DAY 12

1. Section 15BBD-[Effective from A.Y. 2014-15]

Practical 1

From the following information, compute tax liability of Reliance Fruit-Vegetable Ltd. Ignore MAT effect and assume that there are no other incomes for the concerned previous year.

Dividend income from Equity investment (Gross)	***Dividend received from***	***% of shareholding***	***Expenditure for realizing dividend***
Rs. 1,80,000	*Reliance US INC, foreign company*	*26% of nominal value of equity share capital*	*Rs. 5,000*
Rs. 52,000	*Reliance UK Ltd., Foreign company*	*24 % of nominal value of equity share capital*	*Rs.2,000*
Rs.55,000	*Reliance Telecom Ltd, Indian Company*	*30% of nominal value of equity share capital*	*Rs. 200*

Practical 2

What would have been your answer if Reliance Fruit-Vegetable Ltd. has **further** received following dividend?

Dividend income from Preference share investment (Gross)	***Dividend received from***	***% of shareholding***	***Expenditure for realizing dividend***
Rs. 2,80,000	*Reliance US INC, foreign company*	*72% of nominal value of preference share share capital*	*Rs. 15,000*
Rs. 1,52,000	*Reliance UK Ltd., Foreign company*	*80 % of nominal value of preference share capital*	*Rs.12,000*
Rs.1,55,000	*Reliance Telecom Ltd, Indian Company*	*100% of nominal value of preference share capital*	*Rs. 1,200*

Before, we go to the solution, lets comprehend amendment first.

Dividends received by Indian companies from specified foreign companies to be entitled to concessional rate of tax for one more year

(i) Dividends received by Indian companies from specified foreign companies are subject to a concessional tax rate of 15% on gross dividend as against the normal tax rate of 30% on net dividend. This amendment was effected by the Finance Act, 2011 to be applicable for A.Y.2012-13.

(ii) The benefit of this concessional rate of 15% on gross dividend received by an Indian company from a specified foreign company **has been extended for A.Y.2013-14 also. Further, it has been extended for A.Y. 2014-15 also**.

Concessional rate of tax on dividends received by Indian companies from specified foreign companies [Section 115BBD]

(i) **Dividends received by Indian companies from specified foreign companies** to be subject to a concessional **rate of 15%.**

(ii) This **concessional rate of 15%**shall be available **subject to the condition that no expenditure would be allowable** in respect of such dividend income.

(iii) For the purpose of this section

a. **"dividends" shall have the same meaning as is given to "dividend" in clause (*22*)of section 2 but shall not include sub-clause (*e*)thereof;**

b. **"specified foreign company" means a foreign company in which the Indian company holds twenty-six per cent or more in nominal value of the equity share capital of the company**.

Solution 1

Dividend received from-	***% of Holding in Equity Share Capital of the company***	***Whether Specified foreign company?***	***Whether Section 115BBD is applicable ?***	***Tax Rate Applic able***	***Dividend income from Equity investment (Gross)***	***Expenditure for realizing dividend***	***Net Income***	***Tax liability***
Reliance US INC, foreign company	*26%*	*Yes*	*Yes*	*15%*	*Rs.1,80,000*	*As per section 115BBD, no deduction is allowed*	***1,80,000***	***27,000***
Reliance UK Ltd., Foreign company	*24%*	*No*	*No*	*30%*	*Rs. 52,000*	*Deduction is available u/s Section 57(i) of Rs.2,000*	***50,000***	***15,000***
Reliance Telecom Ltd, Indian Company	*30%*	*No*	*No*	*Exempt u/s 10(34)*	*Exempt*	*Deduction not allowed because income is exempt u/s 10(34)*	***Exempt***	***NIL***
TOTAL								***42,000***
Add: 3% Education Cess								***1260***
Tax Liability								***43,260***

Solution 2

Before you read solution, must understand followings:

(a) For application of section 115 BBD, dividend has to be received from specified foreign company and for deciding whether foreign company is a specified foreign company or not, one has to look at 26% Equity Investment (and not the Preference Investment). Therefore, data relating to preference investment shall be ignored for solving second sum.

(b) Further, once dividend is received from specified foreign company, the provisions of section 115BBD is applicable in respect of all dividends (whether from equity or preference) except dividend covered by section 2 (22) (e).

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Dividend received from-	***% of Holding in Equity Share Capital of the company***	***Whether Specified foreign company?***	***Whether Section 115BBD is applicable ?***	***Tax Rate Applicable***	***Dividend income from Preference Shares (Gross)***	***Expenditure for realizing dividend***	***Net Income***	***Tax liability***
Reliance US INC, foreign company	*26%*	*Yes*	*Yes*	*15%*	*Rs.1,80,000*	*As per section 115BBD no deduction is allowed*	***2,80,000***	***42,000***
Reliance UK Ltd., Foreign company	*24%*	*No*	*No*	*30%*	*Rs. 1,52,000*	*Deduction is available u/s Section 57(i) of Rs.12,000*	***1,40,000***	***42,000***
Reliance Telecom Ltd, Indian Company	*30%*	*No*	*No*	*Exempt u/s 10(34)*	*Exempt*	*Deduction not allowed because income is exempt u/s 10(34)*	***Exempt***	***Nil***
TOTAL								***84,000***
Add: 3% Education Cess								***2520***
Tax Liability								***86,520***

2. Section 115-O-[Effective from 1.6.2013]

Practical 1

A Ltd. holds 60% share capital of B Ltd. On 10th August, 2013, B Ltd. declared dividend of Rs.5,00,000 on which B Ltd. had paid corporate dividend tax. On 1st October, 2013, A Ltd. wants to declare dividend of Rs.12,00,000. Find out corporate dividend tax payable by A Ltd.

Practical 2

A Ltd. holds 60% equity of B Ltd. B Ltd. holds 70% equity of C Ltd. On 1st April 2013, C Ltd. declared dividend Rs.2,00,000. On 1st June, 2013, B Ltd. declared dividend of Rs.3,00,000. On 1st September, 2013, A Ltd. declared dividend of Rs.5,00,000. Find out amount on which corporate dividend tax is payable by the respective companies.

Practical 3

A Ltd. an Indian company wants to declare dividend of Rs.9,00,000 on 31st July, 2013. It received dividend from the following companies:-

(a) Rs.1,00,000 received from X Ltd., an Indian company (in which A Ltd. holds 40% equity).

(b) Rs.50,000 received from Y Ltd., an Indian company (in which A Ltd. holds 51% equity).

(c) Rs.1,25,000 received from Z Ltd., a Foreign company (in which A Ltd. holds 26% equity).

(d) Rs.2,00,000 received from Q Ltd., a Foreign company (in which A Ltd. holds 60% equity).

Calculate amount on which CDT is payable by A Ltd.

Before, we go to the solution, lets comprehend amendment first.

Dividend received from a foreign subsidiary on which tax is payable under section 115BBD by the domestic holding company to be reduced from the amount declared, distributed or paid by way of dividend by it, for levy of additional income-tax

(a) Basis of charge [Sec.115-O(1)] -

1. Tax on distributed profit (called Corporate Dividend Tax) is in addition to income-tax chargeable in respect of total income of the company.
2. Only domestic company is subject to CDT.
3. Any amount declared, distributed or paid by a domestic company by way of dividend shall be charged to dividend tax.

(b) What is "dividend" - For the purpose of section 115-O the expression "dividend" shall have the same meaning as is given to "dividend" under section 2(*22*), but it shall not include sub-clause (*e*) of section 2(*22*).

(c) Rate of dividend tax - The amount of dividend tax is 15% + S.C. (always 10%) + E.C. (3%)

(d) With effect from 1st June, 2013, Computation of **"amount on which CDT is payable"** shall be done as under:-

Particulars	**Amount (Rs.)**
Amount declared, distributed or paid by a domestic company (say holding company) by way of dividend	**XXX**
Less: (1) The amount of **dividend, if any, received** during the financial year **from domestic subsidiary**, *where subsidiary has paid the tax under section 115-O*	(XXX)
(2) The amount of **dividend, if any, received** during the financial year from foreign subsidiary, *where tax is payable by holding company* on such dividend *under section 115BBD*	(XXX)
(3) The amount of **dividend**, if any, **paid to New Pension System Trust** referred to in section 10 (44).	(XXX)

Solution 1

Computation of Corporate Dividend Tax Payable by A Ltd.

Particulars	**Amount (Rs.)**
Amount declared, distributed or paid by a domestic company by way of dividend	12,00,000
Less: (1) The amount of dividend, if any, received **[60% of 5,00,000]** during the financial year from domestic subsidiary [**B. Ltd.]**, where subsidiary has paid the tax under section 115-O.	(3,00,000)
(2) The amount of dividend, if any, received during the financial year from foreign subsidiary, where tax is payable by holding company on such dividend under section 115BBD	(Nil)
(3) The amount of dividend, if any, paid to New Pension System Trust referred to in section 10 (44).	(Nil)
Amount on which CDT is payable	**9,00,000**
Corporate Dividend Tax [9,00,000 x 16.995%]	**1,52,955**

Solution 2

C Ltd.

Particulars	**Amount (Rs.)**
Amount declared, distributed or paid by a domestic company (say holding company) by way of dividend	2,00,000
Amount on which CDT is payable	**2,00,000**

B Ltd.

Particulars	Amount (Rs.)
Amount declared, distributed or paid by a domestic company (say holding company) by way of dividend	**3,00,000**
Less: (1) The amount of dividend, if any, received **[70% of Rs. 2,00,000= Rs. 1,40,000]** during the financial year from domestic subsidiary **[C. Ltd.]**, where subsidiary has paid the tax under section 115-O**.**	(1,40,000)
Amount on which CDT is payable	**1,60,000**

A Ltd.

Particulars	Amount (Rs.)
Amount declared, distributed or paid by a domestic company by way of dividend	5,00,000
Less: (1) The amount of dividend, if any, received **[60% of Rs. 3,00,000= Rs. 1,80,000]** during the financial year from domestic subsidiary **[B. Ltd.]**, where subsidiary has paid the tax under section 115-O**-[Here, B Ltd paid tax under 115 O on Rs. 1,60,000- See Calculation of B Ltd. above].**	(1,60,000)
Amount on which CDT is payable	**3,40,000**

Solution 3

Amount on which CDT is payable by A Ltd.

Particulars	Amount (Rs.)
Amount declared, distributed or paid by a domestic company by way of dividend **–A Ltd.**	9,00,000
Less: (1) The amount of dividend, if any, received during the financial year from domestic subsidiary, where subsidiary has paid the tax under section 115-O-**Y. Ltd.**	(50,000)
(2) The amount of dividend, if any, received during the financial year from foreign subsidiary, where tax is payable by holding company on such dividend under section 115BBD-**Q Ltd.**	(2,00,000)
(3) The amount of dividend, if any, paid to New Pension System Trust referred to in section 10 (44).	(----)
Amount on which CDT is payable	**6,50,000**

NOTES:

1) Since X Ltd is not a subsidiary of A Ltd therefore, dividend received from X Ltd is not eligible for deduction.

2) Since Z Ltd is not a subsidiary of A Ltd therefore, dividend received from Z Ltd is not eligible for deduction even though dividend received from Z Ltd is subject to section 115BBD.

3. New Chapter XII-DA-[Effective from 1.6.2013]

Levy of additional income-tax on distributed income of a domestic company on account of buy-back of unlisted shares

SECTION 115QA

(1)Notwithstanding anything contained in any other provision of this Act, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, ***any amount of** distributed income* ***by the company on buy-back of shares (not being shares listed on a recognised stock exchange) from a shareholder shall be charged to tax***

and

***such company shall be liable to pay** additional income-tax **at the rate of twenty per cent (With surcharge 10% and education cess 3%)** on the **distributed income**.*

Explanation.—*For the purposes of this section,—*

(i)*"buy-back" means purchase by a company of its own shares in accordance with the provisions of section 77A of the Companies Act, 1956 (1 of 1956);*

(ii) *"**distributed income**" means the consideration paid by the company on buy-back of shares as reduced by the amount which was received by the company for issue of such shares.*

(2) Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on the distributed income under sub-section (1)shall be payable by such company.

*(3) **The principal officer of the domestic company and the company shall be liable to pay the tax** to the credit of the Central Government **within fourteen days from the date of payment of any consideration to the shareholder** on buy-back of shares referred to in sub-section (1).*

*(4) **The tax on the distributed income by the company shall be treated as the final payment of tax** in respect of the said income and no further credit therefor shall be claimed by the company or by any other person in respect of the amount of tax so paid.*

*(5) **No deduction** under any other provision of this Act **shall be allowed to the company or a shareholder in respect of the income which has been charged to tax under sub-section (1)or the tax thereon**.*

SECTION 115QB

***Where the principal officer of the domestic company and the company fails to pay** the whole or any part of the tax on the distributed income referred to in sub-section (1)of section 115QA, **within the time allowed** under sub-section (3) of that section, **he or it shall be liable to pay simple interest at the rate of one per cent for every month or part thereof** on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.*

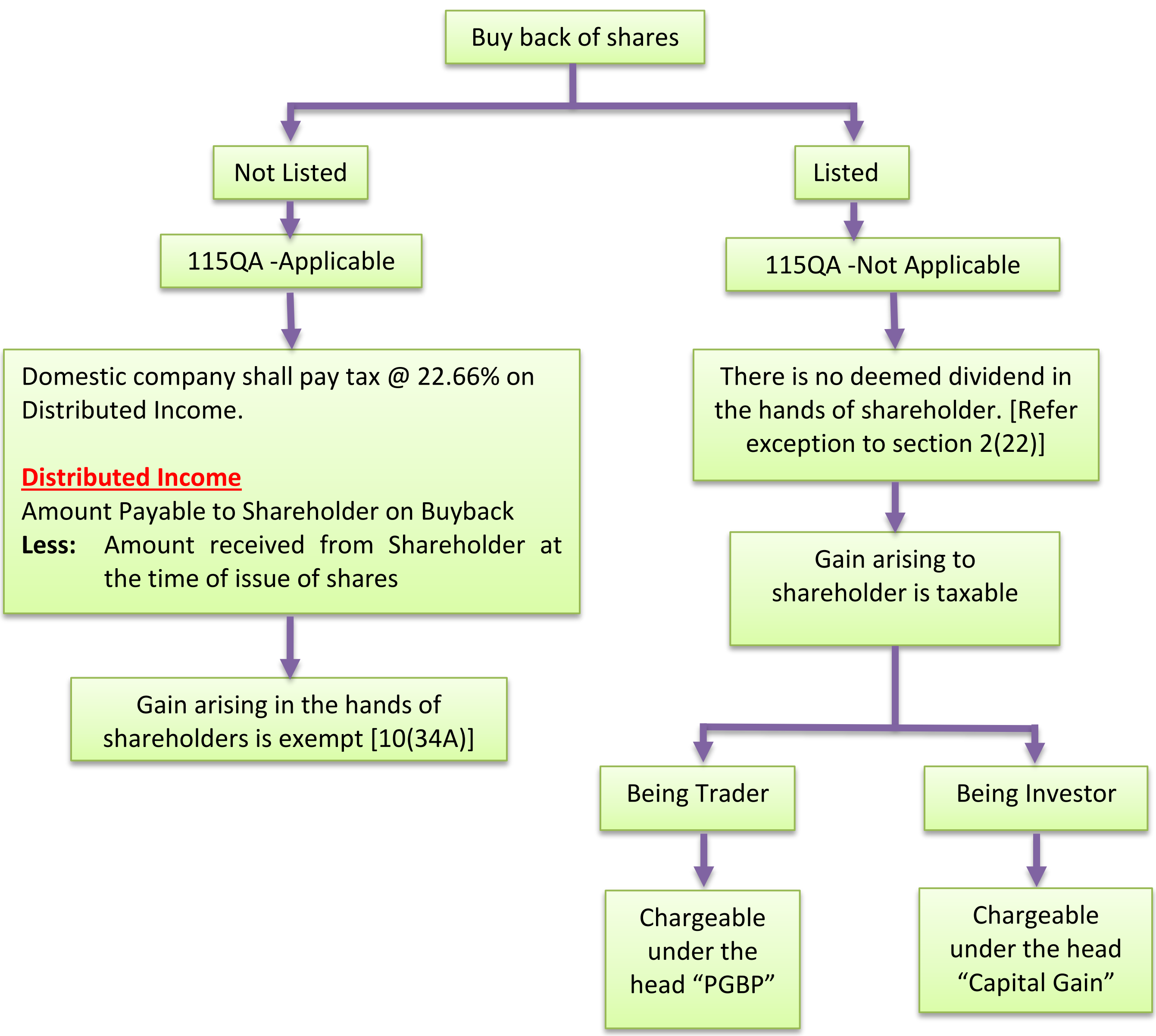
SECTION 115QC

If any principal officer of a domestic company and the company does not pay tax on distributed income *in accordance with the provisions of* [*section 115QA*](), ***then, he or it shall be deemed to be an assessee in default*** *in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.*]

SECTION 10(34A)

Further, section 10 has been amended to insert sub section (34A) which provides that *any income arising to an assessee, being a shareholder, on account of buy back of shares* *(not being listed on a recognised stock exchange) by the company as referred to in* [*section 115QA*]() ***is exempt****.*

Summary



4. Chapter XII-EA

Before, we understand the amendment under Income Tax Act, lets understand "Asset Securitization"

Securitisation of assets is an addition to the existing channels for recycling of funds by business entities.

<u>What is securitisation?</u>

It is a process through which the future income or receivables (the money that is to become due in future) of an organisation, are transformed and sold as debt instruments (such as bonds with a fixed rate of return). In respect of banks, a part of their loan portfolio can be packed together and off-loaded in the form the debt instruments (called pass-through certificate) to the prospective investors with the provision that the inflow of cash in the form of recoveries shall be distributed among the investors. This allows the securitizing organization /bank to get funds upfront, which can be put to more productive use in the business.

<u>Intermediaries in the securitisation transaction</u>

There are various entities involved in the securitization transaction which include the Originator (the party/bank which has a pool of assets which it can offer for securitisation and is in need of immediate cash). Special Purpose Vehicle (SPV - the entity that will own the assets once they are securitised), usually, in the form of a trust. It is necessary that the assets should be held by the SPV as this would ensure that the investors' interest is secure even if the originator goes bankrupt. The servicer is an entity that manages the asset portfolio and ensures that payments are made in time. The credit enhancer can be any party which provides a reassurance to the investors that it will pay in the event of a default. This could take the form of a bank guarantee also. The other parties include he credit rating agencies, the credit enhancement providers and the investors.

<u>Process of Securitisation</u>

- Original lender (bank or FI) selects and then sells various types of loans to another institution (which may promote a subsidiary for this purpose called Special Purpose Vehicle, which is a sort of Trust);
- The special purpose vehicle- SPV (called issuer also) makes the payment to the original lender for the loans purchased under the arrangement;
- These loans are converted into a pool of securities like debentures (called Pass Through Certificates) by SPV.
- These PTCs are then sold to individual or institutional investors, who are willing to make investments;
- The original lender may keep on getting recoveries from the original borrowers;
- He passes on these recoveries to the SPV.
- The issuer in turn passes on these recoveries to the individual/institutional investors as per the arrangement made.

Amendment under Income Tax Act

Levy of additional income-tax on income distributed by securitization trusts

In order to facilitate the securitisation process, a special taxation regime has been incorporated by amending section 10 and by inserting sections 115TA to 115TC. The special provisions are given below -

1. Securitisation trust is a special vehicle which is set up as a trust and the activities of which are regulated by either SEBI or RBI. The income from the activity of securitisation of such trust will be exempt from tax under section 10(23DA) with effect from the assessment year 2014-15.
2. The securitisation trust will be liable to pay additional income-tax on income distributed to its investors on the line of distribution tax levied in the case of mutual funds. The additional income-tax shall be levied (with effect from June 1, 2013) as follows -

Particulars	**Basic Rate**	**Effective rate (inclusive of surcharge @ 10% and EC @ 3%)**
Distribution to persons exempt from tax	Nil	Nil
Distribution to investors (being individual/HUFs)	25%	28.325%
Distribution to other investors	30%	33.99%

3. Amount of tax on distributed income shall be remitted within 14 days from the date of payment or distribution of income.
4. No deduction under any provisions of the Act shall be allowed to securitisation trust in respect of the said income.
5. Securitisation trust shall, before September 15, in each year, furnish a statement in the prescribed form providing the details regarding the amount of income distributed to the investors and the tax paid in the previous year.
6. If the above tax is not paid within the time-limit given above, the person responsible for making the payment of income and the securitisation trust shall be liable for interest for short payment or non-payment of tax. Interest will be chargeable at the rate of 1 per cent per month (or part of month) for the period beginning immediately after the last date on which tax was payable and ending with the date of actual payment.
7. In case of failure of payment of tax, the persori responsible for making the payment of income and thsecuritisation trust shall be deemed to be an assessee in default in respect of the amount of tax payable and all provisions of the Act relating to recovery and collection of taxes shall apply.

Meaning of Certain Terms used in above provisions:-

a. "securitization trust" means a trust which is a special purpose distinct entity or special purpose vehicle, the details of which are tabulated hereunder, which fulfills the prescribed conditions –

Sr. No.	Form of trust	Regulation/Guidelines	Definition under the respective Regulation/Guidelines
(1)	Special purpose distinct entity	SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008.	Special purpose distinct entity means a trust which acquires debt or receivables out of funds mobilized by it by issuance of **securitised debtinstruments** through one or more schemes, and includes any trust set up by the National Housing Bank or by the NABARD. For this purpose, "securitised debt instrument" means any certificate or instrument, by whatever name called, issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of suchinvestor in such debt or receivable including mortgage debt, as the case may be;
(2)	Special purpose Vehicle (SPV)	The guidelines on securitization of standard assets issued by RBI.	SPV means any company, trust, or other entity constituted or established for a specific purpose – (a) activities of which are limited to those for accomplishing the purpose of the company, trust or other entity as the case may be; and (b) which is structured in a manner intended to isolate the corporation, trust or entity as the case may be, from the credit risk of an originator to make it bankruptcy remote.