MOCK TEST PAPER 2

FINAL (NEW) COURSE: GROUP – II

PAPER – 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION

SOLUTIONS

Division A – Multiple Choice Questions

1. **(c)**
2. **(b)**
3. **(a)**
4. **(c)**
5. **(d)**
6. **(c)**
7. **(b)**
8. **(b)**
9. **(c)**
10. **(b)**
11. **(c)**
12. **(a)**
13. **(b)**
14. **(c)**
15. **(c)**
16. **(d)**
17. **(d)**
18. **(b)**
19. **(d)**
20. **(d)**

Division B – Descriptive Choice Questions

1. **Computation of Total Income of Ganga Ltd. for the A.Y.2019-20**

Particulars	Amount (Rs.)	
Profits and Gains from Business and Profession		
Net profit as per profit and loss account		3,50,00,000
Add: **Items debited but to be considered separately or to be disallowed**		
Depreciation provided on straight line basis **(Note 1)**	50,00,000	
Fees paid to directors without deducting tax at source [30% of Rs.1 lakh] **(Note 2)**	30,000	
Contribution to a National Laboratory (considered separately for weighted deduction) **(Note 3)**	9,00,000	

GST deposited on 27.12.2019 **(Note 4)**	2,10,000	
Disallowance under section 40A(2) for excess payment to related person **(Note 5)**	5,00,000	
Disallowance under section 40A(3) for payment exceeding Rs.10,000 made in cash for purchases and expenditure **(Note 6)**	5,00,000	
Disallowance under section 40A(3) for cash payment exceeding Rs.35,000 in a day to transport operators for hiring of lorry **(Note 7)**	92,000	
Legal expenses for issue of bonus shares **(Note 8)**	-	
Legal expenses for issue of right shares **(Note 8)**	4,00,000	
Donation to a registered political party **(Note 9)**	17,00,000	
Bad debt written off earlier, recovered now **(Note 10)**	2,00,000	95,32,000
		4,45,32,000
***Less:* Items credited but to be considered separately or to be allowed/ Expenditure to be allowed**		
Depreciation allowable under the Income-tax Act, 1961 **(Note 1)**	62,00,000	
Over-valuation of stock [Rs.55 lakhs x 10/110]	5,00,000	
[The amount by which stock is over-valued has to be reduced for computing business income. Rs.50 lakhs, being the difference between closing and opening stock, has to be adjusted to remove the effect of over-valuation]		
Weighted deduction @ 150% in respect of contribution of Rs.8 lakhs to National Laboratory under section 35(2AA) **(Note 3)**	13,50,000	80,50,000
Gross Total Income		**3,64,82,000**
***Less:* Deduction under Chapter VI-A**		
U/s 80GGB [Donation to registered political party] **(Note 9)**		17,00,000
Total Income		**3,47,82,000**

Computation of tax liability of Ganga Ltd. for A.Y.2019-20

Particulars	Rs.
Tax@30% on total income of Rs.3,47,82,000	1,04,34,600
Add: Surcharge@7% (since total income exceeds Rs.1 crore but does not exceed Rs.10 crores)	7,30,422
Tax payable including surcharge	1,11,65,022
Add: Health and Education cess@4%	4,46,601
Total tax payable	**1,16,11,623**
Tax payable (Rounded off)	**1,16,11,620**

Notes:

(1) Depreciation provided in the accounts on straight line basis (i.e., Rs.50 lakhs) has to be added back and depreciation calculated as per Income-tax Rules, 1962 (i.e. Rs.62 lakhs) is allowable as deduction under section 32.

(2) Disallowance@30% would be attracted under section 40(a)(ia) for non-deduction of tax at source from director's remuneration on which tax is deductible under section 194J.

(3) Contribution to a National Laboratory under section 35(2AA) qualifies for weighted deduction@150%. Hence, the contribution of Rs.9 lakhs is first added back and thereafter, deduction of Rs.13.50 lakhs (i.e.,150% of Rs.9 lakhs) has been provided under section 35(2AA).

(4) GST liability of Rs.2.10 lakhs would attract disallowance under section 43B, since it was paid only on 27.12.2019 (i.e., after the due date of filing return of income of A.Y.2019-20). It would be allowed in the year of payment (i.e., P.Y.2019-20). Hence, it has to be added back for computing business income.

(5) Jamuna Ltd. is a related person under section 40A(2), since the directors of Ganga Ltd. have substantial interest in Jamuna Ltd. Therefore, excess payment of Rs.5 lakh to Jamuna Ltd. for purchase of goods would attract disallowance under section 40A(2).

(6) Cash payments exceeding Rs.10,000 a day attracts disallowance under section 40A(3). However, Rule 6DD provides for certain exceptions, which includes, *inter alia,* payments which are required to be made on a day on which the banks were closed on account of strike. Therefore, cash payment of Rs.8 lakhs made on the day of strike by bank staff would not attract disallowance under section 40A(3), assuming that the payment was required to be made on that specific date. However, cash payment of Rs.5 lakhs made on 17-8-2018 due to demand of supplier would attract disallowance under section 40A(3), since the same is not covered under any of the exceptions laid out in Rule 6DD.

(7) In respect of cash payments to transport operators, a higher limit of Rs.35,000 per day is permissible. Therefore, cash payment of Rs.35,000 on 03-07-2018 would not attract disallowance under section 40A(3). However, cash payments of Rs.40,000 and Rs.52,000 on 06-06-2018 and 15-01-2019, respectively, would attract disallowance under section 40A(3) since the same exceeds Rs.35,000 per day.

(8) There is no fresh inflow of funds or increase in capital employed on account of issue of bonus shares and there is only reallocation of the company's fund. Consequently, since there is no increase in the capital base of the company, legal expenses of Rs.5 lakhs in connection with issue of bonus shares is revenue expenditure and is hence, allowable as deduction. It has been so held by Apex Court in case of *CIT vs. General Insurance Corpn. (2006) 286 ITR 232.*

However, Rs.4 lakhs, being legal expenses in relation to issue of rights shares results in expansion of the capital base of the company and is, hence, a capital expenditure. Therefore, the same is not allowable as deduction. It has been so held in *Brooke Bond India Ltd. v. CIT (1997) 225 ITR 798 (SC).*

(9) Donation paid to a political party is not an allowable expenditure under section 37 since it is not laid out wholly or exclusively for the purposes of business or profession. Hence, the same has to be added back while computing business income. However, donation made by a company to a political party is allowable deduction under section 80GGB from gross total income, subject to the condition that payment is made otherwise than by way of cash. Since the donation is made by cheque the same is allowed as deduction under section 80GGB.

(10) The amount of bad debt written off earlier when recovered subsequently, such recovery is taxable under section 41(4).

2 (a) Computation of total income of ABC LLP

Particulars	Rs. (in lacs)
Profit from Unit A [Rs.502 lakhs + Rs.24 lakhs, being disallowance u/s 43B]	526
Profit from Unit B [Rs.753 lacs + Rs.47 lacs, being disallowance u/s 40A(3)]	800
	1326
Less: Deduction under section 10AA [**See Working Note below**]	348
Total Income	**978**

Tax on total income@30%	293.40
Add: Surcharge@12%, since total income > Rs.1 crore	35.21
	328.61
Add: Health and Education cess @4%	13.14
Tax liability (as per normal provisions)	341.75

Computation of Adjusted total income and Alternate Minimum tax of ABC LLP as per the provisions of section 115JC for A.Y. 2019-20

Particulars	Rs. (in lakh)
Total income as per the normal provisions	978
Add: Exemption under section 10AA	348
Adjusted Total Income	1326
Tax@18.5% of Adjusted Total Income	254.31
Add: Surcharge @12% as the adjusted total income is > Rs.1 crore	29.44
	274.75
Add: Health and Education cess @4%	10.99
Alternate Minimum Tax as per section 115JC	**285.74**

Since the tax payable as per the normal provisions of the Act is more than the alternate minimum tax payable, the total income as per normal provisions shall be liable to tax and the tax payable for A.Y. 2019-20 shall be Rs.341.75 lakhs.

Working Note:

Computation of deduction under section 10AA in respect of Unit A located in a SEZ

Particulars		Rs. (in lacs)
Total turnover of Unit A = (Rs.1200 lacs + Rs.200 lacs) – Rs.200 lacs, being freight and insurance included therein. Since freight and insurance has been excluded from export turnover, the same has to be excluded from total turnover also		**1200**
Export Turnover of Unit A		
Export sale proceeds received in India		1040
Less: Insurance and freight not includible in export turnover		140
		900
Profit "derived from" Unit A		
Net profit for the year		502
Add: Disallowance under section 43B		24
		526
Less: **Items of business income which are in the nature of ancillary profits and hence, do not constitute profit 'derived from' business for the purpose of exemption under section 10AA**		
Duty drawback	38	
Profit on sale of import entitlement	24	
		62
		464

Deduction under section 10AA Profit derived from Unit A x (Export turnover of Unit A / Total turnover of Unit A) x 100% = 100% of 464 x 900/1200 =	**348**

(b) Computation of total income of Mr. Rajan for A.Y.2019-20

Particulars	Rs.	Rs.
Income from House Property [House situated in Country Y]		
Gross Annual Value[1]	3,20,000	
Less: Municipal taxes (assumed as paid in that country)	12,000	
Net Annual Value	3,08,000	
Less: Deduction under section 24 – 30% of NAV	92,400	
		2,15,600
Profits and Gains of Business or Profession		
Income from profession carried on in India	6,20,000	
Less: Business loss in Country Y set-off[2]	70,000	
	5,50,000	
Royalty income from a literary book from Country X (after deducting expenses of Rs.30,000)	4,90,000	10,40,000
Income from Other Sources		
Agricultural income in Country X	82,000	
Dividend received from a company in Country Y	97,000	
		1,79,000
Gross Total Income		**14,34,600**
***Less:* Deduction under Chapter VIA** **Under section 80QQB** – Royalty income of a resident from literary work[3]		3,00,000
Total Income		**11,34,600**

Computation of tax liability of Mr. Rajan for A.Y.2019-20

Particulars	Rs.
Tax on total income [30% of Rs.1,34,600 + Rs.1,12,500]	1,52,880
Add: Health and Education cess@4%	6,115
	1,58,995
Less: Rebate under section 91 **(See Working Note below)**	66,628
Tax Payable	**92,367**
Tax payable (rounded off)	92,370

[1] Rental Income has been taken as GAV in the absence of other information relating to fair rent, municipal value etc.

[2] As per section 70(1), inter-source set-off of income is permitted.

[3] It is assumed that the royalty earned outside India has been brought into India in convertible foreign exchange within a period of six months from the end of the previous year.

Working Note: Calculation of Rebate under section 91	Rs.	Rs.
Average rate of tax in India [i.e., Rs.1,58,995 / Rs.11,34,600 x 100]	**14.01%**	
Average rate of tax in Country X	**12%**	
Doubly taxed income pertaining to Country X		
Agricultural Income	82,000	
Royalty Income [Rs.5,20,000 – Rs.30,000 (Expenses) – Rs.3,00,000 (deduction under section 80QQB)][4]	1,90,000	
	2,72,000	
Rebate under section 91 on Rs.2,72,000 @12% [being the lower of average Indian tax rate (14.01%) and foreign tax rate (12%)]		32,640
Average rate of tax in Country Y	**15%**	
Doubly taxed income pertaining to Country Y		
Income from house property	2,15,600	
Dividend	97,000	
	3,12,600	
Less: Business loss set-off	70,000	
	2,42,600	
Rebate under section 91 on Rs.2,42,600 @14.01% (being the lower of average Indian tax rate (14.01%) and foreign tax rate (15%)]		33,988
Total rebate under section 91 (Country X + Country Y)		**66,628**

Note: Mr. Rajan shall be allowed deduction under section 91, since the following conditions are fulfilled:-

(a) He is a resident in India during the relevant previous year (i.e., P.Y.2018-19).

(b) The income in question accrues or arises to him outside India in foreign countries X and Y during that previous year and such income is not deemed to accrue or arise in India during the previous year.

(c) The income in question has been subjected to income-tax in the foreign countries X and Y in his hands and it is presumed that he has paid tax on such income in those countries.

(d) There is no agreement under section 90 for the relief or avoidance of double taxation between India and Countries X and Y where the income has accrued or arisen.

3. (a) Computation of taxable income of Healthcare Trust for A.Y. 2019-20

Particulars	Rs.	
Income from running of hospitals	1,08,00,000	
Income from medical college [exempt u/s 10(23C)(iiiad)]	Nil	
Donation other than anonymous donation of Rs.2,00,000 taxable @30% (Rs.3,00,000, being reduced by 5% of		

[4] Doubly taxed income includes only that part of income which is included in the assessees total income. The amount deducted under Chapter VIA is not doubly taxed and hence, no relief is allowable in respect of such amount – *CIT v. Dr. R.N. Jhanji (1990) 185 ITR 586 (Raj.).*

Rs.8,00,000 or Rs.1,00,000, whichever is higher)[5] [Rs.8,00,000 – Rs.2,00,000]	6,00,000	1,14,00,000
Less: 15% of income of Rs.114 lakhs accumulated or set apart under section 11(1)(a)		17,10,000
		96,90,000
Less: Amount applied for the purposes of hospital		93,50,000
		3,40,000
Add: Amount accumulated for extension of a hospital but not spent deemed to be income under section 11(3) (Rs.20 lakhs – Rs.15 lakhs) **(See Note 1 below)**		5,00,000
		8,40,000
Add: Anonymous donation taxable @30% under section 115BBC **(See Note 2 below)**		2,00,000
Total Income		**10,40,000**
Tax on total income		
Tax on anonymous donation of Rs.2 lacs @30%		60,000
(See Note 2 below)		
Tax on other income of Rs.8,40,000 at normal rates		
Upto Rs.2,50,000	Nil	
Over Rs.2,50,000 up to Rs.5,00,000 @ 5%	12,500	
Over Rs.5,00,000 upto Rs.8,40,000@20%	68,000	80,500
		1,40,500
Health and education cess@4%		5,620
Tax payable		**1,46,120**

Notes:

(1) Section 11(3) provides that if the income accumulated for certain purpose is not utilized for the said purpose within the period (not exceeding 5 years) for which it was accumulated, or in the year immediately following the expiry thereof, then the unutilised amount is deemed to be the income of the charitable institution for the previous year immediately following the expiry of the period of accumulation. In the instant case, Healthcare Trust accumulated Rs.20,00,000 in the previous year 2012-13 for extension of one of its hospitals for a period of 5 years. Period of accumulation thus expired on 31.3.2018. The assessee has spent Rs.15,00,000 out of accumulated sum of Rs.20,00,000 up to 31.3.2018. Therefore, the unutilised amount of Rs.5,00,000, which is not utilized in the P.Y.2018-19 also, is deemed to be income of the previous year 2018-19 (A.Y. 2019-20).

(2) Only the anonymous donations in excess of the exemption limit specified below would be subject to tax@30% under section 115BBC.

The exemption limit is the higher of the following –

(i) 5% of the total donations received by the assessee [i.e., Rs.40,000 (5% x Rs.8 lakhs)]; or

(ii) Rs.1 lakh.

Therefore, in this case the exemption would be Rs.1 lakh.

The total tax payable by such institution would be –

[5] A view is taken that 15% of Rs. 1 lakh, representing anonymous donations exempt from applicability of 30% tax, is also eligible for retention/accumulation without conditions in line with other voluntary contributions. A contrary view may also be possible due to the language used in section 13(7).

(i) tax@30% on the anonymous donations exceeding the exemption limit as calculated above [i.e., tax@30% on Rs.2,00,000, being Rs.3,00,000 – Rs.1,00,000)]; and
(ii) tax on the balance income i.e., total income as reduced by Rs.2,00,000, being the aggregate amount of anonymous donations in excess of Rs.1 lakh.

(b) Since Mr. Navneet is an individual resident of two Contracting States, namely, Country P and Country Q, the UN Model Convention provides for a series of tie-breaker rules to determine single state of residence for him:

(i) **Permanent Home**: The first test is based on where he has a permanent home. Permanent home would mean a dwelling place available to him at all times continuously and not occasionally and includes place taken on rent for a prolonged period of time. Any place taken for a short duration of stay or for temporary purpose, may be for reasons such as short business travel, or a short holiday etc. is not regarded as a permanent home.

(ii) **Personal and economic relations**: If that test is inconclusive for the reason that he has permanent home available to him in both Contracting States, he will be considered a resident of the Contracting State where his personal and economic relations are closer, in other words, the place where lies his centre of vital interests. Thus, preference is given to family and social relations, occupation, place of business, place of administration of his properties, political, cultural and other activities of the individual.

(iii) **Habitual abode**: In the following distinct and different situations, preference is given to the Contracting State where he has a habitual abode:

- The case where he has a permanent home available to him in both Contracting States and it is not possible to determine in which one he has his centre of vital interests;
- The case where he has a permanent home available to him in neither Contracting State.

(iv) **National**: If he has habitual abode in both Contracting States or in neither of them, he shall be treated as a resident of the Contracting State of which he is a national.

(v) **Competent Authority**: If he is a national of both or neither of the Contracting States, the matter would be left to be considered by the competent authorities of the respective Contracting States.

4. (a) (i)

	Rs.
Gross salary, allowances and monetary perquisites	9,20,000
Non-Monetary perquisites	1,40,000
	10,60,000
Less: Standard deduction under section 16(ia)	40,000
	10,20,000
Tax Liability	1,23,240
Average rate of tax (Rs.1,23,240 / Rs.10,20,000 × 100)	12.08%

The company can deduct Rs.1,23,240 at source from the salary of the General Manager. Alternatively, the company can pay tax on non-monetary perquisites as under –

Tax on non-monetary perquisites = 12.08% of Rs.1,40,000 = Rs.16,912

Balance to be deducted from salary = Rs.1,06,328

If the company pays tax of Rs.16,912 on non-monetary perquisites, the same is not a deductible expenditure as per section 40(a). The amount of tax paid towards non-

monetary perquisite by the employer, however, is not chargeable to tax in the hands of the employee as per section 10(10CC).

(ii) Since the consideration for transfer of house property at Chennai exceeds Rs.50 lakhs, Mr. Aryan, being the transferee, is required to deduct tax @1% under section 194-IA on Rs.85 lakhs, being the amount of consideration for transfer of property.

Mr. Aryan is not required to deduct tax as source under section 194-IA from the consideration of Rs.49,00,000 paid to Mr. Akash for transfer of urban plot, since the consideration is less than Rs.50 lakhs.

Mr. Aryan is also not required to deduct tax at source under section 194-IA from the consideration of Rs.55 lakhs paid to Mr. Dhanush for transfer of rural agricultural land, since the same is specifically excluded from the scope of immovable property for the purpose of tax deduction under section 194-IA.

(iii) As per section 194LB, tax would be deductible @ 5% on gross interest paid/credited by a notified infrastructure debt fund, eligible for exemption under section 10(47), to a foreign company.

In the first case, since the payment is to a foreign company, health and education cess @4% has to be added to the applicable rate of TDS. Therefore, the tax deductible under section 194LB would be Rs.31,200 (i.e., 5.20% of Rs.6 lakhs).

However, in case the notified infrastructure debt fund pays interest to a person who is a resident of a notified jurisdictional area, section 94A will apply. Accordingly, tax would be deductible @30% (*plus* health and education cess@4%) under section 94A, even though section 194LB provides for deduction of tax at a concessional rate of 5%. Therefore, the tax deductible in respect of payment of Rs.2.5 lakh to Mr. A, who is a resident of a notified jurisdictional area, would be Rs.78,000, being 31.2% of Rs.2,50,000.

(iv) The landing and parking charges which are fixed by the Airports Authority of India are not merely for the "use of the land". These charges are also for services and facilities offered in connection with the aircraft operation at the airport which include providing of air traffic services, ground safety services, aeronautical communication facilities, installation and maintenance of navigational aids and meteorological services at the airport *[Japan Airlines Co. Ltd. v. CIT / CIT v. Singapore Airlines Ltd. (2015) 377 ITR 372 (SC)]*. Thus, tax is not deductible under section 194I which provides deduction of tax for payment in the nature of rent.

Hence, tax is deductible @2% under section 194C by the airline company, Fly Ltd., on payment of Rs.18 lacs made towards landing and parking charges to the Airports Authority of India for the previous year 2018-19.

(b) (i) Clause (i) of *Explanation* to section 92B amplifies the scope of the term "international transaction". According to the said *Explanation*, international transaction includes, *inter alia*, provision of scientific research services. Sigma is a specified foreign company in relation to ABC Ltd. Therefore, the condition of ABC Ltd. holding shares carrying not less than 26% of the voting power in Sigma is satisfied, assuming that all shares carry equal voting rights. Hence, Sigma and ABC Ltd. are deemed to be associated enterprises under section 92A(2). Since the provision of scientific research services by Sigma to ABC Ltd. is an "international transaction" between associated enterprises, transfer pricing provisions are attracted in this case.

(ii) Purchase of tangible property falls within the scope of "international transaction". Tangible property includes commodity. Zylo AG and Figaro Ltd. are associated enterprises under section 92A, since Zylo AG is a holding company of Figaro Ltd. Therefore, purchase of

commodities by Figaro Ltd., an Indian company, from Zylo AG, a German company, is an international transaction between associated enterprises, and consequently, the provisions of transfer pricing are attracted in this case.

(iii) The scope of the term "intangible property" has been amplified to include, *inter alia*, technical knowhow, which is a technology related intangible asset. Transfer of intangible property falls within the scope of the term "international transaction". Since Alcatel Lucent, a German company, guarantees not less than 10% of the borrowings of XYZ Ltd., an Indian company, Alcatel Lucent and XYZ Ltd. are deemed to be associated enterprises under section 92A(2). Therefore, since transfer of technical knowhow by XYZ Ltd., an Indian company, to Alcatel Lucent, a German company, is an international transaction between associated enterprises, the provisions of transfer pricing are attracted in this case.

5. (a) (i) Under section 268A(1), the CBDT is empowered to issue orders, instructions or directions to the other income-tax authorities, fixing such monetary limits, as it may deem fit, to regulate filing of appeal or application for reference by any income-tax authority.

Under section 268A(2), where an income-tax authority has not filed any appeal or application for reference on any issue in the case of an assessee for any assessment year, due to above-mentioned order/instruction/direction of the CBDT, such authority shall not be precluded from filing an appeal or application for reference on the same issue in the case of the same assessee for any other assessment year or any other assessee for the same or any other assessment year. Further, in such a case, it shall not be lawful for an assessee to contend that the income-tax authority has acquiesced in the decision on the disputed issue by not filing an appeal or application for reference in any case.

In view of above provision, it would be in order for the Income-tax Department to move an appeal to the Tribunal against the orders of the CIT(A) in respect of A.Y. 2019-20 both for Bela and Tara.

(iii) Section 276CC provides for prosecution for wilful failure to furnish a return of income within the prescribed time, in a case where tax would have been evaded had the failure not been discovered. Since the amount of tax which would have been evaded does not exceed Rs.25 lakh, the imprisonment would be for a term of 3 months to 2 years. In addition, fine would also be attracted.

However, in a case where the return of income is not filed within the due date, prosecution proceedings will not be attracted if the tax payable by a person, other than a company, on the total income determined on regular assessment, as reduced by the advance tax, if any, paid and any tax deducted at source, does not exceed Rs. 3,000.

In this case, even though the tax liability of the firm as per the original order of assessment exceeded Rs. 3,000, however, as a result of the order of the Commissioner (Appeals), it got reduced to Rs. 1,000, which is less than Rs. 3,000. Therefore, since the tax liability of the firm on final assessment was determined at Rs. 1,000, the prosecution proceedings are not maintainable.

In *Guru Nanak Enterprises v. ITO (2005) 279 ITR 30*, where the facts were similar, the Supreme Court held that prosecution was unwarranted.

(b) (i) As per section 9(1)(vi)(b), any income by way of royalty payable by a person who is a resident would be deemed to accrue or arise in India in the hands of the recipient, except where the royalty is payable in respect of any right, property or information or services utilised for the purposes of business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India.

Explanation 2 to section 9(1)(vi) defines "royalty" to mean consideration for the transfer of any right in respect of, *inter alia*, a process. *Explanation 6* to section 9(1)(vi) clarifies that "process" includes transmission by satellite (including conversion for down-linking of any signal).

Accordingly, the payment made by MOON Ltd., a resident in India (since it is an Indian company), for downlinking television channels into India and international footprint through the channel, would constitute "royalty".

Such royalty income would be deemed to accrue or arise in India in the hands of the Australian company not having a PE in India, since it is paid by MOON Ltd., a company resident in India in relation to its business in India.

(ii) As per section 9(1)(i)(e), in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unassorted diamonds in any notified special zone.

Since this benefit is available only in case of a foreign company engaged in the business of mining of diamonds, Mr. Andrew, a foreign citizen and a diamond merchant from US, cannot avail of such benefit.

The income of Rs.18 crores from display of uncut and unassorted diamonds would, accordingly, be deemed to accrue or arise in the hands of Mr. Andrew by virtue of business connection in India.

6. (a) As per the provisions of section 281B, there can be provisional attachment of property in a case, where -

(i) The proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment is pending.

(ii) Such attachment is necessary for the purpose of protecting the interest of Revenue in the opinion of the Assessing Officer.

(iii) The previous approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director has been obtained by the Assessing Officer.

The Assessing Officer, may, by an order in writing attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule.

Such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of order made under section 281B(1). However, the period can be extended by the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director, as the case may be, for the reasons to be recorded in writing for a further period or periods as he thinks fit. The total period of extension in any case cannot exceed 2 years or 60 days after the date of order of assessment or reassessment, whichever is later.

The Assessing Officer shall, by order in writing, revoke provisional attachment of a property made under section 281B(1) in a case where the assessee furnishes a guarantee from a scheduled bank, for an amount not less than the fair market value of such provisionally attached property or for an amount which is sufficient to protect the interests of the revenue.

(b) Tax Planning / Tax Management / Tax Evasion

	Answer	Reason
(i)	Tax planning	Depositing money in PPF and claiming deduction under section 80C is as

		per the provisions of law. Hence, it is a legitimate tax planning measure which enables her to reduce her tax liability by claiming a deduction permissible under the Income-tax Act, 1961.
(iii)	Tax evasion	An air conditioner fitted at the residence of a director as per the terms of his appointment would be a furniture qualifying for depreciation@10%, whereas an air conditioner fitted in a factory would be a plant qualifying for a higher depreciation@15%. The wrong treatment unjustifiably increases the amount of depreciation and consequently, reduces profit and consequent tax liability. Treatment of air-conditioner fitted at the residence of a director as a plant fitted at the factory would tantamount to furnishing of false particulars with an attempt to evade tax.

(c) **(i)** Yes, the above income are subject to deduction of tax at source.

Income referred to in section 115BBA (i.e., Participation in hockey tournaments in India and Contribution of an article relating to the sport of hockey in a sports magazine in India) is subject to deduction of tax at source@20% under section 194E.

Income referred to in section 115BB (i.e., winnings from lotteries) is subject to deduction of tax at source@30% under section 194B.

Since Mr. Sidney Crosby is non-resident, the amount of tax to be deducted calculated at the prescribed rates mentioned above, would be increased by health and education cess@4%.

(iii) Section 115BBA provides that if the total income of the non-resident sportsman or non-resident entertainer comprises of only income referred to in that section and tax deductible at source has been fully deducted, it shall not be necessary for him to file his return of income.

In this case, although Mr. Sidney Crosby is a non-resident sportsman, he has winnings from lotteries as well. Therefore, he cannot avail the benefit of exemption from filing of return of income as contained in section 115BBA. Hence, he has to file his return of income for A.Y.2019-20.

(d) Section 245Q(3) of the Income-tax Act, 1961 provides that an applicant, who has sought for an advance ruling, may withdraw the application within 30 days from the date of the application. Since more than 30 days have elapsed from the date of application by Mr. Sakshat to the Authority for Advance Rulings, he cannot withdraw the application.

However, the Authority for Advance Rulings (AAR*),* in *M.K. Jain AAR No.644 of 2004*, has observed that though section 245Q(3) provides that an application may be withdrawn by the applicant within 30 days from the date of the application, this, however, does not preclude the AAR from permitting withdrawal of the application after the said period with its permission, if the circumstances of the case so justify.