

## PAPER 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION

The provisions of direct tax laws, as amended by the Finance Act, 2021 and significant notifications and circulars issued upto 31.10.2021, are relevant for May, 2022 examination. The relevant assessment year is A.Y.2022-23. The October, 2021 edition of the Study Material is based on the provisions of direct tax laws as amended by the Finance Act, 2021 and notifications and circulars issued upto 31.10.2021, and hence, the same is relevant for May, 2022 examination. The same has been webhosted at [https://www.icai.org/post.html?post\\_id=17843](https://www.icai.org/post.html?post_id=17843)

### QUESTIONS AND ANSWERS

#### Case Scenario 1

Mr. Prem is a partner in two firms X & Co., Mumbai and Y & Co., Delhi. X & Co. has four partners, including Prem, who share profits and losses equally. Mr. Prem resigned from X & Co. on 1.4.2021. On the said date, the capital balance of each of the partners stood at ₹ 32 lakhs. In order to settle the dues of Mr. Prem, the firm revalues its land for the first time since purchase; the valuer also valued self-generated goodwill at ₹ 70 lakhs. The firm has the following capital assets, whose details are as follows.

	Particulars of Assets	Date of purchase	Cost of acquisition (book value)	Value as on 1.4.2021 as per Valuation Report (Rule 11U)
1.	Land at Pune	21.1.2013	₹ 15 lakhs	₹ 50 lakhs
2.	Land at Nagpur	18.4.2015	₹ 25.4 lakhs	₹ 45 lakhs
3.	Land at Mumbai	14.5.2013	₹ 88 lakhs	₹ 250 lakhs
4.	Self-generated goodwill			₹ 70 lakhs

In April, 2021, X & Co. gave Land at Nagpur and ₹ 15 lakh money to Mr. Prem to settle his capital balance.

The firm Y & Co. dissolved on 1.3.2022 and distributed its land at Chandigarh, Mohali and Gurgaon on the same date to its three partners, Prem, Akshay and Aarav, respectively, who were sharing profits and losses equally. The particulars of these lands are given hereunder –

	Particulars of Assets	Date of purchase	Cost of acquisition (book value)	Value as per Valuation Report as on 1.3.2022 (Rule 11U)
1.	Land at Chandigarh (given to Prem)	3.7.2011	₹ 18.4 lakhs	₹ 62 lakhs
2.	Land at Mohali (given to Akshay)	15.9.2015	₹ 15.24 lakhs	₹ 59 lakhs
3.	Land at Gurgaon (given to Aarav)	27.2.2011	₹ 16.7 lakhs	₹ 70 lakhs

In addition, Prem and Akshay were given money of ₹ 8 lakhs and ₹ 11 lakhs, respectively on 1<sup>st</sup> March, 2022.

Cost Inflation Index is as follows: F.Y.2010-11– 167; F.Y.2011-12 – 184; F.Y.2012-13 – 200; F.Y.2013-14 – 220; F.Y.2014-15 – 240; F.Y.2015-16 – 254 and F.Y.2021-22 – 317.

**On the basis of the facts given above, choose the most appropriate answer to Q.1 to Q.5 below, based on the provisions of the Income-tax Act, 1961 -**

1. What would be the amount taxable under section 9B in the hands of X & Co. and Y & Co. for A.Y.2022-23?
  - (a) ₹ 13,30,000 and ₹ 1,08,58,000, respectively
  - (b) ₹ 28,30,000 and ₹ 1,27,58,000, respectively
  - (c) ₹ 19,60,000 and ₹ 1,40,66,000, respectively
  - (d) ₹ 13,30,000 and Nil, respectively
2. What would be the capital gains taxable under section 45(4) in the hands of X & Co. for A.Y.2022-23?
  - (a) Long-term capital gains of ₹ 23,79,160
  - (b) Long-term capital gains of ₹ 23,76,500
  - (c) Long-term capital gains of ₹ 17,55,410 and short-term capital gains of ₹ 6,23,750
  - (d) Long-term capital gains of ₹ 17,53,448 and short-term capital gains of ₹ 6,23,052
3. What would be the capital gains taxable under section 45(4) in the hands of Y & Co for A.Y.2022-23?
  - (a) Nil
  - (b) ₹ 1,08,58,000
  - (c) ₹ 1,27,58,000
  - (d) ₹ 1,40,66,000
4. What would be the amount apportioned to Land at Pune and Land at Mumbai of X & Co., to be reduced from full value of consideration for computing capital gains of such asset, when sold at a future date?
  - (a) ₹ 3,11,526 and ₹ 14,41,922
  - (b) ₹ 3,11,875 and ₹ 14,43,535
  - (c) ₹ 2,92,568 and ₹ 14,62,842

- (d) ₹ 2,92,241 and ₹ 14,61,207
5. If self-generated goodwill is sold in the P.Y.2022-23 for ₹ 80 lakhs, what would be the capital gains on such sale in the A.Y.2023-24?
- (a) ₹ 10,00,000
- (b) ₹ 73,76,250
- (c) ₹ 73,76,948
- (d) ₹ 80,00,000

### **Case Scenario 2**

Mr. Sunil, Mr. Sriram and Mr. Shyam are three brothers, who are resident Indians in independent retail trade business of food grains in Pune, Thane and Nagpur, respectively. Their turnover for F.Y.2020-21 were ₹ 9 crores, ₹ 10 crores and ₹ 12 crores, respectively. They regularly purchase food grains from another resident, Mr. Ashwath, a wholesaler in Mumbai. The turnover of Mr. Ashwath for F.Y.2020-21 was ₹ 18 crores.

They all follow mercantile system of accounting. The aggregate amount credited by the brothers to the account of Mr. Ashwath during each month of the F.Y.2021-22 is shown in the table below. It may be assumed that the entire amount relating to Mr. Ashwath for a particular month is credited to his account on the last date of that month and is paid entirely on the last date of the immediately following month. Likewise, Mr. Ashwath also debits the accounts of Mr. Sunil, Mr. Sriram and Mr. Shyam on the last date of the month with the amount of sales effected during each month.

Month	Value of purchases from Mr. Ashwath		
	Mr. Sunil	Mr. Sriram	Mr. Shyam
	₹	₹	₹
April, 2021	5.90 lakhs	7.50 lakhs	9.80 lakhs
May, 2021	7.10 lakhs	6.85 lakhs	8.75 lakhs
June, 2021	8.20 lakhs	8.20 lakhs	9.45 lakhs
July, 2021	6.80 lakhs	6.45 lakhs	6.80 lakhs
August, 2021	4.90 lakhs	5.95 lakhs	6.30 lakhs
September, 2021	5.80 lakhs	7.10 lakhs	8.15 lakhs
October, 2021	7.20 lakhs	8.60 lakhs	7.80 lakhs
November, 2021	6.70 lakhs	6.80 lakhs	9.10 lakhs
December, 2021	8.10 lakhs	7.85 lakhs	7.90 lakhs
January, 2022	9.00 lakhs	8.90 lakhs	8.25 lakhs

February, 2022	7.90 lakhs	6.70 lakhs	7.95 lakhs
March, 2022	8.40 lakhs	9.10 lakhs	7.75 lakhs
<b>Total</b>	<b>86 lakhs</b>	<b>90 lakhs</b>	<b>98 lakhs</b>

Mr. Sunil's friend Mr. Krishna entered into a one-time transaction with Mr. Ashwath for purchase of food grains for ₹ 60 lakhs on 30<sup>th</sup> June, 2021, on which date he credited the said sum to the account of Mr. Ashwath. He, however, paid the said sum to him only on 2<sup>nd</sup> July, 2021. Mr. Krishna's turnover for P.Y.2020-21 is ₹ 15 crore.

**On the basis of the facts given above, choose the most appropriate answer to Q.6 to Q.10 below -**

6. Are the provisions of TDS under the Income-tax Act, 1961 attracted in respect of purchase transactions with Mr. Ashwath? If so, in whose hands, at what rate and at what point of time? Ignore one time transaction of Mr. Sunil's friend, Mr. Krishna, for the purpose of this MCQ.
  - (a) Mr. Sriram and Mr. Shyam are liable to deduct tax at source @1% on the amount of each purchase made (after crossing the threshold limit of ₹ 50 lakhs), at the time of payment to Mr. Ashwath towards such purchase (i.e., from 30.11.2021 onwards)
  - (b) Mr. Sriram and Mr. Shyam are liable to deduct tax at source @0.1% on the amount of each purchase (after crossing the threshold limit of ₹ 50 lakhs), at the time of credit of such amount to Mr. Ashwath's account (i.e., from 31.10.2021 onwards)
  - (c) Mr. Shyam is liable to deduct tax at source @0.1% on the amount of each purchase (after crossing the threshold limit of ₹ 50 lakhs) at the time of credit of such amount to Mr. Ashwath's account (i.e., from 31.10.2021 onwards).
  - (d) Mr. Shyam is liable to deduct tax at source @1% on the amount of each purchase made (after crossing the threshold limit of ₹ 50 lakhs) at the time of payment to Mr. Ashwath towards such purchase (i.e., from 30.11.2021 onwards).
7. Are provisions of TCS under the Income-tax Act, 1961 attracted in respect of sale transactions effected by Mr. Ashwath? If so, from whom does he have to collect tax, at what rate and what point of time? Ignore one time transaction of Mr. Sunil's friend, Mr. Krishna, for the purpose of this MCQ.
  - (a) Ashwath has to collect tax at source from Mr. Sunil and Mr. Sriram @1% on the amount exceeding the prescribed threshold of ₹ 50 lakhs, at the time of debit of such amount to their account (i.e., from 30.11.2021 and 31.10.2021, respectively).
  - (b) Ashwath has to collect tax at source from Mr. Sunil and Mr. Sriram @0.1% on the amount exceeding the prescribed threshold of ₹ 50 lakhs, at the time of receipt of such amount every month (i.e., from 31.12.2021 and 30.11.2021, respectively).

- (c) Ashwath has to collect tax at source from Mr. Sunil @1% on the amount exceeding the prescribed threshold of ₹ 50 lakhs, at the time of debit of such amount to his account (i.e., from 30.11.2021).
  - (d) Ashwath has to collect tax at source from Mr. Sunil@0.1% on the amount exceeding the prescribed threshold of ₹ 50 lakhs, at the time of receipt of such amount every month (i.e., from 31.12.2021).
8. What would be the applicable rate of TDS, if Mr. Ashwath fails to furnish PAN to the deductor (based on answer to MCQ 6)? Also, what would be the applicable rate of TCS, if the collectee (based on answer to MCQ 7) fails to furnish PAN to Mr. Ashwath?
- (a) 20% and 5%, respectively
  - (b) 5% and 1%, respectively
  - (c) 5%, in both cases
  - (d) 1%, in both cases
9. If the value of purchases by Mr. Shyam from Mr. Ashwath was 70% of the monthly figures given in the table, then, what would be the TDS/TCS implications in respect of such transaction?
- (a) Mr. Shyam has to deduct tax at source on purchases of ₹ 18.60 lakhs with effect from 31.12.2021
  - (b) Mr. Shyam need not deduct tax at source, since payment for purchase transactions with Mr. Ashwath after the date when the TDS provisions came into force, does not exceed ₹ 50 lakhs
  - (c) Mr. Ashwath has to collect tax at source on ₹ 18.60 lakhs, being the amount exceeding ₹ 50 lakhs with effect from 31.12.2021.
  - (d) Both (b) and (c) are correct statements.
10. What would be the TDS/TCS implication in respect of the single purchase transaction by Mr. Krishna from Mr. Ashwath?
- (a) Mr. Krishna has to deduct tax at source as his turnover for P.Y.2020-21 exceeds the prescribed threshold limit
  - (b) Mr. Krishna has to deduct tax at source, since his purchase transaction of ₹ 60 lakhs exceeds the annual threshold of ₹ 50 lakhs and he has made the payment after the prescribed date when TDS provisions came into force.
  - (c) Mr. Krishna has to deduct tax at source on 2.7.2021 on ₹ 10 lakhs, being the amount exceeding ₹ 50 lakhs, due to reasons stated in (a) and (b) above

- (d) Mr. Ashwath has to collect tax at source on 2.7.2021 on ₹ 10 lakhs, being the amount exceeding ₹ 50 lakhs.
11. PoorAid is a charitable trust registered under section 12AB. Its main object is relief of poor. During the P.Y.2021-22, it received ₹ 50 lakhs by way of corpus donations, out of which it invested 85%, i.e., ₹ 42.50 lakhs in post office savings bank account. It was of the view that ₹ 7.50 lakhs, being 15% of ₹ 50 lakhs, is eligible for unconditional accumulation. The trust also withdrew ₹ 2.50 lakhs out of ₹ 42.50 lakhs deposited in post office savings bank account and applied the same for relief of the poor. Examine the tax implications, if any, based on the above facts.
- (i) The trust is eligible for unconditional accumulation of ₹ 7.50 lakhs, being 15% of ₹ 50 lakhs. There would be no tax liability on the said amount.
  - (ii) The trust would be eligible to treat ₹ 2.50 lakhs withdrawn from post office savings bank account as application for the purposes of the trust.
  - (iii) The trust will not be eligible for benefit of exemption of ₹ 7.50 lakhs unless it invests such amount in any of the modes specified in section 11(5).
  - (iv) Amount of ₹ 2.50 lakhs withdrawn from post office savings bank account cannot be treated as application

Which of the above statements are correct?

- (a) (i) and (ii)
  - (b) (ii) and (iii)
  - (c) (iii) and (iv)
  - (d) (i) and (iv).
12. ABC developers have completed their residential housing project "Ashiana Gardens" in Faridabad in May, 2021. It comprises of 8 residential units. 3 units were transferred to home buyers in June, 2021 and the remaining 5 units were transferred to home buyers in July, 2021. All the units were transferred by way of first time allotment to home buyers. The consideration received for each unit is ₹ 25 lakhs and the same was received by prescribed electronic modes. The stamp duty value of each unit was however ₹ 30 lakhs (both in June and July). What would be the full value of consideration for the purpose of computing profits and gains of business or profession?
- (a) ₹ 2 crore
  - (b) ₹ 2.15 crore
  - (c) ₹ 2.25 crore
  - (d) ₹ 2.40 crore

13. The EBITDA of ABC Ltd., an Indian company, for the F.Y.2021-22 is ₹ 10 crore. It paid interest of ₹ 5.20 crore to PQR Inc., UK, which is a specified foreign company in relation to ABC Ltd. The arm's length price using CUP method was ₹ 4.15 crore, and ABC Ltd. *suo moto* made the transfer pricing adjustment while computing its total income. On the basis of the above facts, examine the correctness of the following statements, assuming that no other interest is payable by ABC Ltd. -
- (a) The arm's length adjustment as per section 92C would be ₹ 1.05 crore; The excess interest under section 94B would be ₹ 1.15 crore. Secondary adjustment is required to be made in respect of ₹ 2.20 crore (₹ 1.15 crore + ₹ 1.05 crore), unless ABC Ltd. opts to pay additional income-tax on such sum and has paid such additional income-tax.
  - (b) The excess interest under section 94B would be ₹ 2.20 crore. No secondary adjustment is required under section 92CE.
  - (c) The excess interest under section 94B would be ₹ 2.20 crore and secondary adjustment under section 92CE is required to be made in respect of the said amount, unless ABC Ltd. opts to pay additional income-tax on such sum and has paid such additional income-tax.
  - (d) The arm's length adjustment as per section 92C would be ₹ 1.05 crore; the excess interest under section 94B would be ₹ 1.15 crore. Secondary adjustment is required to be made in respect of ₹ 1.05 crore, unless ABC Ltd. opts to pay additional income tax on such sum and has paid such additional income-tax.
14. MNO Inc. and PQR Inc. are two Country M based companies engaged in trading of oilseeds. MNO Inc. sold oilseeds of the value of ₹ 1.80 crore during the P.Y.2021-22 to XYZ Ltd., an Indian company, through an agent in Delhi who secures orders in India mainly for MNO Inc. PQR Inc. also sold oilseeds of the value of ₹ 2.10 crore during the P.Y.2021-22 to XYZ Ltd., through an independent agent carrying on agency business in Mumbai. The independent agent in Mumbai renders services to many other oilseed trading companies which are not related to PQR Inc. in any manner. Both MNO Inc. and PQR Inc. do not have a PE in India. Examine the taxability of income earned by MNO Inc. and PQR Inc. from their sale transactions with XYZ Ltd., based on the provisions contained in section 9(1) of the Income-tax Act, 1961. Ignore DTAA, if any.
- (a) Income of MNO Inc. attributable to the operations carried out in India by its agent in Delhi (in respect of sale transactions with XYZ Ltd., in this case) would be deemed to accrue and arise in India in the hands of MNO Inc. and be chargeable to tax in its hands; and income of PQR Inc. attributable to the sale transactions with XYZ Ltd. would be deemed to accrue or arise in India in the hands of PQR Inc. and be chargeable to tax in its hands.
  - (b) No part of the income of MNO Inc. and PQR Inc. attributable to the sale transactions with XYZ Ltd. would be chargeable to tax in India

- (c) Income of MNO Inc. attributable to sale transactions with XYZ Ltd. would be deemed to accrue or arise in India and be chargeable to tax in India in its hands but not income of PQR Inc.
- (d) Income of PQR Inc. attributable to sale transactions with XYZ Ltd. would be deemed to accrue or arise in India and be chargeable to tax in India in its hands but not income of MNO Inc.
15. Mr. Raj is an Indian citizen living in Country T for the last 10 years. His brother, Mr. Rahul also left India 10 years before and settled in Country Q. He has become a citizen of Country Q. Prior to that, they have always been in India since birth. Their parents were also born in India. Both of them come on a visit to India during the entire months of June, July and August every year upto P.Y.2020-21. Both brothers decided to start a business in India and hence, visited India for setting up the business on 1<sup>st</sup> December, 2021. The income of Mr. Raj and Mr. Rahul is ₹ 20 lakhs each, out of which income from foreign sources is ₹ 5.5 lakhs for Mr. Raj and ₹ 4.5 lakhs for Mr. Rahul. They left India for their respective countries only on 3<sup>rd</sup> April, 2022. What is their residential status for A.Y.2022-23?
- (a) Both of them would be non-residents
- (b) Mr. Raj is a resident but not ordinarily resident and Mr. Rahul is a non-resident
- (c) Mr. Rahul is a resident but not ordinarily resident but Mr. Raj is a non-resident
- (d) Both of them would be resident but not ordinarily resident
16. Beta Limited has transferred its Unit Omega to Delta Limited by way of slump sale on December 31<sup>st</sup>, 2021. The summarised Balance Sheet of Beta Limited as on 31<sup>st</sup> December, 2021 is given below:

Liabilities	₹ in lakhs	Assets	₹ in lakhs
Paid up Capital	850	<b>Fixed Assets:</b>	
Reserve & Surplus	310	Unit Gamma	75
<b>Trade Creditors:</b>		Unit Sigma	75
Unit Gamma	20	Unit Omega	275
Unit Sigma	55	<b>Debtors:</b>	
Unit Omega	45	Unit Gamma	260
		Unit Sigma	195
		Unit Omega	400
<b>Total</b>	<b>1,280</b>	<b>Total</b>	<b>1,280</b>



Using the further information given below, compute the capital gain arising from slump sale of Unit Omega and tax on such capital gain.

- (i) Cost inflation index for F.Y. 2010-11 and F.Y. 2021-22 are 167 and 317, respectively.
  - (ii) Lump sum consideration on transfer of Unit Omega is ₹ 600 lakhs.
  - (iii) Fixed assets of Unit Omega includes land which was purchased at ₹ 30 lakhs in August 2012 and revalued at ₹ 45 lakhs as on 31<sup>st</sup> December, 2021. The stamp duty value of land as on 31<sup>st</sup> December, 2021 is ₹ 42 lakhs.
  - (iv) Other fixed assets representing machinery are reflected at ₹ 230 lakhs (i.e. ₹ 275 lakhs less value of land) which represents written down value as per books. The written down value of machinery under section 43(6) of the Income-tax Act, 1961 on 31.12.2021 is ₹ 155 lakhs.
  - (v) Unit Omega was set up by Beta Limited in May, 2010.
  - (vi) The company does not opt for section 115BAA.
17. Regal (P) Limited, incorporated on 15<sup>th</sup> December, 2019, is engaged in manufacture and sale of ceramic tiles. It commenced manufacturing in the month of January, 2020. The net profit of the company as per its statement of profit and loss for the year ended 31<sup>st</sup> March, 2022 is ₹ 220 lakh after debiting/crediting the following items:
- (i) One-time license fee of ₹ 22 lakh paid to ABC Ltd (an Indian company) for obtaining franchise on 1<sup>st</sup> June, 2021.
  - (ii) ₹ 32,000 paid to B & Co., a goods transport operator, in cash on 31<sup>st</sup> January, 2021 for carrying company's products to the warehouse.
  - (iii) Rent of ₹ 60,000 p.m. received from letting out a part of its office premises. Municipal tax paid in respect of the said part of the building is ₹ 8,000. The same has been debited to statement of profit and loss.
  - (iv) ₹ 2 lakh, being contribution to a scientific research association approved and notified under section 35(1)(ii).
  - (v) ₹ 5 lakh paid to a contractor for repair work at the company's factory. No tax was deducted on such payment.
  - (vi) Dividend of ₹ 10,000 from Gamma Limited earned on 1,000 equity shares of ₹ 10 each purchased at ₹ 100 per share on 10<sup>th</sup> October, 2017. These shares were sold on 1<sup>st</sup> March, 2022 at ₹ 280 per share. Gain on transfer of these shares credited to books of accounts.
  - (vii) Depreciation on tangible fixed assets as per books of account ₹ 2.20 lakh.

**Additional Information:**

- (i) Depreciation on tangible fixed assets as per Income-tax Rules ₹ 2.60 lakh.
- (ii) Company has acquired on 15.11.2021, machinery for ₹ 20 lakhs and put the same to use on the same date. Depreciation on such machinery is not included in point (i) above.
- (iii) Fair market value of shares of Gamma Limited as on 31<sup>st</sup> January, 2018 was ₹ 110 per share.
- (iv) On account of expansion of its activities, 180 new employees joined during the P.Y.2021-22, the details of whom are as follows –

	No. of employees	Date of employment	Regular/ Contractual	Total monthly emoluments per employee (₹)
(i)	51	1.4.2021	Regular	23,000
(ii)	46	1.6.2021	Regular	26,000
(iii)	48	1.8.2021	Contractual	27,000
(iv)	35	1.9.2021	Regular	24,000

The emoluments are paid by use of ECS through a bank account and it may be assumed that the employees participate in recognised provident fund.

Compute the total income of the company and tax liability for the A.Y. 2022-23, assuming that the company opts for concessional tax regime under section 115BAB.

18. Manav Rachna Ltd., an Indian company engaged in manufacture and sale of electrical appliances in India and abroad, started adoption of Ind AS with effect from 1<sup>st</sup> April, 2020.

The particulars of "Other Comprehensive Income" for the year ended 31.03.2022:

**Other Comprehensive Income (OCI) that will not be re-classified to Statement of profit and loss:**

		Debit	Credit
		(₹ In lakhs)	
(i)	Deferred costs of hedging	2.80	
(ii)	Changes in fair values of equity instruments	7.40	
(iii)	Revaluation surplus for assets		6.10
(iv)	Deferred gains on cash flow hedges		7.50
(v)	Re-measurement of post-employment benefit obligations		6.20

The following are other particulars furnished for the year ended 31<sup>st</sup> March, 2022:-

- (a) The book profit after adjustment of all items specified in section 115JB(2) amounted to ₹ 97.54 lakhs (except the adjustment for brought forward losses/ unabsorbed depreciation), for the year ended 31.3.2022.
- (b) Brought forward losses as per books are as under: (₹ In lakhs)

Financial Year	Business loss	Depreciation
2019-20	9.10	6.40
2020-21	6.10	8.10

- (c) The transition amount as on convergence date (01-04-2020) stood at ₹ 68 lakhs (credit balance) including capital reserve of ₹ 8 lakhs and adjustment of ₹ 6 lakhs relating to translation difference in a foreign operation.
- (d) The National Company Law Tribunal (NCLT), Mumbai Bench has admitted an application under section 7 of Insolvency and Bankruptcy Code, 2016 (IBC) made by financial creditor against the company for initiation of Corporate Insolvency Resolution Process on 30<sup>th</sup> March, 2022.

You are required to compute the MAT liability for the assessment year 2022-23, applying the provisions relating to Ind AS compliant companies. Assuming that the income tax under normal provisions of Income-tax Act, 1961 for the assessment year 2022-23 works out to ₹ 12.80 lakhs, compute the tax credit, if any, to be carried forward by the company including the period up to which it will be available to be carried forward.

19. Examine the correctness of contention/action/treatment of the institution/charitable trust in each of the following separate cases –
  - (a) An institution runs a university solely for educational purposes and a hospital solely for philanthropic purposes. Both the university and the hospital are not for profit. The gross receipts from the university and hospital during the F.Y.2021-22 are ₹ 3 crores each. The institution contended that the income from university is eligible for exemption u/s 10(23C)(iiia) and income from hospital is eligible for exemption u/s 10(23C)(iiia), since the aggregate annual receipts in each case does not exceed the prescribed threshold; and there would be no requirement to get the approval of Principal Commissioner or Commissioner for availing the benefit of exemption under section 10(23C).
  - (b) A registered charitable trust, with the main object of relief of poor, wants to set off its excess application of ₹ 27 lakhs in the P.Y.2020-21 while computing its income required to be applied during the P.Y.2021-22.

- (c) A charitable trust registered u/s 12AB borrowed ₹ 40 lakhs from SBI in April, 2021 for purchase of building for opening a school in a rural area for primary education of children in backward areas. It spent the entire amount for the said purpose and claimed the same as application of income. In March, 2022, it repaid the first instalment of ₹ 5 lakhs to SBI.
20. Examine the applicability of provisions relating to deduction/collection of tax at source and compute the amount of tax to be deducted/collected at source in the following cases for financial year ended 31<sup>st</sup> March, 2022 as per provisions contained in the Income-tax Act, 1961:
- (i) Mr. Rajesh remitted an amount of ₹ 5,80,000 towards maintenance expenses of his son pursuing education in University of Australia. He also remitted ₹ 7,80,000 to University of Australia, for the purpose of his son's education, out of loan taken from his employer, ABC Ltd., an Indian manufacturing company. Both the remittances were made through the same authorized dealer under the Liberalised Remittance Scheme of RBI.
- (ii) Mr. Appy, a resident Indian, [E-commerce participant] sells goods worth ₹ 84 lakhs through e-commerce website of HIGHSALE [E-commerce Operator]. Mr. Appy has not furnished PAN or AADHAR No. to the E-commerce Operator. He has furnished his return of income for all the assessment years before the due date of filing return of income.
21. ABC Ltd., a domestic company, applied for advance ruling on 1.4.2021 in relation to tax liability arising out of transactions valuing ₹ 110 crore which is proposed to be undertaken by it. The advance ruling was pronounced on 31.8.2021. Is the same binding on ABC Ltd.? Examine.
- Would your answer change if the advance ruling was pronounced on 30.9.2021? What would be the remedy available to ABC Ltd. if it is aggrieved by the advance ruling pronounced on 30.9.2021? Examine.
22. In respect of Mr. Hari, who is engaged in export of fabrics, information is flagged as per the risk management strategy formulated by the CBDT for A.Y.2017-18, A.Y.2018-19, A.Y.2019-20 and A.Y.2020-21. The income escaping assessment for these years aggregate to ₹ 42 lakhs.
- In respect of Mr. Hari's friend Mr. Rajesh, who is engaged in trading of commodities, a search was initiated u/s 132 in April, 2021.
- Can the Assessing Officer issue notice under section 148 to Mr. Hari and Mr. Rajesh in April, 2021? If so, in respect of which assessment years can notice be issued? Is it

necessary that they be provided an opportunity of being heard before issuance of notice? Examine.

23. Trex Ltd., a company incorporated in Country "T", has the following incomes in India during the year ended on 31.03.2022. Compute the total income and tax liability of Trex Ltd. for the Assessment Year 2022-23, assuming that its POEM is outside India.
- (i) Interest of ₹ 2,85,000 earned on debentures of ₹ 30,00,000 issued on 1<sup>st</sup> August 2021, in consideration of providing technical knowhow to MNO Ltd., an Indian Company, for the purpose of business carried out in India.
  - (ii) Dividend of ₹ 6,50,000 earned on Global Depository Receipts of YL Ltd., an Indian company, issued under a scheme of Central Government against the initial issue of shares of the company and purchased by Trex Ltd. in foreign currency through an approved intermediary.
  - (iii) Dividend of ₹ 15,50,000 earned on equity shares of Indian companies.
  - (iv) Income by way of royalty amounting to ₹ 12,56,470, received from Z Ltd., an Indian company, in pursuance of an agreement approved by Central Government.
  - (v) Business Income of ₹ 8,50,000 from a unit established at Delhi.
  - (vi) Long-term capital gain of ₹ 1,32,000 on transfer of unlisted shares of an Indian Company (computed with indexation benefit). If computed without indexation benefit, the long-term capital gains would be ₹ 2,32,000.

**Notes –**

- (i) No DTAA exists between India and Country "T".
  - (ii) The Unit in Delhi is not involved in any manner in provision of technical knowhow/royalty.
24. Mr. Ganesh, a resident individual aged 52 years, has furnished the following details of his income earned during the previous year 2021-22:

**India**

- (i) Income from a sole-proprietary business in Pune ₹ 80 lakhs.
- (ii) Share of profit from a partnership firm in Mumbai ₹ 20 lakhs.

**Country G**

- (iii) Agricultural Income (gross) of CGD 40000 from tea gardens. Taxable @20%.
- (iv) Brought forward business loss of F.Y.2018-19 in Country G was CGD 5,200 which is not permitted to be set off against other income as per the laws of that country.

**Country M**

- (v) Dividend income (gross) of CMD 30,000. Taxable @10%.
- (vi) Rental Income of CMD 52,000 from house property. Taxable @15%. He paid CMD 6,000 towards municipal taxes in Country M. Municipal taxes are not allowed as deduction in Country M.

**Other Information**

- Mr. Ganesh has deposited ₹ 1,50,000 in public provident fund and paid medical insurance premium of ₹ 28,000 by account payee cheque to insure the health of himself and his wife (aged 48 years).
- India has no DTAA with Country G and Country M.

Compute total income and tax liability of Mr. Ganesh for the A.Y. 2022-23 after providing for deduction under section 91, assuming that 1 CGD/CMD = ₹ 70. Mr. Ganesh is not opting for section 115BAC.

25. Mr. Divakar is a resident of the Contracting States, namely, India and Country "Y", as per the domestic tax laws of the respective countries. Would it be necessary to apply tie-breaker rule in case of Mr. Divakar? If yes, explain the manner of determining residential status of Mr. Divakar as per the UN Model Convention applying the tie breaker rule.

**SUGGESTED ANSWERS**

MCQ No.	Most Appropriate Answer
1.	a
2.	c
3.	a
4.	b
5.	b
6.	c
7.	b
8.	b

MCQ No.	Most Appropriate Answer
9.	a
10.	d
11.	c
12.	c
13.	d
14.	a
15.	c

16. As per section 50B, any profits and gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of capital assets and shall be deemed to be the income of the previous year in which the transfer took place.

**Computation of capital gain on slump sale of Unit Omega under section 50B**

Particulars	₹ (in lakhs)
Full value of consideration for the slump sale of Unit Omega	627
Less: Net worth of Unit Omega (Refer Note 1 below)	<u>540</u>
<b>Long term capital gain arising on slump sale</b>	<b><u>87</u></b>

**Computation of tax liability of Beta Ltd. on slump sale of Unit Omega for the A.Y. 2022-23**

Particulars	₹ (in lakhs)
Tax on capital gains@20%	17.400
Add: HEC@4%	<u>0.696</u>
<b>Total tax liability on capital gain arising on slump sale of Unit Omega</b>	<b><u>18.096</u></b>

**Notes:**

- (1) Computation of full value of consideration

Particulars	₹ (in lakhs)
<b>Fair Market Value of capital assets transferred by way of slump sale as on 31.12.2021</b>	
Land (stamp duty value as on 31.12.2021, being the date of slump sale)	42
Machinery (book value as appearing in the books of account)	230
Debtors (book value appearing in the books of account)	<u>400</u>
	672
Less: Value of trade creditors of Unit Omega	<u>45</u>
Fair market value of capital assets transferred by way of slump sale [FMV 1]	<b><u>627</u></b>
Fair market value of the consideration received or accruing as a result of transfer by way of slump sale [value of monetary consideration received, in this case] [ FMV 2]	600
<b>Full value of consideration [Higher of FMV 1 and FMV 2]</b>	<b>627</b>

- (2) The net worth of an undertaking transferred by way of slump sale shall be deemed to be the cost of acquisition and cost of improvement for the purposes of section 48 and 49 [Section 50B(2)].

**Computation of net worth of Unit Omega**

Particulars	₹ (in lakhs)
(A) Book value of non-depreciable assets:	
(i) Land (Revaluation is to be ignored for computing net worth)	30
(ii) Debtors	400
(B) Written down value of machinery under section 43(6)	<u>155</u>
Aggregate value of total assets	585
Less: Value of trade creditors of Unit Omega	<u>45</u>
<b>Net worth of Unit Omega</b>	<b><u>540</u></b>

- (3) Since Unit Omega is held for more than 36 months, the capital gains of ₹ 87 lakhs arising on transfer of such unit would be a long term capital gain taxable under section 112. However, indexation benefit is not available in the case of slump sale.

**17. Computation of total income of Regal (P) Ltd. for the A.Y. 2022-23 u/s 115BAB**

Particulars	₹	₹
<b>Income from House Property</b>		
Rental income [₹ 60,000 x 12]		7,20,000
[No deduction is allowable in respect of such income, since the company has opted for concessional regime under section 115BAB. Hence, deduction for municipal taxes paid and deduction@30% of net annual value is not allowable]		
<b>Profits and gains of business or profession</b>		
Net profit as per Statement of profit and loss	2,20,00,000	
<b>Add: Income debited to statement of profit and loss, but considered separately or disallowed</b>		
<b>Licence fee for obtaining franchise</b>	22,00,000	
(Franchise is an intangible asset eligible for depreciation @ 25%. Since one-time licence fee of ₹ 22 lakh paid for obtaining franchise has been debited to statement of profit and loss, the same has to be added back. Depreciation @ 25% has to be		



provided in respect of the intangible asset since it has been used for more than 180 days during the year)		
<b>Payment in cash to a goods transport operator</b>		-
[₹ 32,000 paid to B & Co., a goods transport operator, in cash is deductible while computing business income, as the disallowance under section 40A(3) would be attracted in case of payment to a transport contractor only when such cash payment exceeds ₹ 35,000. Since it is already debited to statement of profit and loss, no further adjustment is required]		
<b>Municipal taxes in respect of let-out part of office premises</b>		8,000
[Municipal taxes paid in respect of office premises, debited to Statement of Profit and Loss has to be added back to compute business income, since same is to be considered separately under the head "Income from house property"]		
<b>Contribution to approved and notified scientific research association</b>		2,00,000
[Not allowable as deduction since company is opting for section 115BAB]		
<b>Amount paid to contractor without deduction of tax at source [₹ 5 lakhs x 30%]</b>		1,50,000
[Payment to contractor without deduction of tax at source would attract disallowance at 30% of the expenditure under section 40(a)(ia)]		
<b>Depreciation on tangible fixed assets</b>		
[The amount of ₹ 2.20 lakh, being depreciation as per books of account, debited to statement of profit and loss has to be added back]		<u>2,20,000</u>
		2,47,78,000
<b>Less: <u>Depreciation under section 32</u></b>		
Tangible fixed assets	2,60,000	
Intangible asset (Franchise)		
25% of ₹ 22,00,000	5,50,000	

Plant & Machinery		
- Normal Depreciation (₹ 20,00,000 x 7.5%, since put to use for less than 180 days during the P.Y. 2021-22)	1,50,000	
- Additional depreciation [not allowable since company is opting for section 115BAB]	<u>-</u>	
		<u>9,60,000</u>
		2,38,18,000
<b>Less: Income credited to Statement of Profit and Loss, but taxable under other heads of income</b>		
<b>Rental income from letting out of office premises</b> (Rental income from letting out a part of the office premises is taxable under "Income from house property". Therefore, it has to be deducted while calculating business income, since the income has been credited to statement of profit and loss)	7,20,000	
<b>Dividend from Gamma Limited</b> Dividend credited to statement of profit and loss account to be deducted as it is taxable under the "Income from other sources"	10,000	
<b>Capital gain on sale of shares</b> Gain on transfer of shares to be taxed under the head "Capital Gains" [1000 x 180 (280 - 100)]	<u>1,80,000</u>	
		2,29,08,000
<b><u>Capital Gains</u></b>		
Sales consideration (₹ 280 x 1000 shares)	2,80,000	1,70,000
<b>Less: Cost of acquisition</b>	<u>1,10,000</u>	
<b>Higher of</b>		
- Actual cost [₹ 1,00,000 (₹ 100 x 1000)]		
- ₹ 1,10,000, being lower of		
- FMV as on 31.1.2018 of ₹ 1,10,000 [₹ 110 x 1,000]		
- Sale consideration of ₹ 2,80,000 [₹ 280 x 1000]		

<b>Income from Other Sources</b>		
Dividend from Gamma Limited		<u>10,000</u>
<b>Gross Total Income</b>		<b>2,38,08,000</b>
Less: Deduction under section 80JJAA [allowable even though company opts for section 115BAB] 30% of additional employee cost of ₹ 1,40,76,000 [₹ 23,000 x 51 employees employed on 1.4.2021 x 12 months] <b>[See Note below]</b>		<u>42,22,800</u>
<b>Total Income</b>		<b><u>1,95,85,200</u></b>
Tax liability		
Tax payable on LTCG @10% on ₹ 70,000 in excess of ₹ 1,00,000		7,000
Tax payable on dividend @22% on ₹ 10,000		2,200
Tax payable on rental income @22% on ₹ 7,20,000		1,58,400
Tax @ 15% on ₹ 1,86,85,200 [i.e., business income of ₹ 2,29,08,000 – ₹ 42,22,800]		<u>28,02,780</u>
		29,70,380
Add: Surcharge@10%		<u>2,97,038</u>
		32,67,418
Add: Health and education cess@4%		<u>1,30,697</u>
<b>Tax liability</b>		<b><u>33,98,115</u></b>
<b>Tax liability (rounded off)</b>		<b>33,98,120</b>

**Note** – For the purpose of deduction under section 80JJAA, employees employed on 1.6.2021 and 1.8.2021 do not qualify as additional employees, since their monthly emoluments exceed ₹ 25,000. Employees employed on 1.9.2021 also do not qualify as additional employees for A.Y.2022-23, since they have been employed for less than 240 days in the P.Y.2021-22. Therefore, only the employees employed on 1.4.2021 qualify as additional employees for the purpose of deduction u/s 80JJAA for A.Y.2022-23.

**18. Computation of MAT liability of Manav Rachna Ltd. u/s 115JB for A.Y.2022-23**

Particulars	₹	₹
Book profit after adjustment of items under section 115JB(2) [except brought forward business loss and unabsorbed depreciation]		97,54,000

Less: Brought forward business loss [₹ 9,10,000 + ₹ 6,10,000]	15,20,000	
Unabsorbed depreciation [₹ 6,40,000 + ₹ 8,10,000]	<u>14,50,000</u>	
[Since Manav Rachana Ltd. is a company against which an application for corporate insolvency resolution process has been admitted by NCLT under section 7 of the Insolvency and Bankruptcy Code, 2016, the aggregate amount of loss brought forward and unabsorbed depreciation is allowed to be reduced from the book profit for the purposes of levy of MAT under section 115JB].		29,70,000
<b>Book profit computed in accordance with Explanation 1 to section 115JB(2)</b>		67,84,000
<b>Add: Items credited to OCI that will not be reclassified to profit or loss:</b>		
Deferred gains on cash flow hedges	7,50,000	
Re-measurement of post-employment benefit obligations	6,20,000	
Revaluation surplus for assets ₹ 6,10,000 [Book profit not to be increased by revaluation surplus for assets as per first proviso to section 115JB(2A)]	<u>Nil</u>	
		<u>13,70,000</u>
		81,54,000
<b>Less: Items debited to OCI that will not be reclassified to profit or loss:</b>		
Deferred costs of hedging	2,80,000	
Changes in fair values of equity instruments ₹ 7,40,000 [Book profit not to be decreased by changes in fair values of equity instruments as per first proviso to section 115JB(2A)]	<u>Nil</u>	
		<u>2,80,000</u>
		78,74,000
<b>Add: One-fifth of Transition amount [Credit Balance]</b>		
Transition amount	68,00,000	
Less: Amounts to be excluded from above		
Capital Reserve	8,00,000	
Translation difference in foreign operations	<u>6,00,000</u>	
	<u>54,00,000</u>	
One-fifth of ₹ 54,00,000		<u>10,80,000</u>
<b>Book Profit for levy of MAT</b>		<b><u>89,54,000</u></b>

MAT on book profit under section 115JB = 15% of ₹ 89,54,000	13,43,100
Add: Health and education cess@4%	<u>53,724</u>
<b>MAT liability for A.Y.2022-23</b>	<b><u>13,96,824</u></b>

**Computation of tax credit to be carried forward**

Particulars	₹
MAT liability for A.Y.2022-23 (rounded off)	13,96,820
Income-tax computed as per the normal provisions of the Act for A.Y.2022-23	12,80,000
Since the income-tax liability computed as per the regular provisions of the Income-tax Act, 1961 is less than the MAT payable, the book profit would be deemed to be the total income and tax is leviable @15%. The total tax liability (rounded off) is ₹ 13,96,820.	
<b>Computation of tax credit to be carried forward</b>	
Tax payable for A.Y.2022-23 on deemed total income	13,96,820
Less: Income-tax payable as per the normal provisions of the Act	<u>12,80,000</u>
<b>MAT credit</b>	<b><u>1,16,820</u></b>
[Can be carried forward for 15 Assessment Years i.e., upto A.Y.2037-38]	

19. (a) The contention of the institution is **not** correct. Since the institution has receipts from a university specified under section 10(23C)(iiia) and a hospital specified under section 10(23C)(iiib), and the combined receipts of ₹ 6 crore exceed the threshold receipt of ₹ 5 crore, the institution would **not** be eligible for exemption under sections 10(23C)(iiia) and 10(23C)(iiib) [Explanation below section 10(23C)(iiib)]. The institution has to make an application to the Principal Commissioner or Commissioner within the prescribed time limit for grant of approval for claiming exemption under section 10(23C)(vi) and (vii).
- (b) The proposed action of the trust is **not** correct. As per Explanation 5 to section 11(1), with effect from A.Y.2022-23, no set off or deduction or allowance of any excess application of any of the year preceding the previous year shall be made in computation of income required to be applied or accumulated during the previous year. Accordingly, excess application of ₹ 27 lakhs in the P.Y.2020-21 cannot be set-off while computing income required to be applied or accumulated during the P.Y.2021-22.
- (c) The proposed claim of the trust is **not** correct. As per clause (ii) of Explanation 4 to section 11(1), application for charitable purposes from a loan or borrowing shall not be treated as application of income for charitable purposes. However, the amount not so treated as application, or part thereof, would be treated as application for charitable purposes in the previous year in which the loan is repaid from the income of that year and to the extent of such repayment.

Accordingly, the trust cannot claim ₹ 40 lakhs as application of income of A.Y.2022-23, since the amount is spent out of loan taken from SBI. However, it can treat the amount of ₹ 5 lakhs repaid to SBI during the P.Y.2021-22 as application of income in that year.

20. (i) An authorised dealer, who receives an amount for overseas remittance from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of RBI, is required to collect tax at source @5%. In case the remittance is for a purpose other than purchase of overseas tour programme package, then, no tax has to be collected at source, if the amount or aggregate of amount remitted by a buyer is less than ₹ 7 lakhs; and where the said amount exceeds ₹ 7 lakhs, tax has to be collected at source @5% of the amount or aggregate of amount in excess of ₹ 7 lakhs.

Tax is required to be collected at source @0.5% of the amount or aggregate of amount in excess of ₹ 7 lakhs where remittance is made out of loan from a bank or financial institution notified by the Central Government referred under section 80E. However, in the present case, Mr. Rajesh remitted the amount out of the loan taken from his employer, being a manufacturing company. Hence, concessional rate of tax collection at source@0.5% would not be available.

Accordingly, the authorised dealer has to collect tax at source @5% on the amount remitted by Mr. Rajesh towards maintenance expenses of his son studying in Australia as well as on amount remitted out of the loan taken from his employer not being the financial institution defined under section 80E in excess of ₹ 7,00,000.

Since both remittances are through the same authorised dealer, tax collection at source@5% would be attracted on the aggregate amount remitted in excess of ₹ 7,00,000. Thus, ₹ 33,000 [5% of ₹ 6,60,000 (₹ 7,80,000 + ₹ 5,80,000 – ₹ 7,00,000)] has to be collected at source by the authorised dealer on the remittances made by Mr. Rajesh.

- (ii) In a case where sale of goods of an e-commerce participant (Mr. Appy) is facilitated by an e-commerce operator (HIGHSALE) through its e-commerce website, section 194-O requires the e-commerce operator to deduct tax at source@1% on ₹ 84 lakhs, being the gross amount of sales facilitated through the e-commerce website.

As per section 206AA, in case where the deductee has not furnished his PAN, tax is required to be deducted at source at higher of 1% or 5%. Accordingly, tax has to be deducted at source @5% of ₹ 84 lakhs = ₹ 4.2 lakhs.

21. Upto 31.8.2021, advance ruling was pronounced by the Authority for Advance Rulings. As per section 245S, the advance ruling pronounced by the Authority for Advance Rulings (AAR) would be binding on the applicant. Accordingly, the advance rulings pronounced on 31.8.2021 by the AAR would be binding on ABC Ltd.

With the constitution of Boards for Advance Rulings (BAR) for giving advance rulings on or after 1.9.2021, the Authority for Advance Rulings (AAR) ceased to operate with effect from such date. With effect from 1.9.2021, advance ruling would be pronounced by the Board for Advance Rulings (BAR).

By virtue of section 245Q(4), since the application for advance ruling was made on 1.4.2021 (i.e., before 1.9.2021) by ABC Ltd. and no ruling has been pronounced by the AAR before 1.9.2021, such application along with all relevant records, documents or material, on the file of AAR shall be transferred to BAR and shall be deemed to be records before the BAR for all purposes.

The binding provision contained in section 245S will, however, not apply to an advance ruling pronounced on or after 1.9.2021 by the Board for Advance Rulings. Accordingly, in the case of ABC Ltd., the binding provision would not apply in respect of the advance ruling pronounced on 30.9.2021 by the Board for Advance Rulings. As per section 245W(1), if ABC Ltd. is aggrieved by the advance ruling pronounced by the Board for Advance Rulings on 30.9.2021, it may appeal to the High Court against such ruling, within 60 days from the date of communication of that ruling.

22. In respect of Mr. Hari, the Assessing Officer has information suggesting that income has escaped assessment for the purposes of section 148 and 148A, since information has been flagged for the relevant assessment year as per risk management policy formulated by the CBDT. Notice can be issued for A.Y.2020-21, A.Y.2019-20 and A.Y.2018-19, since the three year time limit from the end of the relevant assessment year has not expired as on April, 2021. Such notice can be issued after conducting an enquiry, if required, with respect to the information suggesting escapement of income; and providing an opportunity of being heard to Mr. Hari by serving a show cause notice. Thereafter, on the basis of material available on record including the reply of Mr. Hari, in response to show cause notice, the Assessing Officer has to decide whether or not it is a fit case to issue notice under section 148 by passing an order, with the prior approval of Principal Commissioner or Principal Director or Commissioner or Director. However, notice cannot be issued in respect of A.Y.2017-18, since the three year time limit from the end of the relevant assessment year (i.e., from 31.3.2018) has since expired on 31<sup>st</sup> March, 2021. The extended time limit of 10 years from the end of the relevant assessment year cannot be invoked in this case to issue notice for A.Y.2017-18, since the income escaping assessment in respect of Mr. Hari is not ₹ 50 lakh or more for that year.

In case of Mr. Rajesh, the Assessing Officer shall be deemed to have information suggesting that income has escaped assessment for three assessment years immediately preceding A.Y.2022-23, relevant to P.Y.2021-22 in which search is initiated. Hence, the relevant assessment years in respect of which the Assessing Officer can issue notice to Mr. Rajesh are A.Y.2021-22, A.Y.2020-21 and A.Y.2019-20. In this case, for the purpose of issue of notice u/s 148, there is no requirement to conduct an enquiry or provide an opportunity of being heard to Mr. Rajesh.

23. Computation of total income and tax liability of Trex Ltd., a non-resident foreign company, for the A.Y. 2022-23

Computation of total income for A.Y.2022-23		
Particulars	₹	₹
<b>Profits and gains of business or profession</b>		
Business Income from a unit established at Delhi	8,50,000	
Fees for technical services [would be equivalent to the amount of debentures of ₹ 30,00,000 received from an Indian company, issued in consideration of providing technical knowhow] for the purpose of business carried out in India	30,00,000	
Royalty income received from Z Ltd., an Indian company, in pursuance of an agreement approved by Central Government [₹12,56,470 x 100/89.6, since tax would have been deducted at source @ 10.4%]	<u>14,02,310</u>	52,52,310
<b>Capital Gains</b>		
Long-term capital gains on transfer of unlisted shares		1,32,000
<b>Income from Other Sources</b>		
Interest on debentures issued by an Indian company	2,85,000	
Dividend on Global Depository Receipts (GDRs) of YL Ltd., an Indian company, issued under a scheme of Central Government against the initial issue of YL Ltd. and purchased in foreign currency by Trex Ltd.	6,50,000	
Dividend income on equity shares of Indian companies	<u>15,50,000</u>	<u>24,85,000</u>
<b>Gross Total Income/ Total income</b>		<b><u>78,69,310</u></b>
Computation of tax liability for A.Y.2022-23		
Particulars	₹	₹
Business income of ₹ 8,50,000 [taxable @40%]	3,40,000	
FTS of ₹ 30,00,000, taxable @40%, since it is not in pursuance of an agreement approved by the Central Government	12,00,000	
Royalty income of ₹ 14,02,310, taxable @10% u/s 115A, since it is in pursuance of an agreement approved by the Central Government	<u>1,40,231</u>	16,80,231



Particulars	₹	₹
Long-term capital gain of ₹ 2,32,000 (computed without indexation benefit) on unlisted shares taxable @10% under section 112(1)(c)(iii)		23,200
Interest on debentures of ₹ 2,85,000, taxable @40% [Since debt is incurred in Indian currency, it is not eligible for concessional rate of 20% u/s 115A]	1,14,000	
Dividend on GDRs of ₹ 6,50,000, taxable @10% u/s 115AC	65,000	
Dividend income of ₹ 15,50,000, taxable @20% u/s 115A	<u>3,10,000</u>	<u>4,89,000</u>
		21,92,431
Add: Health and education cess@4%		<u>87,697</u>
<b>Tax liability</b>		<b><u>22,80,128</u></b>
<b>Tax liability (rounded off)</b>		<b>22,80,130</b>

**Note** – Since the unit in Delhi does not play any role in provision of technical know/royalty, the provisions of section 44DA are **not** attracted in this case in respect of fees for technical services and royalty.

**24. Computation of total income and tax liability of Mr. Ganesh for A.Y. 2022-23**

Particulars	₹	₹
<b>Income from house property</b>		
Gross annual value <sup>1</sup> of house property in Country M [₹ 52,000 x ₹ 70/CMD]	36,40,000	
Less: Municipal taxes [₹ 6,000 x ₹ 70/CMD]	<u>4,20,000</u>	
Net Annual Value	32,20,000	
Less: Deduction @30%	<u>9,66,000</u>	22,54,000
<b>Profits and gains from business and profession</b>		
Income from sole proprietary concern in India	80,00,000	
Share of profit from a partnership firm in India of ₹ 20 lakhs, is exempt under section 10(2A)	<u>Nil</u>	

<sup>1</sup> In absence of any information regarding fair rent and standard rent, actual rent is considered as gross annual value.

Business profit	80,00,000	
Less: Business Loss <sup>2</sup> in Country G (CGD 5200 x ₹ 70/CGD)	<u>3,64,000</u>	76,36,000
<b>Income from Other Sources</b>		
Agricultural income from tea gardens in Country G, is taxable in India (CGD 40000 x ₹ 70/CGD)	28,00,000	
Dividend income from Country M (CMD 30000 x ₹ 70/CGD)	<u>21,00,000</u>	<u>49,00,000</u>
<b>Gross Total Income</b>		<b>1,47,90,000</b>
Less: <b>Deductions under Chapter VI-A</b>		
Under section 80C [deposit in PPF]	1,50,000	
Under section 80D	<u>25,000</u>	
[Medi-claim premium paid ₹ 28,000, restricted to		<u>1,75,000</u>
<b>Total Income</b>		<b><u>1,46,15,000</u></b>

Particulars	₹	₹
<b>Tax on total income</b>		
Tax on ₹ 1,46,15,000 [(30% x ₹ 1,36,15,000) plus ₹ 1,12,500]		41,97,000
Add: Surcharge@15%, since total income exceeds ₹ 1 crore but does not exceed ₹ 2 crore		<u>6,29,550</u>
		48,26,550
Add: HEC@4%		<u>1,93,062</u>
		<b>50,19,612</b>
Average rate of tax in India [i.e., ₹ 50,19,612/₹ 1,46,15,000 x 100]	34.3456%	
<b>Rebate u/s 91 in respect of income in Country G</b>		
Average rate of tax in Country G	20%	
Doubly taxed income [₹ 28,00,000 – ₹ 3,64,000]	24,36,000	
Rebate under section 91 on ₹ 24,36,000 @20% (lower of average Indian tax rate and rate of tax in Country G)		4,87,200

<sup>2</sup> Since the eight year has not expired from the assessment year in which such business loss was incurred, such business loss can be set-off against current year business income.

<b>Rebate u/s 91 in respect of income in Country M</b>		
Average rate of tax in Country M [CMD 3,000 (30,000 x 10%) + CMD 7800 (52,000 x 15%)/ CMD 82,000] x 100	13.1707%	
<b>Doubly taxed income [₹ 22,54,000 + ₹ 21,00,000]</b>		
Rebate under section 91 on ₹ 43,54,000 @13.1707% (lower of average Indian tax rate and rate of tax in Country M)		<u>5,73,452</u>
<b>Tax payable in India</b>		<b><u>39,58,960</u></b>

25. Since Mr. Divakar is an individual who is a resident of two Contracting States, namely, India and Country Y, tie-breaker rule contained in Paragraph 1 of Article 4 of UN Model Convention need to be applied to determine the single state of residence.

The tie-breaker rule would be applied in the following manner:

- (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.
- (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) **Nationality**: 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.