

PAPER – 4 : TAXATION
SECTION A : INCOME TAX LAW

Question No.1 is compulsory.

*Candidates are also required to answer any **two** questions from the remaining **three** questions.*

Working notes shall form part of the respective answers.

All questions pertaining to income-tax relate to assessment year 2020-21, unless stated otherwise in the question.

Question 1

Mr. Krishna (aged 65 years), a furniture manufacturer, reported a profit of ₹ 5,64,44,700 for the previous year 2019-20 after debiting/crediting the following items:

Debits:

- 1. ₹ 20,000 paid to a Gurudwara registered u/s 80G of the Income-tax Act, in cash where no cheques are accepted.*
- 2. ₹ 48,000 contributed to a university approved and notified u/s 35(1)(ii) to be used for scientific research.*
- 3. Interest paid ₹ 1,67,000 on loan taken for purchase of E-vehicle on 15-05-2019 from a bank. The E-vehicle was purchased for the personal use of his wife.*
- 4. His firm has purchased timber under a forest lease of ₹ 20,00,000 for the purpose of business.*

Credits:

- 1. Income of ₹ 4,00,000 from royalty on patent registered under the Patent Act received from different resident clients. No TDS was needed to be deducted by any of the clients.*
- 2. He received ₹ 3,00,000 from a debtor which was written off as bad in the year 2015-16. Amount due from the debtor (which was written off as bad) was ₹ 5,00,000, out of which tax officer had only allowed ₹ 3,00,000 as deduction in computing the total income for assessment year 2016-17.*
- 3. He sold some furniture to his brother for ₹ 7,00,000. The fair market value of such furniture was ₹ 9,00,000.*

The Suggested Answers for Paper 4A: Income-tax Law are based on the provisions of income-tax law as amended by the Finance Act, 2019 and Finance (No.2) Act, 2019, which are relevant for January, 2021. The relevant assessment year is A.Y.2020-21.

Other information :

1. Depreciation in books of accounts is computed by applying the rates prescribed under the Income tax laws.
2. Mr. Krishna purchased a new car of ₹ 12,00,000 on 1st September, 2019 and the same was put to use in the business on the same day. No depreciation for the same has been taken on car in the books of account.
3. Mr. Krishna had sold a house on 30th March, 2017 and deposited the long term capital gains of ₹ 25,00,000 in capital gain account scheme by the due date of filing return of income for that year. On 1st March, 2020, he sold another house property in which he resided for ₹ 1 crore. He earned a long term capital gain of ₹ 50,00,000 on sale of this property. On 25th March, 2020, he withdrew money out of his capital gain account and invested ₹ 1 crore on construction of one house.
4. Mr. Krishna also made the following payments during the previous year 2019-20
 - Lump-sum premium of ₹ 30,000 paid on 30th March, 2020 for the medical policy taken for self and spouse. The policy shall be effective for five years i.e. from 30th March, 2020 to 29th March, 2025.
 - ₹ 8,000 paid in cash for preventive health check-up of self and spouse.

Compute the total income and tax payable by Mr. Krishna for the assessment year 2020-21.

(14 Marks)

Answer**Computation of total income of Mr. Krishna for A.Y. 2020-21**

	Particulars	₹	₹	₹
I	Income from business or profession			
	Net profit as per profit and loss account		5,64,44,700	
	Add: Items of expenditure debited but not allowable while computing business income			
	1. Donation to Gurudwara in cash [not allowable as deduction since it is not incurred wholly and exclusively for business purpose. Since the amount is already debited, the same has to be added back while computing business income]	20,000		
	2. Interest on loan taken for purchase of e-vehicle [Interest on loan for purchase of e-vehicle for personal purpose is not			

allowed as deduction from business income since the same is not incurred wholly and exclusively for business purpose. Since it is already debited, the same has to be added back while computing business income]	1,67,000	
3. Sale of furniture to brother at less than FMV [The provisions of section 40A(2) are not applicable in case of sale transaction, even if the same is to a related party. Therefore, no adjustment is necessary in respect of difference of ₹ 2 lakh]	-	1,87,000
		5,66,31,700
Less: Items of income credited but not taxable or taxable under any other head of income		
4. Royalty on patent [Not taxable as business income since Mr. Krishna is engaged in manufacturing business. Since the amount is already credited to profit and loss account, the same has to be reduced while computing business income]	4,00,000	
5. Bad debt recovered [Actual bad debt is ₹ 2 lakhs i.e., ₹ 5 lakhs less ₹ 3 lakh, being the amount of bad debt recovered. Bad debt written off is ₹ 3 lakhs. Bad debt recovered to the extent of ₹ 1 lakh being excess of bad debt recovered over actual bad debt would be deemed to be business income. Since the entire ₹ 3 lakhs is credited to the profit and loss account, ₹ 2 lakhs has to be reduced]	2,00,000	6,00,000
		5,60,31,700
Less: Allowable expenditure		
6. Contribution to a university approved and notified u/s 35(1)(ii) for scientific research [Eligible for deduction @150%. Since, 100% of the expenditure is already debited to profit and loss account, balance 50% is allowed from business income]		24,000

	7. Depreciation on car [₹ 12 lakh x 30%, since car is purchased between 23.8.2019 and 31.3.2020 and put to use for more than 180 days in the P.Y.2019-20]		<u>3,60,000</u>	5,56,47,700
II	Capital Gain			
	Long term capital gain on sale of house property		50,00,000	
	Less: Exemption under section 54 [Since whole amount of long term capital gain is invested in construction of house within the stipulated time limit.]		<u>50,00,000</u>	-
	[Capital gain of ₹ 25 lakhs in capital gain account scheme is not taxable in P.Y. 2019-20, since the same is withdrawn and invested in construction of house within the stipulated time limit. The remaining amount of ₹75 lakhs invested in construction of house is eligible for exemption u/s 54, subject to a maximum of ₹50 lakhs being long-term capital gain on sale of house property during the P.Y.2019-20]			
III	Income from Other Sources			
	Royalty on patent [Taxable as "income from other sources", since he is engaged in business of manufacturing furniture]			<u>4,00,000</u>
	Gross Total Income			5,60,47,700
	Less: Deduction under Chapter VI-A			
	Deduction under section 80D			
	- Medici claim premium for self and spouse [In case of lump sum premium for medical policy, deduction is allowed for equally for each relevant previous years. [₹ 30,000/6 years, being relevant previous years in which the insurance is in force]	5,000		
	- Preventive health check up of self and spouse [Preventive health check up paid in cash allowed to the extent of ₹ 5,000]	<u>5,000</u>	10,000	

Deduction under section 80EEB [Since the loan is sanctioned by Bank during the P.Y. 2019-20, interest on loan taken for purchase of e-vehicle is allowed to the extent of ₹ 1,50,000]	1,50,000	
Deduction under section 80G [Donation of ₹ 20,000 to Gurudwara not allowable as deduction since amount exceeding ₹ 2,000 paid in cash]	-	
Deduction under section 80RRB [Deduction in respect of royalty on patent registered under the Patent Act subject to a maximum of ₹ 3 lakh]	3,00,000	4,60,000
Total income		5,55,87,700

Computation of tax liability of Mr. Krishna for A.Y.2020-21

Particulars	₹	₹
Tax on total income of ₹ 5,55,87,700		
Upto ₹ 3,00,000	Nil	
₹ 3,00,001 – ₹ 5,00,000 [@5% of ₹ 2 lakh]	10,000	
₹ 5,00,001 – ₹ 10,00,000 [@20% of ₹ 5,00,000]	1,00,000	
₹ 10,00,001- ₹ 5,55,87,700 [@30% of ₹ 5,54,87,700]	<u>1,63,76,310</u>	1,64,86,310
Add: Surcharge @ 37%, since total income exceeds ₹ 5,00,00,000		<u>60,99,935</u>
		2,25,86,245
Add: Health and education cess@4%		<u>9,03,450</u>
Total tax liability		2,34,89,695
Less: TCS u/s 206C(1) @ 2.5% on ₹ 20 lakh i.e., timber	50,000	
TCS u/s 206C(1F)@1% of ₹ 12 lakh i.e., sale of motor car where consideration exceeds ₹ 10 lakh	12,000	
TDS u/s 194-IA@1% of ₹ 1 crore i.e., sale of immovable property where consideration is ₹ 50 lakh or more	<u>1,00,000</u>	<u>1,62,000</u>
Tax payable		2,33,27,695
Tax payable (rounded off)		2,33,27,700

Question 2

- (a) Examine TDS/TCS implications in case of following transactions, briefly explaining provisions involved assuming that all the payees are residents; state the rate and amount to be deducted, in case TDS/TCS is required to be deducted/collected.
- On 1.5.2019, Mr. Brijesh made three fixed deposits of nine months each of ₹ 3 lakh each, carrying interest @ 9% with Mumbai Branch, Delhi Branch and Chandigarh Branch of CBZ Bank, a bank which had adopted CBS. These Fixed Deposits mature on 31.01.2020.
 - Mr. Marwah, aged 80 years, holds 6½% Gold Bonds, 1977 of ₹ 2,00,000 and 7% Gold Bonds 1980 of ₹ 3,00,000. He received yearly interest on these bonds on 28.02.2020.
 - M/s AG Pvt. Ltd. took a loan of ₹ 50,00,000 from Mr. Haridas. It credited interest of ₹ 79,000 payable to Mr. Haridas during the previous year 2019-20. M/s AG Pvt. Ltd. is not liable for tax audit during previous years 2018-19 and 2019-20.
 - Mr. Prabhakar is due to receive ₹ 6 lakh on 31.3.2020 towards maturity proceeds of LIC policy taken on 1.4.2016, for which the sum assured is ₹ 5 lakhs and the annual premium is ₹ 1,40,000. **(8 Marks)**
- (b) Mr. Xavier, an Indian resident individual, set up an unit in Special Economic Zone (SEZ) in the financial year 2015-16 for production of Mobile Phones. The unit fulfills all the conditions of section 10AA of the Income-tax Act, 1961.

During the financial year 2018-19, he has also set up a warehousing facility in a district of Tamil Nadu for storage of agricultural produce. It fulfills all the conditions of section 35AD.

Capital expenditure in respect of warehouse amounted to ₹ 93 lakhs (including cost of land ₹ 13 lakhs). The warehouse became operational with effect from 1st April, 2019 and the expenditure of ₹ 63 lakhs was capitalized in the books on that date.

Further details relevant for the financial year 2019-20 are as follows :

Particulars	₹
Profit from operation of warehousing facility before claiming deduction under section 35AD	1,10,00,000
Net Profit of SEZ (Mobile Phone) Unit	50,00,000
Export sales of SEZ (Mobile Phone) Unit	90,00,000
Domestic Sales of SEZ (Mobile Phone) Unit	60,00,000

Compute income tax (including AMT under 115JC) payable by Mr. Xavier for Assessment Year 2020-21. **(6 Marks)**

Answer

- (a) (i) CBZ Bank has to deduct tax at source @10% under section 194A, since the aggregate interest on fixed deposit with the three branches of the bank is ₹ 60,750 $[3,00,000 \times 9\% \times 3 \times 9/12]$, which exceeds the threshold limit of ₹ 40,000.

Since CBZ Bank has adopted core banking solution (CBS), the aggregate interest credited/paid by all branches has to be considered.

Tax to be deducted at source = ₹ 60,750 \times 10% = ₹ 6,075¹

- (ii) Tax @10% under section 193 is to be deducted on interest on 6½ Gold Bonds, 1977 and 7% Gold Bonds 1980, since the nominal value of the bonds held by Mr. Marwah i.e., ₹ 5,00,000 exceed ₹ 10,000.

Interest on 6½ Gold Bonds, 1977 = ₹ 2,00,000 \times 6.5% = ₹ 13,000

Interest on 7% Gold Bonds 1980 = ₹ 3,00,000 \times 7% = ₹ 21,000

Tax to be deducted at source = ₹ 34,000 \times 10% = ₹ 3,400

- (iii) M/s AG Pvt. Ltd. has to deduct tax at source @10% under section 194A, since the interest on loan payable is ₹ 79,000 which exceeds the threshold limit of ₹ 5,000. M/s AG Pvt. Ltd., being a company, has to deduct tax at source irrespective of the fact that it is not liable to tax audit during P.Y. 2018-19 and 2019-20.

Tax to be deducted at source = ₹ 79,000 \times 10% = ₹ 7,900

- (iv) Since the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, the maturity proceeds of ₹ 6 lakhs due on 31.3.2020 are not exempt under section 10(10D) in the hands of Mr. Prabhakar. Therefore, tax is required to be deducted @5% under section 194DA on the amount of income comprised therein i.e., on ₹ 40,000 [₹ 6,00,000, being maturity proceeds - ₹ 5,60,000, being the amount of insurance premium paid.

Tax to be deducted at source = ₹ 40,000 \times 5% = ₹ 2,000

- (b) **Computation of total income and tax liability of Mr. Xavier for A.Y. 2020-21 (under the regular provisions of the Act)**

Particulars	₹	₹
Profits and gains of business or profession		
Profit from unit in SEZ	50,00,000	
Less: Deduction under section 10AA	30,00,000	
[50,00,000 \times 90,00,000/1,50,00,000 \times 100%, since it is 5 th year of manufacturing]		

¹ Alternatively, in the absence of information about p.a., the amount of interest can also be worked out as ₹ 81,000 $[3,00,000 \times 9\% \times 3]$ and the tax to be deducted thereon would be ₹ 81,000 \times 10% = ₹ 8,100.

Business income of SEZ unit chargeable to tax		20,00,000
Profit from operation of warehousing facility	1,10,00,000	
Less: Deduction u/s 35AD [Deduction@100% in respect of the expenditure incurred prior to the commencement of its operations and capitalized in the books of account on 1.4.2019. Deduction is not available on expenditure incurred on acquisition of land] [₹ 93 lakhs – ₹ 13 lakhs]	80,00,000	
Business income of warehousing facility chargeable to tax		30,00,000
Total Income		50,00,000
Computation of tax liability		
Tax on ₹ 50,00,000		13,12,500
Add: Health and Education cess@4%		52,500
Total tax liability		13,65,000

Computation of adjusted total income and AMT of Mr. Xavier for A.Y. 2020-21

Particulars	₹	₹
Total Income (as computed above)		50,00,000
Add: Deduction under section 10AA		30,00,000
		80,00,000
Add: Deduction under section 35AD	80,00,000	
Less: Depreciation u/s 32 [On building@10% of ₹ 80 lakhs ²]	8,00,000	72,00,000
Adjusted Total Income		1,52,00,000
Alternate Minimum Tax@18.5%		28,12,000
Add: Surcharge@15% (since adjusted total income > ₹ 1 crore)		4,21,800
		32,33,800
Add: Health and Education cess@4%		1,29,352
Total tax liability		33,63,152
Tax Liability (Rounded off)		33,63,150

² Assuming the capital expenditure of ₹ 80 lakhs is incurred entirely on building

Since the regular income-tax payable is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income and tax is leviable @18.5% thereof plus surcharge@15% and cess@4%. Therefore, the tax liability is ₹ 33,63,150.

AMT Credit to be carried forward under section 115JEE

	₹
Tax liability under section 115JC	33,63,150
Less: Tax liability under the regular provisions of the Income-tax Act, 1961	13,65,000
	19,98,150

Note: In the third para of the question, there is a difference between the figure of capital expenditure incurred in respect of warehouse i.e., ₹ 93 lakhs (including cost of land ₹ 13 lakhs) and the figure of capital expenditure capitalised in the books on 1.4.2019 i.e., ₹ 63 lakhs. It appears to be a typographical error, due to which the main solution has been worked out considering ₹ 93 lakhs as the amount capitalised in the books on 1.4.2019.

However, alternative answers have been worked out below considering ₹ 63 lakhs (being the figure as printed in the question paper) as the amount capitalised in the books on 1.4.2019. In Alternative 1, it has been assumed that the amount of ₹ 63 lakhs capitalised on 1.4.2019 does not include cost of land. In Alternative 2, it has been assumed that the amount of ₹ 63 lakhs capitalised on 1.4.2019 includes cost of land.

Alternative 1 (The amount of ₹ 63 lakhs capitalized on 1.4.2019 does not include cost of land)

Computation of total income and tax liability of Mr. Xavier for A.Y. 2020-21 (under the regular provisions of the Act)

Particulars	₹	₹
Profits and gains of business or profession		
Profit from unit in SEZ	50,00,000	
Less: Deduction u/s 10AA	30,00,000	
[50,00,000 x 90,00,000/1,50,00,000 x 100%, since it is 5 th year of manufacturing]		
Business income of SEZ unit chargeable to tax		20,00,000
Profit from operation of warehousing facility³	1,10,00,000	

³ Since the question mentions ₹ 1,10,00,000 as the profit from operation of warehousing facility before claiming deduction u/s 35AD, it is assumed that said figure of profit is after providing depreciation u/s 32 on ₹ 17 lakhs, being the amount of capital expenditure not capitalized as on 1.4.2019 less cost of land (i.e., ₹ 93 lakhs – ₹ 63 lakhs = ₹ 30 lakhs – ₹ 13 lakhs (cost of land) = ₹ 17 lakhs)

Less: Deduction u/s 35AD [Deduction@100% in respect of the expenditure incurred prior to the commencement of its operations and capitalized in the books of account on 1.4.2019. It is assumed that the capitalized expenditure of ₹ 63 lakhs does not include cost of land]	63,00,000	
Business income of warehousing facility chargeable to tax		47,00,000
Total Income		67,00,000
Computation of tax liability		
Tax on ₹ 67,00,000		18,22,500
Add: Surcharge @10%		1,82,250
		20,04,750
Add: Health and Education cess@4%		80,190
Total tax liability		20,84,940

Computation of adjusted total income and AMT of Mr. Xavier for A.Y. 2020-21

Particulars	₹	₹
Total Income (as computed above)		67,00,000
Add: Deduction under section 10AA		30,00,000
		97,00,000
Add: Deduction under section 35AD	63,00,000	
Less: Depreciation u/s 32 [On building @10% of ₹63 lakhs ⁴]	6,30,000	56,70,000
Adjusted Total Income		1,53,70,000
Alternate Minimum Tax@18.5%		28,43,450
Add: Surcharge@15% (since adjusted total income > ₹ 1 crore)		4,26,518
		32,69,968
Add: Health and Education cess@4%		1,30,799
Total tax liability		34,00,767
Tax Liability (Rounded off)		34,00,770

Since the regular income-tax payable is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income and tax is leviable @18.5% thereof plus surcharge@15% and cess@4%. Therefore, the tax liability is ₹ 34,00,770.

⁴ Assuming the capital expenditure of ₹ 63 lakhs is incurred entirely on building

AMT Credit to be carried forward under section 115JEE

	₹
Tax liability under section 115JC	34,00,770
Less: Tax liability under the regular provisions of the Income-tax Act, 1961	20,84,940
	13,15,830

Alternative 2 (The amount of ₹63 lakh capitalized includes cost of land)

Computation of total income and tax liability of Mr. Xavier for A.Y. 2020-21 (under the regular provisions of the Act)

Particulars	₹	₹
Profits and gains of business or profession		
Profit from unit in SEZ	50,00,000	
Less: Deduction u/s 10AA	30,00,000	
[50,00,000 x 90,00,000/1,50,00,000 x 100%, since it is 5 th year of manufacturing]		
Business income of SEZ unit chargeable to tax		20,00,000
Profit from operation of warehousing facility⁵	1,10,00,000	
Less: Deduction u/s 35AD [Deduction@100% in respect of the expenditure incurred prior to the commencement of its operations, and capitalized in the books of account on 1.4.2019. Deduction is not available on expenditure incurred on acquisition of land. It is assumed that the capitalized expenditure includes ₹ 13 lakhs of land] [₹ 63 lakhs – ₹ 13 lakhs]	50,00,000	
Business income of warehousing facility chargeable to tax		60,00,000
Total Income		80,00,000
Computation of tax liability		
Tax on ₹ 80,00,000		22,12,500
Add: Surcharge @10%		2,21,250
		24,33,750

⁵Since the question mentions ₹ 1,10,00,000 as the profit from operation of warehousing facility before claiming deduction u/s 35AD, it is assumed that said figure of profit is after providing depreciation u/s 32 on ₹ 30 lakhs, being the amount of capital expenditure not capitalized as on 1.4.2019 (₹ 93 lakhs – ₹ 63 lakhs).

Add: Health and Education cess@4%		97,350
Total tax liability		25,31,100

Computation of adjusted total income and AMT of Mr. Xavier for A.Y. 2020-21

Particulars	₹	₹
Total Income (as computed above)		80,00,000
Add: Deduction under section 10AA		30,00,000
		1,10,00,000
Add: Deduction under section 35AD	50,00,000	
Less: Depreciation u/s 32 [On building @10% of ₹ 50 lakhs ⁶]	5,00,000	45,00,000
Adjusted Total Income		1,55,00,000
Alternate Minimum Tax@18.5%		28,67,500
Add: Surcharge@15% (since adjusted total income > ₹ 1 crore)		4,30,125
		32,97,625
Add: Health and Education cess@4%		1,31,905
Total tax liability		34,29,530

Since the regular income-tax payable is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income and tax is leviable @18.5% thereof plus surcharge@15% and cess@4%. Therefore, the tax liability is ₹ 34,29,530.

AMT Credit to be carried forward under section 115JEE

	₹
Tax liability under section 115JC	34,29,530
Less: Tax liability under the regular provisions of the Income-tax Act, 1961	25,31,100
	8,98,430

Question 3

- (a) Rajesh was employed in Axis Ltd., Mumbai. He received a salary of ₹ 45,000 p.m. from 1.04.2019 to 20.09.2019. He resigned and left for Dubai for the first time on 28.09.2019 and got monthly salary of rupee equivalent of ₹ 90,000 from 1.10.2019 to 31.03.2020. His salary for October to December was credited in his Mumbai bank account directly and the salary for January to March 2020 was credited in his Dubai bank account.

⁶ Assuming the capital expenditure of ₹ 50 lakhs is incurred entirely on building

The cost of his air tickets to Dubai costing ₹ 1,50,000 was funded by her sister staying in London. The cost of his initial stay at Dubai costing ₹ 40,000 was funded by one of his friends staying in Delhi.

He further received interest of ₹ 10,500 on his fixed deposits and ₹ 7,500 on his savings a/c with his Mumbai bank. He also paid LIC Premiums of ₹ 15,000 for self, ₹ 10,000 for spouse and ₹ 25,000 for dependent mother aged 71 years.

Compute taxable income of Mr. Rajesh for the Assessment Year 2020-21. **(7 Marks)**

- (b) Mr. Hari aged 57 years is a resident of India. He provides you the following details of his incomes pertaining to F.Y. 2019-20.

- Interest on Non-Resident (External) Account maintained with State Bank of India as per RBI stipulations - ₹ 3,55,000
- Interest on savings bank account maintained with State Bank of India - ₹ 8,000
- Interest on Fixed Deposits with Punjab National Bank - ₹ 40,000

He seeks your advice on his liability to file return of income as per Income-tax Act, 1961 for the Assessment Year 2020-21.

What will be your answer, if he has incurred ₹ 4 lakhs on travel expenses of his newly married son and daughter in law's honeymoon in Canada? **(4 Marks)**

- (c) Income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fee for technical services is to be taxed in India irrespective of territorial nexus. Examine the correctness or otherwise of the given statement. **(3 Marks)**

Answer

- (a) In case of an Indian citizens leaving India for employment during the relevant previous year, the period of their stay during that previous year for being treated as a resident of India must be 182 days or more.

During the previous year 2019-20, Mr. Rajesh, an Indian citizen, was in India for 181 days only (i.e., 30+31+30+31+31+28 days). Thereafter, he left India for employment purposes.

Since he does not satisfy the minimum criteria of 182 days, he is a non-resident for the A.Y. 2020-21.

A non-resident is chargeable to tax in respect of income received or deemed to be received in India and income which accrues or arises or is deemed to accrue or arise to him in India. Hence, salary for January to March 2020, which was credited in his Dubai bank account for services rendered in Dubai, would not be taxable in the hands of Mr. Rajesh.

Computation of taxable income of Mr. Rajesh for A.Y. 2020-21

Particulars	Amount (₹)
Salary	
Salary from 1.4.2019 to 20.9.2019 [45,000 x 5 + 45,000 x 20/30]	2,55,000
Salary from 1.10.2019 to 31.12.2019 [90,000 x 3]	2,70,000
Gross Salary	5,25,000
Less: Standard deduction u/s 16(ia)	50,000
Net Salary	4,75,000
Income from Other Sources	
Interest on fixed deposits	10,500
Interest on Savings account	7,500
Gross Total Income	4,93,000
Less: Deduction under Chapter VI-A	
- Deduction under section 80C LIC premium for self and spouse [LIC premium for mother is not allowed for deduction]	25,000
- Deduction under section 80TTA [Interest on savings account with Mumbai bank]	7,500
Total Income	4,60,500

Working Notes –

- Cost of his air tickets to Dubai costing ₹ 1,50,000 funded by his sister is not taxable under section 56(2)(x) in the hands of Mr. Rajesh, since “sister” is a relative.
 - Cost of initial stay at Dubai costing ₹ 40,000 funded by his friend is also not taxable under section 56(2)(x), since the amount does not exceed ₹50,000.
- (b) An individual is required to furnish a return of income under section 139(1) if his total income, before giving effect to the deductions under Chapter VI-A or exemption under section 54/54B/54D/54EC or 54F, exceeds the maximum amount not chargeable to tax i.e., ₹ 2,50,000.

Computation of total income of Mr. Hari for A.Y. 2020-21

Particulars	₹
Income from other sources	
Interest earned from Non-resident (External) Account ₹ 3,55,000 [Exempt u/s 10(4)(ii), since he is maintaining the said account as per RBI stipulations]	NIL
Interest on savings bank account	8,000
Interest on fixed deposit with Punjab National Bank	40,000
Gross Total Income	48,000
Less: Deduction u/s 80TTA (Interest on saving bank account)	8,000
Total Income	40,000

Since the total income of Mr. Hari for A.Y.2020-21, before giving effect, *inter alia*, to the deductions under Chapter VI-A, is less than the basic exemption limit of ₹ 2,50,000, he is not required to file return of income for A.Y.2020-21.

However, if he has incurred expenditure exceeding ₹ 2 lakhs for himself or any other person for travel to a foreign country, he would be required to file a return of income, even if his total income does not exceed the basic exemption limit. Since he has incurred expenditure of ₹ 4 lakhs on foreign travel of his newly married son and daughter in law in the F.Y. 2019-20, he has to mandatorily file his return of income for A.Y. 2020-21 on or before the due date under section 139(1).

- (c) Income by way of interest, royalty or fees for technical services which is deemed to accrue or arise in India by virtue of clauses (v), (vi) and (vii) of section 9(1) shall be included in the total income of the non-resident, whether or not –
- the non-resident has a residence or place of business or business connection in India; or
 - the non-resident has rendered services in India.

In effect, the income by way of fees for technical services, interest or royalty, from services utilized in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India.

Therefore, the given statement that income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fees for technical services is to be taxed irrespective of territorial nexus, is correct.

Question 4

- (a) During the previous year 2019-20, following transactions took place in respect of Mr. Raghav who is 56 years old.

- (i) Mr. Raghav owns two house properties in Mumbai. The details in respect of these properties are as under -

	House 1 Self-occupied	House 2 Let-out
Rent received per month	Not applicable	₹ 60,000
Municipal taxes paid	₹ 7,500	Nil
Interest on loan (taken for purchase of property)	₹ 3,50,000	₹ 5,00,000
Principal repayment of loan (taken from HDFC bank)	₹ 2,00,000	₹ 3,00,000

- (ii) Mr. Raghav had a house in Delhi. During financial year 2010-11, he had transferred the house to Ms. Vamika, daughter of his sister without any consideration. House would go back to Mr. Raghav after the life time of Ms. Vamika. The transfer was made with a condition that 10% of rental income from such house shall be paid to Mrs. Raghav. Rent received by Ms. Vamika during the previous year 2019-20 from such house property is ₹ 5,50,000.

- (iii) Mr. Raghav receives following income from M/s M Pvt. Ltd. during P.Y. 2019-20:

- Interest on Debentures of ₹ 7,50,000; and
- Salary of ₹ 3,75,000. He does not possess the adequate professional qualification commensurate with the salary received by him.

Shareholding of M/s M Pvt. Ltd. as on 31.3.2020 is as under -

	Equity shares	Preference shares
Mr. Raghav	Nil	Nil
Mrs. Raghav	2%	25%
Mr. Jai Kishan (brother of Mrs. Raghav)	98%	75%

- (iv) Mr. and Mrs. Raghav forms a partnership firm with equal share in profits. Mr. Raghav transferred a fixed deposit of ₹ 1 crore to such firm. Firm had no income or expense other than the interest of ₹ 9,00,000 received from such fixed deposit. Firm distributed the entire surplus to Mr. and Mrs. Raghav at the end of the year.
- (v) Mr. Raghav holds preference shares in M/s K Pvt. Ltd. He instructed the company to pay dividends to Ms. Geetanshi, daughter of his servant. The transfer is irrevocable for the life time of Geetanshi. Dividend received by Ms. Geetanshi during the previous year 2019-20 is ₹ 13,00,000.
- (vi) Other income of Mr. Raghav includes
- Interest from saving bank account of ₹ 2,00,000

- Cash gift of ₹ 75,000 received from daughter of his sister on his birthday.

Compute the total income of Mr. Raghav for the Assessment Year 2020-21. **(8 Marks)**

- (b) Discuss the taxability of the following transactions giving reasons, in the light of relevant provisions, for your conclusion.

Attempt any **two** out of the following **three** parts:

- (i) Mr. Rajpal took a land on rent from Ms. Shilpa on monthly rent of ₹ 10,000. He sub-lets the land to Mr. Manish for a monthly rent of ₹ 11,500. Manish uses the land for grazing of cattle required for agricultural activities. Mr. Rajpal wants to claim deduction of ₹ 10,000 (being rent paid by him to Ms. Shilpa) from the rental income received by it from Mr. Manish.
- (ii) Mr. Pratham, a non-resident in India, received a sum of ₹ 1,14,000 from Mr. Rakesh, a resident and ordinarily resident in India. The amount was paid to Pratham on account of transfer of right to use the manufacturing process developed by Pratham. The manufacturing process was developed by Mr. Pratham in Singapore and Mr. Rakesh uses such process for his business carried on by him in Dubai.
- (iii) Mr. Netram grows paddy on land. He then employs mechanical operations on grain to make it fit for sale in the market, like removing hay and chaff from the grain, filtering the grain and finally packing the rice in gunny bags. He claims that entire income earned by him from sale of rice is agricultural income not liable to income-tax since paddy as grown on land is not fit for sale in its original form.

(3 x 2 = 6 Marks)

Answer

- (a) **Computation of Total Income of Mr. Raghav for A.Y. 2020-21**

Particulars	Amount (₹)	Amount (₹)
Salary [Since Mrs. Raghav along with her brother holds shares carrying 100% voting power in M/s M Pvt. Ltd., they have a substantial interest in the company. Since Mr. Raghav is working in the same company without any professional qualifications commensurate with his salary, the salary of ₹ 3,75,000 received by him would be included in the hands of Mrs. Raghav.]		Nil
Income from house property		
<u>House 1 [Self-occupied]</u>		
Net annual value	-	
Less: Interest on loan [upto ₹2,00,000]	<u>2,00,000</u>	(2,00,000)

House 2 [Let out]		
Gross annual value ⁷ [₹60,000 x 12]	7,20,000	
Less: Municipal taxes	-	
Net annual value	7,20,000	
Less: Deductions from Net Annual Value		
(a) 30% of Net Annual Value	2,16,000	
(b) Interest on loan	5,00,000	4,000
House in Delhi [Since Mr. Raghav receives direct or indirect benefit from income arising to his sister's daughter, Ms. Vamika, from the transfer of house to her without consideration, such income is to be included in the total income of Mr. Raghav as per proviso to section 62(1), even though the transfer may not be revocable during lifetime of Ms. Vamika's]		
Gross Annual Value ⁸	5,50,000	
Less: Municipal taxes	-	
Net Annual Value	5,50,000	
Less: Deductions from Net Annual Value		
(a) 30% of Net Annual Value	1,65,000	
(b) Interest on loan	-	3,85,000
		1,89,000
Profits and gains from business or profession		
Share of profit from firm [Exempt u/s 10(2A)]	-	
Exempt income cannot be clubbed		
Income from other sources		
Dividend on preference shares exceeding ₹ 10,00,000 taxable under section 115BBDA [Taxable in the hands of Mr. Raghav as per section 60, since he transferred the income, i.e., dividend, without transferring the asset, i.e., preference shares]	3,00,000	
Interest on debentures	7,50,000	
Interest from saving bank account	2,00,000	
Cash gift [Taxable, since sum of money exceeding ₹ 50,000 is received from his niece, who is not a relative as per section 56(2)]	75,000	13,25,000

⁷ Rent receivable has been taken as the gross annual value in the absence of other information

⁸ Rent receivable has been taken as the gross annual value in the absence of other information

Gross Total Income		15,14,000
Less: Deduction under Chapter VI-A		
Deduction under section 80C [Principal repayment of loan ₹ 5 lakh, restricted to ₹ 1,50,000]	1,50,000	
Deduction under section 80TTA [Interest from savings bank account]	<u>10,000</u>	1,60,000
Total Income		13,54,000

- (b) (i) The rent or revenue derived from land situated in India and used for agricultural purposes would be agricultural income under section 2(1A)(a). Therefore, rent received from sub-letting of the land used for grazing of cattle required for agriculture activities is agricultural income. The rent can either be received by the owner of the land or by the original tenant from the sub-tenant.

Accordingly, rent received by Mr. Rajpal from Mr. Manish for using land for grazing of cattle required for agricultural activities is agricultural income exempt u/s 10(1). As per section 14A, no deduction is allowable in respect of exempt income.

- (ii) Consideration for transfer of right to use the manufacturing process falls within the definition of royalty. Income by way royalty payable by Mr. Rakesh, a resident and ordinarily resident, is not deemed to accrue or arise in India in the hands of Mr. Pratham as per section 9(1)(vi)(b), since royalty is payable in respect of right used for the purposes of a business carried on by Mr. Rakesh outside India i.e., in Dubai.
- (iii) The income from the process ordinarily employed to render the produce fit to be taken to the market would be agricultural income under section 2(1A)(b)(ii). The process of making the rice ready from paddy for the market may involve manual operations or mechanical operations, both of which constitute processes ordinarily employed to make the product fit for the market.

Accordingly, the entire income earned by Mr. Netram from sale of rice is agricultural income.

PAPER – 4 : TAXATION
SECTION B: INDIRECT TAXES

Question No. 5 is compulsory.

*Candidates are also required to answer any **two** questions from the remaining **three** questions.*

All questions should be answered on the basis of position of GST law as amended upto 30th April, 2020.

Working notes should form part of the answer.

Wherever necessary, suitable assumptions may be made by the candidates and disclosed by way of note.

Question 5

Star Ltd., a registered supplier in Karnataka has provided the following details for supply of one machine:

	Particulars	Amount in (₹)
(1)	List price of machine supplied [exclusive of items given below from (2) to (4)]	80,000
(2)	Tax levied by Local Authority on sale of such machine	6,000
(3)	Discount of 2% on the list price of machine was provided (recorded in the invoice of machine)	
(4)	Packing expenses for safe transportation charged separately in the invoice	4,000

Star Ltd. received ₹ 5,000 as subsidy from a NGO on sale of each such machine, The Price of ₹ 80,000 of the machine is after considering such subsidy.

During the month of February, 2020, Star Ltd. supplied three machines to Intra-State customers and one machine to Inter-State customer.

Star Ltd. purchased inputs (intra-State) for ₹ 1,20,000 exclusive of GST for supplying the above four machines during the month.

The Balance of ITC at the beginning of February, 2020 was:

CGST	SGST	IGST
₹ 18,000	₹ 4,000	₹ 26,000

Note:

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

(ii) All the amounts given above are exclusive of GST.

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

Compute the minimum net GST payable in cash by Star Ltd. for the month of February, 2020.

(8 Marks)

Answer

Computation of value of taxable supply

Particulars	Amount (₹)
List price of the machine	80,000
Add: Tax levied by Local Authority on the sale of machine [Tax other than GST, if charged separately, are includible in the value in terms of section 15 of the CGST Act, 2017.]	6,000
Add: Packing expenses for safe transportation [Includible in the value as per section 15 of the CGST Act, 2017.]	4,000
Add: Subsidy received from a NGO on sale of each machine [Subsidy received from a non-Government body and which is directly linked to the price, the same is included in the value in terms of section 15 of the CGST Act, 2017.]	<u>5,000</u>
Total	95,000
Less: Discount @ 2% on ₹ 80,000 [Since discount is known at the time of supply and recorded in invoice, it is deductible from the value in terms of section 15 of the CGST Act, 2017.]	<u>1,600</u>
Value of taxable supply	93,400

Computation of minimum net GST payable in cash by Star Ltd.

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Sale of machine	25,218	25,218	16,812
[Intra-State sales = ₹ 93,400 × 3 machines = ₹ 2,80,200 Inter-State sales = ₹ 93,400 × 1 machine = ₹ 93,400]	2,80,200 ×9%]	2,80,200 ×9%]	93,400×1 8%]
Total output tax	25,218	25,218	16,812
Less: Set off of IGST against IGST and SGST [IGST credit first be utilized towards payment of IGST, remaining amount can be utilized towards CGST and SGST in any order and in any proportion]		(9,188)	(16,812)

Less: Set off of CGST against CGST and SGST against SGST [CGST credit cannot be utilized towards payment of SGST and vice versa.]	(25,218)	(14,800)	
Minimum net GST payable in cash	Nil	1,230	

Working Note:**Computation of total ITC available**

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Opening balance of ITC	18,000	4,000	26,000
Add: Inputs purchased during the month	10,800	10,800	
	[₹ 1,20,000 × 9%]	[₹ 1,20,000 × 9%]	
Total ITC available	28,800	14,800	26,000

Question 6

- (a) Green Agro Services, a registered person provides the following information relating to its activities during the month of February, 2020:

Gross Receipts from	(₹)
Services relating to rearing of sheeps	6,00,000
Services by way of artificial insemination of horses	4,00,000
Processing of sugarcane into jaggery	8,00,000
Milling of paddy into rice	7,50,000
Services by way of fumigation in a warehouse of agricultural produce	1,80,000

All the above receipts are exclusive of GST.

Compute the value of taxable supplies under GST laws for the month of February, 2020.

(6 Marks)

- (b) Satya Sai Residents Welfare Association, a registered person under GST has 30 members each paying ₹8,000 as maintenance charges per month for sourcing of goods and services from third persons for common use of its members.

The Association purchased a water pump for ₹59,000 (inclusive of GST of ₹9,000) and availed input services for ₹23,600 (inclusive of GST of ₹3,600) for common use of its members during February 2020.

Compute the total GST payable, if any, by Satya Sai Residents Welfare Association, for February 2020.

(4 Marks)

GST rate is 18%. All transactions are intra-State.

There is no opening ITC and all conditions for ITC are fulfilled.

Answer**(a) Computation of value of taxable supplies**

Particulars	Amount (₹)
Services relating to rearing of sheeps [Exempt since services relating to rearing of all life forms of animals, except horses, for food etc. are exempt.]	Nil
Services by way of artificial insemination of horses [Not exempt since services of artificial insemination are exempt only of livestock other than horses.]	4,00,000
Processing of sugarcane into jaggery [Not exempt, since processes which alter the essential characteristics of agricultural produce are not exempt and processing of sugarcane into jaggery changes the essential characteristics of sugarcane.]	8,00,000
Milling of paddy into rice [Not exempt, since this process, being carried out after cultivation is over, is not an intermediate production process in relation to cultivation of plants and it also changes the essential characteristics of paddy.]	7,50,000
Services by way of fumigation in a warehouse of agricultural produce [Specifically exempt from GST.]	Nil
Value of taxable supplies	19,50,000

(b) Computation of total GST payable by Satya Sai Residents Welfare Association

Particulars	Value (₹)	GST @ 18% (₹)
Maintenance charges received [₹ 8,000 × 30 members] [Services by RWA to its members for sourcing of goods or services from a third person for the common use of its members in a housing society are exempt provided the share of contribution per month per member is upto ₹ 7,500. Otherwise, entire amount is taxable.]	2,40,000	
Total GST payable [It has been logically presumed that maintenance charges are exclusive of GST.]		43,200

Note: Residents Welfare Association is entitled to take ITC of GST paid by them on capital goods, goods and input services, used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than ₹ 7,500 per month per member. Thus, Satya Sai Residents Welfare Association can avail ITC of GST paid on water pump purchased (₹ 9,000) and input services availed (₹ 3,600). Net GST payable in that case will come out ₹ 30,600.

Question 7

- (a) ABC Cinemas, a registered person engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens was issuing consolidated tax invoice for supplies at the close of each day in terms of section 31(3)(b) of CGST Act, 2017 read with fourth proviso to rule 46 of CGST Rules, 2017.

During the month of October, 2019, the Department raised objection for this practice and asked to issue separate tax invoices for each ticket.

Advise ABC Cinemas for the procedure to be followed in the light of recent notification.

(4 Marks)

- (b) Agni Ltd. a registered supplier wishes to transport cargo by road between two cities situated at a distance of 368 kilometres. Calculate the validity period of e-way bill under rule 138(10) of CGST Rules, 2017 for transport of the said cargo, if it is over dimensional cargo or otherwise.

(3 Marks)

- (c) The aggregate turnover of Mr. Prithvi, a registered person for the FY 2017-18 and 2018-19 were ₹ 140 lakh and ₹ 170 lakh respectively. He has not filed the annual return (GSTR-9) under section 44(1) of CGST Act, 2017 before the due date.

Discuss the penal provisions, if any, for not filing the returns before the due date. **(3 Marks)**

Answer

- (a) The procedure to be followed by ABC Cinemas, a registered person engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens, is as under:-

The option to issue consolidated tax invoice is not available to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens. Thus, ABC Cinemas cannot issue consolidated tax invoice for supplies made by it at the close of each day.

ABC Cinemas is required to issue an electronic ticket.

The said electronic ticket shall be deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains the other information as prescribed to be mentioned.

- (b) The validity period of e-way bill under rule 138(10) of the CGST Rules, 2017 for transport of cargo by road between two cities situated at a distance of 368 km is as under:

- (i) **If it is over dimensional cargo:** the validity period of the e-way bill is one day from relevant date upto 20 km and one additional day for every 20 km or part thereof thereafter.

Thus, validity period in given case:

= 1 day + 18 days

= 19 days

- (ii) **If it is a cargo other than over dimensional cargo:** the validity period of the e-way bill is one day from relevant date upto 100 km and one additional day for every 100 km or part thereof thereafter.

Thus, validity period in given case:

= 1 day + 3 days

= 4 days

- (c) The penal provisions for not filing the annual return (GSTR-9) under section 44(1) of the CGST Act, 2017 before the due date are as under:-

- (a) ₹ 100 for every day during which such failure continues,

or

- (b) 0.25% of the turnover of the registered person in the State/Union Territory whichever is lower¹.

Note:- It may be noted that filing of GSTR-9 has been made voluntary in respect of financial years 2017-18 and 2018-19 for the registered persons whose turnover is less than ₹ 2 crores and who have not furnished the said annual return before due date. Here, the annual return is deemed to be furnished on the due date if it has not been furnished before the due date.

Question 8

- (a) Mr. Anurag, a famous Author is engaged in supply of services by the way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.

Explain in brief the conditions under which an Author can choose to pay tax under forward charge. **(5 Marks)**

¹ It has been most logically assumed that Mr. Prithvi has not filed the annual return **till** the due date for the same. Further, it has also been assumed that he has not filed the annual returns for both the financial years, FY 2017-18 and FY 2018-19.

- (b) *Under the provision of section 29(1) of CGST Act, 2017 read with rule 21A of CGST Rules, 2017 related to suspension of registration if the registered person has applied for cancellation of registration, what is the period and manner of suspension of registration ?*

(5 Marks)

OR

Explain the circumstances under which proper officer can cancel the registration on his own of a registered person under CGST Act, 2017.

(5 Marks)

Answer

- (a) Mr. Anurag, an author, can choose to pay tax under forward charge provided he fulfills the following conditions:-

- (i) He has taken registration under the GST law.
- (ii) He has filed a declaration, in the prescribed form,
that he exercises the option to pay tax on the said service under forward charge and, to comply with all the provisions of the GST law as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and
that he shall not withdraw the said option within a period of 1 year from the date of exercising such option.
- (iii) He makes a declaration on the invoice issued by him in prescribed form to the publisher.

- (b) Where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from:

- (a) the date of submission of the application or
- (b) the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration.

Such person shall not make any taxable supply during the period of suspension and shall not be required to furnish any return.

The expression "shall not make any taxable supply" mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the suspension period.

Answer to Alternative

- (b) The circumstances under which proper officer can cancel the registration on his own of a registered person under the CGST Act, 2017 are as under:-

- (i) A registered person has contravened any of the following prescribed provisions of the GST law:

- (a) he does not conduct any business from the declared place of business.
- (b) he issues invoice/bill without supply of goods/services in violation of the provisions of GST law.
- (c) he violates the provisions of anti-profiteering.
- (d) he violates the provisions relating to furnishing of bank details.
- (ii) A person paying tax under composition levy has not furnished returns for 3 consecutive tax periods.
- (iii) A registered person paying tax under regular scheme has not furnished returns for continuous period of 6 months.
- (iv) Voluntarily registered person has not commenced the business within 6 months from the date of registration.
- (v) Registration was obtained by means of fraud, wilful misstatement or suppression of facts.

[Note: Any 5 points out of the above 8 points may be mentioned]