

TOPIC : FULL

**DIVISION A – Multiple Choice Questions**

**Write the most appropriate answer to each of the following multiple choice questions by choosing one of the four options given. All questions are compulsory.**

**Case Scenario 1**

Mr. Hari, a property dealer, sold a building in the course of his business to his friend Mr. Rajesh, who is a dealer in automobile spare parts, for Rs. 100 lakh on 1.1.2021, when the stamp duty value was Rs. 120 lakh. The agreement was, however, entered into on 1.9.2020 when the stamp duty value was Rs. 110 lakh. Mr. Hari had received a down payment of Rs. 15 lakh by NEFT from Mr. Rajesh on the date of agreement. Mr. Hari has purchased the building for Rs. 50 lakh on 12.7.2019.

Mr. Hari's brother, Mr. Ravi, a retail trader, sold a residential house to Mr. Vallish, a wholesale trader for Rs. 50 lakh on 1.2.2021, when the stamp duty value was Rs. 70 lakh. The agreement was, however, entered into on 1.8.2020 when the stamp duty value was Rs. 55 lakh. Mr. Ravi had received a down payment of Rs. 5 lakh by a crossed cheque from Mr. Vallish on the date of agreement. Mr. Ravi has purchased the building for Rs. 32 lakh on 17.8.2019.

From the information given above, choose the **most appropriate answer** to the following questions –

- 4.1 What is the amount of income chargeable to tax in the hands of Mr. Hari in respect of the transaction of sale of building to Mr. Rajesh and under which head is it taxable?
- (a) Rs. 70 lakh is taxable as his business income
  - (b) Rs. 60 lakh is taxable as his business income
  - (c) Rs. 50 lakh is taxable as his business income.
  - (d) Rs. 50 lakh is taxable as short – term capital gains
- 4.2 Is any amount taxable in the hands of Mr. Rajesh in respect of the above transaction? If so, what is the amount and under which head is it taxable ?
- (a) No amount is taxable in the hands of Mr. Rajesh
  - (b) Rs. 20 lakh is taxable under the head "Income from Other Sources"
  - (c) Rs. 10 lakh is taxable under the head "Income from Other Sources"
  - (d) Rs. 10 lakh is taxable as his business income

- 4.3 What is the amount of income chargeable to tax in the hands to Mr. Ravi in respect of the transaction of sale of residential house to Mr. Vallish and under which head is it taxable ?
- (a) Rs. 18 lakh is taxable as short – term capital gains
  - (b) Rs. 23 lakh is taxable as short – term capital gains
  - (c) Rs. 38 lakh is taxable as short – term capital gains
  - (d) Rs. 18 lakh is taxable as his business income
- 4.4 Is any amount taxable in the hands of Mr. Vallish in respect of the above transaction? If so, what is the amount and under which head is it taxable ?
- (a) No amount is taxable in the hands of Mr. Vallish
  - (b) Rs. 20 lakh is taxable under the head “Income from Other Sources”
  - (c) Rs. 5 lakh is taxable under the head “Income from Other Sources”
  - (d) Rs. 5 lakh is taxable as his business income
- 4.5 Is tax deductible by Mr. Rajesh and Mr. Vallish on making payment to the seller ?
- (a) Yes, tax is deductible at source by both Mr. Rajesh and Mr. Vallish
  - (b) No, tax is not deductible at source by either Mr. Rajesh or Mr. Vallish
  - (c) Tax is deductible at source by Mr. Rajesh but not by Mr. Vallish
  - (d) Tax is deductible at source by Mr. Vallish but not Mr. Rajesh

**(5 × 2 = 10 Marks)**

### **Case Scenario 2**

DEF Inc., a company incorporated under the laws of Country A, is engaged in management consultancy services. It has set up a branch office in India.

During the F.Y. 2020 – 21, it earns the following income in India –

- (i) Fee for technical services of Rs. 75,00,000 from ABC Ltd., an Indian company, in pursuance of an agreement made with it and approved by the Central Government. The tax rate on such income under India – Country A tax treaty is 10% on gross income.  
  
The fee for technical services is not effectively connected with the branch office in India.
- (ii) DEF Inc. incurred expenses of Rs. 3,00,000 in earning such income from fee for technical services.
- (iii) Sale of shares of Bottle Pvt. Ltd., an Indian company, for Rs. 2,60,00,000
- (iv) Other income Rs. 10,00,000

All the above income have been credited to the statement of profit and loss of the company.

DEF Inc. had made an investment in 100% equity share capital of Bottle Pvt. Ltd., purchased for Rs. 1,75,00,000 on 5<sup>th</sup> November, 2004. The said shares were purchased out of foreign exchange of USD 3,50,000 brought from outside India.

From the information given above, choose the **most appropriate answer** to the following questions –

- 2.1 In the context of the provisions of section 115JB, state which of the following statements is correct –
- (a) The provisions of section 115JB do not get attracted in the hands of DEF Inc., since it is a foreign company.
  - (b) The provisions of section 115JB do not get attracted in the hands of DEF Inc., since its entire income from India is subject to tax at a rate lower than the rate prescribed u/s 115JB
  - (c) The provisions of section 115JB are attracted in the hands of DEF Inc. since it is resident of a country with which India has a DTAA and the branch office of DEF Inc. constitutes permanent establishment in terms of such agreement.
  - (d) The provisions of section 115JB are attracted in the hands of DEF Inc., since the provisions of section 115JB are applicable to every company deriving income from India
- 2.2 What is the rate at which fee for technical services received by DEF Inc. is chargeable to tax in India ?
- (a) 10.4% on Rs. 75 lakh
  - (b) 10.4% on Rs. 72 lakh
  - (c) 10% on Rs. 75 lakh
  - (d) 41.6% on Rs. 72 lakh
- 2.3 In respect of sale of shares in Bottle Pvt. Ltd., state which of the following statements is correct –
- (a) The transaction of sale of shares in Bottle Pvt. Ltd. is subject to transfer pricing since DEF Inc. holds more than 26% shares in Bottle Pvt. Ltd. Hence, sale price of Rs. 2,60,00,000 shall be subject to arm's length computation.
  - (b) Sale of shares in Bottle Pvt. Ltd. shall not be considered as transfer, since DEF Inc. holds whole of the share capital of Bottle Pvt. Ltd.
  - (c) Capital gains arising on sale of shares shall be taxable @ 20% with indexation or 10% without indexation, whichever is beneficial to DEF Inc.
  - (d) Capital gains is taxable @ 10% without benefit of indexation and foreign currency conversion
- 2.4 Which of the following statements is correct, assuming that the rates specified in the DTAA are the same as provided under the Act ?
- (a) Only capital gains has to be reduced while computing book profit of DEF Inc. for levy of minimum alternate tax.
  - (b) Only fee for technical services has to be reduced while computing book profit of DEF Inc. for levy of minimum alternate tax.
  - (c) Both capital gains and fee for technical services have to be reduced while computing book profit of DEF Inc. for levy of minimum alternate tax
  - (d) Capital gains, fee for technical services and other income have to be reduced while computing book profit of DEF Inc. for levy of minimum alternate tax

**(4 × 2 = 8 MARKS)**

## GENERAL MCQs

1. Mr. Ram, born on 1.4.1961, has a gross total income of Rs. 2,90,000 for A.Y. 2021 – 22 comprising of his salary income. He does not claim any deduction under Chapter VI – A. He pays electricity bills of Rs. 10,000 per month. He made a visit to Melbourne along with his wife for a month in February, 2021 for which he incurred to and fro flight charges of Rs. 1.20 lakhs. The remaining expenditure for his visa, stay and sightseeing amounting to Rs. 80,000 was met by his son residing in Melbourne. Is Mr. Ram required to file return of income for A.Y. 2021 – 22, and if so, why ?
  - (a) No, Ram is not required to file his return of income
  - (b) Yes, Ram is required to file his return of income, since his gross total income /total income exceeds the basic exemption limit
  - (c) Yes, Ram is required to file his return of income, since he pays electricity bills of Rs. 10,000 per month.
  - (d) Yes, Ram is required to file his return of income, since he has incurred foreign travel expenditure exceeding Rs. 1 lakh **(2 MARKS)**
  
2. Mr. Sanjay, a salaried individual, pays brokerage of Rs. 40 lakhs to Mr. Harish, a broker, on 5.1.2021 to buy a residential house. His father, Mr. Hari, a retired pensioner, makes contract payments of Rs. 15 lakhs, Rs. 25 lakhs and Rs. 12 lakhs on 28.9.2020, 3.11.2020 and 15.2.2021 to Mr. Rajeev, a contractor, for reconstruction of residential house. With respect to the above payments made by Mr. Sanjay and Mr. Hari, which of the following statements is correct ?
  - (a) Neither Mr. Sanjay nor Mr. Hari is required to deduct tax at source, since they are not subject to tax audit, on account of being a salaried individual and pensioner, respectively
  - (b) Both Mr. Sanjay and Mr. Hari are required to deduct tax at source under the provisions of the Income – tax Act, even though they are not subject to tax audit.
  - (c) Mr. Sanjay is required to deduct tax at source but Mr. Haris is not required to deduct tax at source.
  - (d) Mr. Hari is required to deduct tax at source but Mr. Sanjay is not required to deduct tax at source **(2 MARKS)**
  
3. Mr. Rajesh, a resident Indian, is an employee of M/s. ABC Ltd., Bangalore. In addition to the salary income from M/s. ABC Ltd., he also earns interest from fixed deposits. M/s. PQR Inc., a foreign company not having permanent establishment in India, rendered online advertisement services to Mr. Rajesh, for which Mr. Rajesh made a payment of Rs. 2 lakhs in the F.Y. 2020 – 21.
  - (i) The transaction is subject to equalization levy since payment exceeding Rs. 1 lakh has been made for online advertisement services.
  - (ii) The transaction is subject to equalization levy since payment is made by a resident to a non- resident not having permanent establishment in India.
  - (iii) Equalization levy has to be deducted and paid by Mr. Rajesh.
  - (iv) Equalization levy has to be paid by M/s. ABC Ltd.

- (v) The rate of equalization levy is 6%.
- (vi) The rate of equalization levy is 2%.
- (vii) The transaction is not subject to equalization levy.

Which of the statements is correct ?

- (a) (i), (ii), (iii) and (v)
- (b) (i), (ii), (iv) and (vi)
- (c) (i), (ii), (iv) and (v)
- (d) Only (vii)

**(2 MARKS)**

4. Mr. Naveen is an employee working in a public sector company. He repaid a loan in cash of Rs. 24,000 (including interest of Rs. 5,000), which he took from his friend for higher studies. What will be the consequence of the said transaction for A.Y. 2021 – 22 ?

- (a) Disallowance under section 40A(3) of Rs. 24,000
- (b) Penalty of Rs. 24,000 u/s 271E due to violation of section 269T
- (c) Penalty of Rs. 19,000 u/s 271E due to violation of section 269T
- (d) No disallowance or penalty u/s 271E, since the principal amount of loan is less than Rs. 20,000

**(2 MARKS)**

5. A search u/s 132 was carried out in the case of Mr. M on 20.12.2020. During the course of search, the assessee admitted the additional income of Rs. 50 crore as additional sales for the financial year 2019 – 20. While filing his return of income in response to notice u/s 153A, M did not declare the said income. What is the amount of penalty to be payable by M in respect of the said undisclosed income ?

- (a) Rs. 5 crore
- (b) Rs. 10 crore
- (c) Rs. 15 crore
- (d) Rs. 30 crore

**(1 MARKS)**

6. In the course of search operations under section 132 in the month of May, 2021, Mr. Aakash makes a declaration under section 132(4) on the earning of income not disclosed in respect of P.Y. 2020 – 21. He also explain the manner in which he has derived such income and he pays the tax together with interest on such income and declares such income in the return of income filed by him in the month of July, 2021. Is penalty leviable in this case ? If so, how much ?

- (a) No penalty is attracted since Mr. Aakash has voluntarily made a declaration under section 132(4).
- (b) Yes; Penalty @ 10% of undisclosed income would be attracted even if Mr. Aakash has voluntarily made a declaration under section 132 (4).
- (c) Yes; Penalty @ 30% of undisclosed income would be attracted even if Mr. Aakash has voluntarily made a declaration under section 132 (4).
- (d) Yes; Penalty @ 60% of undisclosed income would be attracted even if Mr. Aakash has voluntarily made a declaration under section 132 (4). **(1 MARKS)**

7. During the P.Y. 2020 – 21, HelpAid Charitable Trust registered under section 12AA received donations of Rs. 80 lakhs, out of which Rs. 10 lakhs were corpus donations and Rs. 20 lakhs were anonymous donations. The trust applied Rs. 40 lakhs towards its objects during the P.Y. 2020 – 21. The tax liability of the trust for A.Y. 2021 – 22 is
- (a) Rs. 6,24,000  
 (b) Rs. 5,92,800  
 (c) Rs. 5,30,920  
 (d) Rs. 5,97,220 **(1 MARKS)**
8. Himalaya Ltd. is an eligible start – up engaged in eligible business. Its gross total income included profits of Rs. 25 lakhs from such business. The Assessing Officer made disallowance of Rs. 3 lakhs under section 40(a)(ia) and of Rs. 2 lakhs under section 43B. The deduction allowable under section 80 – IAC would be –
- (a) Rs. 25 lakhs  
 (b) Rs. 28 lakhs  
 (c) Rs. 30 lakhs  
 (d) Rs. 20 lakhs **(1 MARKS)**

### DIVISION B – Descriptive Questions

Question No. 1 is compulsory

Attempt any **five** questions from the remaining **six** questions.

#### QUESTION : 1

ABC Ltd. is engaged in manufacturing of goods. It provides following information for the assessment year 2021 – 22.

#### Profit and Loss

Particulars	Rs.	Particulars	Rs.
Cost of Goods sold	69,87,69,000	Sales	77,36,19,350
Entertainment Expenses	1,95,000	Interest on Fixed Deposit	1,54,900
Travelling Expenses	1,31,500	Profit on buy back of shares of closely held Indian Co.	1,00,000
Administrative Salary	8,14,000	Deferred Tax	25,000
Salary to Directors	24,50,000	Share from AOP (Where AOP had paid tax at Maximum Marginal Rate)	41,100
Professional fees	2,50,000		
Depreciation	1,99,80,500		
Interest	6,04,000		
Provision for Bad and doubtful Debts	5,16,000		
Penalty under Income – Tax Act	10,000		
Interest for late filing of return	32,000		
Provision for unascertained liabilities	75,000		
Provision for Income – tax	2,25,000		
Net Profit	4,98,88,350		
	<b>77,39,40,350</b>		<b>77,39,40,350</b>

**Additional Information :**

- (1) Depreciation allowable for the A.Y. 2021 – 22 u/s 32 of Income Tax Act – Rs. 2,22,36,000.
- (2) Additional depreciation allowable for the A.Y. 2021 – 22 u/s 32(I) (ia) of Income Act – Rs. 1,28,000.
- (3) Brought forward business loss for tax purpose is as under :

A.Y.	Amount of brought forward loss	The reason for incurring of such loss
2016 – 17	Rs. 5,04,000	Operating Loss
2017 – 18	Rs. 11,12,000	Deduction under section 32 AC (IA)
2019 – 20	Rs. 8,04,000	Deduction under section 32AD

- (4) Unabsorbed depreciation for tax purpose is as under :

A.Y.	Amount of unabsorbed depreciation	Whether unabsorbed depreciation resulted due to claim of additional depreciation ?
2016 – 17	Rs. 8,08,000	No
2017 – 18	Rs. 4,50,62,000	Rs. 42,80,000 is due to claim of additional depreciation
2019 – 20	Rs. 30,02,000	Rs. 3,14,000 is due to claim of additional depreciation
2020 – 21	Rs. 1,08,000	Yes

- (5) Company is eligible for deduction under section 80 – IC @ 30% and also eligible for claiming deduction under section 80JJAA. The amount of deduction worked out under section 80JJAA was Rs. 4,30,000

Compute tax liability of ABC Ltd. on the assumption that it has opted for section 115BAA.

**(14 MARKS)**

**QUESTION : 2**

- (A) Helpage is a charitable trust set up on 01.04.2010 with the object of providing relief of the poor. Later on, in April, 2012, it changed its object to medical relief. It applied for registration on the basis of its new object, i.e., medical relief, on 01.09.2021 and granted registration on 01.04.2013 eligible to claim exemption from A.Y. 2013 – 14.

On 01.04.2020, Helpage got merged with M/s. Medicare (P) Ltd., a pharmaceutical company not entitled for registration under section 12AA. All the assets and liabilities of the erstwhile trust became the assets and liabilities of M/s. Medicare (p) Ltd. the trust appointed a registered valuer for the valuation of its assets and liabilities. From the following particulars (including the valuation report), calculate the tax liability in the hands of the trust arising as a result of such merger.

**(i) Land**

Location	Date of purchase	Stamp duty value on 01.04.2020 (Rs.)	Value which the land would fetch, if sold in the open market on 01.04.2020 (Rs.)	Book Value on 01.04.2020 (Rs.)
Noida	01.09.2011	55 lakhs	58 lakhs	50 lakhs
Gurgaon	01.09.2014	100 lakhs	120 Lakhs	110 Lakhs

**(ii) Shares**

Types of shares	Date of purchase	Face value of each share (Rs.)	Purchase price of each share (Rs.)	Price at which each share is quoted on BSE as on 01.04.2020 (Rs.)		Open market value as on 01.04.2020 (Rs.)*
5000 Quoted equity shares of A Ltd.	01.05.2015	100	110	320	300	-
2000 Preference shares of B Ltd.	01.09.2016	100	100	-	-	180

\*On the basis of report of Merchant Banker

**(iii) Liabilities**

Book value of liabilities on 01.04.2020 = Rs. 12 lakhs. This includes :-

- (a) Corpus fund Rs. 12 Lakhs
- (b) provision for taxation Rs. 8 lakhs; and
- (c) Reserves and Surplus Rs. 18 lakhs

**(8 MARKS)**

- (B)** A foreign company seconded some employees to the assessee, an Indian collaborator. These employees worked with the Indian collaborator throughout the financial year. The employees were in receipt of salary from the Indian collaborator. They were also in receipt of special allowance directly from the foreign company in foreign currency outside India. The Indian collaborator deducted tax under section 192, on the component of salary paid by it, without taking into account the special allowance paid abroad by the foreign company in foreign currency to these employees. For this reason, the Revenue authorities treated the Indian collaborator as an 'assessee – in – default' under section 201 for non – deduction of tax at source on the "special allowance" component of salary paid by the foreign company.

Is such treatment by the Revenue Authorities and the consequent levy of interest and penalty justified ?

**(6 MARKS)**

**QUESTION : 3**

- (A)** Ding Dong LLP is a unit located in International Financial Service and derives its income solely in convertible foreign exchange. For the relevant previous year, it earned following incomes :

Sr. No.	Particulars	Rs.
(1)	Income under the head PGBP (Eligible for deduction u/s 10AA – ET/TT 90%)	22,20,000
(2)	Income from other sources	1,30,000
(3)	Contribution to Prime Minister National Relief Fund by cheque	10,000

You are required to compute tax liability.

**(8 MARKS)**

- (B)** Kio, a company based at Japan and AB Ltd., an Indian Company are Associated Enterprises. AB Ltd. manufactures Cellular Phones and sells them to Kio, Japan and also to Geel, a Company based at Beijing. During the year AB Ltd. supplied 2,50,000 Cellular Phones to Kio, Japan at a price of Rs. 3,000 per unit and 35,000 units to Geel at a price of Rs. 4,800 per unit. The transactions of AB Ltd. with Kio and Geel are comparable subject to the following considerations –



- (a) Sales to Kio is on FOB basis, sales to Geel are CIF basis. Freight and Insurance paid by Kio for each unit is Rs. 700.
- (b) Sales to Geel are under a free warranty for Two years whereas sales to Kio are without any such warranty.

The estimated cost of executing such warranty is Rs. 500.

- (c) Since Kio's order was huge in volume, quantity discount of Rs. 200 per unit was offered to it.

Compute Arm's Length Price and amount of increase in Total income of AB Ltd., if any, due to such Arm's Length Price.

**(6 MARKS)**

**QUESTION : 4**

- (A) "Shanaz Ltd." engaged in manufacturing of different products was asked by the Central Excise Department to pay an amount of Rs. 25,00,000 on certain goods manufactured by it, which was deposited during the financial year 2012 – 13 and was claimed as deduction in the return of income filed for that assessment year. This levy of the excise duty was challenged in the High Court, and the Court in June, 2016 held "that the same is not payable by the company ". The Excise Department filled appeal challenging the order of the High Court before the Supreme Court. In the meantime, assessee company received refund of excise duty. The Assessing Officer, therefore, issued a show cause to tax the refund received by the company in A.Y. 2017 – 18. Assessee company, however, argued that the matter is pending before Supreme Court and therefore, there is no remission or cessation of liability as envisaged under section 41(I) of the Act. Discuss the validity of contention raised by the assessee company.

**(4 MARKS)**

- (B) Mr. Akash sold his residential property on 2<sup>nd</sup> February, 2021 for Rs. 90 lakh and paid brokerage @ 1% of sale price. Indexed Cost of acquisition of the said house property was Rs. 51,12,000. In June, 2021, he invested Rs. 75 lakh in equity of A (P) Ltd., an eligible start up, which constituted 26% of share capital of the said company. A (P) Ltd. utilized the said sum for the following purposes –

- (a) Purchase of new plant and machinery during July 2021 – Rs. 59 lakh
- (b) Included in (a) above are Rs. 6 lakh for purchase of computers and Rs. 8 lakh for purchase of cars.
- (c) Air – conditioners purchased for Rs. 1 lakh, included in the (a) above, were installed at the residence of Mr. Akahsh,
- (d) Amount deposited in specified bank on 28.09.2021 – Rs. 10 lakh

Compute the chargeable capital gain for the A.Y. 2021 – 22. Assume that Mr. Akahs is liable to file his return of income on or before 31<sup>st</sup> October, 2021.

**(4 MARKS)**

(C) Mr. Raghu, a non – resident provides the following information :

Information in respect of GDRs held in Indian companies :

Name of company	Nature of Capital Assets	Sale Consideration (Rs.)	Purchase Consideration (Rs.)	Dividend income from GDRs (Rs.)	Remark :
A Ltd.	Long Term	8,30,000	7,25,000	12,000	Sold to another non – resident outside India.
B Ltd.	Long Term	12,50,000	10,00,000	15,000	--
C Ltd.	Long Term	\$ 82,000	\$ 77,500	53,000	Sold on a recognized stock exchange located in IFSC

Compute tax payable by Mr. Raghu.

**(6 MARKS)**

**QUESTION : 5**

(A) The assessee trust filed an application in Form 10G for grant of approval under section 80G(5). It also filed copies of trust deed and registration certificate dated 18<sup>th</sup> August, 2011 with the approving authority. As per the trust deed, the main objects of the trust are educational, social activities, etc. In order to verify the facts stated in the application, the trust was asked to produce books of account, relevant vouchers, donation book and minutes in original. On perusal of the books for financial year 2011 – 12, it was found that the trust had not applied 85% of its income and therefore, the Commissioner rejected the application of the assessee seeking approval under section 80G(5) and Rule 11AA of the Income – tax Rules, 1962.

Can the Commissioner reject an application for grant of approval under section 80G(5) on the ground that the trust has failed to apply 85% of its income for charitable purposes ?

**(6 MARKS)**

(B) The assessment of Lambda Ltd. was completed under section 143(3) with an addition of Rs. 22 lakhs to the returned income. The assessee – company preferred an appeal before the Commissioner (Appeals) which is pending now. In this backdrop, answer the following :

- (i) Based on fresh information that there was escapement of income for the same assessment year, can the Assessing Officer initiate reassessment proceedings when the appeal is pending before Commissioner (Appeals) ?
- (ii) Can the Assessing Officer pass an order under section 154 for rectification of mistake in respect of issues not being subject matter of appeal ?
- (iii) Can the assessee – company seek revision under section 264 in respect of matters other than those preferred in appeal ?
- (iv) Can the Commissioner make a revision under section 263 both in respect of matters covered in appeal and other matters ?

**(4 MARKS)**

- (C) TIFIL is a public limited company, registered as category – I merchant banker with SEBI, engaged in the business of stock broking, investment and trading in shares and securities. The assessee had taken a loan from the investment Trust of India During the previous year in question, the assessee had transferred shares of a company held by it to the investment Trust of India. Therefore, in the current assessment year, the assessee was liable to pay the loan amount to the investment Trust of India and had a right to receive the sale price of the shares transferred to Investment Trust of India. In order to avoid the unnecessary circular transfer of shares, both the parties agreed to set – off the amount payable and receivable by way of passing journal entries and the balance loan amount was paid by the assessee by way of an account payee cheque. The amount of loan settled by way of passing journal entries exceeds Rs. 20,000. The Assessing Officer passed the assessment order levying penalty under section 27 IE for the contravention of the provisions of section 269T on the argument that since section 269T put an obligation on the assessee to pay loan only by way of an account payee cheque or an account payee draft, the settlement of a portion of the loan by passing journal entry would be a mode otherwise than by way of an account payee cheque or an account payee draft and therefore, the penal provision under section 27IE shall be attracted. Whether action taken by Assessing office is correct ?

**(4 MARKS)**

**QUESTION : 6**

- (A) Mr. Vallish had approached the Settlement Commission for waiver of interest under section 234A to 234C of the Income – tax Act, 1961. The Settlement Commission partially waived the interest but refused to grant interest on refund on the grounds that section 244A does not provide for payment of interest in such cases. Further, the Settlement Commission contended that its power to waive interest does not enable it to provide for payment of interest under section 244A. Discuss the correctness of the Settlement Commission’s action in denying to grant interest on refund.

**(4 MARKS)**

- (B) Cosmos Limited, a company incorporated in Mauritius, has a branch office in Hyderabad opened in April, 2019. The Indian branch has filed return of Income for assessment year 2021 – 22 disclosing income of Rs. 50 lacs. It paid tax at the rate applicable to domestic company i.e. 30% plus education cess on the basis of paragraph 2 of Articles 24 (Non – Discrimination) of the Double Taxation Avoidance Agreement between India and Mauritius, which reads as follows :

“The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances.”

However, the Assessing Officer computed tax on the Indian branch at the rate applicable to a foreign company i.e. 40% plus education cess.

Is the action of the Assessing Officer in accordance with law ?

**(4 MARKS)**

**(C)** Mr. X, filed return for A.Y. 2021 – 22 on 31/08/21 declaring total income of Rs. 8,02,000. He also received notice for scrutiny under section 143(2) of the Act on 31/12/21. On verification of return, the assessing officer found that Mr. X failed to disallow expenditure of Rs. 38,000, the payment of which has been made in cash and Auditor also reflected the same in his tax audit report. On further scrutiny of the various evidences called for during the course of scrutiny proceedings, the assessing officer also observed that commission expenses of Rs. 4,80,000 has been recorded in the books of account but not duly supported by the proofs that actual services of commission agents have been obtained. Advise assessing officer with regard to the passing of various intimation/ assessment order.

**(4 MARKS)**

**(D)** A foreign company entered into contracts with several Indian companies for installation of mobile telephone system and made an application to the Authority for Advance Rulings for advance ruling on the rate of withholding tax on receipts from Indian companies. One of the Indian companies had also made an application to the Assessing Officer under section 195(2) of the Act, for determination of the rate at which tax is deductible on payment to the said foreign company. The Authority for Advance Rulings rejected the application of the foreign company on the ground that the question raised in the application is already pending before an income tax authority. Is the rejection of the application of the foreign company justified in law ?

**(2 MARKS)**