

PART – II

✓ 1/ Tulsi Ltd., engaged in manufacturing activity shows a net profit of ₹ 2,47,00,000/- for the financial year ended on 31st March, 2020 after the debit/credit of following items :

- (a) ₹ 45 lakhs paid to X Ltd. towards feasibility study conducted for examining proposals for technological advancement relating to the existing business, where the project was abandoned without creating a new asset.
- (b) Depreciation charged during the year amounted to ₹ 72 lakhs.
- (c) It incurred ₹ 3 lakhs as expenditure for public issue of shares. The public issue could not materialize due to non-clearance by SEBI.
- (d) Profit of ₹ 10 lakhs on sale of plot of land to S Ltd., a domestic company, the entire shares of which are held by the assessee company. The plot was acquired by Tulsi Ltd. on 30.09.2018.
- (e) Loss of ₹ 3 lakhs incurred by way of trading in futures and options (derivatives) in stocks in a recognized stock exchange.
- (f) Provision for gratuity based on actuarial valuation was ₹ 130 lakhs. Actual gratuity paid was ₹ 80 lakhs.
- (g) ₹ 8.50 lakhs, being the additional compensation received from the State Government pursuant to an interim order of the Court in respect of land acquired by the State Government in the previous year 2014-15.

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- (h) One time license fee of ₹ 80 lakhs paid to a foreign company for obtaining franchise on 01.10.2019.
- (i) Payment of ₹ 15 lakhs towards purchase of software from a non-resident meant for subsequent resale in the Indian market (no tax deducted at source), was ultimately sold at a profit during financial year 2019-20.

Additional Information :

- (1) As a corporate debt restructuring, the bank has converted unpaid interest of ₹ 10 lakhs upto 31st March, 2019 into a new loan account repayable in five equal annual installments. The first installment of ₹ 2 lakhs was paid in March, 2020 by debiting new loan account.
- (2) Depreciation allowable as per Income Tax Act, 1961 is ₹ 75 lakhs.
- (3) The company has installed a new plant and machinery worth ₹ 300 lakhs on 01.06.2019 in the notified backward area in the state of Telengana. Further, it invested ₹ 250 lakhs in the plant and machinery on 01.11.2019 out of which machinery worth ₹ 50 lakhs was second hand. Additional depreciation and Investment allowance on this machinery was not considered while calculating depreciation as per Income Tax Act.

Compute the total income of M/s. Tulsi Ltd. for the A.Y. 2020-21 by analyzing, integrating and applying the relevant provisions of Income Tax Act, 1961 (ignoring MAT and the provisions of section 115BAA). Explain in brief, the reasons for the treatment of each item.

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2. (a)

		(₹) in lakhs
(1)	Gross receipts from students towards admission fees, tuition fees, development fees, etc.	145.00
(2)	Dividend received on units of mutual funds specified in section 10(23D)	12.00
(3)	Donations received (including anonymous donation ₹ 2.50 lakhs)	11.50
(4)	Government Grant	9.50
(5)	Amount applied for the purposes of schools. This includes ₹ 15 lakhs paid to resident teachers and contractors on which TDS is required to be deducted under section 192 and 194C and TDS has not been deducted	92.25
(6)	Purchase of computers and laboratory equipment	18.50
(7)	Donation given towards corpus to a trust registered under section 10(23C)	3.00
(8)	The institution has accumulated ₹ 35 lakhs under section 11(2) in the previous year 2016-17 for a period of two years for acquiring and developing a plot of land for construction of a new school. Only land was purchased for ₹ 22 lakhs and no development was made during the two years	
(9)	Excess of expenditure over income in the previous year 2018-19	28.00
(10)	Repayment of loan taken earlier for the construction of school building	10.00

Compute total income of the trust and tax payable by it for the Assessment year 2020-21.

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- (b) Mr. Suresh, an individual resident in India aged 60 years, furnishes you the following particulars of income earned in India, Country "X" and Country "Y" for the previous year 2019-20. India has not entered into double taxation avoidance agreement with Country X and has a double taxation avoidance agreement with country Y.

Particulars	(₹)
Income from profession carried on in India	8,00,000
Agricultural income in Country "X" (gross)	<u>60,000</u>
Dividend received from a company incorporated in Country "Y" (gross)	1,50,000
Royalty income from a literary book from Country "X" (gross)	<u>6,00,000</u>
Expenses incurred for earning royalty	1,00,000
Business loss in Country "Y" (Proprietary business)	65,000
Rent from a house situated in Country "Y" (gross)	2,40,000
Municipal tax paid in respect of the above house in Country "Y" (not allowed as deduction in country "Y")	10,000

Note : Business loss in Country "Y" not eligible for set off against other incomes as per law of that country. Royalty income brought in India in May, 2020. The rates of tax in Country "X" and Country "Y" are 10% and 15%, respectively. Compute total income and tax payable by Mr. Suresh in India for Assessment Year 2020-21.

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3. (a) Examine the liability for tax deduction at source in the following cases, which have taken place during the year ended 31st March, 2020 :
- (i) Sartaj Hotels Ltd. paid tips to his employees, received from its customers (who made payments through credit card). Examine whether tips distributed to the employees would fall within the meaning of "Salaries" to attract tax deduction at source under section 192 ?
 - (ii) Skyhigh Airlines Ltd. has paid amount of ₹ 22 lakhs during the year ended 31.3.2020 to Airports Authority of India towards landing and parking charges.
 - (iii) Paras Hospitals Pvt. Ltd. has recently accorded recognition by several insurance companies to admit and treat patients on cashless hospitalization basis. Payment to the assessee hospital will be made by Third Party Administrators (TPA) who will process the claims of the patients admitted and make payments to the various hospitals including the assessee. All TPAs are corporate entities. The assessee wants to know whether the TPAs are bound to deduct tax at source under section 194J or under section 194C.
 - (iv) Beta Ltd., an event management company, organized a concert of international artists in India. In this connection, it engaged the services of an overseas agent Mr. Mike from UK to bring artists to India. He contacted the artists and negotiated with them for performance in India in terms of the authority given by the company. He did not take part in event organized in India. The company made a payment of commission equivalent to ₹ 2 lakhs to the overseas agent.

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(b) Michael, a foreign national and a cricketer came to India as a member of Australian cricket team in the year ended 31st March, 2020. He received ₹ 6 lakhs for participation in matches in India. He also received ₹ 1 lakh for an advertisement of a product on TV. He contributed articles in newspaper for which he received ₹ 10,000/-. When he stayed in India, he also won a prize of ₹ 50,000/- from horse racing in Mumbai. He has no other income in India during the year.

- (i) Compute tax liability of Michael for Assessment Year 2020-21.
- (ii) Are the income specified above subject to deduction of tax at source?
- (iii) Is he liable to file his return on income for Assessment Year 2020-21?

4. (a) Answer any two out of the following three :

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- (i) Mr. Rakesh received the draft order from the assessing officer as per section 144C of the income tax Act, 1961 due to variations determined by the Transfer pricing officer in the arm's length price. But Mr. Rakesh did not prefer to file the objection against the draft order before the Dispute Resolution panel, instead, he prefer to do appeal before the CIT appeals under section 246A against the final order received from the Assessing officer.

You are required to advise Mr. Rakesh, whether his contentions are tenable ? Discuss the issue with reference to provisions of section 144C of the Income Tax Act, 1961.

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(ii) During search conducted on premises of assessee, some gold bars were seized by the department from lockers of assessee. Assessee voluntarily disclosed some income during course of search. Assessee moved an application before assessing officer, for adjustment of tax liability on income surrendered during search by sale of seized gold bars. However said application was turned down by assessing officer. Explain whether action of the AO is justified, in light of relevant case laws ?

(iii) In the case of Mr. Vinod, a summary assessment was made under section 143(1) for assessment year 2016-17 without calling him. Thereafter, Mr. Vinod has received a notice under section 148 on 6th April, 2019 for reopening of assessment. Can Mr. Vinod challenge the legality of the notice on the ground of change of opinion ?

(b) Examine, with reasons, whether the following transaction attract income-tax in India, in the hands of recipients under section 9 of Income-tax Act, 1961:

(i) A firm of solicitors in New Delhi engaged a barrister in UK for arguing a case before Hon'ble Supreme court of India. A payment of 5000 pounds was made as per terms of professional engagement.

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(ii) A non-resident German company, which did not have a permanent establishment in India, entered into an agreement for execution of electrical work in India. Separate payments were made to the German Company towards drawing & designs, which were described as "Engineering Fee". The assessee contended that such business profit should be taxable in Germany as there is no business connection within the meaning of section 9(1)(i) of the Income tax Act, 1961.

(iii) Ekta Engineering, a non-resident foreign company entered into a collaboration agreement on 25/06/2019, with an Indian company and was in receipt of interest on 8% debentures of ₹ 10 lakhs, issued by Indian company, in consideration of providing technical know-how utilised in its business in Mumbai during previous year 2019-20.

5. (a) (i) Cash of ₹ 50 lakhs was seized on 12.9.2019 in a search conducted as per section 132 of the Act. The assessee moved an application on 27.10.2019 to release such cash after explaining the sources thereof, which was turned down by the department. The assessee seeks your opinion on, the following issues :

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(1) Can the department withhold the explained money ?

(2) If yes, then to what extent and up to what period ?

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- (ii) The assessing officer has initiated the penalty proceedings under section 270A for under reporting of income and launched prosecution proceedings under section 276C for willful evasion of tax at the time of completion of Re-assessment of Mr. Pradeep under section 147 of Income tax Act, 1961.

Mr. Pradeep filed an application for the immunity from imposition of penalty and prosecution before the assessing officer. Is he entitled to file application for immunity from penalty and prosecution under section 270A and 276C respectively before the Assessing Officer ?

- (b) ABC Ltd., an Indian company Declared income of ₹ 150 crores computed in accordance with Chapter IV-D before making any adjustments in respect of the following transaction for the year ended on 31.03.2020 :

Unisea Ltd., a Swedish company advanced a loan of Euro 500 crores carrying interest @ 8% per annum during the FY 2019-20 to ABC Ltd. The total Book value of assets of ABC Ltd. on 31/03/2020 was 70,000 crores. The said Swedish Co. also advanced a loan of similar nature & amount to another Indian Co. @ 6% per annum during the F.Y. 2019-20. The total interest paid for the year was 40 crores Euros.

- (i) You are required to make primary adjustments, if any, to the above income keeping in mind transfer pricing provisions contained in Section- 92 of IT Act, 1961 for filing return of income for the AY 2020-21.
- (ii) You have to elaborate on secondary adjustments required to be made if any, under said provisions of IT Act, 1961 .
- (iii) If ABC Ltd. opts for additional tax instead of repatriation of excess money by Unisea Ltd., calculate additional tax liability required to be made.

Value for 1 Euro was ₹ 85, throughout the year.

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6. (a) ✓ Describe procedures to be followed by Authority of Advance ruling on receipt of application under section 245R and the circumstances in which it should not allow it. 6

(b) ✓ Specify with reasons, whether the following acts can be considered as (i) tax planning; or (ii) Tax evasion; or (iii) Tax management ? 4

(1) PQR Ltd. established a manufacturing unit in Karimnagar in the state of Telengana, a notified backward area, so as to claim additional depreciation u/s 32AD ?

(2) A company installed a refrigerator costing ₹ 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 for the purpose of computing depreciation. tax ev.

(3) RR Ltd. fictitiously gave salary of ₹ 2,40,000/- to Mr. X. The purpose is to build income of Mr. X, who is unemployed otherwise and reduce the income of RR Ltd. by ₹ 2,40,000.

(4) A company remitted provident fund contribution of both its own contribution and employees' contribution on monthly basis before due date.

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(c) Mr. Piyush, an individual resident in India bought 2,000 equity shares of ₹ 10/- each of Delta Ltd. at ₹ 40/- per share on May 30th, 2019. He sold 1,500 equity shares at ₹ 30/- per share on September 30th, 2019 and the remaining 500 shares at ₹ 20/- per share on December 20th, 2019. Delta Ltd. declared a dividend of 50%, the record date being August 10th, 2019. Piyush sold on February 1st, 2020 a house from which he derived a long term capital gain of ₹ 80,000/-.

Discuss the provision involved and compute the amount of capital gain arising to Piyush for the A.Y. 2020-21.

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