Gurukripa's Guideline Answers to May 2015 Exam Questions
CA Final – Direct Taxes

Question No.1 is compulsory **(4 X 5 = 20 Marks).**
Answer **any five** questions from the **remaining six** questions **(16 X 5 = 80 Marks).** [Answer any 4 out of 5 in Q.4]
Working Notes should form part of the answer.
Wherever necessary, suitable assumptions should be made and indicated in answer by the Candidates.

Note: References are from **"Padhuka's Direct Taxes – A Ready Referencer – For CA Final"**
Students can also refer to **"Paduka's Practical Guide on Direct Taxes – For CA Final"** for easy revision.

Question 1(a): Computation of Total Income – LLP **10 Marks**

MNO Corporation LLP, is carrying on two businesses, viz. Textile Manufacture and Operation of Cold Chain Facility. It gives you the following information for the year ended 31st March 2015.

Net Profit as per Profit & Loss Account:

From Textile Manufacture	**₹ 10,25,000**
From Operation of Cold Chain Facility	**₹ 20,50,000**

The following items are debited to Profit & Loss Account:

(i) Interest on Capital payable to Partners @ 15% on Total Capital of ₹ 100 Lakhs.
(ii) Working Partner Salary ₹ 36 Lakhs (i.e. ₹ 1 Lakh each per month for 3 partners).
(iii) Depreciation on Textile Factory Building ₹ 5 Lakhs.
(iv) Depreciation on Plant & Machineries of Textile Business ₹ 35 Lakhs.
(v) Keyman Insurance Policy premium paid ₹ 1,55,000.

Other Information:
Eligible Depreciation u/s 32 for the Previous Year 2014–2015 are –
(i) On Plant & Machineries of Textile Business ₹ 27 Lakhs.
(ii) On Factory Building relating to Textile Business ₹ 4 Lakhs.

The Assessee set up and operating a Cold Chain Facility since 1st April 2013. It incurred Capital Expenditure towards Construction of Cold Chain Facility during the period from 1st June 2011 to 31st March 2013 as under:

- **Cost of Land (acquired on 1st June 2011) ₹ 30 Lakhs.**
- **Cost of Construction of Building and Machineries installed till 31st March 2013 ₹ 50 Lakhs.**

The Income of the Firm for the Previous Year 2013–2014 (Assessment Year 2014–2015) is given below:

- **Income from Textile Manufacture ₹ 12 Lakhs.**
- **Income from Cold Chain Facility ₹ 60 Lakhs (before deduction u/s 35 AD)**

The Firm originally had 4 equal Partners and one Partner retired on 31–03–2014. The Partnership Agreement authorizes payment of Salary and Interest on Capital which are debited to Profit & Loss Account.

You are requested to compute the Total Income of the Firm for the Assessment Year 2015–2016. Note: Ignore Alternate Minimum Tax (AMT) under Section 115JC.

Solution:

Assessee: MNO Corporation LLP **Previous Year: 2014–2015** **Assessment Year: 2015–2016**

Computation of Total Income **₹ in Lakhs**

	Particulars		Textile	35AD	Total
	Net Profit as per P&L A/c		10.25	20.50	30.75
Add:	Depreciation as per Books	– (₹ 5 Lakhs + ₹ 35 Lakhs)	40.00	Nil	40.00
Less:	Depreciation as per IT Act	– (₹ 27 Lakhs + ₹ 4 Lakhs)	31.00	Nil	31.00

	Particulars	Textile	35AD	Total
	Profit before Interest and Remuneration as per Partnership Deed	19.25	20.50	39.75
Add:	Interest on Capital as per Books [(15% – 12%) on ₹ 100 Lakhs]			3.00
Add:	Salaries to Working Partners as per Books			36.00
	Book Profits	**58.25**	**20.50**	**78.75**
Less:	Salary to Partners – Least of the following			
	(a) Maximum Permissible Remuneration u/s 40(b)			
	– On First ₹ 3,00,000 = 3,00,000 × 90% = ₹ 2,70,000			
	– On Balance at 60% = 75,75,000 × 60% = ₹ 45,45,000 48.15			
	(b) Remuneration actually paid (given) = 36.00			(36.00)
	Profits and Gains from Business or Profession			**42.75**
Less:	Brought Forward Business Loss adjusted against Income from Specified Business, i.e. ₹ 11.25 or ₹ 20.50, whichever is lower.			(11.25)
	Total Income			30.50

Working Note 1: **Computation of Brought Forward Losses**

₹ in Lakhs

	Particulars	Textile	35AD
	Profit for the PY 2013–2014	12.00	60.00
Less:	Deduction u/s 35AD **(Note)** **–** (₹ 50 Lakhs × 150%)	Nil	(75.00)
		12.00	**(15.00)**
Add:	Interest Debited in P&L A/c	15.00	–
		27.00	(15.00)
Less:	Allowable Interest as per Sec.40(b)	12.00	–
	Book Profit of the Firm	15.00	(15.00)
Less:	Remuneration of Partners as per Sec.40(b) (Note 2)	1.50	–
	Profit or (Loss) for PY 2013–2014	13.50	(15.00)
Less:	Share of Retired Partner in Loss – (` 15 Lakhs ÷ 4)		3.75
	Loss carried forward to the Next AY	**Nil**	**(11.25)**

Note:

1. Cost of Land is not eligible for deduction u/s 35AD. It is assumed that the Cost of Construction of Building and Machineries is capitalized in the books on the date of Commencement of Operations.
2. Only the Consolidated Book Profits of the Firm shall be considered for the purpose of Computation of Remuneration as per Sec. 40(b). Since the Book Profit of the Firm is Nil, the maximum Remuneration allowable is ₹1,50,000
3. U/s 78(1), where a change has occurred in the Constitution of a Firm, the Firm shall **not** be entitled to carry forward and set off so much of the loss proportionate to the Share of a Retired or Deceased Partner as exceeds his Share of Profits, if any, in the Firm in respect of the previous year. Therefore, Share of Retiring Partner's Loss of ₹ 3.75 lakhs [(15,00,000 × ¼] cannot be adjusted in PY 2014–2015.
4. Keyman Insurance Policy Premium is allowable as business expenses. **[Rajan Nanda vs CIT 18 Taxmann 98 (Del.)].** Since it is already debited in the Profit & Loss A/c, no adjustment is required.
5. It is assumed that the Total Capital is ₹ 100 Lakhs for both Assessment Years and Capital Outflow due to Retirement of a Partner on 31.03.2014, has been made good by the remaining Partners on 01.04.2014 itself.

Question 1(b): Wealth Tax Act **5 Marks**

Explain the term "Urban Land" as per the Wealth Tax Act, 1957.

Solution: **Refer Page 29.4 Para 29.1.5**

Question 1(c): Wealth Tax Act **10 Marks**

State with brief reasons, whether the following statements are valid / invalid under the Wealth Tax Act, 1957:

Solution: **Refer Provisions in Chapter 29 – Wealth Tax Act**

Sl.No	Issue	Treatment	Reasons
(i)	**Determination of Net Wealth is dependent on the system of book–keeping adopted by the Assessee.**	Invalid	As per the Scope of Wealth Tax Act, 1957, Determination of Net Wealth is based on Nationality/Residential Status/Location.
(ii)	**Unrecorded Cash of ₹ 1 Lakh as on 31–03–2015 is an 'Asset' for the Firm and hence to be included in its Net Wealth.**	Invalid	As per Sec. 45, Firm is not an Assessee for the Propose of Wealth Tax. Hence, unrecorded Cash cannot be included in the net Wealth of Firm.
(iii)	**Mr. Tom transferred his vacant site to his wife in connection with an agreement to live apart. The vacant site is liable to Wealth Tax in the hands of Mr. Tom even though it is given to his wife.**	Invalid	As per Sec.4(1)(a)(i), if an Asset is transferred to Spouse in connection with an agreement to live apart, Wealth Tax shall be levied in respect of such Asset in the hands of the Transferee.
(iv)	**Penalty for concealment of wealth could be levied on Legal Representative though proceedings were initiated on the Assessee when he was alive.**	Valid	Pending Penalty proceedings can be continued in the hands of Legal Representatives. **[Refer Illustration in Page No. 29.29 [M 03]]**
(v)	**A Company incorporated in Sri Lanka is liable to Wealth Tax in respect of assets held in India.**	Valid	Asset Situated in India is liable for Wealth Tax, even if the Company is a Non Resident. **[Refer Table in Page in 29.3]**

Question 2: Total Income of Company **16 Marks**

Moon India Ltd engaged in Manufacturing Activity furnishes the following details:
Net Profit as per Profit and Loss Account ₹ 50,00,000.

(i) **The Company took a Loan of ₹ 12,00,000 in the Financial Year 2011–2012 for the purpose of relocation of its Office Premises. The Lender waived ₹ 8,00,000 in the Financial Year 2014–2015 and it is credited in the Profit and Loss Account.**

(ii) **Depreciation charged to Profit and Loss Account is ₹ 16,00,000. Depreciation as per Income Tax Act, 1961 amounts to ₹ 28,00,000 which includes the following:**
Depreciation Rate meant for Computers has been adopted for (i) Accessories like Printers and Scanners, and (ii) EPABX. The Written Down Value of these as on 1–04–2014 is given below:
(a) Printers and Scanners ₹ 50,000
(b) EPABX ₹ 2,00,000

Assume that there were no additions during the year.

(iii) **It incurred ₹ 2,50,000 as expenditure for Public Issue Of Shares. The Public Issue could not materialize of account of Non–Clearance by SEBI. This amount is charged to Profit and Loss Account.**

(iv) **It incurred expenditure of ₹ 2,00,000 towards issue of Debentures. This amount has been capitalized in the books.**

(v) **The Company paid ₹ 1,00,000 as Compounding Fee for violations in the Pollution Control Regulations. This has been charged as Revenue Expenditure.**

(vi) **The Company lost Cash of ₹ 25,00,000 due to theft when it was withdrawn from Bank and taken to Administrative Office. It is not insured and hence fully charged a Revenue Expenditure.**

(vii) **₹ 5,00,000 was spent during the year towards permitted CSR Activities as per 135 of the Companies Act, 2013. This is charged to Profit and Loss Account.**

(viii) **It paid ₹ 2,00,000 to Share Broker for transacting Shares listed in Stock Exchange and ₹ 1,00,000 to Commodity Broker for Commodity Transactions at MCX. Both the amounts are debited to Profit and Loss Account and no tax was deducted at source on these payments.**

(ix) **The Company during the year employed 115 new workers in Factory which was 20% of the existing work force and 18 employees in the Registered Office which was equal to 10% of the existing employee strength. It paid ₹ 20,00,000 and ₹ 8,00,000 respectively as Additional Wages and Salary.**

(x) **It paid ₹ 50,000 to an Electoral Trust by Cash and ₹ 1,00,000 by Cheque to a Registered Political Party. Both these are debited to Profit and Loss Account.**

Compute the Total Income of the Company for the Assessment Year 2015–2016. Give reasons in brief for treatment of each of the above items. Ignore MAT provisions.

Solution:

Assessee: Moon India Ltd **Previous Year: 2014–2015** **Assessment Year: 2015–2016**

Computation of Total Income

Particulars	**Deduction**	**Addition**	**₹ in Lakhs**
Net Profit as per P&L A/c			**50.00**
Waiver of Loan **[Note 1]**	8.00		
Depreciation as per Books		16.00	
Depreciation as per IT Act **[Note 2]**	27.10		
Share Issue Expenses **[Note 3]**		2.50	
Debenture Issue Expenses **[Note 4]**	2.00		
Compounding Fee for violation **[Note 5]**		1.00	
Loss of cash due to theft **[Note 6]**	Nil	Nil	
CSR Activities **[Note 7]**		5.00	
Commission to Share & Commodity Brokers [Considered as Speculative]**[Note 8]**		3.00	
Donation to Electoral Trust **[Note 9]**		0.50	
Donation to Registered Political Party **[Note 9]**		1.00	
Sub–Total	**(37.10)**	**29.00**	**(8.10)**
Profits and Gains of Business or Profession			**41.90**
Gross Total Income			**41.90**
Less: Deduction under Chapter VI – A			
– 80GGB **[Note 10]**		1.00	
– 80JJAA **[Note 11]**		6.00	(7.00)
Total Income			**34.90**

Note:

1. Write off of Unclaimed Loan taken from a party, which was obtained for the purpose of relocation of Assessee's Office Premises, is to be treated as receipt of capital nature, and could not be added in Assessee's Total Income. **[CIT vs Softworks Computers P Ltd (2013) 354 ITR 16 (Bom)]. [See pg. 6.76 Point 10]**

2. EPABX are not Computers and therefore, not entitled to higher depreciation at 60%. **[Federal Bank Limited vs ACIT (2011) 322 ITR 319 (Ker.)].** Printers and Scanners are part of Computers and entitled for Depreciation at 60%.

Computation of IT Depreciation

	Particulars	**₹ in Lakhs**
	Depreciation as per IT Act	28.00
Less:	EPABX at 60% on ₹ 2,00,000	(1.20)
Add:	EPABX at 15% on ₹ 2,00,000	0.30
	Adjusted Depreciation as per IT Act	**27.10**

3. Share Issue Expenses incurred by the Company is to be treated as **Capital** in Nature, though the Public Issue could not ultimately materialize on account of non–clearance by SEBI. **[Mascon Technical Services Ltd. v. CIT (2013) 358 ITR 545 (Mad.)]**

4. Expenses in relation to **issue of Debentures** are allowable as Revenue Expenditure. **[CIT vs Secure Meters Ltd 175 Taxman 567 (Raj.)]**

5. Amount paid to compound an offence is obviously a penalty and does not qualify for deduction u/s 37. The character of payment is relevant and not its nomenclature. **[Millennia Developers (P) Ltd. vs DCIT 322 ITR 401 (Karn.)]**

6. Loss on account of theft is **allowable,** provided it is in the course of business and incidental to the trade whichever trade it is. (it is assumed that in the given case, Loss is in the course of Business.)

7. Expenses relating to Corporate Social Responsibility (CSR) referred u/s 135 of the Companies Act, 2013 shall **not** be allowed u/s 37.

8. As per Explanation to Sec. 73, Commission paid to Share Broker of ₹ 2,00,000 and for Commodity Broker of ₹ 1,00,000 shall be treated as speculative transaction for a Company engaged in Manufacturing Activity. Speculative Loss can only be set off against Speculative Income. Unabsorbed speculative Loss of ₹ 3,00,000, shall be carried forward upto 4 Assessment years.

9. Donation paid to a Registered Political Party and Donation to Electoral Trust is not allowable deduction u/s 37. However, the same can be claimed as deduction u/c VI–A, subject to conditions.

10. Donation paid to a Registered Political Party by any mode other than Cash is allowed as a Deduction u/s 80GGB. Donation paid to Electoral Trust in Cash ₹ 50,000 not allowable as deduction.

11. In case of an Existing Factory, 30% of the Additional Wages Paid shall be allowed u/s 80JJAA, if –
    (a) Existing Workmen as on the first day of the relevant previous year is **100 or more** and
    (b) New Regular Workmen employed in such Factory is **not** less than 10% of Existing Workmen.
    Since both conditions are satisfied in this case, Deduction allowable u/s 80JJAA shall be ₹ 6 Lakhs (₹ 20 Lakhs × 30). Additional Wages paid to New Employees employed in the Registered Office is not covered u/s 80JJAA.

Question 3(a): Total Income of Trust **8 Marks**

A Public Charitable Trust registered u/s 12AA runs a Hospital and also a Medical College. It furnishes you the following information for the year ended 31st March 2015:

(i) Gross Receipt from Hospital ₹ 425 Lakhs.

(ii) Income from Business – incidental to main objects ₹ 2 Lakhs.

(iii) Voluntary Contributions received from public ₹ 32 lakhs. It includes Corpus Donation of ₹ 3 Lakhs and Anonymous Donation of ₹ 5 Lakhs.

Note: Voluntary Contributions are included in Gross Receipt given in (i) above.

(iv) Hospital Operational Expenses incurred ₹ 105 Lakhs. (This does not include Capital Expenditures and Depreciation.)

(v) Income from Medical College (solely for Education Purpose) ₹ 10 Lakhs. Gross Receipts of College for the year ₹ 90 Lakhs.

(vi) Gross Receipt given in (i) above includes a sum of ₹ 55 Lakhs which had accrued but not received. However, a sum of ₹ 18 Lakhs was received only on 31st day of March, 2015.

(vii) The Trust set apart ₹ 80 Lakhs for acquiring a Building to expand its Hospital. But the amount was paid in May 2015 when Sale Deed was registered in its name.

(viii) In June 2014, the Trust purchased and installed New Computer Software for ₹ 28 Lakhs. The Rate of Depreciation is 60% as per Income Tax Act, 1961.

(ix) The Trust incurred ₹ 35 Lakhs towards purchase of Laptops, Computers and Printers for the Hospital.

(x) It repaid Loan of ₹ 15 Lakhs taken earlier for Construction of Hospital Building.

Compute the Total Income of the Trust for the Assessment Year 2015–2016 in order to avail maximum benefits within the four corners of law.

Solution: **Similar to Illustration in 23.11 [M 09]**

Assessee: Public Charitable Trust **Previous Year: 2014–2015** **Assessment Year: 2015–2016**

1. Computation of Total Income

	Particulars	**₹ in Lakhs**
	Gross Receipt from Hospital & College (₹ 425 Lakhs + ₹ 90 Lakhs)	515.00
	Income from Business incidental to main objects	2.00
	Gross Receipts	**517.00**
Less:	Corpus Fund **(Note 1)**	(3.00)
	Anonymous Donations Taxable u/s 115BC **(Refer Table Below)**	(3.40)
	Gross Receipts	**510.60**
Less:	Maximum Permissible Accumulation at 15% of Gross Receipts	(76.59)
	Amount to be applied	**434.01**
Less:	**Amount actually applied by Trust**	
	(a) Repayment of Loan for Construction of Hospital Building **(Note 2)**	(15.00)
	(b) Operational Expenses Hospital +College = [105] + [(90-10)]	(185.00)
	(c) Capital Expenditure (Depreciation Not allowable on this amount) [28+35]	(63.00)
	Balance	**171.01**
Less:	**Amount deemed to be applied (Note 3)**	
	Income received on the last date of the previous year **(Note 4)**	(18.00)
	Income not received during the previous year **(Note 5)**	(55.00)
	Total Taxable Income (Excluding Anonymous Donations)	**98.01**
	Taxable Anonymous Donations	**3.40**
	Total Income	**101.40**

Computation of Taxable Anonymous Donation:

	Particulars	₹	₹
	Anonymous Donation received		5,00,000
Less:	Higher of the following –		
	• 5% of **Total Donations** received = ₹ 32 Lakhs × 5% (or)	1,60,000	
	• ₹ 1,00,000	1,00,000	1,60,000
	Taxable Anonymous Donation		**3,40,000**

Notes:

1. Corpus Donations are **Capital Receipts** and **are not treated as income for determining 85%** of Application of Income. Corpus Donation shall be **kept in Prescribed Investments u/s 11,** otherwise not exempted from tax.
2. Repayment of debt incurred for purposes of Trust is an application. **[Janmaboomi Press Trust 242 ITR 457 (Kar.)]**
3. Assumed that Notice is given to the Assessing Officer before the due date of filing return u/s 139(1).
4. This amount has to be actually applied for charitable / religious purpose in F.Y. 2015–2016.
5. This amount has to be actually applied for charitable / religious purpose in the year of receipt.
6. Amount set apart for acquiring Building to expand its Hospital shall not be considered as application.

Question 3(b): Deductions under Chapter VI–A **8 Marks**

With brief reason answer the following in terms of Chapter VI–A of the Income Tax Act, 1961:

(i) Mr. Raju invested ₹ 60,000 in listed Units of Rajiv Gandhi Equity Saving Scheme (RGESS) during the Financial Year 2014–2015. How much, he can claim deduction in respect of such investment?

(ii) Mr. Jaju deposited ₹ 65,000 with Life Insurance Corporation for the maintenance of his mother who suffers from disability of 90%. She is wholly dependent on him. How much is deductible?

(iii) Mr. Shiva has Gross Total Income of ₹ 3,75,000. He has given the following donations:

National Children's Fund	**₹ 25,000 – by Cheque**
Prime Minister Drought Relief Fund	**₹ 30,000 – by Cheque**
National Blood Transfusion Council	**₹ 40,000 – by Cash**
National Illness Assistance Fund	**₹ 20,000 – equally by Cash and Cheque**

(iv) Mr. Manoj a Computer Software Engineer co–authored a book on Advanced Computer Programming along with his friend. He received ₹ 4,10,000 as Lumpsum Royalty in March, 2015. How much of Royalty is taxable?

Solution: (i), (ii),(iv)

	Section and Page Reference	Hint Answer
(i)	**Sec.80CCG – Page 11.10**	Quantum of Deduction to Mr. Raju = ₹ 25,000
(ii)	**Sec.80DD – Page 11.12**	Mr. Jaju can claim ₹ 1,00,000 as deduction u/s 80DD
(iv)	**Sec.80QQB – Page 11.17**	Quantum of Deduction to Mr. Manoj = ₹ 3,00,000

Solution: (iii) **Refer Provisions of Sec. 80G in Page 11.19**

Sl. No	Nature of Contribution	Amount of Donation	% of Deduction	Amount of Deduction	Reason
(i)	National Children's Fund	₹ 25,000	100%	₹ 25,000	Paid through Cheque
(ii)	Prime Minister Drought Relief Fund	₹ 30,000	50%	₹ 15,000	Paid through Cheque
(iii)	National Blood Transfusion Council	₹ 40,000	100%	Nil	Paid through Cash exceeding ₹ 10,000
(iv)	National Illness Assistance Fund	₹ 20,000	100%	₹ 20,000	Paid through Cash not exceeding ₹ 10,000

Question 4(a): Income From House Property **4 Marks**

A & Co. Ltd a Property Developer and Builder disclosed unsold flats as Stock in Trade in its books of account as well as in Wealth Tax Return. It let out those flats and offered the same as Income from House Property by claiming statutory deduction u/s 24 of the Act. The Assessing Officer disallowed statutory deduction and taxed the same as Income from Business. Decide the correctness of the action of the Assessing Officer.

Solution:

Refer Illustration in Page 5.4 [N 10]

1. For a Company **in Real Estate Business,** with the object of buying and developing landed properties**,** the Income from **unsold property let–out** is taxable under the head "**Income from House Property**". **[Chugandas & Co. 55 ITR 17 (SC)] & [SG Mercantile Corporation (P) Ltd. 83 ITR 700 (SC)].**

2. Rental Income received by A & Co. Ltd is chargeable to tax as "Income from House Property". Accordingly, it is entitled for Statutory Deduction u/s 24. The contention of the Assessing Officer is not valid.

Question 4(b): Capital Gains **4 Marks**

Mr. X had a Leasehold Property since 5th May 2008. The Leasehold rights were converted into freehold on 20th May 2014. The said property was sold on 10th January 2015. The Assessee claimed the Capital Gain as Long–Term Capital Gain. The Assessing Officer contended the same as short–term as the property was acquired by converting the Leasehold Right into freehold right only on 20th May 2014. Is Mr. X justified in his claim?

Solution:

Refer Smt. Rama Rani Kalia Case Law in Page 7.5

1. **Principle:** Conversion of the rights of the Lessee from leasehold to freehold is only by way of improvement of the rights over the property, which the Assessee enjoyed. It would not have any effect on the taxability of gain from such property, which is related to the period over which the property is held. Since the period of holding is more than 36 Months, the resultant capital gains would be long–term.[**CIT v. Smt. Rama Rani Kalia (2013) 358 ITR 0499 (All.)]**

2. **Conclusion:** Based on the above legal decision, claim of Mr. X is valid.

Question 4(c): Lottery Winnings –Business Income vs 115BB **4 Marks**

Mr. Manas is a Distributor of Lottery Tickets. He won ₹ 6,00,000 as Prize Money on unsold lottery tickets. It was offered as Business Income. The Assessing Officer wants to tax the same as Lottery Winning at the rate prescribed under Section 115BB. Is he justified?

Solution: **Refer Significant Issues in Page 8.2**

Taxable as Business Income	Income accruing to an Agent / Trader in respect of prizes on unsold / unclaimed lottery tickets in possession of an Agent is income from business, and does not constitute winnings from lotteries. **[Director of State Lotteries (1999) 238 ITR 1 (Gau.)].**
Taxable u/s 115BB	Income accruing to an Agent / Trader in respect of prizes on unsold / unclaimed Lottery tickets in possession of an Agent is not on account of any physical or intellectual effort made by him and therefore cannot be said to "Income earned" by him in Business. Further Winnings from Lottery is taxable at the rate of **30% u/s 115BB irrespective of the nature of classification of the Income**. **[CIT vs Manjoo and Co. (2011) 335 ITR 527 (Ker.)]**

Question 4(d): Interest u/s 234B, 234C on MAT **4 Marks**

Maitri Jeans (P) Ltd is in the business of manufacturing jeans. For the Assessment Year 2015–2016 it paid tax @ 18.50% on its Book Profit computed under Section 115JB. The Assessing Officer though satisfied that it is liable to pay Book Profit Tax u/s 115JB, wants to charge interest under Sections 234B and 234C as no Advance Tax was paid during the Financial Year 2014–2015. The Company seeks your opinion on the proposed levy of interest. Advice.

Solution: **Refer Principles in Page 19.7**

1. Even under the MAT provisions, all other provision of the Act shall apply to every Assessee being a Company **[115JB(5)]**.

2. Based on this provision, the liability of Advance Tax is attracted on MAT. So, if a Company defaults in payment of Advance Tax, it would be liable for 234B and 234C Interest.

3. Reference: **[JCIT Vs Rolta India Ltd 330 ITR 470 (SC)] [Circular No.13/2001] [Kotak Mahindra Finance Ltd. 265 ITR 114 (Bom)] [Kotak Mahindra Finance Ltd. 265 ITR 114 (Bom)]**

Question 4(e): Penalty u/s 271(1)(c) **4 Marks**

Mango Ltd has inadvertently claimed deduction in respect of provision made for Payment of Gratuity in its Return of Income. However, this was shown as disallowance u/s 40A(7) in the Tax Audit Report filed u/s 44AB. The Assessing Officer initiated proceedings for levy of penalty u/s 271(1)(c). The Company pleads that the claim was inadvertent as the Return was computer fed and e–filed by its Administrative Staff. Decide the correctness of action proposed by the Assessing Officer.

Solution: **Refer Significant Issues in Page 45.4**

1. **Errors & disallowance are not concealment:** Assessee made a computation error in its Return of Income and failed to add back a disallowance u/s 40A(7), and thus it could be held that Assessee had committed an inadvertent and bonafide error, and had not intended to or attempted to either conceal its income or furnish inaccurate particulars. Hence, penalty could not be imposed. **[Price Waterhouse Coopers Pvt Ltd vs CIT (SC)]**
2. **Conclusion:** Based on the above, invoking concealment penalty u/s 271(1)(c) is not tenable in the above case.

Question 5(a): Treatment of Advance Money Forfeited, Exemption u/s 54F **7 Marks**

Mr. Ramesh purchased a plot of Land in Chennai in June 2005 for ₹ 50 Lakhs. He decided to sell the Property to Mr. Mahesh for ₹ 80 Lakhs and received an Advance of ₹ 2 Lakhs in May 2009. Mr. Mahesh was unable to complete the agreement and hence the entire advance was forfeited by Mr. Ramesh.

Again Mr. Ramesh entered into an agreement to sell the Property to Mr. Rakesh for ₹ 95 Lakhs and received advance money of ₹ 2.50 lakhs in August 2014, but again the transfer did not materialize due to which the advance money was again forfeited.

On 4th January 2015 the Property was finally sold to Mr. Mukesh for ₹ 105 Lakhs and the Stamp Duty value on that date was ₹ 125 Lakhs. During Financial Year 2014–2015, Mr. Ramesh earned Business Income of ₹ 25 Lakhs.

He acquired a new Residential Property for ₹ 130 Lakhs by investing entire Sale Consideration and his Business Income.

Determine the Total Income of Mr. Ramesh for the Assessment Year 2015–2016.

Cost Inflation Index are: FY 2005–2006: 497 FY 2009–2010: 632 FY 2014–2015: 1024

Solution: **Refer Page 7.35 Illustration [N 10]**

Assessee: Hari **Previous Year: 2014–2015** **Assessment Year: 2015–2016**

1. Computation of Capital Gains

	Particulars	₹	₹
	Sale Consideration	1,25,00,000	
Less:	Expenses for Transfer	NIL	
	Net Consideration	1,25,00,000	
Less:	Indexed Cost of Acquisition (₹ 50,00,000 – ₹ 2,00,000) × $\frac{1024}{497}$ **(Note 1)**	98,89,738	
	Long Term Capital Gains	**26,10,262**	
Less:	**Exemption u/s 54F (Note 2)** (₹ 26,10,262 × $\frac{1,30,00,00\ 0}{1,05,00,00\ 0}$) (Restricted to Actual Capital Gains)	**26,10,262**	**Nil**
	Taxable Long Term Capital Gains		**Nil**
			2,50,000

Note: When the Capital Gains is assessed on notional basis u/s 50C, where the amount invested in New Residential Property is in excess of actual sale consideration, even in such a case, Assessee can claim exemption u/s 54F irrespective of source of funds for re–investment. **[Gouli Mahadevappa v. ITO (2013) 356 ITR 90 (Kar.)]**

2. Statement of Total Income

Particulars	₹
Profits and Gains from Business or Profession	25,00,000
Capital Gains	Nil
Income From Other Sources – Advance Money forfeited in August 2014 **(Note)**	2,50,000
Total Income	**27,50,000**

Note: Treatment of Forfeiture of Advance Money on failed negotiations: Upto FY 2013–2014, such amount was to be **reduced from the Cost of Acquisition** (COA), or Written Down Value (WDV) or Fair Market Value (FMV). However, from FY 2014–2015, no adjustment is to be made in the COA/WDV/FMV, and the amount shall be taxable under Income from Other Sources.

Question 5(b): Tax Planning / Management / Evasion **5 Marks**

Specify with reason, whether the following acts can be considered as (i) Tax Planning, or (ii) Tax Management, or (iii) Tax Evasion.

Solution: **Refer Page 14.3 Illustration [N 09]**

	Question	Reason	Answer
(i)	An Individual Taxpayer making Tax Saver Deposit of ₹ 1,00,000 in a Nationalized Bank.	**Tax Planning**	Reducing liability by use of beneficial provisions of law.
(ii)	A Partnership Firm obtaining declaration from Lenders / Depositors Form No. 15G/15H and forwarding the same to Income–Tax Authorities.	**Tax Management**	Objective is to ensure comply with law
(iii)	A Company installed an Air–Conditioner Cost ₹ 75,000 at the residence of a Director as per terms of his appointment but treats it as fitted in Quality Control Section in the Factory. This is with the objective to treat it as Plant of the purpose of computing depreciation.	**Tax Evasion**	Reducing tax liability by dishonest means.
(iv)	RR Ltd Issued a Credit Note for ₹ 80,000 as Brokerage payable to Mr. Ramana who is the son of the Managing Director of the Company. The purpose is to increase the Total Income of Mr. Ramana from ₹ 4,00,000 to ₹ 4,80,000 and reduce the income of RR Ltd correspondingly.	**Tax Evasion**	Making use of Loopholes in the Provisions of Law.
(v)	A Company remitted Provident Fund Contribution of both its own Contribution and Employees' Contribution on monthly basis before due date.	**Tax Management**	Objective is to ensure comply with law

Question 5(c): Application to Settlement Commission **4 Marks**

The Business Premises of Mr. Amit was subjected to a survey under section 133A of the Act. There were some incriminating materials found at the time of survey. The Assessee apprehends re–opening of assessments of the earlier years. He wants to know whether he can approach the Settlement Commission. Explain briefly the basic conditions to be satisfied and benefits that may accrue to Mr. Amit by approaching Settlement Commission.

Solution: **Refer Significant Issues in Page 45.4**

1. **Case [Sec. 245A(b)]:** "Case" means –
   (a) any **proceeding** for assessment under the Act,
   (b) of any **person**,
   (c) in respect of any **Assessment Year or Assessment Years**,
   (d) which may be **pending before an Assessing Officer** on the date on which an application u/s 245C(1) is made.

2. **W.e.f. 01.10.2014,** Settlement Commission can be approached even in case of Sec.147 proceedings or order for fresh Assessment made u/s 253 / 263 / 264.

3. The Assessee is only having the **apprehension** of re–opening the Assessment and actual re–opening has not happened. It is **not a "case"** as defined u/s 245A(b). Hence, Mr. Amit cannot approach the Settlement Commission in this case.

4. If the case is re–opened base on survey, Mr Amit can approach Settlement Commission.

5. **Benefit:** Once the application is approved and order is passed by Settlement Commision, the Order of settlement is conclusive and shall not be re–opened in any proceeding under the Income Tax Act or any other law. [Sec. 245–I]

Question 6(a): AAR – Maintainability of Application **4 Marks**

Macline Cola Co. of UK entered into contracts with three Indian Companies namely ABC Ltd, Pepsi Co. Ltd, and Coca Cola Ltd, for supplying know–how. Macline Cola Co. made an application to the Authority of Advance Ruling (AAR) on the rate of withholding tax on receipts applicable to it.

Also, Coco Cola Ltd also made an application to the Assessing Officer for determination of the rate at which tax is deductible on the payment made to Non–Resident Company, i.e. Macline Cola Co.

The Authority for Advance Ruling (AAR) rejected the application of Macline Cola Co. on the ground that the question raised in the application is already pending before an Income–Tax Authority.

Explain whether the rejection of application by the AAR is justified in law.

Solution: **Similar to Page No.40.4, Illustration – [M 06]**

1. **Principle: Pending before Income Tax Authority –** An application can be dismissed only if the issue is already pending before an Income Tax Authority and such application is made by the **same person**, whose case is pending. Dismissing the application made by one party to the issue on the ground that the same issue raised by another party to the issue is pending is not maintainable. **[Ericsson Telephone Corporation India AB 224 ITR 203 (AAR)]**
2. **Analysis and Conclusion:**
   (a) In the instant case, the Resident Indian Company made an application to its jurisdictional Income Tax Authority for determination of rate of TDS in relation to payments to Foreign Company.
   (b) The Foreign Company had separately made an application to AAR in its own capacity to protect its own interest and not on behalf of the Indian Company. Therefore, the application made is **maintainable,** and cannot be rejected.

Question 6(b): ITAT – Rectification of Orders **4 Marks**

The Income–Tax Appellate Tribunal (ITAT) passed an order providing relief as prayed by the Assessee on 04–01–2010. In December 2013, the Tribunal found a mistake apparent from the record and immediately it rectified the mistake and passed an order. Is the order passed by the Tribunal barred by limitation?

What would be your answer, if the mistake was identified by the Assessing Officer who filed a rectification petition in December 2013 and the Tribunal passes the rectification order say in December, 2015?

Solution: **Similar to Page No.39.9, Illustration – [N 09]**

Situation	**Principle**	**Conclusion**
Rectification on ITAT's own accord	U/s 254, Rectification Order has to be passed by the ITAT, within 4 years from the date on which the order sought to be rectified is passed.	Time Limit of 4 Years expires on 04.01.2014. Hence, rectification order in December 2013 is valid.
Rectification based on AO's Petition	As per the Supreme Court decision in **Sree Ayyanar Spinning & Weaving Mills Ltd vs CIT [305 ITR 434 (SC)],** the Tribunal can rectify any mistake apparent from the record and amend any order passed by it, if **application** for rectification was made by within 4 years from the date of the original order.	Application for rectification is made within 4 years from the date of original order. Hence, rectification order in December 2015 is valid.

Question 6(c): Effect of Appeal **4 Marks**

Assessment of Bhajan Ltd was completed u/s 143(3) with an addition of ₹ 15 Lakhs to the Returned Income. The Assessee–Company preferred 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 re–assessment proceedings when the appeal is pending before Commissioner (Appeals)?

(ii) Can the Assessing Officer pass an order u/s 154 for rectification of mistake in respect of issues not being subject matter of appeal?

(iii) Can the Assessee–Company seek revision u/s 264 in respect of matters other than those preferred in appeal?

(iv) Can the Commissioner make a revision u/s 263 both in respect of matters covered in appeal and other matters?

Solution:

1. Action of the Assesing officer is valid.
   Reason: Where the Assessing Officer has **reason to believe** that any **income chargeable** to tax has **escaped assessment** for any Assessment Year, he may –
   (a) **assess or re–assess such income** (other than the income involving matters which are the subject matter of any appeal, reference or revision) and also any other income chargeable to tax, which has escaped assessment.
   (b) **re–compute the Loss or Depreciation allowance** or any other allowance for the Asst. Year concerned.

2. **Yes. Reason: U/s 154(1A),** The matters, which are **not considered or decided in appeal or revision**, may be rectified by the Assessing Officer.

3. **No. Reason:** An order under appeal cannot be revised us 264 by the CIT. Further, an order that could be appealed against, cannot be revised. **[Doctrine of Total Merger]**

4. CIT can revise the items which are not covered in the appeal. But he cannot revise such issues which are subject matter of the appeal.
   Reason: An order under appeal can be revised u/s 263, **to the extent of matters not covered in the appeal**. **[Doctrine Partial Merger- Hindustan Aeronautics case]**

Question 7(a): TDS Default – Interest u/s 201(1A) **4 Marks**

Apple Iron Ltd paid ₹ 10 Lakhs to a Lawyer on 01–08–2014 for the Professional Services rendered by him to the Company, without deduction tax at source. Again another payment ₹ 5 Lakhs was due on 31–12–2014 for the entire amount of ₹ 5 Lakhs.

The Tax Deducted at Source was however remitted by the Company on 30th March 2015. Compute the Interest chargeable u/s 201 (1A) of the Income Tax Act, 1961.

Solution: **Similar to Page No.41.39, Illustration – [N 11]**

Transaction 1:

Date of Payment/ Credit	Amount	TDS Rate	TDS Amount	Date of Tax Deductible	Date of Actual Deduction	Delay Period	Date of Actual Remittance	Delay Period
01.08.2014	10,00,000	10%	1,00,000	01.08.2014	31.12.2014	5 Months	31.03.2015	3 Months
Interest u/s 201(1A)	For Delay in Deduction – 1,00,000 × 5 Months × 1%							5,000
	For Delay in Remittance – 1,00,000 × 3 Months × 1.5%							4,500
	Total							**₹ 9,500**

Transaction 2:

Date of Payment/ Credit	Amount	TDS Rate	TDS Amount	Date of Tax Deductible	Date of Actual Deduction	Delay Period	Date of Actual Remittance	Delay Period
31.12.2014	5,00,000	10%	50,000	31.12.2014	31.12.2014	Nil	31.03.2015	3 Months
Interest u/s 201(1A)	For Delay in Deduction							NIL
	For Delay in Remittance – 50,000 × 3 Months × 1.5%							2,250
	Total							**₹ 2,250**

Hence, Total Interest u/s 201(1A) is ₹ **11,750.**

Question 7(b): Clubbing **4 Marks**

Examine the correctness of the claim made by the Assessee in the below–mentioned case.

Mr. Johny has Business Income of ₹ 4,28,000 and Salary Income of ₹ 1,30,000 for the Financial Year 2014–2015. His Minor Son has Agricultural Income of ₹ 1,00,000 for the same year. The Assessing Officer clubbed the Agricultural Income of Minor Son for determining the Income Tax Liability of Mr. Johny.

Mr. Johny contends that the Agricultural Income is exempt u/s 10(1) and not covered by Sec.2(24) hence should not be clubbed even for adopting higher Income Tax Rate.

Solution: **Refer Suresh Chand Talera vs Union of India 152 Taxman 348 (MP) Case Law in Page 9.6**

Principle: Agricultural Income for Rate Purposes: Agricultural Income of Minor Son of the Assessee has to be included in the Income of the Assessee for the purpose of determining the rate of income–tax applicable to the Income of the Assessee. Hence the contention on Mr.Johny is not valid.

Question 7(c): TDS u/s 194DA **4 Marks**

Examine the taxability and applicability of TDS Provisions in the following cases:

(i) Miss Sony, a Resident, received ₹ 3,80,000 on 31–10–2014 on maturity of her Life Insurance Policy taken on 01–11–2005. The Policy Sum assured is ₹ 2,00,000 and the Annual Premium being ₹ 45,000.

(ii) Miss Puja, a Resident, received ₹ 1,20,000 on 01–05–2014 on maturity of her Life Insurance Policy taken on 10–04–2010. The Policy Sum assured is ₹ 1,00,000 and the Annual Premium being ₹ 32,000.

Solution: **Similar to Page No.41.13, Illustration**

Assessee	Date of Policy	Annual Prem.	Taxability	TDS Provision
Miss. Sony	01.11.2005 (Between 01.04.2003 to 31.03.2012)	₹ 45,000 **(**Exceeds 20% of Sum Assured)	Maturity Proceeds of ₹ 3,80,000 is **not exempt** u/s 10(10D)	TDS u/s 194DA shall applicable at 2% as the Maturity Proceeds exceeds ₹ 1 Lakh.
	01.04.2010 (Between 01.04.2003 to 31.03.2012)	₹ 32,000 **(**Exceeds 20% of Sum Assured)	Maturity Proceeds of ₹ 1,20,000 is **not exempt** u/s 10(10D)	TDS u/s 194DA shall applicable at 2% as the Maturity Proceeds exceeds ₹ 1 Lakh.

Question 7(d): Validity of Demand Notice **4 Marks**

The Assessment of SBC Ltd was completed u/s 143(3) and a Notice of Demand u/s 156 was issued for ₹ 13 Lakhs for the Assessment Year 2013–2014 requiring the Company to pay the demand within 30 days.

On appeal before the Commissioner (Appeals), the demand was reduced to ₹ 10 Lakhs. Is the Assessing Officer required to issue a fresh notice of demand to continue tax recovery proceedings?

What would be your answer, if the Commissioner (Appeals) enhanced the Income and the resultant Tax Demand is ₹ 15 Lakhs (i.e.) an increase of ₹ 2 Lakhs?

Solution:

1. **Demand Reduction:** No fresh notice of demand is required to be served on SBC Ltd. The AO is only required to give an intimation of the fact of reduction of demand to ₹ 10 Lakhs to the Assessee. The proceedings initiated on the basis of the original notice of demand may be continued in relation to the reduced amount of ₹ 10 Lakhs from the stage at which such proceedings stood immediately before disposal of appeal.

2. **Demand Increase:** A fresh notice of demand has to be given only in respect of ₹ 2 Lakhs, being the amount of enhancement. Any proceedings in relation to ₹ 13 Lakhs covered by the original notice of demand served upon SBC Ltd may be continued from the stage at which such proceedings stood immediately before disposal of appeal

Additional Questions for Practice

Question 1: Chapter 7 – Capital Gains **RTP**

Mr. X was the owner of a Residential House comprising of two floors. In April 2015, he entered into a Collaboration Agreement with Arihant Builders for developing the Property. According to the terms of the Agreement, Arihant Builders were to demolish the existing Structure on the Plot of Land and develop, construct, and put up a Building consisting of 4 Independent Floors – Ground Floor, First Floor, Second Floor and Third Floor with Terrace at its own cost. Mr. X handed over to Arihant Builders, the physical possession of the entire Property, for the limited purpose of Development. Arihant Builders was to get the Third Floor plus the undivided interest in the land to the extent of 25% for its exclusive enjoyment. The remaining Floors (i.e, the Ground, First and Second) were to be handed over to Mr. X after Construction. The Cost of Construction of each Floor was ₹1 crore, which was borne by Arihant Builders. In addition to the Cost of Construction incurred by Arihant Builders on Development of the Property, a further amount of ₹ 5 crore was payable by Arihant Builders to Mr. X as Consideration against the rights of Mr. X. You are required to discuss and resolve the following issues arising in the Assessment of Mr. X as a result of the above transaction –

(i) For Computation of Capital Gains, what should be the Full Value of Consideration accruing as a result of Transfer of the Capital Asset?	The full value of consideration is ₹ 8 crore which includes the amount of ₹ 5 crore received by Mr. X as consideration and ₹ 3 crore representing the cost of construction incurred by Arihant Builders.
(ii) Is Mr. X eligible for Exemption under section 54F?	Mr. X is eligible for exemption u/s 54F. Since the cost of construction of the floors handed over to Mr. X has been included in the full value of consideration, the same would also represent investment by Mr.X in residential house.
(iii) If the answer to (ii) is yes, whether exemption is to be restricted to the Cost of Construction of one Independent Floor, on the reasoning that the Floors given to Mr. X contained independent Residential Units having separate entrances and therefore, cannot qualify as a single Residential Unit?	Sec. 54F uses the expression "residential house" and not "residential unit". The only requirement of Sec. 54F is it should be for residential use and not for commercial use. The fact that the residential house consists of several independent units does not deny the exemption u/s 54F. Therefore, Mr. X is entitled to exemption of capital gains in respect of investment of ₹ 3 crores in the residential house, comprising of independent residential units handed over to him.

Question 2: Chapter 8 – Income from Other Sources – Deemed Dividend **RTP**

Under Sec 2(22), Dividend does not include, any Advance or Loan made to a Shareholder by a Company in the ordinary course of its business, where the lending of money is a "Substantial part of the Business" of the Company. What can be some of the tests to determine "Substantial part of the Business" of Lending Company for the purpose of application of exclusion provision under section 2(22)?

Solution: Factors to be considered for determining the substantial part of business

1. Portion which contributes a Substantial part of the Turnover, inspite of contributing small portion of the profit.
2. Portion which is relatively small as compared to the Total Turnover, but generates a large portion of the total Profit.
3. Percentage of Manpower used for a particular part of the Business in relation to the Total Manpower or Work Force.
4. Capital Employed for a specific division of a Company in comparison to Total Capital Employed.

Question 3: Chapter 19 – Taxation of Companies – Dividend Distribution Tax **RTP**

ABC Ltd, an Indian Company, receives the following Dividend Income during the PY 2015–16 from Shares held in –

1. **BCD Ltd, a Danish Company, in which it holds 25% of Nominal Value of Equity Share Capital – ₹ 65,000.**
2. **EFG Ltd, an English Company, in which it holds 31% of Nominal Value of Equity Share Capital – ₹ 1,50,000.**
3. **HIJ Ltd, a Dutch Company, in which it holds 62% of the Nominal Value of Equity Share Capital – ₹ 1,07,000**
4. **Indian Subsidiaries, on which Dividend Distribution Tax has been paid by such Subsidiaries – ₹ 47,000.**

ABC Ltd has paid Remuneration of ₹ 16,000 for realising Dividend, the break up of which is as follows –

(1) ₹ 4,000 (BCD Ltd). (2) ₹ 7,000 (EFG Ltd). (3) ₹ 5,000 (Indian Subsidiaries)

The Business Income of ABC Ltd computed under the provisions of the Income Tax Act is ₹ 48 lakh. Compute the Total Income and Tax Liability of ABC Ltd, ignoring MAT. Assuming that ABC Ltd has distributed Dividend of ₹ 4,20,000 in February, 2016, compute the additional Income Tax Payable by it u/s 115–O. Ignore the provisions of Double Taxation Avoidance Agreement, if any, applicable in this regard.

Solution: **1. Computation of Total Income**

Assessee: ABC Ltd (Resident Company) **Previous Year: 2015–2016** **Assessment Year: 2016–2017**

	Particulars		₹
	Profits and Gains of Business or Profession		48,00,000
Add:	Income from Other Sources **(Note)**		3,18,000
	Total Income		**51,18,000**
	Tax on the above Income		
	– at 15% u/s 115BBD on Gross Dividend from Specified Foreign Company	38,550	
	– at 30% on Balance Income ₹ 48,61,000 (₹ 51,18,000 – ₹ 2,57,000)	14,58,300	14,96,850
	Net Tax Payable		**14,96,850**
Add:	Education Cess @ 2%		29,937
Add:	Secondary & Higher Education Cess @ 1%		14,969
	Total Tax Payable		**15,41,756**
	Total Tax Liability (Rounded Off) (A)		**15,41,760**

Note: Computation of Income from Other Sources

Dividend from	Rate of Tax	Expenditure	Amount	Reason
BCD Ltd	At Normal Rates	Allowable	61,000 (65,000–4,000)	Not taxable u/s 115BBD since the Shareholding is less than 26%.
EFG Ltd & HIJ Ltd	15% u/s 115BBD	Not Allowable as per Sec.115BBD(2)	2,57,000 (1,50,000+1,07,000)	Taxable u/s 115BBD since the Shareholding is more than 25%.
Indian Subsidiaries	Exempt u/s 10(34)	Not Allowable as per Sec 14A	Nil	Exempt u/s 10(34) since DDT has been paid u/s 115–O.
Income from Other Sources			**3,18,000**	

2. Computation of Additional Income Tax Payable u/s 115–O

	Particulars		₹
	Dividend Declared by ABC Ltd		4,20,000
Less:	Dividend received from Indian Subsidiaries on which DDT u/s 115–O has been paid.	47,000	
	Dividend received from Foreign Subsidiary HIJ Ltd on which Tax u/s 115BBD has been paid	1,07,000	(1,54,000)
	Net Dividend on which Dividend Distribution Tax payable [(a)–(b)]		**2,66,000**
	Dividend Distribution Tax $\frac{2,66,000}{0.85} \times 15\%$		39,900
Add:	Surcharge @ 10% on Dividend Distribution Tax		3,990
	Dividend Distribution Tax + Surcharge		43,890
Add:	Education Cess @ 2%		878
Add:	Secondary & Higher Education Cess @ 1% of (DDT + Surcharge)		439
	Total Dividend Distribution Tax Payable		45,207
	Dividend Distribution Tax (Rounded Off) (B)		**45,210**
	Total Tax Outflow (A) + (B)		**45,210**

Question 4: Chapter 17 – Taxation of Firms **RTP**

M/s. ABC & Co, a Resident Firm, has Income of ₹ 95 Lakh under the head "Profits and Gains of Business or Profession". It undertook two Projects in Tamil Nadu – a Highway Project in East Coast Road (ECR) which involves expansion of existing Roads by constructing Additional Lanes and a Roadway Project in Old Mahabalipuram Road (OMR), which involves relaying of existing Roads. The Profit from the Highway Project in ECR is ₹ 50 Lakh and Roadway Project in OMR is ₹ 30 lakh. The Firm is also engaged in Cement trading, the Profit from which is ₹15 Lakh. The Trading Unit transferred Cement worth ₹ 5 Lakh to the ECR Project at ₹ 2 Lakh. Compute the Tax Payable by M/s. ABC & Co for AY 2016–17, assuming that it has no other Income during the PY 2015–16.

Solution: **1. Computation of Tax Payable**

	Particulars	₹
Profits and Gains of Business or Profession		
	Profits derived from ECR Project	50,00,000
	Profits derived from OMR Project	30,00,000
	Profits derived from Trading Unit	15,00,000
	Gross Total Income	95,00,000
Less:	Deduction u/s 80–IA **(Note)**	47,00,000
	Total Income	**48,00,000**
	Tax on above at 30%	14,40,000
Add:	EC at 2%	28,800
Add:	SHEC at 1%	14,400
	Net Tax Payable	**14,83,200**

WN1: 100% of Profits derived by an undertaking from the business of developing and / or operating and maintaining any Infrastructure Facility is allowed as a Deduction for 10 Consecutive AYs u/s 80–IA(4). Widening of an existing Road by constructing Additional Lanes as a part of a Highway Project would be regarded as a new Infrastructure Facility **[C.No.4/2010 dt. 18.5.2010]**. However, simply relaying of an existing Road would not be classifiable as a New Infrastructure Facility.

	Particulars	₹
	Profit from Eligible Business	50,00,000
Less:	Adjustment for Inter Business Transfer at lower Price (5,00,000 – 2,00,000)	(3,00,000)
	Deduction u/s 80–IA i.e. 100% of Profit from Eligible Business	**47,00,000**

2. Computation of Alternate Minimum Tax u/s 115JC

	Particulars	₹ Lakhs
	Total Income (as computed above)	**48,00,000**
Add:	Deduction u/s 80–IA	47,00,000
	Adjusted Total Income	**95,00,000**
	Tax on above at 18.50%	17,57,500
Add:	EC at 2%	35,150
Add:	SHEC at 1%	17,575
	Net Tax Payable	**18,10,225**

3. Tax Payable on Total Income

Since the Tax payable under the normal provisions of the Act is less than the Alternate Minimum Tax payable u/s 115JC, Adjusted Total Income shall be deemed to be Total Income of ABC & Co. Tax payable for the Assessment Year 2016–2017 is **₹ 18,10,225**.

4. Computation of AMT Credit

	Particulars	₹
	Tax Payable u/s 115JC	18,10,225
Less:	Tax on Total Income + Surcharge (if applicable) + EC @ 2% + SHEC @ 1%	14,83,200
	AMT Credit available	**3,27,025**

Note: The above tax shall be set off against the Tax Payable on the Total Income, within a period of 10 subsequent Assessment Years, subsequent to the year of original assessment.

Question 5: Chapter 19 – Taxation of Companies **RTP**

A Securitization Trust distributes Income of ₹ 6,50,000 on 17th August, 2015 to its Investors comprising of –

(a) Mutual funds exempt u/s 10(23D) – 1,50,000. (b) Individuals and HUFs – 1,00,000. (c) Companies – 4,00,000

Compute the Additional Income Tax Payable by the Trust u/s 115TA. Assuming that the Additional Income Tax Payable as per Sec.115TA is paid to the credit of the Central Government on 7.11.2015, Compute the Interest, if any payable u/s 115TB.

Solution: **1. Computation of Additional Income Tax Payable u/s 115TA**

Category of investor	Income distributed	Rate of tax	Amount
1. Mutual Funds exempt u/s 10(23D)	1,50,000	Nil	Nil
2. Individuals and HUFs	1,00,000	25% + SC 10% + Cess 3% = 28.325%	28,325
3. Companies	4,00,000	30% + SC 10% + Cess 3% = 33.99%	1,35,960
			1,64,285

2. Computation of Interest Payable u/s 115TB

Date of Distribution Income	17.08.2015
Due Date i.e. 14 days from the date of Distribution or Payment of such income, whichever is earlier	31.08.2015
Actual Date of Payment	07.11.2015
No. of Months / Part of a Month for which Interest is leviable u/s 115TB [September, October, November]	3 Months
Rate of Interest for every month or part of the month	1%
Total Interest Payable u/s 115TB – ₹ 1,64,285 × 1% × 3 Months	₹ 4,929