assessee of the previous year in which the house property is transferred.

6. If any individual or HUF has taken life policy, deduction shall be allowed for the premium paid for such life policy and individual can take the policy in the name of self, spouse and children and Hindu

Undivided Family can take the policy in the name of any of its members. (Children may be dependant or independent or may be married or unmarried or step or adopted.)

Deduction is allowed equal to the premium paid but maximum upto 10% of capital sum assured, i.e. if premium paid is more than 10% of capital sum assured, deduction shall be allowed only for 10% of sum assured. (In respect of policy issued before 01.04.2012, 10% shall be taken as 20%)

If LIC policy has been taken in the name of a person who is suffering from disability given under section 80U or from a specified disease given under section 80DDB, 10% shall be taken as 15% but it is applicable for the policies taken w.e.f 01.4.2013 onwards.

If an assessee has discontinued a life insurance policy before paying premium for a period of atleast 2 years, deduction allowed in the earlier years shall be considered to be income of the year in which policy has been discontinued.

As per section 10(10D), any payment received on maturity of insurance policy shall be exempt from income tax i.e. even the amount of bonus received shall be exempt from income tax. If the policy holder has paid premium of more than the specified limit (10% / 15% / 20%) in any of the years, amount received on maturity shall be chargeable to tax but

if the amount has been received on the death of the policy holder, it will be exempt from income tax. e.g. Mr. X has paid premium of one life policy Rs25,000 and sum assured is Rs1,00,000 and policy was taken on 01.04.2012 onwards, in this case deduction allowed shall be Rs10,000 but if policy was taken before 01.04.2012, deduction allowed shall be Rs20,000. If Mr. X is a handicapped person and policy was taken w.e.f 01.04.2013 onwards, deduction allowed shall be Rs15,000

7. Payment of tuition fees to School, College, University or any other Educational Institution in India provided the fees has been paid in connection with the children of the assessee and further for maximum two children and it should be whole time education. Children shall include even adopted and step children also. Deduction is not allowed to HUF. If payment is made outside India, deduction is not allowed. Similarly if payment is given for part time education or correspondence course, deduction is not allowed.

8. Employees contribution to statutory provident fund or recognised provident fund or approved superannuation fund

9. Investment in Units of Unit trust of India or mutual fund including Unit Linked Insurance Plan of UTI or mutual fund.

10. Subscription to Notified Deposit Schemes of NHB e.g. subscription to Home Loan Account Scheme of NHB.

11. Investment in equity shares or debentures etc forming part of an eligible issue. Eligible issue means an issue made by an Indian Public Ltd Company or a Public Financial Institution, a Mutual Fund etc. and the funds so collected are utilised for Developing, Maintaining and Operating Infrastructure Facility.

If any such equity shares etc. have been sold within a period of 3 years from the date of purchase, in such cases deduction earlier allowed shall be considered to be income of such year

12. Investment in notified bonds issued by the National Bank for Agriculture and Rural Development.

13. Senior Citizens Savings Scheme. Amount should be invested in the name of self and amount received on maturity shall be exempt and interest shall be payable on quarterly basis and interest received is taxable. Deduction under section 80C for interest is not allowed.

14. Investment in SukanyaSamridhi Account and amount can be invested by an individual as guardian in the name of girl child who is of the age of 10 years or less. Interest received is exempt. Amount received on maturity is exempt. Account can be closed after the completion of 21 years of age. In case of marriage, payment is allowed after completion of 18 years of age.

15. Investment by an employee of the Central Government, as a contribution to a specified account of the pension scheme referred to in section 80CCD—

(a) for a fixed period of not less than three years; and

(b) which is in accordance with the scheme as may be notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation.—For the purposes of this clause, “specified account” means an additional account referred to in sub-section (3) of section 20 of the Pension Fund Regulatory and Development Authority Act, 2013.

Deduction shall be allowed only if the amount has been actually paid by the assessee i.e. if the amount is due but not paid deduction is not allowed. E.g. Premium of Rs25,000 was due on 27.03.2020 but it was paid on 10.04.2020, in this case no deduction is allowed in the previous year 2019-20, rather deduction shall be allowed in the previous year 2020-21.

Q-104 Mr. X has income under the head business/profession Rs3,35,000.

He has made the following investments:-

☑ NSC Rs10,000

☑ Investment in post office 5 year time deposit account Rs15,000

☐ Payment of premium for life policy in the name of major married independent son on 10.10.2019 Rs30,000 (sum assured Rs90,000)

☐ Paid premium of Rs11,000 for JeevenSuraksha policy taken in name of Mr. X on 11.11.2019.

Compute income tax liability for A.Y 2020-21.

Solution:	Rs
Income under the head Business/Profession	3,35,000.00
Gross Total Income	3,35,000.00
Less: Deduction u/s 80C	
NSC	(10,000.00)
Investment in 5 years post office	(15,000.00)
Payment of premium of LIC	(9,000.00)
Less: Deduction u/s 80CCC	(11,000.00)
Total Income	2,90,000.00
Computation of Tax Liability	
Tax on Rs2,90,000 at slab rate	2,000.00
Less: Rebate u/s 87A	(2,000.00)
Tax Liability	Nil

Q-105 Mr. X, an individual, made payment of health insurance premium to General Insurance Corporation in an approved scheme. Premium paid on his health is Rs10,000 and his spouse's health is Rs15,000 during the year

2019-20. He also paid health insurance premium of Rs25,000 on his father's health who is a senior citizen and not dependent on him. The payments have not been made by cash.

Compute the amount of deduction under Chapter VI-A of the Act, available to Mr. X from his gross total income for the assessment year 2020-21.

Answer. Mr. X will be eligible to claim deduction under section 80D on payment of health insurance premium. The premium is paid otherwise than by way of cash and hence qualifies for deduction under section 80D. Therefore, the amount of deduction under section 80D would be –

Particulars Amount (Rs)

On health insurance premium paid on the health of himself and his spouse (Rs10,000 + Rs15,000 = Rs25,000)	25,000
On health insurance premium paid on the health of his father, (whether dependent or not)	Rs25,000 25,000
Total deduction under section 80D	50,000

Question 106 Deduction in case of expenditure in connection with handicapped dependant relative.

Answer: Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability Section 80DD

1. Deduction is allowed only to a resident individual and a resident Hindu Undivided Family.
2. Deduction is allowed if the assessee has incurred any expenditure for the medical treatment, training and rehabilitation etc. of a dependant disabled person, or has deposited any amount with LIC or any other insurer for the benefit of such dependant.
3. "Dependant" in the case of an individual, means the spouse, children, parents, brothers and sisters who are dependant on the individual and in the case of Hindu Undivided Family means any member of the Hindu Undivided Family who is dependant on such Hindu Undivided Family.
4. Deduction allowed shall be Rs75,000 irrespective of the expenditure incurred by the assessee and in case of severe disability, deduction allowed shall be Rs1,25,000.
5. The assessee should enclose a certificate with the return from prescribed medical authority.

Question 107

Mr. X engaged in various types of activities gives the following information for the year ended 31.03.2020.

	Rs
Loss from automobile business (Total turnover Rs6,00,000)	1,10,000
Profit from wholesale trade in furniture items at the prescribed percentage of turnover	

as per section 44AD	4,00,000
Brought forward loss relating to discontinued textile business (discontinued w.e.f. 01.06.2012)	2,00,000
Short term capital loss on sale of vacant site during the year	70,000
Profit from speculation business related to oil seeds	1,10,000
Loss from speculation business brought forward and related to cotton (brought forward from assessment year 2019-20)	50,000
Brought forward unabsorbed depreciation of trade in furniture items related to assessment year 2019-20	60,000

Note: Aggregate total business turnover of Mr. X to be assumed as below limit prescribed under section 44AB.

Compute the Total Income of Mr. X for the Assessment Year 2020-21.

Solution: Computation of Total Income of Mr. X for the assessment year 2020-21

	Rs
Income under the head Business/Profession	
Income from wholesale trade in furniture	4,00,000
Less: Loss from automobile business (current year)	(1,10,000)
Less: Brought forward loss relating to discontinued textile business (P.Y. 2012-13)	(2,00,000)
Income from wholesale trade in furniture	90,000
Income from Speculation Business	1,10,000
Less: Loss from speculation business brought forward and related to cotton	(50,000)
Income from Speculation Business	60,000
Income under the head Business/Profession	1,50,000
Gross Total Income	1,50,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	1,50,000

Note:

(i) Brought forward unabsorbed depreciation of trade in furniture items related to Assessment Year 2019-20 is not allowed to be adjusted.

(ii) Short Term Capital Loss on sale of vacant site A.Y. 2020-21 Rs70,000 to be carried forward for 8 years starting from Assessment Year 2021-22.

Question 108 Discuss the provisions relating to taxability of recognised Provident Funds?

Answer: Recognised provident fund Part A of fourth schedule/ Section 10(12)

Employer's contribution upto 12% of the employee's retirement benefit salary shall be exempt from income tax. Interest credited to the provident fund account upto 9.5% p.a. shall be exempt from income tax. Deduction shall be allowed under section 80C for employee contribution.

Meaning of Retirement Benefit Salary

Retirement Benefit Salary shall include:

(i) Basic pay

(ii) Dearness allowance if the terms of employment so provided

(iii) Commission if it is paid as a fixed percentage of the turnover as decided in Gestetner Duplicators Pvt.Ltd v CIT, (1979)(SC).

Q-109: Mr. X is employed in ABC limited basic pay Rs70,000 per month, D.A. Rs30,000 per month , Bonus Rs50,000 and commission @ 1% on sales turnover of Rs100 Lakh. Employer has contributed Rs18,000 per month to Unrecognized provident fund and employee has also contributed an equal amount. During theyear Interest of Rs2,00,000 was credited on employee plus employer contribution @ 10% per annum.Compute his Income and Tax Liability.

Solution:	Rs
Basic Pay (70,000 x 12)	8,40,000
Dearness allowance (30,000 x 12)	3,60,000
Bonus	50,000
Commission (100,00,000 x 1%)	1,00,000
Employer's contribution to unrecognised provident fund	Nil
Interest credited in unrecognised provident fund	Nil
Gross Salary	13,50,000
Less: Standard Deduction u/s 16 (ia)	(50,000)
Income under the head Salary	13,00,000
Gross Total Income	13,00,000

Less: Deduction u/s 80C to 80U	Nil
Total Income	13,00,000
Computation of Tax Liability	
Tax on Rs13,00,000 at slab rate	2,02,500
Add: HEC @ 4%	8,100
Tax Liability	2,10,600

Q-110: Well-Being Nursing Home has received the following amounts in the month of February, 2020 in lieu of various services rendered by it in the same month. You are required to determine its GST liability for February, 2020 from the details furnished below:-

Particulars	(Rs)(in lakh)
i. Palliative care for terminally ill patients at patient's home (Palliative care is given to improve the quality of life of patients who have a serious disease)	30
ii. Services provided by cord blood bank unit of the nursing home	24
iii. Hair transplant services	100
iv. Ambulance services to transport critically ill patients from various locations to nursing home	12
v. Naturopathy treatments.	80
vi. Plastic surgery to restore anatomy of a child affected due to an accident. (Anatomy means study of the structure of human or animal bodies)	30
vii. Reiki healing treatments. Such treatment is not a recognized system of medicine	120
viii. Mortuary services	10

Note: All the amounts given above are exclusive of tax and Rate of Tax is CGST @ 9% and SGST @ 9%.

Point of supply for the services rendered by Well-Being Nursing Home in the month of February, 2020 fall in the month of February itself.

Solution:

Computation of GST liability of Well-Being Nursing Home for the month of February, 2020

Particulars	(Rs)(in lakh)
i. Palliative care for terminally ill patients at patient's home -	
ii. Services provided by cord blood bank -	

iii. Hair transplant services	100.000
iv. Ambulance services -	
v. Naturopathy treatments -	
vi. Plastic surgery to restore anatomy of a child affected due to an accident -	
vii. Reiki healing treatments	120.000
viii. Mortuary services -	
Value of taxable service	220.000
CGST @ 9% [Rs 220 lakh × 9%]	19.800
SGST @ 9% [Rs 220 lakh × 9%]	19.800

Question 111

(a) Holiday Guest House, situated at Shimla, provides boarding & lodging services to tourists at economical cost. The charges of a single deluxe room per day are ₹ 999. Mr. X has booked one deluxe room for two days during Christmas holidays. You are required to determine whether GST is payable by Holiday Guest House on the above booking. If yes, determine the amount of GST so payable.

Will your answer change, if the charges of a single deluxe room per day charged by Holiday Guest House are ₹ 1,000?

(b) M/s Damodar Ltd. provides services by way of storage of seasonal fruits and vegetables in Bhatinda, Punjab. The monthly rental for a godown is ₹ 15,000. Examine whether GST is payable by M/s Damodar Ltd.

Answer:

(a) Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to ₹ 1,000 per day or equivalent have been exempted from GST vide an exemption notification. Thus, in view of the above-mentioned provisions, GST is not payable by Holiday Guest House on the booking done by Mr. X as the charges for a unit of accommodation per day is less than ₹ 1,000.

The answer will remain the same even if the charges of a single deluxe room per day is ₹ 1,000 as the exemption is also available in the case where value of supply of a unit of accommodation per day is ₹1,000/ i.e., such services are taxable only where value of supply of a unit of accommodation per day exceeds ₹1,000/-. Thus, no GST is payable by Holiday Guest House on the booking done by Mr. X even if the charges of a single deluxe room per day is ₹ 1,000.

(b) Services by way of storage/ warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea have been exempted from GST under an exemption notification under GST.

Thus, no GST is payable on the services provided by M/s Damodar Ltd. by way of storage of seasonal fruits and vegetables in Bhatinda, Punjab.

Question 112

JP Charitable institution, an entity registered under Section 12AA of Income Tax Act, 1961 and registered in GST, has furnished you the following details with respect to the activities undertaken by it during the month of January, 2020. You are required to compute its Taxable Value of GST from the information given below, assuming the rate of GST is 18%. Brief reasoning should be part of your answer.

Particulars Amount in	(Rs)
(Excluding GST)	
Membership fees received from members	10,00,000
Amount received for advancement of educational programs relating to abandoned or orphaned or homeless children	4,00,000
Amount received for renting of commercial property owned by Trust	5,00,000
Amount received for counselling of terminally ill person	3,50,000
Fees charged for Yoga Camp conducted by Trust	2,00,000
Amount received relating to preservation of Forest and Wildlife	6,00,000

Solution:

As per notification number 12/2017 dated 28.06.2017 services provided by charitable trust by way of charitable activities shall be an exempt supply “charitable activities” means activities relating to –

(i) public health by way of, –

(A) care or counseling of

(I) terminally ill persons or persons with severe physical or mental disability;

(II) persons afflicted with HIV or AIDS;

(III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol;

or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) advancement of religion, spirituality or yoga;

(iii) advancement of educational programmes or skill development relating to, –

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(iv) preservation of environment including watershed, forests and wildlife.

Computation of Taxable Value

Particulars	Amount in (Rs)
Membership fees received from members	Nil
Amount received for advancement of educational programs relating to abandoned or orphaned or homeless children	Nil
Amount received for renting of commercial property owned by Trust	5,00,000
Amount received for counselling of terminally ill person	Nil
Fees charged for Yoga Camp conducted by Trust	Nil
Amount received relating to preservation of Forest and Wildlife	Nil
Taxable Value	5,00,000
GST @ 18%	90,000

Notes:

1. Membership fees received from its own members is an exempt supply.

2. Amount received for advancement of educational programs relating to abandoned or orphaned or homeless children is a charitable activity and is an exempt supply.
3. Amount received for counselling of terminally ill person is a charitable activity and is an exempt supply.
4. Fees for yoga camp is a charitable activities and is an exempt.
5. Amount received relating to preservation of Forest and Wildlife is a charitable activity and is an exempt supply.

Question 113. Explain meaning of agricultural income.

Answer: Meaning of Agricultural Income Section 2(1A) The term Agricultural Income is defined in three parts under Income Tax Act under section 2(1A) (a), 2(1A)(b), 2(1A) (c) as given below:

Income from leasing out of agricultural land Section 2(1A) (a) If any person has given any agricultural land on rent, rent so received shall be considered to be agricultural income and shall be exempt from income tax e.g. Mr. X has ten acres of agricultural land in India which is given on lease at a rent of Rs2,00,000. It will be considered to be agricultural income. If rent is received in kind, still it will be considered to be agricultural income e.g. Mr. X has leased out ten acres of agricultural land and has received wheat crop worth Rs2,00,000. In this case, Rs2,00,000 shall be considered to be his agricultural income.

If rent to be received has not been received in time and accordingly interest has been received, such interest shall not be considered to be agricultural income, rather it is his income under the head other sources.

If the agricultural land is situated outside India, income from agricultural land is taxable as income from other sources.

(One acre is equal to an area of 4,840 square yards (0.405 hectare))

Income from Agricultural Operations Section 2(1A)(b)

If any person is engaged in agricultural activities, income derived from such agricultural operations shall be considered to be agricultural income.

Dividends received by a shareholder from the company having agricultural income

If any shareholder has received dividend from a company having income from agricultural activities, such income shall not be considered to be agricultural income rather it will be considered to be dividend income.

However, if the company paying dividend is a domestic company, dividend upto Rs10,00,000 shall be exempt under section 10(34) and the company has to pay additional income tax under section 115-O @ 15% plus surcharge @ 12% plus HEC @ 4%. E.g. ABC Ltd. an Indian company has agricultural income of Rs500 lakhs and company has distributed dividend of Rs50 lakh and one of the shareholder Mr. X has received dividend of Rs8 lakh, in this case tax treatment shall be:

Tax liability of ABC Ltd. Shall be nil as per section 10(1), however company has to pay additional income tax as given below: $50,00,000 / 82.528 \times 17.472 = 10,58,549.83$ Rounded off u/s 288B 10,58,550 Dividend received by Mr. X shall be exempt from income tax under section 10(34) If any foreign company is doing agriculture, its agricultural income in India shall also be exempt and if the company has paid dividend, it will be taxable in the hands of the shareholder and the company shall be exempt from additional income tax e.g. If in the above case it is a foreign company, its tax liability shall be nil also additional income tax shall be nil and tax liability of shareholder shall be as given below:

Tax on Rs8,00,000 at slab rate	72,500
Add: HEC @ 4%	2900
Tax Liability	75,400

Q-114 Mr. X (non-resident, aged 68 years) has incomes as given below:

(i) Income under the head Salary	Rs3,00,000
(ii) Income under the head House Property	Rs1,20,000
(iii) Income from long term capital gains	Rs50,000
(iv) Casual income	Rs30,000
(v) Agricultural income	Rs60,000
(vi) Deductions under section 80D to 80U	Rs1,40,000

(vii) He has invested Rs40,000 in KisanVikasPatra, Rs20,000 in equity shares of infrastructure development companies.

Compute his total income and tax liability for the assessment year 2020-21.

Solution:	Rs
Income under the head Salary	3,00,000
Income under the head House Property	1,20,000
Income under the head Capital Gains (LTCG)	50,000
Income under the head Other Sources (Casual Income)	30,000
Gross Total Income	5,00,000
Less: Deduction u/s 80C	(20,000)
Less: Deduction u/s 80D to 80U	(1,40,000)
Total Income	3,40,000
Agricultural income	60,000
Computation of Tax Liability	
Tax on casual income Rs30,000 @ 30% u/s 115BB	9,000
Tax on Long term capital gain Rs50,000 @ 20% u/s 112	10,000
Normal income	Rs2,60,000
Tax on (2,60,000 + 60,000) at slab rate	3,500
Tax on (2,50,000 + 60,000) at slab rate	(3,000)
Tax on normal income (3,500 – 3,000)	500
Tax before health & education cess	19,500
Add: HEC @ 4%	780
Tax Liability	20,280

Note: 1. Benefit of the slab rate for senior citizen is not available to non-resident assessee.

2. Rebate u/s 87A is not allowed to non-resident.

Q-115 A partnership firm Z & Co. has agricultural income Rs20,00,000 and its partner Mr. Z has received Rs5,00,000 being his share in the profits of partnership. Mr. Z has income under the head house property Rs2,75,000. Compute tax liability of the partnership firm and also that of Mr. Z.

Solution:	Rs
Computation of Tax Liability of Partnership firm	
Agricultural income	20,00,000
Tax liability	Nil
Computation of Tax Liability of Mr. Z	
Share of profit from partnership firm {exempt u/s 10(2A)}	Nil
Income under the head House Property	2,75,000
Gross Total Income	2,75,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	2,75,000
Tax on Rs2,75,000 at slab rate	1,250
Less: Rebate u/s 87A	(1,250)
Tax Liability	Nil

Q-116 Mr. X transferred 2,000 debentures of Rs100 each of Wild Fox Ltd. to Mrs. X on 03.04.2019 without consideration. The company paid interest of Rs30,000 in September, 2019 which was deposited by Mrs. X with Kartar Finance Co. in October, 2019. Kartar Finance Co. paid interest of Rs3,000 upto March, 2020. How would both the interest income be charged to tax in assessment year 2020-21?

Solution:

As per section 64(1), income arising from assets transferred without adequate consideration by an individual to his spouse is liable to be clubbed in the hands of the individual, but if there is any further income from received by Mrs. X in September, 2019 will be clubbed with the income of Mr. X, since he had transferred the debentures of the company without consideration to her. However, the interest of Rs3,000 upto March 2020 earned by Mrs. X on the interest of the debentures deposited by her with Kartar Finance Company shall be taxable in her individual capacity and will not be clubbed with the income of Mr. X.

(vi) Where the asset transferred directly or indirectly by an individual to the spouse has been invested by the transferee in any business, the income arising out of the business to the transferee in any previous year shall be clubbed in the income of transferor but for this purpose capital as on first day of relevant previous year shall be taken into consideration.

Example

(a) Mr. X has gifted Rs5,00,000 to Mrs. X on 01.04.2019 and She invested it in the proprietary business on the same date and there were profits of Rs2,00,000. In this case, entire income of Rs2,00,000 shall be clubbed in the income of Mr. X.

(b) Mrs. X has one business on 01.04.2019 with capital of Rs5 lakh and Mr. X has gifted Rs5,00,000 to Mrs. X on 01.04.2019 and She invested it in the proprietary business on the same date and there were profits of Rs2,00,000. In this case, income of Rs1,00,000 shall be clubbed in the income of Mr. X.

(c) Mrs. X has one business on 01.04.2019 with capital of Rs5 lakh and Mr. X has gifted Rs5,00,000 to Mrs. X on 20.04.2019 and She invested it in the proprietary business on the same date and there were profits of Rs2,00,000. In this case, income from business shall not be clubbed in the income of Mr. X because amount was transferred in business after first day of previous year .

Q-117 Mr. X, entered into the following transactions during the previous year 2019-20:

(a) Mr. X had a fixed deposit of Rs8,00,000 with State Bank of India. He instructed the bank to credit the interest on the deposit @ 9% from 01.04.2019 to 31.03.2020 to the savings bank account of Ms. Y, his niece, to help her in her higher education.

(b) Mr. X holds 51% share in a partnership firm. Mrs. X (wife of Mr. X) received a remuneration of Rs45,000 from the firm for writing its books of accounts. Mrs. X, being a fashion designer, does not possess any qualification or training in the accountancy field.

(c) Mr. X gifted a flat to Mrs. X on April 1, 2019. During the previous year 2019-20, she received rent of Rs8,500 p.m. from letting out of the flat.

(d) Mr. X gifted Rs4,00,000 to his minor son who invested the same in a business and he derived income of Rs40,000 from the investment.

(e) Mr. X's minor daughter derived an income of Rs25,000 from participation in music shows. During the year, Mr. X got a monthly pension of Rs18,000. He had no other income. Mrs. X received salary of Rs25,000 per month from a part time job as a fashion designer. Discuss the tax implications of each transaction and compute the total income of Mr. X and Mrs. X.

Solution: Rs

Computation of Total Income of Mr. X

(a) Interest income received by Miss. Y shall be clubbed in the income of Mr. X as per section 60 (8,00,000 x 9%)	72,000
(b) Remuneration of Rs45,000 received by Mrs. X shall be clubbed in the income of Mr. X as per section 64(1)	45,000
(c) Income from House Property gifted to Mrs. X shall be taxable in the hands of Mr. X because as per section 27 Mr. X is the deemed owner	71,400
(Rent received (i.e. Rs1,02,000) is taken as Gross Annual Value. Deduction @ 30% of Net Annual Value is allowed u/s 24. The net income from house property would be	Rs71,400
(i.e. Rs 1,02,000- Rs30,600 being 30% of NAV)	
(d) Income of minor child shall be clubbed in the income of Mr. X as per section 64(1A) because Mr. X has higher income (40,000 – 1,500)	38,500
(e) Income of minor daughter from music show shall not be clubbed	Nil
Pension income of Mr. X (Rs 18,000×12)	2,16,000
Less: Standard deduction u/s 16(ia)	(50,000)
Income under the head salary	1,66,000
Total Income	3,92,900
Salary income of Mrs. X	3,00,000
Less: Standard deduction u/s 16(ia)	(50,000)
Income under the head salary	2,50,000

Q-118 What are the incomes taxable under the head Salary?

Answer: Incomes chargeable under the head Salary

Payments must be out of employer/employee relationship

The amount received by an individual shall be treated as salary only if the relationship between payer and payee is that of an employer and employee or master and servant. The employee may be a full time employee or part-time employee.

The important point is that payment received by an individual from a person other than his employer cannot be termed as salary. e.g. Commission received by a director from a company is salary if the director is an employee of the company and if the director is not an employee of the company, commission will be taxable under the head "Profits and gains of business or profession" or "Income from other sources."

Payments received by a college lecturer from a university

Emoluments received by a college lecturer from his college are salary, irrespective of the fact whether it is received for academic work or otherwise. If lecturer is paid for setting question paper by university, the remuneration is not salary, as it is not received from the employer and is taxable under the head "Income from other sources". The deciding factor is that what is not received from employer cannot be treated as salary.

A Member of Parliament or State Legislature is not treated as an employee of the Government, hence salary and allowances received by him are, not chargeable to tax under the head "Salaries" but are chargeable to tax under head "Income from other sources".

Q-119 Mr.Srivastava, aged 40 years, a salaried employee of Nirja Ltd. was contributing to National Pension Scheme Rs50,000 every year since 2017 and was claiming deduction under section 80CCD. In December 2019, he opted out of the pension scheme and withdrew a lump sum amount of Rs2,00,000. Is the amount so withdrawn taxable? If yes, how much is the taxable amount?

Answer: As per section 80CCD, if an assessee has received any amount from the accumulated balance under National Pension Scheme, the amount so received is taxable but w.e.f. assessment year 18-19 some exemption has been granted u/s 10(12A) and is as given below: Any payment from the National Pension System Trust to an employee on closure of

his account or on his opting out of the pension scheme referred to in section 80CCD shall be exempt to the extent of 60% of the total amount payable to him at the time of such closure or his opting out of the scheme.

Further as per section 80CCD, Lumpsum amount received by the nominee on the death of the assessee shall be fully exempt from Income Tax.

Gross Value	2,00,000
Less: Exempt u/s 10(12A) (60% x 2,00,000)	(1,20,000)
Taxable Value	80,000

Q-120 Discuss whether the following receipts are taxable and also indicate the head of income under which the same is taxable:

- (i) Bonus shares received by equity shareholder and preference shareholder.
- (ii) Loan advanced by a company in which public are not substantially interested to a person holding 15% of the beneficial ownership of the share capital of the company.
- (iii) Medical allowance received by an employee, the entire amount of which has been spent by him for medical treatment.
- (iv) Receipt of cash gift of Rs60,000/- from a friend on the occasion of wedding anniversary.
- (v) Gift of a plot of land given to a chartered accountant by one of his clients. The chartered accountant has been fully compensated for his services and this gift has been given in appreciation of his personal qualities.
- (vi) A lawyer closed down his profession. Subsequently he accepted a case on the insistence of his friend but advised his friend to pay the fee payable to him directly to a charitable trust.
- (vii) Payment from unrecognised provident fund at the time of retirement which consists of employee's contribution, employer's contribution and interest on both contributions.

Answer:

- (i) Bonus shares received by equity shareholders is not taxable. Bonus share is deemed dividend in the hands of preference shareholder only and it is covered under the head Other Sources

However, it is tax free u/s 10(34) as company is liable to pay additional income tax on it.

(ii) Such loan is deemed dividend in the hand of shareholder u/s 2(22)(e). He is liable to tax thereon under the head other sources.

(iii) Fully taxable under the head salary.

(iv) Rs60,000 taxable as gift under the head other Sources.

(v) Perquisites under section 28 taxable as PGBP

(vi) Taxable as income under the head Business/Profession.

(vii) Employer's contribution & interest is taxable as salary. Employee's contribution is not taxable.

However, interest on his contribution is taxable as Income from other Sources.

Q-121

Mr. X employed in ABC Co. Ltd. as Finance Manager gives you the list of perquisites provided by the company to him for the entire financial year 2019-20:

(i) Domestic servant was provided at the residence of Mr. X. Salary of domestic servant is Rs1,500 per month. The servant was engaged by him and the salary is reimbursed by the company (employer).

In case, the company has employed the domestic servant, what is the value of perquisite?

(ii) Free education was provided to his two children Mr. S and Mr. A in a school maintained and owned by the company. The cost of such education for Mr. S is computed at Rs900 per month and for Mr. A at Rs1,200 per month. No amount was recovered by the company for such education facility from Mr. X.

(iii) The employer has provided movable assets such as television refrigerator and air conditioner at the residence of Mr. X. The actual cost of such assets provided to the employee is Rs1,10,000.

(iv) A gift voucher worth Rs10,000 was given on the occasion of his marriage anniversary. It is given by the company to all employee above certain grade.

State the taxability or otherwise of the above said perquisites and compute the total value of taxable perquisites.

Answer.

Taxability of perquisites provided by ABC Co. Ltd. to Mr. X

(i) Domestic servant was employed by the employee and the salary of such domestic servant was paid/reimbursed by the employer. It is taxable as perquisite for all categories of employees.

Taxable perquisite value = $\text{Rs}1,500 \times 12 = \text{Rs}18,000$.

If the company had employed the domestic servant and the facility of such servant is given to the employee, then the perquisite is taxable only in the case of specified employees. The value of the taxable perquisite in such a case also would be Rs18,000.

(ii) Where the educational institution is owned by the employer, the value of perquisite in respect of free education facility shall be determined with reference to the reasonable cost of such education in a similar institution in or near the locality.

However, there would be no perquisite if the cost of such education per child does not exceed Rs1,000 per month.

Therefore, there would be no perquisite in respect of cost of free education provided to his child Mr. S, since the cost does not exceed Rs1,000 per month.

However, the cost of free education provided to his child Mr. A would be taxable, since the cost exceeds Rs1,000 per month.

Only the sum in excess of Rs1,000 per month is taxable. The value of perquisite would be Rs2,400.

(iii) Where the employer has provided movable assets to the employee or any member of his household, 10% per annum of the actual cost of such asset owned or the amount of hire charges incurred by the employer shall be the value of perquisite. However, this will not apply to laptops and computers. In this case, the movable assets are television, refrigerator and air conditioner and actual cost of such assets is Rs1,10,000. The perquisite value would be 10% of the actual cost i.e., Rs11,000, being 10% of Rs1,10,000.

(iv) Only the sum in excess of Rs 5,000 is taxable in view of the language of Circular No.15/2001 dated 12.12.2001 that such gifts upto Rs 5,000 in the aggregate per annum would be exempt, beyond which it would be taxed as a perquisite.

Total value of taxable perquisite = $\text{Rs } 36,400$ [i.e. $\text{Rs}18,000 + 2,400 + 11,000 + 5,000$].

Q-122 Mr. A sponsored a dance competition organized by 'TaalAcademy', a dance school run by an individual. The dance competition was named as 'Mr. A's Dance Show' by 'Taal Academy'. Who is liable to pay GST in this case? Will your answer be different if 'Taal Academy' is run by a partnership firm?

Solution: In case of service provided by way of sponsorship to any body corporate or partnership firm, person liable to pay GST is the person receiving such service i.e. reverse charge is applicable, but if services are given to any other person, reverse charge is not applicable. In the given case sponsorship service is provided to an individual, the person liable to pay GST will be service provider i.e., 'Taal Academy'. Further, since the status of service receiver is relevant for determining as to who would pay GST, status of service provider is immaterial. Therefore, as long as sponsorship service is rendered to an individual, GST will be payable by service provider i.e., 'Taal Academy' irrespective of whether the same is run by an individual or a partnership firm.

3. Goods Transport Agency

Reverse charge shall be applicable in respect of goods transport agency but it is applicable only if the person making payment of freight is any of the persons mentioned below:

(a) any factory; (b) any society registered under Societies Registration Act, 1860; (c) any co-operative society; (d) any person registered under GST; (e) any body corporate; or (f) any partnership firm/AOP/BOI; (g) any casual taxable person.

GST shall be paid by the consignor or consignee whosoever is liable to pay freight charges.

If GTA has given services to Unregistered persons, it will be exempt from GST. (Notification no. 32/2017 CT(R) dated 13-10-2017.)

Example

(i) ABC Ltd., consignor is in Delhi and consignee XYZ Ltd. is in UP and GTA, Z Ltd. is in Delhi and freight is to be paid by ABC Ltd., in this case reverse charge is applicable and GST shall be paid by ABC Ltd. and if freight is to be paid by XYZ Ltd., reverse charge shall be applicable and XYZ Ltd. has to pay GST under reverse charge.

If the person making payment of freight is individual or HUF who is unregistered, it will be exempt from GST.

(ii) ABC Ltd., consignor is in Delhi and consignee Mr. X is in U.P. who is unregistered and GTA, Z Ltd. Is in Delhi and freight is to be paid by Mr. X, in this case it will be exempt from GST.

Q-123 Mr.Thiraj, a registered supplier of service in Bangalore (Karnataka State) has provided the following information for the month of February 2020:

Particulars Amount in	(Rs)
(i) Intra-state taxable supply of service	5,20,000
(ii) Legal fee paid to a Lawyer located within the State	20,000
(iii) Rent paid to the State Govt. for his office building	30,000
(iv) Received for services towards conduct of exams to Loveall University,	16,000

Pune (recognized by law), being an inter-state transaction. Compute the net GST liability (CGST, SGST or IGST) of Mr.Thiraj for the month of February 2020.

Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively.

All the amounts given above are exclusive of taxes.

Solution: Computation of Net GST Liability of Mr.Thiraj for the month of February 2020

Output Tax

	Rs
Intra-state taxable supply of service is a taxable supply	5,20,000
Add: CGST @ 9%	46,800
Add: SGST @ 9%	46,800
Legal fee paid to a Lawyer located within the State taxable under reverse charge and service recipient shall be liable to pay tax. (Section 9(3) of CGST Act)	20,000
Add: CGST @ 9%	1,800
Add: SGST @ 9%	1,800
(ITC will be available of tax paid under reverse charge)	

Rent paid to the State Govt. for his office building taxable under reverse charge and service recipient shall be liable to pay tax if the service recipient is registered under GST. (Section 9(3) of CGST Act)

	30,000
Add: CGST @ 9%	2,700
Add: SGST @ 9%	2,700

(ITC will be available of tax paid under reverse charge)

Received for services towards conduct of exams to Loveall University, Pune (recognized by law) is a exempt service.

Nil

Computation of Net Tax Liability CGST

Output tax (46,800+1,800+2,700)	51,300
Less: ITC-CGST	(4,500)
Net Tax Liability	46,800

SGST

Output tax (46,800+1,800+2,700)	51,300
Less: ITC-SGST	(4,500)
Net Tax Liability	46,800

Q-124

Kamal gifted Rs10 lakhs to his wife, Sulochana on her birthday on, 1st January, 2019. Sulochana lent Rs5,00,000 out of the gifted amount to Krishna on 1st April, 2019 for six months on whichshe received interest of Rs50,000. The said sum of Rs50,000 was invested in shares of a listed company on 15thOctober, 2019, which were sold for Rs75000 on 30th December, 2019. Securities transactions tax was paid on such sale. The balance amount of gift was invested as capital by Sulochana in a business. She suffered loss of Rs15,000 in the business in financial Year 2019-20.

In whose hands the above income and loss shall be included in Assessment Year 2020-21? Support your answer with brief reasons.

Answer:

As per section 64(1), If any person has transferred any asset to his or her spouse without adequate consideration in such case Income shall be clubbed in the income of the transferor, hence Interest income of Rs50,000 shall be clubbed in the income of Mr. Kamal.

If asset received by the spouse has been invested in the proprietor business, income from the business shall be clubbed in the income of transferor and if there is any loss, it will also be clubbed. In the given case there is a loss of Rs15,000 from business, such loss shall be clubbed in the income of Mr. Kamal.

If any person has transferred the asset to the spouse, income from the asset shall be clubbed but if same income is invested further, any subsequent income shall not be clubbed as decided in the case of M.P. BIRLA. In the given case, Mrs.Sulochana has invested interest income in the shares and there was capital gain on the sale of shares, such capital gain shall not be clubbed rather it will be taxable in the hands of Mrs.Sulochana.

Q-125 Write a note on taxability of Dividend Income.

Answer: Dividend Income Section 56

Dividend income from the domestic company shall be exempt from tax in the hands of the shareholder as per section 10(34). (however dividends from a foreign company shall continue to be taxed in the hands of the shareholder.

As per section 115BBDA, Dividend received by All Assessee except a domestic company or a fund or institution or trust or any university, exceeding Rs10 lakh shall be taxable @ 10%. No further deduction or expenditure shall be allowed from such income.

As per section 115O the domestic company has to pay additional income tax @ 15% + surcharge @ 12% + HEC @ 4%.

The effective rate shall be 15%

Add: Surcharge @ 12% 1.8%

Total 16.8%

Add: HEC @ 4% 0.672%

Total 17.472%

Example

ABC Ltd. is a domestic company and has total income Rs80,00,000. Turnover in P.Y. 2017-18 was 405 crore. It has declared the dividends of Rs10,00,000 and one of the shareholders Mr. X gets dividends of Rs25,000. In this case, tax liability of the company and Mr. X shall be:

	Rs
Total Income	80,00,000.00
Income tax @ 30%	24,00,000.00
Add: HEC @ 4%	96,000.00
Tax Liability	24,96,000.00
Additional Income Tax (10,00,000 / 82.528% x 17.472%)	2,11,709.97
Rounded off u/s 288B	2,11,710.00

Tax liability of Mr. X shall be nil.

The company has to pay surcharge on additional income tax in every case even if total income is less than

Rs100,00,000

Alternative Calculation:

Amount of Dividend	10,00,000.00
Additional Income Tax (10,00,000 / 85% x 15%)	1,76,470.59
Add: Surcharge @ 12%	21,176.47
Tax plus Surcharge	1,97,647.06
Add: HEC @ 4%	7,905.88
Total Amount of AIT	2,05,552.94
Rounded off u/s 288B	2,05,550.00