Gurukripa's Guideline Answers to Nov 2016 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: Page Reference Numbers are given from **Padhuka's Direct Taxes – A Ready Referencer – For CA Final**
Students can also refer to **"Padhuka's Question Bank – Direct Taxes – For CA Final"** for easy revision.
All questions pertaining to Income Tax have been solved based on the Law applicable for **Assessment Year 2017–2018**.
Modifications have been made to Questions, to reflect the rates and law applicable for **Financial Year 2016–2017**.

Question 1(a): – Taxability of Income of Real Estate Investment Trusts — 10 Marks

KDS Realty Trust, a Business Trust registered under SEBI (Real Estate Investment Trusts) Regulations, 2014 provides the following particulars of its Income for the previous year 2016–2017:

(i) Rental income ₹ 3 Crores, from the directly owned Real Estate Assets.

(ii) Short term Capital Gain ₹ 1.5 Crores, on sale of Listed Shares of Brahma Ltd, an Indian Company in which KDS Realty Trust holds controlling interest through holding 60% of the Shareholding of Brahma Ltd.

(iii) Short term Capital Gain ₹ 2 Crores, on sale of Developmental Properties.

(iv) Interest ₹ 1 Crores, received from Investments in Unlisted Debentures of Real Estate Companies,

(v) Dividend ₹ 3.5 Crores from Brahma Ltd.

Other Information:
KDS Realty Trust has distributed ₹ 10 Crores to its Unit Holders in the previous year 2016–2017.
Discuss the tax implications (including TDS implications) based on the above income earned by KDS Realty Trust, both in the hands of KDS Realty Trust and its Unit Holders in the previous year 2016–2017.

See Pg.19.68, Illustration – Treatment of Income of REIT

Sl.No	Reason
(i)	(a) Income of REIT Trust from Real Estate Assets owned directly by the Trust, is exempt u/s 10(23FCA). (b) Distributed Income of the nature referred to in Sec.115UA, is taxable in hands of Unit Holders. REIT is required to deduct TDS u/s 194LBA
(ii)	(a) REIT is liable to pay tax at 15% u/s 111A. **[Sec. 115UA(2)]** (b) No Tax Liability on the Capital Gain component distributed to Unit Holders.[Sec. 10(23FD)]
(iii)	(a) Taxable at Maximum Marginal Rate of 34.608% in the hands of the REIT. **[Sec. 115UA(2)]** (b) No Tax Liability on the Capital Gain component of Income distributed to Unit Holders. [Sec. 10(23FD)]
(iv)	(a) Such Interest is taxed at Maximum Marginal Rate of 34.608%, in the hands of REIT. **[Sec. 115UA(2)]** (b) No Tax Liability on the Interest Component of Income distributed to Unit Holders. [Sec. 10(23FD)]
(v)	(a) Since Brahma Ltd would be subject to DDT u/s 115–O, Dividend received by REIT from SPV Brahma Limited is exempt u/s 10(34), w.e.f.01.04.2017 (b) Dividend Component of Income distributed to Unit Holders will be exempt from tax in their hands u/s 10(23FD).

Computation of Tax Implication in the hands of REIT and Unitholders

(₹ in Crores)

Particulars	In the hands of REIT			In the hands of Unitholders [Share of Distributed Income]	
	Income Earned	Taxable Amount	Rate	Computation	Taxable Amount
Item 1	3.00	Nil	NA	3.00 ×10÷11 = 2.73	2.73
Item 2	1.50	1.50	15%	1.50 ×10÷11 = 1.36	Nil
Item 3	2.00	2.00	34.608%	2.00 ×10÷11 = 1.82	Nil
Item 4	1.00	1.00	34.608%	1.00 ×10÷11 = 0.91	Nil
Item 5	3.50	Nil	NA	3.50 ×10÷11 = 3.18	Nil
	11.00			**10.00**	

Question 1(b): Capital Gains – Distribution of Assets 10 Marks

Mr. Raghu purchased 10,000 Equity Shares of AB Avenues Private Limited on 25.05.2004 for ₹ 1,20,000. The Company went into liquidation on 31.07.2016. The following is the summarized Financial Position of the Company as on 31.07.2016.

Liabilities	₹	Assets	₹
60,000 Equity Shares of ₹ 10 each	6,00,000	Agricultural Lands in Urban Area	22,00,000
General Reserve	40,00,000	Cash at Bank	32,14,305
Liability for Income Tax	8,14,305		
Total	54,14,305	Total	54,14,305

The assets remaining after discharging liability for Income Tax were distributed to the Shareholders in the proportion of their Shareholding. The Market Value of Agricultural Land as on 31.07.2016 is ₹ 60,00,000.

The Agricultural Land received as above was sold by Mr. Raghu on 28.02.2017 for ₹ 15,00,000.

Discuss the tax implications in the hands of the Company and Mr. Raghu.

The Cost Inflation Indices are F.Y.2004–2005: 480 and F.Y 2016–2017: 1125.

See Page 7.25, Illustration – Distribution of Assets– Liquidation of Company [N 99]

(a) **Tax implications in the hands of the Company:** Distribution of Capital Assets in specie is **not** a transfer u/s 46(1) and hence not taxable for the Company.

(b) **Tax treatment in the hands of Mr. Raghu – On Distribution of Assets:**

Assessee: Mr. Raghu **Previous Year: 2016–2017** **Assessment Year: 2017–2018**

Computation of Income under the head Capital Gains

	Particulars	₹	₹
Transaction 1: Allotment of Assets in specie:			
	Agricultural Land $\left[₹\ 60{,}00{,}000 \times \frac{10{,}000}{60{,}000}\right]$	10,00,000	
	Cash $\left[(32{,}14{,}305 - 8{,}14{,}305) \times \frac{10{,}000}{60{,}000}\right]$	4,00,000	
	Total Consideration Received	14,00,000	
Less:	Deemed Dividend u/s 2(22)(c) = $1/6^{th}$ of Accumulated Reserve of ₹ 40,00,000	(6,66,667)	
	Consideration for Computation of Capital Gain	7,33,333	
Less:	Indexed Cost of Acquisition of Shares ₹ 1,20,000 × $\frac{1125}{480}$	(2,81,250)	
	Long Term Capital Gains		**4,52,083**
Transaction 2: Sale of Land by Mr. Raghu			
	Consideration for Sale	15,00,000	
Less:	Expenses on Transfer	NIL	
	Net Consideration	15,00,000	
Less:	Fair Market Value of Land as assessed above	(10,00,000)	
	Short Term Capital Gains		**5,00,000**
	Income under the head "Capital Gains"		**9,52,083**

Note: It is assumed that Liability for Income Tax given in the problem is on account of Dividend Distribution Tax (DDT). Dividend Distribution Tax is payable at 15% Plus Surcharge at **12**% **irrespective of the amount**, Plus EC and SHEC. Computation of DDT is given below:

	Particulars	₹	₹
Transaction 1: Allotment of Assets in specie:			
	Dividend Distribution Tax $\left[₹\ 40{,}00{,}000 \times \frac{15\%}{100\% - 15\%}\right]$		7,05,882
Add:	Surcharge @12% on the above		84,706

	Particulars	₹	₹
	Subtotal		**7,90,588**
Add:	Education Cess @ 2%		15,812
	Secondary Higher Education Cess @1%		7,905
	Total Dividend Distribution Tax Liability		**8,14,305**

Question 2: Computation of Total Income of Company 16 Marks

Statement of Profit & Loss of BM Private Ltd, a Resident Company engaged in manufacturing, shows Net Profit of ₹ 90,00,000 for the Financial Year ended on 31st March 2017, after debit/credit of the following items.

A. Credited to the Statement of Profit and Loss:
   (i) Rent Received from Vacant Land ₹ 1,20,000
   (ii) Rent Received (gross) from a Commercial Property owned by the Company ₹ 2,50,000 (Tax deducted by Tenant @ 10%)
   (iii) Interest Received on Income Tax Refund ₹ 1,00,000
   (iv) Profit on Sale of Unused Land ₹ 10,00,000

B. Debited to the Statement of Profit and Loss:
   (i) Depreciation charged to the Statement of Profit and Loss ₹ 12,00,000.
   (ii) Donation of ₹ 1,00,000 paid to Swachh Bharat Kosh.
   (iii) Contribution of Political Party amounting to ₹ 2,00,000 paid in Cash.
   (iv) Payment made to Transporter ₹ 1,00,000 by Account Payee Cheque, but no tax has been deducted at source. (Transporter is having PAN and furnished declaration that he is covered u/s 44AE and not having more than 10 goods carriages at any time during the Previous Year).
   (v) Bonus to Employees ₹ 2,00,000 provided. However, payment was made on the occasion of Diwali festival in the month of October 2017.
   (vi) Provision made for Income Tax ₹ 3,00,000 (including Interest of ₹ 50,000 thereon)
   (vii) Contribution of ₹ 1,00,000 to a University approved and notified under Section 35(1)(ii).
   (viii) Loss of ₹ 2,50,000 incurred by way of trading in Futures and Options (Derivatives) in Stocks in a Recognized Stock Exchange.

Additional Information:

1. Depreciation as per Income Tax Act, 1961 ₹ 20,00,000. However, while calculating such depreciation, rate applicable to computers has been adopted for (i) Accessories like Printers and Scanners, and (ii) EPABX. The Written Down Value of these items as on 01.04.2016 is given below:

(a)	Printers and Scanners	₹ 3,00,000
(b)	EPABX	₹ 5,00,000

2. Additional Depreciation on Plant and Machinery purchased for ₹ 20,00,000 on 15th October 2016 has not been considered while calculating depreciation as per Income Tax Act, 1961 as above.
3. Provision for Audit Fee ₹ 1,00,000 was made in the books for the year ended on 31st March 2016, without deducting tax at source. Such fee was paid to Auditors in September 2016 after deducting tax at source u/s 194J and tax so deducted was deposited on 6th October 2016.
4. The Company during the financial year 2014–2015 made a provision for an outstanding bill of ₹ 1,00,000 for purchase of Raw Material. Out of such outstanding amount, the Company has paid ₹ 50,000 in cash on 15th September 2016.
5. During the year, the Company has issued 1,00,000 Equity Shares of Face Value of ₹ 10 each at Premium of ₹ 90 each. The Fair Market Value is ₹ 60 per Share at the time of issue of Shares.
6. Unused Land which was sold during the year for ₹ 50,00,000 was acquired by the Company in the Financial Year 2012–2013 for ₹ 40,00,000.
7. Cost Inflation Index–FY 2012–2013: 852, FY 2016–2017: 1125

Compute Total Income of the Company for the Assessment year 2017–2018 stating reasons for treatment of each item. Ignore provisions relating to Minimum Alternate Tax.

See Illustrations in Chapter – 19

Assessee: BM Private Limited **Previous Year: 2016–2017** **Assessment Year: 2017–2018**

Computation of Total Income

Particulars		₹
Income from House Property [Note A]		1,75,000
Profit & Gains of Business or Profession		75,00,000
Income from Capital Gains [Note C]		–
Income from Other Sources		42,20,000
Gross Total Income		**1,18,95,000**
Less:	**Deduction under Chapter VIA**	
	80G – Donation to Swachh Bharat Kosh – 100% allowed without celling	(1,00,000)
	80GGB – Donation to Political Party	Nil
Total Income		**1,17,95,000**

Note: Since only Total Income is required to be computed, TDS on Rent ignored.

Note A: Computation of Income from House Property

	Particulars	₹	₹
	Gross Annual Value [Rent received from Commercial Property]	2,50,000	
Less:	Municipal Tax	Nil	
	Net Annual Value	2,50,000	
Less:	Deduction u/s 24 = 30% of Net Annual Value	(75,000)	
	Income from House Property		**1,75,000**

Note B: Computation of Profits & Gains from Business or Profession

Particulars	Deduction from Profit	Addition to Profit
Net Profit as Per Profit and Loss A/c		90,00,000
Rent from Land – Considered u/h – Income from Other Sources.	1,20,000	
Rent from commercial property – Considered u/h – Income from House Property	2,50,000	
Interest on Income Tax Refund – Considered u/h – Income from House Property	1,00,000	
Profit on Sale of Unused Land – Considered u/h – Capital Gains	10,00,000	
Depreciation as per Books of Accounts		12,00,000
Donation to Swachh Bharat Kosh – allowed as deduction u/s 80G		1,00,000
Contribution to Political Party disallowed u/s 37 **[Note 1]**		2,00,000
Payment to Transporter **[Note 2]**	–	–
Bonus to Employees disallowed **[Note 3]**		2,00,000
Provision for Income Tax disallowed u/s 40(a)(ii) [Interest already included herein]		3,00,000
Contribution to Notified University u/s 35(1)(ii) **[Note 4]**	75,000	
Loss by way of trading in Futures & Options **[Note 5]**	–	–
Depreciation as per IT Act **[Note 6]**	17,75,000	
Additional Depreciation [20,00,000 × 10%] **[Note 7]**	2,00,000	
Payment of Audit fees **[Note 8]**	30,000	
Cash paid for Raw Material **[Note 9]**		50,000
Sub–Total:	**35,50,000**	**1,10,50,000**
Profits and Gains of Business or Profession [1,10,80,000 – 35,50,000]		**75,00,000**

Notes:

1. **Donation to Political Party:** 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. In the given case, since the contribution is paid by cash, deduction u/s 80GGB cannot be claimed.

2. **Payment to Transporter:** As per Sec.194C, TDS not required for payment to a Contractor, in the business of Plying, Hiring or Leasing Goods Carriages, if the Contractor owns **10 or Less** Goods Carriages at any time during the PY and furnishes a declaration to that effect along with his PAN, to the Payer. Payment to transporter of ₹ 1,00,000 is already debited in the books of Accounts. Hence no further adjustment is required.

3. **Payment of Bonus:** Bonus to Employees disallowed, since payment made after due date for filing Return of Income u/s 139(1), i.e. after 30.09.2017. [Sec.36(1)(ii) and Sec.43B]. [**Note:** However, it is allowable in the year of Payment].

4. **Weighted Deduction:** U/s 35(1)(ii), Weighted Deduction of 175% is eligible for contribution made to any approved University. Total Deduction allowable = [₹ 1,00,000 × 175%] = ₹ 1,75,000. Deduction already debited in the books = ₹ 1,00,000. So, Further Eligible deduction [₹ 1,75,000 – ₹ 1,00,000 = ₹ 75,000].

5. **Loss in Trading Futures & Options:** Eligible Transaction in respect of trading in Derivatives carried out in Recognised Stock Exchange is **not** a speculative transaction. The loss shall not be treated as Speculative Loss, and shall be treated as normal Business Loss. Hence, no adjustment is required as the Loss of ₹ 2,50,000 is already debited in the Books of Accounts.

6. **Depreciation as per IT Act:** EPABX are not Computers, and **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%. Hence revised computation of Depreciation is as follows:

Computation of IT Depreciation

	Particulars	₹
	Depreciation as computed by the Company	20,00,000
Less:	Depreciation wrongly charged at 60% on EPABX [5,00,000 ×60%]	(3,00,000)
Add:	Depreciation @ 15% as prescribed u/s 32 [5,00,000 × 15%]	75,000
	Adjusted Depreciation as per IT Act	**17,75,000**

7. **Additional Depreciation:** Additional Depreciation on Plant & Machinery is eligible for 50% Depreciation only [10%], since it was put to use for less than 180 days during the relevant Previous year. Balance 50% of Additional Depreciation will be available in the subsequent Assessment Year.

8. **Audit Fees of last PY, now paid after TDS:** U/s 40(a)(ia), 30% of Audit Fees Provision would have been disallowed in PY 2015–16 for non deduction of TDS. Since TDS is deducted and paid during the PY 2016–2017, such disallowed amount of ₹ 30,000 (30% on ₹ 1,00,000) shall be allowed as deduction during the current Previous Year.

9. **Payment of Outstanding Liabilities:** As per Sec. 40A(3A), if an expenditure is allowed as a deduction on due basis, and the liability is settled after the end of previous year otherwise than by way of Account Payee cheque/draft, by payment or aggregate of payments in excess of ₹ 20,000 to a single person on a day, then the expenditure so allowed shall be treated as Business Income of the previous year in which such payment is made. Hence the sum paid during the current year of ₹ 50,000 paid in Cash shall be Deemed Income u/s 40A(3A).

Note C: Computation of Capital Gains

	Particulars	₹
	Consideration on Sale of Land	50,00,000
Less:	Expenses on Transfer	Nil
	Net Consideration	**50,00,000**
Less:	Indexed Cost of Acquisition ₹ 40,00,000 × $\frac{1125}{852}$	(52,18,690)
	Long Term Capital Loss	**(2,18,690)**

Note: Long Term Capital Loss can be set – off only against LTCG, and it shall be carried forward for 8 AYs.

Note D: Computation of Income from Other Sources

Particulars	₹
Rent from Vacant Land (taxable under Income from Other Sources, and not under " House Property")	1,20,000
Interest on Income Tax Refund	1,00,000
Issue of Shares **[Note]**	40,00,000
Income from Other Sources	**42,20,000**

Note: Issue of Shares at a Premium: As per Sec.56(2)(viib), if a Company in which public are not substantially interested issues Shares to any Resident, for a price in excess of Face Value of Shares, the Issue Price in excess of FMV of Shares shall be taxable in the hands of the Company. So, Taxable Amount = 1,00,000 Shares × (₹ 100 – ₹ 60) = ₹ 40,00,000. Issue Price = Face Value ₹ 10 + Premium ₹ 90 = ₹ 100 per Share.

Question 3(a): Taxation of Non Residents 4 Marks

As per agreement between S Limited, a Company incorporated in Korea and Bharti Motors Limited, an Indian Company, S Limited rendered both off–shore and on–shore technical services to Bharti Motors Limited for setting up a Car Manufacturing Plant in Gujarat. S Limited rendered off–shore service services and on–shore services at fee of ₹ 2 Crores and ₹ 3 Crores respectively. S Limited claims that it is not liable to tax in India in respect of fee of ₹ 2 Crores, as it is for rendering services outside India. Is the view taken by S Limited correct?

See Page 26.21, Case Law Reference – CIT vs Hyundai Heavy Industries Co. Lt (SC)

1. **Principle: [Sec.9(1)(i)]**
   (a) In case of a business of which all operations are not carried on in India, only such part of income shall be deemed to accrue or arise in India as is reasonably attributable to the operations carried out in India.
   (b) So, such part of income which **cannot** be reasonably attributed to the operations in India is **not** deemed to accrue or arise in India.

2. **Analysis & Conclusion:** S Limited, a Company incorporated in Korea (a Non – Resident) is not liable to tax in India, in respect of Income from off–shore Technical Services rendered[₹ 2 Crores], as it is for Services outside India. [**Note:** It is assumed that payment thereof is received outside India]

Question 3(b): 6 Marks

Keeping in view that Yoga is the present focussed area and has been granted International recognition by the United Nations Organization (UNO), an institution called "Hindusthan Mahan" having 'Yoga' as its main object was registered u/s 12AA. For the previous year 2016–2017, the Total Receipts of the Institution were ₹ 135 Lakhs including ₹ 26.5 Lakhs from business activity.

(i) State with reasons whether the Institution will continue to retain its "Charitable Status" and be eligible for exemption u/s 11 for the Assessment Year 2017–2018.

(ii) What would have been the effect, had the main object of the institution been "advancement of any other object of general public utility" and it had applied its receipts from business activities towards such main object?

See Page 23.2, Para 23.1.1 and 23.1.2, [N 09, M 12 Qns] and Illustrations.

Object being "Yoga"	Object being "Advancement of General Public Utility"
1. Charitable purpose includes "Yoga" also. 2. Hence, Proviso to Sec. 2(15) will **not** apply. 3. The Income from Business Activity would also be exempt from tax, if other conditions prescribed by the Income Tax Act are satisfied. E.g. application of Income for Charitable Purposes, etc.	1. Proviso to Sec. 2(15) will apply. [Refer Principle in Para 23.1.2] 2. 20% of Total Receipts = ₹ 135 Lakhs × 20% = ₹ 27 Lakhs. 3. Since the receipts of ₹ 26.50 Lakhs from Business Activity does not exceed 20% of Gross Receipts, Tax Exemption u/s 11 will not be denied, if other conditions under IT Act are complied with.

Question 3(c): Computation of Relief 6 Marks

During the previous year 2016–2017, Ms. Indu, a citizen of India, is a resident of both India and a Foreign Country with which India has a Double Tax Avoidance Agreement (DTAA), which provides that "the Income would be taxable in country where it is earned and not in other country, but would be included for computation of tax rate in such other country". Her Income is ₹ 3,25,000 from business in India and ₹ 7,00,000 from business in Foreign Country. In the Foreign Country, the rate of tax is 20%. During the year, she paid a Premium of ₹ 32,000 to insure the health of her mother, a Non–Resident, aged 82 years, not dependent on her, through her Credit Card.

(i) Compute the tax payable by Ms. Indu in India for the A.Y. 2017–2018.

(ii) Also, show the tax payable by Ms. Indu in India, had there been no DTAA with such Foreign Country.

See Pg.28.6, Illustration – Computation of Relief

Assessee: Indu **Previous Year: 2016–2017** **Assessment Year: 2017–2018**

Note: Mediclaim **Insurance paid** assumed to by other than cash. U/s 80D, premium paid for the parents shall be allowed to the extent of ₹ 25,000 only. Mother being a **Non–Resident** is not eligible for the Higher Deduction of ₹ 30,000 allowed for Senior Citizens.

Situation 1 – Tax Payable when there is a DTAA with Foreign Country

Computation of Total Income and Tax Payable

Particulars	₹	₹
Profits and Gains from Business or Profession		
(a) Income from Business outside India	7,00,000	
(b) Income from Business in India	3,25,000	
Profits and Gains from Business or Profession		**10,25,000**
Gross Total Income		**10,25,000**
Less: Chapter VI–A Deduction		
U/s 80D – Mediclaim for Mother **[Refer Note]**		25,000
Total Income		**10,00,000**
Tax on Total Income [25,000 + 20% (10,00,000 – 5,00,000)]		1,25,000
Add: Education Cess @ 2%		2,500
Add: Secondary and Higher Education Cess @1%		1,250
Total Tax Payable		**1,28,750**
Less: Tax paid in the foreign Country (7,00,000 × 20%) **[Refer Note below]**		**(1,40,000)**
Total Tax Payable		**Nil**

Tax Credit Method: In this method, the income is taxed in both the countries in accordance with their respective tax laws read with the DTAA. The Country of Residence of the Taxpayer allows him **credit / reduction for the tax** charged thereon in the Country of Source, from the tax payable to the Country of Residence, i.e. tax paid in another country can be adjusted against tax payable in the Country of Residence. Hence the tax paid of ₹ 1,40,00 is allowed as reduction.

Situation 2 – Tax Payable when there is no DTAA with the Foreign Country

Computation of Total Income and Tax Payable

Particulars	₹	₹
Profits and Gains from Business or Profession		
(a) Income from Business outside India	7,00,000	
(b) Income from Business in India	3,25,000	
Profits and Gains from Business or Profession		10,25,000
Gross Total Income		**10,25,000**
Less: Chapter VI–A Deduction: U/s 80D – Mediclaim for Mother		25,000
Total Income		**10,00,000**
Tax on Total Income (25,000 + 20% [10,00,000 – 5,00,000)		1,25,000
Add: Education Cess @ 2%		2,500
Add: Secondary and Higher Education Cess @1%		1,250
Total Tax Payable		1,28,750
Average Rate of Indian Tax $\frac{1,28,750}{10,00,000}$	12.88%	
Average Rate of Foreign Tax	20.00%	
Less: Relief u/s 91 at 12.88% of Foreign Income (Least of the above)		(90,160)
Net Tax Payable (Rounded off)		**38,590**

Question 4(a): Capital Gains – Investment in Spouse's Name – 54F Exemption 4 Marks

Mr. Ankit sold a plot during the Financial Year 2016–2017 and invested the sale proceeds in purchase of a new house in the name of his wife by the end of the Financial Year, i.e. 31st March 2017. He claimed deduction u/s 54F in respect of the new house purchased by him in the name of his wife. The Assessing Officer while making assessment for the Assessment Year 2017–2018, denied such deduction on the ground that in order to avail benefit under section 54F, it is necessary to invest the sale proceeds in the name of the Assessee. Comment on the validity of action taken by the Assessing Officer.

See Page 7.38, Case Law – V.Natarajan 287 ITR 271 & Kamal Wahal (2013) 351 ITR 4 (Del)

1. **Sec.54F:** Individual / HUF can claim exemption from Capital Gains from transfer of Long Term Capital Asset by investing in one Residential Property in India.

2. **Investment in the name of Spouse:** Assessee is entitled to exemption u/s 54, even if new House Property is acquired in Spouse's name, which was assessed in the hands of the Assessee. **[V.Natarajan 287 ITR 271], [CIT vs Kamal Wahal (2013) 351 ITR 4 (del)]**
3. **Analysis & Conclusion:** In given case Mr. Ankit invested sale proceeds of plot in new house in the name of his wife & claimed exemption u/s 54F. He is entitled for the exemption as per case decisions cited above. The contention of the Assessing Officer is **Incorrect**.

Question 4(b): Principle of Mutuality – Transfer Fees received by Society 4 Marks

Bahubali Co–Operative Housing Society is a registered Co–operative Housing Society. It is formed with the objective of maintaining the property owned by it. It effects repairs and maintenance of the common property of the Members and confers the usual rights and privileges to its Members. During the year ended 31st March 2017, Mr. X transferred his Membership to Mr. Y, for which the Society received Transfer Fees of ₹ 5.50 Lakhs each from Mr. X and Mr. Y. Mr. Y was not a Member of the Society at the time of transfer. In course of assessment of the Society u/s 143(3) the Assessing Officer charged Transfer Fees to tax under the head "Profits and Gains of Business or Profession". Is the action of the Assessing Officer correct?

See Page 24.1, Case Law – Sind Co–Operative Housing Society vs ITO 317 ITR 47 (Bom)

1. **Principle:** In the case of **Sind Co–Operative Housing Society vs ITO 317 ITR 47 (Bom),** it was held that, transfer fees received by Co–Operative Society, whether from Incoming / Outgoing Members is not liable to Tax on the ground of Principle of Mutuality.
2. **Analysis & Conclusion:** In the given case, Bahubali Co–Operative Housing Society received Transfer Fees of ₹ 5.50 Lakhs each from Mr. X & Mr. Y who are Incoming & Outgoing Members of Society. Based on the above legal decision, the Transfer Fees received by Co–Operative Society is not taxable. Action of Assessing Officer is **incorrect**. [Note: 'X' is the Outgoing Member and "Y" is the Incoming Member. The fact that "Y" is not a member on the date of transfer, is not relevant.]

Question 4(c): Guarantee Commission to Directors – Allowability of Expenses 4 Marks

MNO Ltd, a Listed Company, wanted some credit facilities from the Bank for its Business purpose. The Bank insisted on personal guarantee of the Directors as a pre–condition for providing financial assistance to the Company. The Directors were Employees of the Company who were drawing Salary from the Company. A Resolution was passed for paying Commission to the Directors and a sum of ₹ 24.50 Lakhs each was paid as Commission, calculated at the rate of 1.5% of the principal sum, in respect of which Personal Guarantee was furnished by the Directors to the Bank.

The Assessee claimed the expenses as Business Expenditure. But applying Section 36(1)(ii) the Assessing Officer held that if the amount was not paid to them as Commission, the same would have been payable as Dividend and contended that the Assessee avoided the Dividend Distribution Tax u/s 115–O which was otherwise payable. Is the action of the Assessing Officer valid?

See Page 6.63, Legal Decision – Controls & Switchgear Contractors Ltd (2014) 365 ITR 312 (Del)

1. **Legal Decision:** Bank Guarantee was given by the Employee Directors for enabling credit facility to their Company, and Guarantee Commission paid by a Company to its Employee Directors shall be an allowable business expenditure. **[Controls & Switchgear Contractors Ltd (2014) 365 ITR 312 (Del)]**
2. **Analysis & Conclusion:**
   (a) Based on the above legal decision, ₹ 24.50 Lakhs paid by MNO Ltd to its Employee Directors is an allowable Business Expense.
   (b) It is not "Dividend" as contended by the Assessing Officer, Since "Dividend" is payable only to Shareholders and not Employee Directors.
   (c) The action of the Assessing Officer is not valid in this case.

Question 4(d): HP vs. Business Income – Warehousing Company 4 Marks

Wellcare Warehousing Ltd is engaged in the business of warehousing, handling and transport along with the relevant auxiliary services like pest control, rodent control, fumigation and security, etc. Statement of Profit and Loss of the Company shows that the main source of Income is Storage Charges and Maintenance or User Charges. The substantial part of expenses relate to Salaries of Employees engaged in maintenance and upkeep of warehouses. The Company has filed Return of Income showing Income from letting out of Buildings and Godown Space as "Income from Business". The Assessing Officer rejected the view of the Assessee and assessed the same as "Income from House Property". Comment on the validity of action taken by Assessing Officer.

See Page 5.3, Legal Decision – NDR Warehousing P Ltd (2015) 372 ITR 690 (Mad)

1. **Legal Decision:** Income from **letting out of Godowns** and providing warehousing services by a Company engaged in Warehousing, Handling and Transport Business would fall under the head "**Profits and Gains of Business or Profession**" and **not** under the head "Income from House Property". **[CIT v. NDR Warehousing P Ltd (2015) 372 ITR 690 (Mad)]**

2. **Analysis & Conclusion:** Wellcare Warehousing Ltd earns major source of income from Storage Charges & Maintenance Charges. Also, its substantial expenses relate to Maintenance & Upkeep of Warehouses. Hence, based on the above legal decision, Income from Letting Out of Buildings and Godown Space is taxable under "Profit & Gains of Business or Profession" and not under the head "Income from House Property" as contended by Assessing Officer. The contention of the Aseessing Officer is incorrect.

Question 4(e): Taxation of Firms – Dissolution – C/fd of Loss 4 Marks

ST & Co, a Partnership firm was dissolved, and as per the Dissolution Deed of the Partnership Firm, with effect from 18th September 2005, S, one of the Partners of erstwhile Firm took over the entire business of the Partnership Firm in his individual capacity including Fixed Assets, Current Assets and Liabilities and the other Partner was paid his dues. He then continued the business as a Sole Proprietor with effect from that date. The Assessee, relying upon Sec. 78(2) claimed the set–off of the losses suffered by the erstwhile Partnership Firm against his Income earned as an Individual Proprietor, considering the case as Inheritance of Business. The claim of the Assessee was disallowed by the Assessing Officer. Examine the correctness of the action of the Assessing Officer.

See Page 10.8, Pramod Mittal v. CIT (2013) 356 ITR 456 (Delhi)

1. **Principle:** U/s 78, Business Loss of Predecessor shall not be set off in hands of Successor, unless succession is by way of Legal Inheritance.
2. **Legal Decision:** Loss suffered by the Partnership Firm before its dissolution cannot be Carried Forward by the Individual Partner who took over the business of the firm as a Sole Proprietor. It is not a case of succession by inheritance. The Assessee Sole–Proprietor is, therefore, **not entitled** to set–off the loss of the dissolved Partnership Firm against his Income. **[Pramod Mittal vs. CIT (2013) 356 ITR 456 (Delhi)]**
3. **Analysis & Conclusion:** In given case Mr. S, erstwhile Partner of ST & Co, took over the business of the Firm as Sole Proprietor after paying the dues to other Partner. His succession of Business is not by way of inheritance. Hence he is not entitled to set–off the loss of dissolved Partnership Firm against his Income. The action of the Assessing Officer in disallowing the claim of Mr. S, is correct.

Question 5(a): Conversion of Private Company into LLP 8 Marks

ABC Private Ltd was converted into a Limited Liability Partnership (LLP) called ABC LLP on 01.07.2016. You are provided with the following particulars of ABC Private Limited as on 31.03.2016:

(i) Unabsorbed Depreciation ₹ 13 Lakhs.

(ii) Business Loss ₹ 10 Lakhs (relating to previous year 2008–2009).

(iii) Unadjusted MAT Credit u/s 115JAA ₹ 8 Lakhs.

(iv) Written Down Value of the Assets as per Sec. 43(6) of the Income –Tax Act–

  (a) Plant and Machinery (15%) ₹ 10 Lakhs (Market Value ₹ 15 Lakhs)

  (b) Plant and Machinery ₹ 50 Lakhs (Cost) – Deduction claimed u/s 35AD

  (c) Building (10%) ₹ 20 Lakhs (Market Value ₹ 30 Lakhs)

(v) Cost of Land (acquired in year 2000) ₹ 50 Lakhs (Market Value ₹ 100 Lakhs)

(vi) Expenditure on Voluntary Retirement incurred by the Company during the Previous Year 2014–2015 is ₹ 25 Lakhs. The Company has been allowed deduction of ₹ 5 Lakhs each year for the Previous Year 2014–2015 and Previous Year 2015–2016 u/s 35DDA.

Explain the tax treatment of each item stated above in the hand of LLP, assuming that the conversion satisfies all the conditions laid down in Section 47(xiiib).

See Page 18.3, Illustration [RTP]

Particulars	Reasons
Business Loss and Unabsorbed Depreciation	As per Sec.72A(6A), LLP would be able to carry forward and set off the Unabsorbed Depreciation and Business Loss of ABC Private Limited as on 31.03.2016, if conditions u/s 47(xiiib)] are fulfilled. Hence Unabsorbed Depreciation of ₹ 13 Lakhs & Business Loss of ₹ 10 Lakhs (AY 2009–2010), can be carried forward by ABC LLP.
Unadjusted MAT Credit	As per Sec.115JAA(7), the credit for MAT paid by ABC Private Limited cannot be availed by the Successor LLP. MAT Credit of ₹ 8 Lakhs will lapse on conversion.
Depreciation for Assets	• Since the Conversion took place on 01.07.2016, the WDV of Block Assets on the date of conversion shall be the Actual Cost. Refer Working Note below • For the LLP, Depreciation for the Previous Year 2016–2017 is – Plant and Machinery – ₹ 1,12,603, Building – ₹ 1,50,137
Cost of Land acquired in the Year 2000	The Cost of Acquisition of Land in the hands LLP would be the Cost for which ABC Private Limited acquired the asset, i.e. ₹ 50 Lakhs.
Expenditure on VRS	LLP would be eligible for deduction of ₹ 5,00,000 each for the PY 2016–2017, PY 2017–2018 and PY 2018–2019, u/s 35DDA, being the balance amount of Total VRS Expenditure of ₹ 25,00,000

Working Note:

Asset	Computation	WDV for LLP	Depreciation for LLP (274 days)
(a) Plant & Machinery	$10,00,000 - \left[10,00,000 \times 15\% \times \frac{91}{365}\right]$	9,62,600	1,12,603
(b) Plant & Machinery	35AD Deduction claimed, hence Actual Cost /WDV	Nil	Nil
(c) Buildings	$20,00,000 - \left[20,00,000 \times 10\% \times \frac{91}{365}\right]$	19,50,140	1,50,137

Question 5(b): Computation of Total Income of Co–Operative Society 5 Marks

Chennai Co–Operative Society derives income during Financial Year 2016–2017 from the following sources:

(i)	Income from Processing with the aid of power	₹ 20,000
(ii)	Income from Collective Disposal of Labour of its Members	₹ 30,000
(iii)	Interest from another Co–operative Society	₹ 15,000
(iv)	Income from House Property	₹ 90,000
(v)	Income from Other Business	₹ 60,000
(vi)	Income by way of Dividend from another Co–operative society	₹ 25,000

Determine its Total Income for the Assessment Year 2017–2018

See Pg.21.5, Illustration

Assessee: Chennai Co–Operative Society **Previous Year: 2016–2017** **Assessment Year: 2017–2018**

Computation of Total Income

Particulars	₹	₹
Income from House Property (assumed as Computed figure)		90,000
Profits and Gains of Business or Profession:		
Income from processing with aid of power [Not eligible for deduction]	20,000	
Income from Collective Disposal of Labour of its Members	30,000	
Income from Other Business	60,000	1,10,000
Income from Other Sources:		
Interest from Other Co–operative Society	15,000	
Dividend from Other Co–Operative Society	25,000	40,000
Gross Total Income		**2,40,000**
Less: Deduction under Chapter VI–A towards –		
Income from Collective Disposal of Labour of Members u/s 80P(2)(a)	30,000	
Interest from Other Societies u/s 80P(2)(d)	15,000	
Dividend from Other Societies u/s 80P(2)(d)	25,000	

Particulars	₹	₹
Income from House Property **[Note below]**	–	
Other Incomes u/s 80P(2)(c)(i) – General Deduction available – ₹ 50,000	50,000	(1,20,000)
Total Income		**1,20,000**

Note: Deduction u/s 80P(2)(e) is available in case of Income from Letting of Godowns / Warehouses for storage, processing or facilitating the marketing of commodities. Hence for Income from House Property, no deduction is allowed. [Since GTI > ₹ 20,000, and there is processing with the aid of power].

Question 5(c): Income Escaping Assessment — 3 Marks

After Completion of regular assessment on 22nd February 2015, Mr. Anshul received a notice on 12th October 2016, u/s 148, for Assessment Year 2014–2015 on the ground that, excess depreciation was allowed on certain assets. The Assessing Officer recorded the reasons for re–opening. In the course of re–assessment proceedings, the Assessing Officer also disallowed certain expenses incurred in relation to Dividend and Tax–Free Interest, without recording the reasons for applying Section 147 on disallowance of such Expenses. The Assessing Officer passed the order disallowing the excess depreciation and certain expenses u/s 14A. Mr. Anshul seeks your opinion on the correctness of action of the Assessing Officer. Advise Him.

See Page 34.1 & Case Decisions given therein.

1. **Applicability:** 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. **Scope of Total Income to be assessed [Expln 3]:** The AO may assess or re–assess the income in respect of any issue which has escaped assessment which has come to his notice **subsequently** in the course of the proceedings u/s 147, **even if reasons for such issue have not been included in the reasons recorded u/s 148(2).**
3. **Legal Decision & Conclusion:** If notice u/s 148(2) is found to be valid, then addition can be made on all grounds or issues which may come to notice of Assessing Officer subsequently during course of proceedings u/s 147, even though reason for notice for 'such income' which may have escaped assessment, may not survive. **[N Govindaraju [2015] 60 taxmann.com 333 (Kar.)(HC)]**. The same position is also held so in Mehak Finwest P Ltd (2014) 367 ITR 769 (P&H), Majinder Singh Kang (2012) 344 ITR 358.Thus course of action of Assessing Officer is correct.

Question 6(a): Determination of Arm's Length Price — 6 Marks

NANO Inc, a German Company, holds 45% of Equity in Hitech Ltd, an Indian Company. Hitech Ltd is engaged in development of software and maintenance of the same for customers across the globe. Its clientele includes NANO Inc.

During the Financial Year 2016–2017, Hitech Ltd has spent 2,400 Man Hours for developing and maintaining software for NANO Inc, with each hour being billed at ₹ 1,300. Cost incurred by Hitech Ltd for executing work for NANO Inc. amounts to ₹ 20 Lakhs.

Hitech Ltd, had also undertaken developing Software for Modi Industries, for which Hitech Ltd had billed at ₹ 2,700 per Man Hour. The persons working for Modi Industries and NANO Inc. were part of the same team and were of matching credentials and caliber. Hitech Ltd made a Gross Profit of 60% on Modi Industries' work. Hitech Ltd's transactions with NANO Inc. are comparable to the transactions with Modi Industries, subject to the following differences–

(i) NANO Inc. gives Technical Knowhow support to Hitech Ltd, which can be valued at 8% of the Normal Gross Profit. Modi Industries does not provide any such support.

(ii) Since the work for NANO Inc. involved huge number of man hours, a quantity discount of 14% of Normal Gross Profits was given.

(iii) Hitech Ltd had offered 90 days Credit to NANO Inc, the cost of which is measured at 2% of the Normal Billing Rate. No such discount was offered to Modi Industries.

Compute Arm's Length Price as per Cost Plus Method, and the amount of increase in Total Income of Hitech Ltd.

See Page 27.21, Illustration

1. Computation of Arms Length Gross Profit Mark Up

	Particulars			%	%
	Normal GP Mark Up				60.00
Less:	Adjustment for Differences				
	(a)	Technical Support from NANO 8% of Normal GP	[8% of 60%]	4.80	
	(b)	Quantity Discount 14% of Normal GP	[14% of 60%]	8.40	(13.20)
	Balance				46.80
Add:	Cost of Credit to Hitech 2% of Normal Bill		[2% × 60%]		1.20
	Arms Length Gross Profit Mark–up				**48.00**

2. Computation of Increase in Total Income

	Particulars		₹
	Cost of Services Provided		20,00,000
	Arms Length Billed Value	$\frac{\text{Cost}}{100 - \text{Arms' Length Mark up}} = \frac{₹\ 20,00,000}{100\% - 48\%}$	38,46,154
Less:	Actual Billing to NANO Inc	[2,400 Hours × ₹ 1,300]	(31,20,000)
	Therefore, **increase in Total Income of Hitech Ltd**		**7,26,154**

Question 6(b): Taxability of Gifts u/s 56 — 4 Marks

Discuss the tax implications under Section 56(2) in respect of each of the following transactions:

(i) Mr. Anaimudi received a painting by Raja Ravi Verma worth ₹ 65,000 from his nephew, by way of gift on his 25th Wedding Anniversary.

(ii) Dodabetta's son transferred Shares of Pir Panjal Ltd to Dodabetta HUF without any consideration. The Fair Market Value of the Shares is ₹ 3 Lakhs.

(iii) ABC Private Ltd purchased 8,000 Equity Shares of Satarupas Private Ltd at ₹ 72 per Share from Ms. Yamuna. The Fair Market Value per Share on the date of transaction is ₹ 90.

See Page 8.9, Illustration

Computation of Income from Other Sources

Sl.	Reason	Taxable Amt
(i)	• Paintings are included in the definition of "Property". So, if Paintings received without consideration, it is taxable u/s 56(2)(vii), as the Aggregate Fair Market Value of paintings exceed ₹ 50,000. • Gift received from a Relative is exempt from tax. However, Relative does not include nephew, hence entire value is taxable in this case.	₹65,000
(ii)	Any property received without consideration by a HUF from its Relative, (i.e. any Member) is not taxable u/s 56(2)(vii).	Nil
(iii)	The difference between the aggregate Fair Market Value of Shares of a closely held Company and the consideration paid for purchase of such Shares is deemed as Income in the hands of the Purchasing Company u/s 56(2)(viia), if the difference exceeds ₹ 50,000. Taxable Amount = 8,000 shares x [(₹90 – ₹ 72) × ₹ 1,44,000] So, ₹ 1,44,000 is taxable u/s 56(2)(viia) in the hands of ABC (P) Ltd.	₹ 1,44,000

Question 6(c): Share Income of AOP — 4 Marks

Share of Member of an AOP / BOI in the income of AOP / BOI is to be reduced from Net Profit for computing "Book Profit" for levy of Minimum Alternate Tax. Explain the rationale behind the amendment.

- U/s 167B, if a Company become a Member of AOP, the Income of AOP shall be taxed at Maximum Marginal Rate, or any other Higher Rate.
- Since AOP is obligated to pay at Maximum Marginal Rate / Higher rate, the share Income of AOP in the hands of Members is exempted u/s 86.

- In computation of Business Income of a Company as per Chapter IVD, such share Income from AOP will be deducted. However, if provisions u/s 115JB is applicable for the Company, such similar deduction was not provided. It resulted in payment of Tax on the Book Profits which include the already taxed AOP share Income.
- Inorder to remove this anomaly, Sec.155JB was amended by Finance Act, 2015 to exclude the Share Income from AOP which was already subjected to Tax.

Question 7(a): Tax Deducted at Source 6 Marks

Examine the applicability of provisions relating to deduction of Tax at Source and compute the liability, if any, for deduction of tax at source in the following cases for the Financial Year ended 31.03.2017:

(i) ₹ 80,000 towards Interest on Compensation credited to the Account of the Payee by Motor Accidents Claim Tribunal on 30.11.2016.

(ii) ₹ 2,50,000 paid on 30.09.2016 as consideration to Mr. B , a Resident in India, on account of compulsory acquisition of his Residential Building acquired for laying Railway Tracks.

(iii) Ravi Kumar, aged 67 years, derived ₹ 6,00,000 as Salary from his Employer XYZ Ltd for the year ended 31.03.2017. the following details are provided by him to the Employer:

Particulars	₹
Loss from Self–Occupied House Property at Mumbai	2,00,000
Net Loss from Let–out Property	2,00,000
Net Loss from Business activity	1,00,000
Interest Income from Bank	3,20,000

Date	Particulars	TDS ₹	Reason
30.11.2016	Interest on Compensation (80,000 × 10%) =	₹ 8,000 Due date: 07.12.2016	U/s 194A, TDS obligation arises for such interest, only at the time of payment and if amount **paid** exceeds ₹ 50,000.
30.09.2016	Compulsory Acquisition of Residential Building.	Nil	U/s 194LA, TDS has to be deducted on compensation on compulsory acquisition, if the aggregate payment **exceeds** ₹ 2,50,000. In the given case, since the amount paid not exceed the specified limit, TDS is not attracted.
2016–2017	Payment of Salary	₹ 24,720 Due date: Monthly	Rate of Tax u/s 192 is as applicable to Individuals. Employer may consider any Other Income reported by the Employee, but not Other losses except House Property Loss provided by the Employee. **[From Employee's perspective: At the time of filing Return of Income u/s 139(1), he can set off the Interest Income with Business Loss and Loss u/h House Property.]**

Working Note: Computation of TDS on Salaries

Particulars	₹	₹
Income from Salaries		6,00,000
Income from House Property:		
(a) Loss from Self Occupied House Property at Mumbai	(2,00,000)	
(b) Loss from Let–out Property	(2,00,000)	
Income from House Property		(4,00,000)
Income from Other Sources – Bank Interest		3,20,000
Gross Total Income		**5,20,000**
Less: Chapter VIA Deductions		Nil
Total Income		**5,20,000**

	Particulars	₹	₹
Income from Salaries			6,00,000
	Tax on Total Income [**Note:** Senior Citizen (20,000 + (5,20,000 – 5,00,000)× 20%]		24,000
Add:	Education Cess at 2%		480
Add:	Secondary and Higher Education Cess at 1%		240
	Total TDS		**24,720**
	Monthly deduction = $\frac{24,720}{12}$		**2,060**

Question 7(b): Assessment Procedure 6 Marks

Answer the following in context of provisions of the Income Tax Act:

(i) Consequences of non–compliance of Notice under Section 143(2).

(ii) Circumstances under which the Advance Ruling becomes void.

(iii) Can the Income Tax Appellate Tribunal impose Penalty for Concealment of Income?

Issue	Consequences
(i)	• Best Judgment Assessment u/s 144 can be made. • Penalty u/s 272A(1)(d) of ₹ 10,000.
(ii)	**U/s 245T,** if it is found, either on the PCIT's/CIT's representation or otherwise, that the Ruling **has been obtained by fraud or misrepresentation of facts** – (a) The Ruling shall be declared as **void ab initio.** (b) All provisions of the Act shall apply to the Applicant, as if such Advance Ruling had **never** been made. (c) Time period from date of ruling to date of void order shall be **excluded** in determining the time limits.
(iii)	No. U/s 270A, Only Assessing Officer / CIT(A) / PCIT/ CIT can levy penalty for Concealment of Income.

Question 7(c): Settlement Commission – Nature of Orders 4 Marks

"Orders of the Settlement Commission are binding in nature". Explain the binding character of orders of the Settlement Commission, in the context of the provisions contained in the Income Tax Act.

1. **Order:** The Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit.

2. **Nature of Order [Sec. 245–I]: Every** Order of settlement passed u/s 245D(4) is **conclusive as to the matters stated therein** and no matter covered by such order shall be re–opened in any proceeding under the Income Tax Act or any other law.

3. **Rectification of Mistake Apparent from record [Sec. 245D(6B)]:**
   (a) **Power to Rectify:** To rectify any mistake apparent from record, the Settlement Commission may amend any order passed by it u/s 245D(4) –
   - On its own motion,
   - **W.e.f. 01.06.2015** on an Application by PCIT / CIT / Applicant. [**Note:** Such Application should be made within 6 months from the end of the month in which the order was passed.

   (b) **Time Limit [w.e.f. 01.06.2015]:** Within a period of 6 months from the end of the month in which the order was passed.

   (c) An amendment which has the effect of modifying the liability of the Applicant shall be made, only after giving notice to the Applicant & CIT / PCIT, and giving them an opportunity of being heard.

4. If Assessee feels prejudiced by an order of the Settlement Commission, **he can move High Courts with a Writ Petition or the Supreme Court with a SLP.** However, the **scope of enquiry** by the Courts will be **restricted** to whether the **order** of the Commission **is contrary to the provisions of the IT Act**. **[Jyotendrasingji vs S I Tripathi & Others (1993) 201 ITR 611 (SC)]**