

PAPER – 7: DIRECT TAX LAWS

Question No.1 is compulsory.

Answer any **four** questions from the remaining **five** questions.

Working notes should form part of the respective answers.

All questions relate to Assessment Year 2019-20, unless stated otherwise in the question.

Question 1

M/s XYZ Private Ltd, located in Mysore is in the business of manufacturing confectionery items which is listed in the Eleventh schedule. The Company had also set up a chocolate manufacturing unit during the year 2016 at Cheruvu village in Ranga Reddy District, a notified backward area in the State of Telangana.

The Statement of Profit and Loss for the year ended 31st March, 2019 showed a net profit of ₹ 500 lakhs after debit/credit of the following items:

Items debited

- (1) Depreciation based on useful life of assets ₹ 300 lakhs.
- (2) Repairs and maintenance expenses include ₹ 0.20 lakhs spent on an air conditioner installed in the residence of a director.
- (3) An amount of ₹ 10 lakhs were spent on salaries and materials purchased for scientific research and development.
- (4) An amount of ₹ 10 lakhs was paid to an employee on his voluntary retirement in accordance with a scheme of voluntary retirement.
- (5) Purchase of raw materials include purchase of wheat in cash for ₹ 20 lakhs from a Mandi on different dates exceeding ₹ 10,000 per day.
- (6) The Company has paid ₹ 5 lakhs as regularization fee to the Municipal Corporation of Mysore to regularize the deviation from the sanctioned plan in construction of the factory building.

Additional Information:

- (1) The Company has capitalized glow sign board ₹ 10 lakhs installed in the premises of a dealer.
- (2) Closing stock includes 1000 pieces of imported machinery spares at its landed cost as on the date of import at US \$ 20 per piece. Exchange rate on the date of import was 1 US \$ = ₹ 68. Exchange rate on 31-3-2019 was 1 US \$ = ₹ 70. The market value per piece as on 31-3-2019 was US \$ 21.

The Suggested Answers for Paper 7: Direct Tax Laws are based on the provisions of direct tax laws as amended by the Finance Act, 2018, which is relevant for November, 2019 examination. The relevant assessment year is A.Y.2019-20.

- (3) One of the sundry creditors for supply of rice flour was settled on 28-3-2019 for ₹ 25 lakhs as against his outstanding balance of ₹ 30 lakhs due to non-supply of the required quality.

However, the entire amount was offset against an amount recoverable from the sister concern of the sundry creditor.

- (4) The written down value of assets as on 1-4-2018 was as follows:

1. Factory buildings ₹ 500 lakhs
2. (a) Plant and machinery ₹ 1000 lakhs
(b) New plant and machinery installed and put to use at Cheruvu, on 1-12-2017 ₹ 300 lakhs and on 1-5-2018 ₹ 600 lakhs.
(c) Machinery which was sold to M/s ABC Ltd. on 1-4-2012 at its WDV for ₹ 25 lakhs were re-acquired on 1-8-2018 for ₹ 50 lakhs.
3. Lorries and Vans ₹ 100 lakhs.
4. Office Equipment ₹ 50 lakhs.
5. Computers purchased and installed in office on 2-1-2019 ₹ 25 lakhs.

Compute total income of XYZ Private Ltd. for the Assessment Year 2019-20. Ignore MAT.

(14 Marks)

Answer

Computation of Total Income of M/s XYZ Private Ltd. for the A.Y. 2019-20

	Particulars	Amount (₹ in lakhs)	
I	Profits and gains of business and profession		
	Net profit as per Statement of profit and loss		500.00
	Add: Items debited but to be considered separately or to be disallowed		
	(i) Depreciation as per books of account	300.00	
	(ii) Repairs and maintenance expenditure	0.20	
	[Expenditure on installation of air-conditioner in the residence of the director is a capital expenditure, the same is not allowable as deduction as per section 37. Since the same has been debited to statement of profit and loss, it has to be added back and depreciation be allowed]		
	(iii) Salaries and materials purchased for scientific research and development	-	

<p>[Revenue expenditure for scientific research is allowable as deduction as per section 35(1)(i). Hence, no disallowance is attracted. The expenditure will not qualify for weighted deduction@150% under section 35(2AB), since the company is engaged in manufacture of an article or thing listed in the Eleventh Schedule]</p>		
<p>(iv) VRS compensation paid to an employee [As per section 35DDA, only one-fifth of the VRS compensation of ₹ 10 lakhs paid to an employee is allowable as deduction in the current year. Hence, the balance four-fifth i.e., ₹ 8 lakhs, which is allowable in equal installments in the four successive previous years, has to be added back]</p>	8.00	
<p>(v) Purchase of wheat in cash from Mandi [Cash payment exceeding ₹ 10,000 a day made for purchase of wheat from a Mandi does not attract disallowance under section 40A(3), since the same is covered in the exceptions laid out in Rule 6DD, assuming that the purchases are made directly from the farmers in the Mandi. <i>[Alternatively, if it is assumed that the purchases of wheat in cash are made from wholesalers in the Mandi, disallowance under section 40A(3) would be attracted, and ₹ 20 lakhs has to be added back. Total income, would, accordingly be increased by ₹ 20 lakhs]</i></p>	-	
<p>(6) Regularization fee paid to Municipal Corporation of Mysore [Regularization fee paid to Municipal Corporation to regularize the deviation from the sanctioned plan in construction of the factory building is in the nature of penalty as it is paid to compound an offence¹. Hence it does not qualify for deduction under section 37. As the same has been debited to the statement of profit and loss, it has to be added back]</p>	5.00	313.20
<p>Add: Amount taxable but not credited to profit and loss account</p>		813.20

¹ It was so held in *Millennia Developers (P) Ltd. v. DCIT (2010) 322 ITR 401 (Kar.)*

<p>AI(3) Amount waived by Sundry Creditors for supply of rice flour [Amount waived by sundry creditors for a trading liability i.e., for supply of rice flour is deemed as business income as per section 41(1). Even if the said sum of ₹ 5 lakhs (₹ 30 lakhs – ₹ 25 lakhs) has been offset against amount recoverable from the sister concern of sundry creditor, it has to be added back for computing business income as per section 41(1) being trading liability ceased to exist]</p>	5.00
<p>Less: Items credited to profit and loss account, but not includible in business income / permissible expenditure and allowances</p>	818.20
<p>AI(2) Cost of machinery spares included in closing stock [If cost of machinery spares forms part of closing stock, the same must have been included in purchases or opening stock as well. Therefore, since the cost is included in both the debit and credit side of statement of profit and loss, no adjustment is required. The cost of machinery spares has to be added to the machinery cost and depreciation has to be allowed@15% thereunder]</p>	-
<p>AI(1) Cost of glow sign board installed in the premises of a dealer [Expenditure incurred on glow sign boards does not bring into existence an asset or advantage for the enduring benefit of the business, which is attributable to the capital, the same is revenue in nature. Also, the glow sign board is not an asset of permanent nature. It has a short life. Furthermore, the company has incurred the expenditure with the object of facilitating business operation and not acquiring an asset of enduring nature. Hence, it is allowable as a revenue expenditure and has to be deducted while computing business income²]</p>	10.00
<p>AI(4) Investment Allowance under section 32AD [15% of ₹ 600 lakhs, being actual cost of new plant and machinery installed on 1.5.2018 in Cheruvu, a notified backward area in Telengana]</p>	90.00

² It was so held in *CIT v. Orient Ceramics and Industries Ltd. (2013) 358 ITR 49 (Delhi)*

AI(4) Depreciation as per Income-tax Rules, 1962		
(1) Factory Buildings@10% = ₹ 500 lakhs x 10%		50.00
(2) Plant and Machinery [See Notes below]		
On Opening WDV = ₹ 1,000 lakhs x 15%	150.00	
On P&M purchased and put to use on 1.5.2018 [₹ 600 lakhs x 15%]	90.00	
On imported machinery spares (to be added to cost of machinery as per ICDS V) = ₹13.60 lakhs (1000 x \$20 x 68) x 15%, assuming that it has been put to use for more than 180 days during the P.Y.2018-19	2.04	
On machinery sold and reacquired		
15% of Actual cost ₹25 lakhs, being lower of WDV at the time of sale (i.e., ₹ 25 lakhs) or price paid for reacquisition (i.e., ₹ 50 lakhs)	<u>3.75</u>	
Total depreciation on P & M		245.79
(3) Lorries and Vans = 15% of ₹100 lakhs		15.00
(4) Office Equipment³ = 15% of ₹ 50 lakhs		7.50
(5) Computers (put to use for less than 180 days) = 50% x (40% x ₹ 25 lakhs)		5.00
(6) Air-conditioner installed at residence of Director@10% of ₹ 0.20 lakhs (assumed to have been put to use for 180 days or more and for business purposes at office residence)		<u>0.02</u>
		323.31
Add: Additional depreciation		
On new plant and machinery installed and put to use in notified backward area on 1.12.2017 (50% of 35% would have been allowed in P.Y.2017-18, since it was put to use for less than 180 days in that year. Balance 50% allowable in the P.Y.2018-19) = 50% x 35% x ₹ 300 lakhs		52.50
On new plant and machinery installed and put to use in notified backward area on 1.5.2018 = 35% x ₹ 600 lakhs		<u>210.00</u>
Total Income		<u>585.81</u> <u>132.39</u>

³ Alternatively, office equipment can also be considered as part of plant and machinery eligible for higher rate of depreciation i.e., 40% and in such case, amount of depreciation would be ₹ 20 lacs instead of ₹ 7.50 lacs.

Notes:

- (1) Since additional information (4) mentions the written down value of assets (given thereunder) as on 1.4.2018, it is logical to assume that the figure of ₹ 1000 lakhs, being the WDV of plant and machinery as on 1.4.2018 include the cost of new plant and machinery of ₹ 300 lakhs installed and put to use on 1.12.2017. Accordingly, in the above solution, only balance additional depreciation (i.e., ₹ 52.50) is computed on such new plant and machinery.

Alternatively, if it is assumed that the same is not included in the figure of ₹ 1000 lacs, being the WDV of Plant & Machinery as on 01.04.2018, the total normal depreciation on P&M would be $(300 \times 15\% = 45.00 \text{ lac}) + 245.79 = 290.79 \text{ lacs}$.

- (2) Since the glow sign board has been purchased during the year, the cost of the same is not included in WDV as on 1.4.2018, and hence, it is not being deducted there from.

Question 2

- (a) M/s ABC LLP is engaged in export of computer software from a Special Economic Zone. The net profit of the firm as per its Profit & Loss Account for the year ended 31-3-2019 was ₹ 250 lakhs after debit/credit of the following items:

- (1) Depreciation ₹ 20 lakhs
- (2) Remuneration to its working partners ₹ 200 lakhs
- (3) Interest provided on the current account balance of the partners @ 15% p.a. ₹ 15 lakhs
- (4) Advertisement in a souvenir published by a political party ₹ 2 lakhs

Additional Information:

- (1) The firm commenced business on 1-4-2017⁴.
- (2) Depreciation allowable as per Income-tax Rules is ₹ 25 lakhs.
- (3) Payment of remuneration to working partners is authorized by the Partnership Deed.
- (4) Brought forward business loss and depreciation from Assessment Year 2017-18 was ₹ 50 lakhs and ₹ 30 lakhs respectively.
- (5) The total export turnover of the firm was ₹ 25 crores. Amount of export turnover realized within six months was ₹ 15 crores.

Compute the tax payable by the firm under section 115JC and the amount of tax credit allowed to be carried forward. Give working notes for your answer. **(8 Marks)**

⁴ to be read as 2016

- (b) Akanksha Ltd., an Indian Company, is engaged in the provision of Contract R & D services relating to generic pharmaceutical drug, to Palak Inc., a foreign company which guarantees 18% of the total borrowings of Akanksha Ltd. Palak Inc. is non-resident in India for P.Y. 2018-19. Akanksha Ltd assumes insignificant risk.

The aggregate value of transactions entered into by Akanksha Ltd. with Palak Inc., in the P.Y. 2018-19 is ₹ 75 crores. The declared Operating profit margin of Akanksha Ltd. is ₹ 7.50 crores and the Operating Expenses is ₹ 34 crores. In the light of the above facts, please discuss whether the transfer price declared by the Akanksha Ltd., who have exercised a valid option for application of safe harbour rules, will be acceptable to the Income Tax Authorities. **(6 Marks)**

Answer

- (a) Computation of total income and tax liability of M/s ABC LLP for A.Y.2019-20 (under the regular provisions of the Income-tax Act, 1961)

Particulars	(₹ in lakhs)	(₹ in lakhs)
Profits and gains of business or profession		250.00
Add: Items debited but to be considered separately or to be disallowed		
- Depreciation	20.00	
- Remuneration to its working partners	200.00	
- Interest provided on the current account balance of the partners@15% p.a. (Interest on current account would be fully disallowed since the same is not authorized by the partnership deed) [See Note 2 for alternate answer].	15.00	
- Advertisement in a souvenir published by a political party [not allowed as deduction as per section 37(2B)]	<u>2.00</u>	<u>237.00</u>
Less: Permissible expenditure and allowances		487.00
- Depreciation allowable as per Income-tax Rules, 1962	25.00	
- Unabsorbed depreciation under section 32(2) [allowable as deduction while computing book profit as per Explanation 3 to section 40(b)]	<u>30.00</u>	<u>55.00</u>
Book Profit		432.00
On first ₹ 3 lakh of book profit [₹ 3,00,000 × 90%]	2.70	
On balance ₹ 429 lakh of book profit [₹ 429 × 60%]	<u>257.40</u>	
	260.10	

Remuneration actually paid of ₹ 200 lacs is fully allowable as deduction, since it is lower than the specified limit	<u>200.00</u>
Business Income	232.00
Less: Brought forward business loss for A.Y. 2017-18	<u>50.00</u>
Gross Total Income	182.00
Less: Deduction under section 10AA [See Note (1)]	182.00
Profit from SEZ unit x Export Turnover/ Total Turnover x 100%	
= ₹ 232 lakhs x 25 / 25 x 100% (since it is the second year of operation) = ₹232 lakhs, restricted to gross total income	
Less: Deduction under section 80GGC	-
[Expenditure on advertisement in a souvenir published by a political party not allowable as deduction since it is included within the meaning of the term “contribution” only for the purpose of deduction u/s 80GGB in case of a company.]	
Total Income	<u>Nil</u>
Tax liability (since total income is Nil)	<u>Nil</u>

Computation of adjusted total income of M/s ABC LLP for levy of Alternate Minimum Tax

Particulars	(₹ in lakhs)
Total Income (as computed above)	Nil
Add: Deduction under section 10AA	<u>182.00</u>
Adjusted Total Income	182.00
Alternate Minimum Tax@18.5%	33.6700
Add: Surcharge@12% (since adjusted total income > ₹ 1 crore)	<u>4.0404</u>
	37.7104
Add: Health and Education cess@4%	<u>1.5084</u>
Tax liability under section 115JC	39.2188
Since the regular income-tax payable is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income and tax is leviable @18.5% thereof <i>plus</i> surcharge@12% and cess@4%. Therefore, the tax liability is ₹ 39.2188 lakhs.	
AMT Credit to be carried forward under section 115JEE	
Tax liability under section 115JC	39.2188
Less: Tax liability under the regular provisions of the Income-tax Act, 1961	<u>Nil</u>
Amount of Credit	39.2188

Notes:

- (1) In the question, total export turnover of the firm is given as ₹ 25 crores and export turnover realised within six months is given as ₹ 15 crore. Erstwhile section 10A(3) specified a time limit of six months from the end of the previous year for remittance of export turnover. The definition of "export turnover" under section 10AA, however, does not mention any time limit within which the consideration has to be brought into India. Accordingly, the above solution has been worked out considering that balance ₹ 10 crore is received in India after the six month period, hence the export turnover and the total turnover would remain same i.e., ₹ 25 crore.

Alternatively, since export turnover and total export turnover are given separately in the question, the answer can also be worked out by taking export turnover as ₹ 15 crore, assuming that the balance ₹ 10 crore is not brought into India within the period of 9 months permitted by RBI. As per RBI Master Direction No. 16/2015-16 [RBI/FED/2015-16/11 FED] updated upto 12.1.2018, the period of realization and repatriation of export proceeds shall be 9 months from the date of export for all exporters including Units in Special Economic Zones (SEZs).

In such case, the deduction available under section 10AA would be ₹ 139.20 lakh (₹ 232 lakhs x 15/25 x 100%). Accordingly, total income would be ₹ 42.80 lakhs and tax liability computed as per normal provisions of the Act would be ₹ 13.3536 lakhs. Consequently, the tax credit available under section 115JEE would be ₹ 25.8652 lakh.

- (2) In the question, since it is specifically given that remuneration to working partners is authorized by partnership deed, it is inferred that interest on capital account is not authorized by partnership deed. Accordingly, the above answer is solved. Alternatively, if it is assumed that interest on capital account is authorized by partnership deed, 3% of interest on capital i.e., ₹ 3 lakhs would only be disallowed. In such case, the total income and tax liability of M/s ABC LLP for A.Y.2019-20 would be computed in the following manner:

Computation of total income and tax liability of M/s ABC LLP for A.Y.2019-20 (under the regular provisions of the Income-tax Act, 1961)

Particulars	(₹ in lakhs)	(₹ in lakhs)
Profits and gains of business or profession		250.00
Add: Items debited but to be considered separately or to be disallowed		
- Depreciation	20.00	
- Remuneration to its working partners	200.00	
- Interest provided on the current account balance of the partners@15% p.a. (Assuming that the interest payment	3.00	

is authorized by the partnership deed, only interest@3% (i.e., interest in excess of 12%) is disallowed).		
- Advertisement in a souvenir published by a political party [not allowed as deduction as per section 37(2B)]	<u>2.00</u>	<u>225.00</u>
		475.00
Less: Permissible expenditure and allowances		
- Depreciation allowable as per Income-tax Rules, 1962	25.00	
- Unabsorbed depreciation under section 32(2) [allowable as deduction while computing book profit as per Explanation 3 to section 40(b)]	<u>30.00</u>	<u>55.00</u>
Book Profit		420.00
On first ₹ 3 lakh of book profit [₹ 3,00,000 × 90%]	2.70	
On balance ₹ 417 lakh of book profit [₹ 417 × 60%]	<u>250.20</u>	
	252.90	
Remuneration actually paid of Rs.200 lacs is fully allowable as deduction, since it is lower than the specified limit		<u>200.00</u>
Business Income		220.00
Less: Brought forward business loss for A.Y. 2017-18		<u>50.00</u>
Gross Total Income		170.00
Less: Deduction under section 10AA [See Note below]		170.00
Profit from SEZ unit x Export Turnover/ Total Turnover x 100%		
= ₹ 220 lakhs x 25 / 25 x 100% (since it is the second year of operation) = ₹ 220 lakhs, restricted to gross total income		
Less: Deduction under section 80GGC		
[Expenditure on advertisement in a souvenir published by a political party not deductible since it is included within the meaning of the term “contribution” only for the purpose of deduction u/s 80GGB in case of a company.]		_____
Total Income		<u>Nil</u>
Tax liability (since total income is Nil)		<u>Nil</u>

Computation of adjusted total income of M/s ABC LLP for levy of Alternate Minimum Tax

Particulars	(₹ in lakhs)
Total Income (as computed above)	Nil
Add: Deduction under section 10AA	<u>170.00</u>

Adjusted Total Income	<u>170.00</u>
Alternate Minimum Tax@18.5%	31.450
Add: Surcharge@12% (since adjusted total income > ₹ 1 crore)	<u>3.774</u>
	35.224
Add: Health and Education cess@4%	<u>1.409</u>
Tax liability under section 115JC	<u>36.633</u>
Since the regular income-tax payable is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income and tax is leviable @18.5% thereof plus surcharge@12% and cess@4%. Therefore, the tax liability is ₹ 36.633 lakhs.	
AMT Credit to be carried forward under section 115JEE	
Tax liability under section 115JC	36.633
Less: Tax liability under the regular provisions of the Income-tax Act, 1961	<u>Nil</u>
Amount of Credit (115JEE)	<u>36.633</u>

Note: In the question, total export turnover of the firm is given as ₹ 25 crores and export turnover realised within six months is given as ₹ 15 crore. Erstwhile section 10A(3) specified a time limit of six months from the end of the previous year for remittance of export turnover. The definition of "export turnover" under section 10AA, however, does not mention any time limit within which the consideration has to be brought into India. Accordingly, the above solution has been worked out considering that balance Rs.10 crore is received in India after the six month period, hence the export turnover and the total turnover would remain same of ₹ 25 crore.

Alternatively, since export turnover and total export turnover are given separately in the question, the answer can be worked out by taking export turnover as ₹ 15 crore, assuming that the balance ₹ 10 crore is not brought into India within the period of 9 months permitted by RBI. As per RBI Master Direction No. 16/2015-16 [RBI/FED/2015-16/11 FED] updated upto 12.1.2018, the period of realization and repatriation of export proceeds shall be 9 months from the date of export for all exporters including Units in Special Economic Zones (SEZs). In such case, the deduction available under section 10AA would be ₹ 132 lakh (₹ 220 lakhs x 15/25 x 100%). Accordingly, total income would be ₹ 38 lakhs and tax liability computed as per normal provisions of the Act would be ₹ 11.856 lakhs. Consequently, the tax credit available under section 115JEE would be ₹ 24.777 lakh.

- (b) Since Palak Inc., a foreign company, guarantees 18% (i.e., 10% or more) of the total borrowings of Akanksha Ltd. an Indian company, both enterprises are deemed to be associated enterprises by virtue of section 92A(2)(d).

Therefore, provision of contract R & D services relating to generic pharmaceutical drug by Akanksha Ltd. an Indian company to Palak Inc., a foreign company, is an international transaction between associated enterprises, and consequently, the provisions of transfer pricing are attracted in this case.

Provision of contract R& D services in relation to generic pharmaceutical drug is an eligible international transaction. Since Akanksha Ltd. is providing such services with insignificant risk to a non-resident associated enterprise and has exercised a valid option for safe harbour rules, it is an eligible assessee.

One of the conditions to be satisfied as per safe harbour rule is that the value of the international transaction should not exceed ₹ 200 crore. The condition is satisfied in this case, as the value of international transaction is ₹ 75 crores.

However, Akanksha Ltd. has declared an operating profit margin of only 22.059% [7.5 crore/34 crore x 100] in relation to operating expense, which is less than the minimum margin of 24% required to be declared. Hence, the same is not in accordance with the circumstances mentioned in Rule 10TD.

Thus, the transfer price declared by Akanksha Ltd in respect of such international transaction will not be acceptable to the income-tax authorities.

Question 3

- (a) *The registration granted under section 12AA of the Income-tax Act, 1961 on 1-4-2009 to M/s S Charitable Trust, was cancelled on 31-1-2019 on a finding that the Trust was merged, with another entity neither having similar objects nor registered under section 12AA. An appeal was preferred against the order of cancellation, which was dismissed by the Appellate authorities. The order confirming the cancellation was received on 31-3-2019.*

The Balance Sheet of M/s S Charitable Trust as on 31.1.2019, and its other information is given hereunder: (All amounts are in lakhs of Rupees)

Particulars	₹
<u>Liabilities</u>	
Capital fund	800.00
Sundry creditors	<u>335.00</u>
Total	<u>1135.00</u>
<u>Assets</u>	
Land (existing since 1-4-2008)	100.00

Land and buildings purchased in the year 2015	800.00
2000 equity shares of ₹ 1000 each in M/s X Ltd. shares are listed in Bombay Stock Exchange (at face value)	20.00
Balance in current account of a nationalized bank	10.00
Balanced in fixed deposits with scheduled banks	200.00
Cash in hand	3.50
Tax Deducted at Source	<u>1.50</u>
Total	1135.00

Additional Information:

- (1) Stamp duty value of the land (existing since 2008) as on 31-1-2019 was ₹ 120.00 lakhs but if sold in the open market, the property would fetch ₹ 250 lakhs as per a registered valuer's certificate.
- (2) Land and building (purchased in 2015), if sold in the open market will fetch ₹ 1000 lakhs as per a registered valuer's certificate. Stamp duty value as on 31-1-2019 was ₹ 1050 lakhs.
- (3) The highest and lowest value per share of M/s X Ltd. traded on 31-1-2019 was ₹ 1098 and ₹ 1051 respectively.
- (4) Included in Sundry Creditors is ₹ 30 lakhs provided on estimated basis to contractors for which no bills are received.

Based on the above information, calculate the exit tax payable by the Charitable Trust and state the latest day on which the said tax has to be paid. Give working notes wherever necessary. **(8 Marks)**

- (b) Mr. S is a performing musician, resident of India. He has the following income for the year ended 31-3-2019.
 - (1) Income from music performances in India ₹ 5,00,000.
 - (2) Income from Country A with which India does not have any Double Taxation Avoidance Agreement ₹ 5,00,000. Tax deducted from this income was at 20%.
 - (3) Income from Country B during January 2018 ₹ 1,00,000, July 2018 ₹ 1,00,000 and January 2019 ₹ 3,00,000.
Tax withheld by Country B is at 10%.
Country B follows Calendar Year for its tax purposes. India has entered into a Double Taxation Avoidance Agreement with Country B.
 - (4) Rent received from his property at Chennai ₹ 30,000 per month.
 - (5) Contribution to PPF is ₹ 1,50,000.

Compute tax payable by Mr. S for the Assessment Year 2019-20. Give necessary working notes for your answer. **(6 Marks)**

Answer

- (a) As per section 115TD, the accreted income of "M/s S Charitable Trust", registered under section 12AA would be chargeable to tax at maximum marginal rate @ 34.944% [30% plus surcharge @12% plus cess@4%] on 31.1.2019 for the reason of cancellation of registration granted on 31.01.2019.

Computation of exit tax payable by M/s S Charitable Trust	
Particulars	Amount (₹)
Aggregate FMV of total assets as on 31.1.2019, being the specified date (date of order of cancellation of the registration) [See Working Note 1]	15,34,99,000
Less: Total liability computed in accordance with the prescribed method of valuation [See Working Note 2]	<u>3,05,00,000</u>
Accreted Income	<u>12,29,99,000</u>
Tax Liability @ 34.944% of ₹ 12,29,99,000	4,29,80,771
Tax Liability (rounded off)	4,29,80,770
<u>Working Note 1:</u>	
<u>Aggregate fair market value of total assets on the date of cancellation of the registration</u>	
Valuation of Land, being an immovable property, existing since 2008	2,50,00,000
[The fair market value of land would be higher of ₹ 250 lakhs i.e., price that the land would ordinarily fetch if sold in the open market as per registered valuer's certificate and ₹120 lakhs, being stamp duty value as on the specified date i.e., 31.1.2019]	
Value of land purchased on 1.4.2008 is includible in the aggregate fair market value, since the exemption provisions under section 11 and 12 would apply from P.Y.2008-09, being the previous year in which application for registration of trust is made. Since the question states that registration was granted on 1.4.2009, it is logical to assume that the application was made in the P.Y.2008-09, and hence, benefit of exemption under sections 11 and 12 would be available from P.Y.2008-09, being the year in which the above land was purchased]	
Valuation of Land and building, being an immovable property, purchased in 2015	10,50,00,000
[The fair market value of land and building would be higher of	

₹1,000 lakhs i.e., price that the land and building would ordinarily fetch if sold in the open market as per registered valuer's certificate and ₹ 1,050 lakhs, being stamp duty value as on the specified date i.e., 31.1.2019]	
Valuation of Quoted equity shares in M/s X Ltd. [2,000 x ₹ 1,074.50 per share]	21,49,000
[The fair market value of quoted shares would be ₹ 1,074.50 per share, being the average of the lowest (₹ 1,051) and highest price (₹ 1,098) of such shares on the specified date i.e., 31.1.2019]	
Balance in current account of a nationalized bank	10,00,000
Balance in fixed deposits with scheduled banks	2,00,00,000
Cash in hand	3,50,000
	15,34,99,000
Working Note 2 - Total liability	
Book value of liabilities in the balance sheet on specified date	11,35,00,000
- Less: Capital fund	8,00,00,000
- Less: Contingent liability on estimated basis to contractor for which no bills are received	30,00,000
Total liability of M/s S Charitable Trust	3,05,00,000
The latest day on which such tax has to be paid is 14 th April, 2019, being 14 days from 31.3.2019, the date on which the order confirming the cancellation is received.	

(b) **Computation of total income of Mr. S for A.Y.2019-20**

Particulars	₹	₹
Income from House Property in India		
Gross Annual Value ⁵ [Rent received is taken as GAV] [₹ 30,000 p.m. x 12 months]	3,60,000	
Less: Municipal taxes	-	
Net Annual Value (NAV)	3,60,000	
Less: Deduction u/s 24 @30%	1,08,000	
		2,52,000
Profits and Gains of Business or Profession		
Income from music performances in India	5,00,000	
Income from Country A ⁶	5,00,000	

⁵ Rent received is taken as the gross annual value in the absence of information related to expected rent

Income from Country B [Income earned during July 2018 and January 2019 is taxable in India in P.Y. 2018-19]	4,00,000	<u>14,00,000</u>
Gross Total Income		16,52,000
Less: Deduction under Chapter VIA		
Under section 80C – Contribution to PPF		<u>1,50,000</u>
Total Income		<u>15,02,000</u>

Computation of tax liability of Mr. S for A.Y.2019-20		
Particulars		₹
Tax on total income [₹1,50,600 (i.e., 30% of ₹ 5,02,000) plus ₹ 1,12,500 (Tax on income of ₹ 10 lakh)]		2,63,100
Add: Health and education cess @4%		<u>10,524</u>
Tax Liability		2,73,624
Average rate of tax in India [i.e., ₹ 2,73,624 / ₹ 15,02,000 x 100]	18.217%	
<u>Foreign Tax credit</u>		
<u>For Country A (with which India does not have a DTAA)</u>		
Doubly taxed income	5,00,000	
Deduction under section 91 on ₹ 5,00,000@ 18.217% [being the lower of Indian rate of tax (18.217%) and Country A tax rate (20%)]		91,085
<u>For Country B (with which India has a DTAA)</u>		
Doubly taxed income [Credit shall be allowed for foreign tax paid by Mr. S in Country B in P.Y. 2018-19 in respect of income which is chargeable to tax in India in P.Y. 2018-19 i.e., for income of ₹ 4,00,000]	4,00,000	
Deduction under section 90:		
Lower of:		
Tax Payable under the Income-tax Act, 1961 i.e., ₹ 72,868, being 18.217% of ₹4,00,000; and		
Tax paid in Country B i.e., ₹ 40,000, being 10% of ₹ 4,00,000		<u>40,000</u>
Tax Payable		<u>1,42,539</u>
Tax Payable (Rounded off)		1,42,540

⁶ Income from Country A and Country B are assumed to be from music performances

Question 4

(a) Examine the applicability of TDS provisions and TDS amount in the following cases as per the provisions of Income-tax Act, 1961 with reference to A.Y. 2019-20:

(1) Payment of fees of ₹ 28,000 for technical services and of ₹ 35,000 for Royalty to Mr. Raj Pal who is having PAN.

(2) Payment of ₹ 2,25,000 made to Mr. Anthony for compulsory acquisition of his house as per the law of State Government. **(4 Marks)**

(b) M/s A Ltd. had admitted ₹ 180 lakhs as its total income in its return filed for the Assessment Year 2016-17 on 15-9-2016. The total income was enhanced to ₹ 200 lakhs as per the order under section 143(3) passed on 20-9-2018 by the Assessing Officer. Subsequently on an information that there was concealment of income, reassessment proceedings were initiated and an order for reassessment was passed on 20-10-2019 determining a total income of ₹ 250 lakhs.

The Company had the following prepaid taxes to its credit:

Tax deducted at source ₹ 5 lakhs

Advance Tax paid on

4-6-2015 ₹ 8 lakhs

14-9-2015 ₹ 17 lakhs

14-12-2015 ₹ 16 lakhs

15-3-2016 ₹ 14 lakhs

Self-Assessment tax paid on 15-9-2016 ₹ 2.50 lakhs

Tax paid on 25-9-2018 ₹ 7 lakhs

The return in response to the reassessment notice was filed after 20 days from the due date mentioned in the notice. Assume the tax rate to be 33.063%.

Determine interest payable by the Company under various sections of the Income-tax Act on account of reassessment. Give necessary explanations for your answer. **(4 Marks)**

(c) State with reasons whether the following income of the non-resident is deemed to accrue or arise in India:

(1) M/s XYZ Highway Ltd, a resident Indian company is engaged in the business of building highway projects in India. It has borrowed US \$ 250 million from a financial institution resident in US to invest in one of its ongoing projects in India. The rate of interest charged is 8% p.a. Assume 1 US\$ = ₹ 69.

Will your answer differ in case the money is invested in one of its ongoing projects in Sri Lanka? **(3 Marks)**

- (2) Mr. A a non-resident, staying in England, holds 10% of the total share capital in M/s ABC Ltd. a company incorporated in England. M/s ABC Ltd. directly owns assets in India. Mr. A has transferred his entire share capital to Mr. B an Indian resident when he was in England. **(3 Marks)**

Answer

- (a) (1) Liability to deduct TDS @10% under section 194J is attracted only in case the payment made as fees for technical services and royalty, individually, exceeds ₹ 30,000 during the financial year to a resident. In the given case, since, the individual payment for fee of technical services i.e., ₹ 28,000 is less than ₹ 30,000, there is no liability to deduct tax at source on fees for technical services.

However, since royalty payment exceeds ₹ 30,000 and Mr. Raj Pal is having PAN, tax @ 10% is to be deducted on royalty payment to Mr. Raj Pal⁷.

Tax to be deducted = ₹ 3,500 i.e., ₹ 35,000 x 10%

- (2) As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is responsible for deduction of tax at source if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,50,000.

In the given case, no liability to deduct tax at source is attracted as the payment made to Mr. Anthony does not exceed ₹ 2,50,000.

(b) Interest under section 234A

Since the return of income in response to notice for reassessment is furnished by M/s A Ltd. after the expiry of the time allowed under such notice, interest under section 234A will be payable for 1 month, being 20 days delay in filing return of income, @1% on the amount by which the tax on ₹ 250 lakhs, being the total income determined on reassessment exceeds the tax on ₹ 200 lakhs, being total income determined u/s 143(3).

Particulars	₹
Tax on total income determined on reassessment [₹250 lakhs x 33.063%]	82,65,750
Less: Tax on total income determined u/s 143(3) [₹200 lakhs x 33.063%]	66,12,600
	16,53,150
Interest u/s 234A = ₹16,53,000 ⁸ x 1% x 1 = ₹ 16,530	

⁷ Mr. Raj Pal and Mr. Anthony are assumed to be residents

⁸ Rounded off as per Rule 119A

Interest under section 234B

As a result of reassessment, M/s A. Ltd is required to pay minimum ₹ 69.89175 lakhs as advance tax, being 90% of assessed tax of ₹ 77.6575 lakhs [₹ 82.6575 (33.063% of ₹ 250 lakhs) – ₹ 5 lakhs (TDS)] and it has paid only ₹ 55 lakhs. Since, there is a shortfall of payment of advance tax, interest under section 234B will be payable for 43 months, being from 1.4.2016 to 20.10.2019, @1% on the amount by which the tax on ₹ 250 lakhs, being the total income determined on reassessment exceeds the tax on ₹ 200 lakhs, being total income determined u/s 143(3).

Interest u/s 234B = ₹16,53,000 x 1% x 43 = ₹ 7,10,790

Interest under section 234C

Particulars	₹
Tax on total income (₹ 200 lakhs x 33.063%)	66,12,600
Less: Tax deducted at source	5,00,000
Tax due on returned income/Total advance tax payable as per order u/s 143(3)	61,12,600
Particulars	₹
Tax on total income (₹ 250 lakhs x 33.063%)	82,65,750
Less: Tax deducted at source	5,00,000
Tax due on returned income/Total advance tax payable as per reassessment order	77,65,750

Calculation of interest payable under section 234C:

Date (a)	Advance tax paid till date (₹) (b)	Advance tax payable as per order u/s 143(3) on which interest u/s 234C has levied (c) (₹)	Minimum % of tax due on returned income as per reassessment order to be paid till date to avoid interest under section 234C (d)		Advance tax payable till date in case condition mentioned in (c) is not met (e)	Short-fall [(e) - (b) for installment 1 & 2] and (e) - (c) for installment 3 & 4 (₹)	Interest (₹)
			%	Amount (₹)			
15.06.2015	8,00,000	7,33,512	12%	9,31,890	11,64,863 [15%]	3,64,863	3,64,800 x 1% x 3 months = 10,944
15.09.2015	25,00,000	22,00,536	36%	27,95,670	34,94,588 [45%]	9,94,588	9,94,500 x 1% x 3 months =

15.12.2015	41,00,000	45,84,450	75%	58,24,313	58,24,313 [75%]	12,39,863	29,835 12,39,800 x 1% x 3 months = 37,194
15.03.2016	55,00,000	61,12,600	100%	77,65,750	77,65,750 [100%]	16,53,150	16,53,100 x 1% =16,531
Interest payable under section 234C (10,944 + 29,835 + 37,194 + 16,531)							94,504

- (c) (1) As per section 9(1)(v)(b), interest payable by a person resident in India would be deemed to accrue or arise in India. However, such interest would not be deemed to accrue or arise in India if the interest is payable in respect of moneys borrowed and used, *inter alia*, for the purpose of business or profession carried on by such resident outside India.

In the present case, if M/s XYZ Highway Ltd. has used the money borrowed for its projects in India, interest received by financial institution resident in US would be deemed to accrue or arise in India.

If, M/s XYZ Highway Ltd. used the money borrowed for its projects in Sri Lanka i.e., for business outside India, it would be covered under the exception and the interest received by financial institution resident in US would not be deemed to accrue or arise in India.

- (2) As per section 9(1)(i), income arising through the transfer of a capital asset situated in India would be deemed to accrue or arise in India. As per *Explanation 5* to section 9(1)(i), shares in a company registered outside India would be deemed to be situated in India, if the shares derive, directly or indirectly, its value substantially from assets located in India.

However, income from transfer of such shares would not be deemed to accrue or arise in India if such company directly owns assets in India and the transferor neither holds the right of management or control in such company nor holds more than 5% of the total share capital of such company [As per *Explanation 7* to section 9(1)(i)].

In the present case, M/s ABC Ltd. is a company incorporated in England which directly owns assets in India. However, since Mr. A holds more than 5% of the total share capital of M/s ABC Ltd, capital gain arising from the transfer of shares of M/s ABC Ltd would be deemed to accrue or arise in India in the hands of Mr. A.

Question 5

- (a) Answer any **two** out of following **three** questions:

- (i) The assessment of Saxena Ltd. was completed under section 143(3) of the Income-tax Act, 1961 with an addition of income of ₹ 23.50 lacs to the returned income. The

assessee company preferred an appeal before the Commissioner (Appeals) which is pending now. In view of the above said facts, please answer the following questions with reference to the latest provisions applicable to A.Y. 2019-20:

- (1) Can the Commissioner make a revision under section 263 both in respect of matters covered in appeal and other matters?
 - (2) Can the assessee company seek revision under section 264 in respect of matters other than those preferred in appeal? **(4 Marks)**
- (ii) Being aggrieved by the order of the ITAT, Delhi, an assessee filed an appeal with Honourable High Court of Delhi with a delay of 439 days in filing the appeal. While filing the appeal, the assessee made an application for condonation of delay also citing the reasons that the delay is on account of "pursuing an alternate remedy by way of filing an application before ITAT under section 254(2) for rectification of mistake apparent from the records". Does the contention of the assessee is maintainable? **(4 Marks)**
- (iii) State with reasons the penalty leviable on each of the **four** independent instances:
- (1) The premises of A Ltd. was searched and undisclosed income of ₹ 20 crores was determined. The Company did not admit the undisclosed income in a statement under section 132(4) but declared the same in a return furnished, and paid the tax with interest thereon.
 - (2) M/s ABC Trust an eligible investment fund has filed a statement of its activities for the year ended 31-3-2019 on 31-7-2019.
 - (3) Meena Caterers has received ₹ 1 lakh in cash and ₹ 9 lakh by account payee crossed cheque from Mr. Arvind for rendering catering services on the occasion of his daughter's wedding.
 - (4) Mrs. P is a trader who is subject to audit under section 44AB. She has reported cash collections from various Sundry Debtors, but has discovered that she omitted to include 2 more debtors in the statement already filed. She has reported the omission to the authorities within 15 days. **(4 Marks)**
- (b) Briefly explain the binding nature and applicability on various persons of advance ruling under the Income-tax Act, 1961. Can an application made for obtaining "Advance Ruling" be withdrawn. **(6 Marks)**

Answer

- (a) (i) (1) As per section 263, the Commissioner has the power to revise an order prejudicial to the interests of the revenue, even if the order is the subject matter of appeal before Commissioner (Appeals).
- However, the power of the Commissioner under section 263 shall extend only to such matters as had not been considered and decided in such appeal.

Even in a case where the appeal is pending but not yet decided, the Commissioner cannot exercise his revisionary jurisdiction in respect of those issues which are the subject matter of appeal.⁹

Thus, Commissioner cannot make a revision in respect of the matters covered in appeal, but can do so in respect of other matters.

- (2) Section 264 provides that the Principal Commissioner or Commissioner has no power to revise any order which has been made the subject matter of an appeal to the Commissioner (Appeals), even in respect of the matters other than the matters covered in the appeal¹⁰.
- (ii) The issue under consideration is whether delay in filing appeal under section 260A can be condoned where the stated reason for delay is the pursuance of an alternate remedy by way of filing an application before the ITAT under section 254(2) for rectification of mistake apparent on record.

The application before the ITAT under section 254(2) is not an alternate remedy to filing of the application under section 260A. The former is an application for rectifying a 'mistake apparent from the record' which is much narrower in scope than the latter.

Under section 260A, an order of the ITAT can be challenged on substantial questions of law. The appellant had the option of filing an appeal under section 260A while also mentioning in the Memorandum of Appeal that its application under section 254(2) was pending before the ITAT.

The time period for filing an appeal under section 260A does not get suspended on account of the pendency of an application before the ITAT under section 254(2) of the Act.

Accordingly, the delay in filing the appeal before High Court cannot be condoned. Thus, the contention of the assessee, is not maintainable.

Note – *The facts of the case are similar to the facts in Spinacom India (P.) Ltd. v. CIT [2018] 258 Taxman 128 wherein the above issue came up before the Apex Court. The above answer is based on the rationale of the Supreme Court in the said case.*

- (iii) (1) As per section 271AAB(1A), penalty @60% of undisclosed income would be attracted, since A Ltd. had not admitted the undisclosed income in a statement under section 132(4) but declared the same in a return furnished and paid the tax with interest thereon.

⁹ CWT v. Sampathmal Chordia (2002) 256 ITR 440 (Mad.).

¹⁰ It was so held by the Supreme Court in the case of Hindustan Aeronautics Ltd v. CIT (2000) 243 ITR 898

- (2) An eligible investment fund, in respect of its activities in a financial year, is required to furnish within 90 days from the end of the financial year (i.e., by 29th of June), a statement of its activities to the prescribed Income-tax authority under section 9A(5).

In the present case, the eligible investment fund has furnished its statement of its activities on 31.7.2019, i.e., after 29th June 2019, being the due date of furnishing such statement, penalty of ₹ 5,00,000 would be attracted under section 271FAB.

- (3) No penalty would be leviable on Meena caterers under section 271DA, since it received only ₹ 1 lakh in cash, (which is less than the permissible threshold of ₹ 2 lakhs) in respect of transactions relating to rendering of catering services on the occasion of Mr. Arvind's daughter marriage from Mr. Arvind. The balance ₹ 9 lakh was paid by way of account payee crossed cheque which is a permissible mode of payment.

- (4) In this case, Mrs. P, a trader subject to audit under section 44AB, has omitted to include two debtors in the statement of financial transaction filed by her. Even though she has failed to inform and furnish the correct information within 10 days, penalty of ₹ 50,000 is not leviable, since such penalty is attracted only in the case of a prescribed reporting financial institution under section 271FAA(c) read with section 285BA(6).

- (b) As per section 245S(1), the advance ruling pronounced under section 245R by the Authority for Advance Rulings shall be binding -

- on the applicant who had sought it
- in respect of the specific transaction in relation to which advance ruling was sought
- on the Principal Commissioner/Commissioner and the income-tax authorities subordinate to him, in respect of the concerned applicant and the specific transaction.

The advance ruling will continue to remain in force unless there is a change either in law or in fact on the basis of which the advance ruling was pronounced.

As per section 245Q(3), an applicant, who has sought for an advance ruling, may withdraw the application within 30 days from the date of the application.

Even after the expiry of 30 days, the AAR may permit withdrawal of application, if the circumstances of the case so justify¹¹.

¹¹ M.K.Jain AAR No.644 of 2004

Question 6

- (a) *M/s SB & Co. is a partnership firm carrying on trading activity. It has filed all its returns promptly up to the Assessment Year 2018-19. The firm suffered losses year after year due to market conditions and some of its major debtors defaulted in payment of their dues. It was decided by the partners on 28-6-2018, when the scrutiny assessment for the Assessment Year 2016-17 was in progress, that the business of the firm should be discontinued and a notice of discontinuance of business was given to the Assessing Officer on 10-7-2018. In these circumstances, you are required to advise on the tax implications for the firm. (4 Marks)*
- (b) *Mr. A an agriculturist has made an agreement to sell his 10 acres of agricultural land situated in a remote village at a price of ₹ 1 lakh per acre to Mr. B, for constructing a farmhouse. Mr. A has received an advance of ₹ 1 lakh by way of a crossed cheque. Later on, the agreement was rescinded as Mr. B could not pay the balance amount within the stipulated time as per the agreement. Mr. A returned the advance by a crossed cheque. The assessing officer has proposed to levy a penalty under section 271D on Mr. A. Examine the validity of the Assessing Officer's action. (4 Marks)*
- (c) *Explain with reasoning that the following statements are correct or not. Your answer should be based on the provisions of the Income-tax Act, 1961.*
- (i) *Whether Assessing Officer (AO) can complete the assessment of income from international transaction in disregard of the order passed by the Transfer Pricing Officer (TPO) by accepting the contention of assessee. (3 Marks)*
- (ii) *An advance pricing agreement once entered by the tax payer with the Income Tax authorities cannot be modified or revised. (3 Marks)*

Answer

- (a) In this case, the business of the firm, M/s. SB & Co., has been discontinued when scrutiny assessment of A.Y.2016-17 was in progress and notice of discontinuance was given to the Assessing Officer on 10.7.2018. The firm has, however, filed returns on time upto A.Y.2018-19.

As per section 189, the Assessing Officer is required to make an assessment of the total income of the firm as if no such discontinuance has taken place. Accordingly, all the provisions of the Income-tax Act, 1961, including provisions relating to levy of penalty or any other sum chargeable under any provision of the Act would apply to such assessment.

If the Assessing Officer, is satisfied that the firm was guilty of any act for which penalty can be imposed under the Act, he may direct imposition of penalty.

Every person who was a partner at the time of discontinuance would be jointly and severally liable for the amount of tax, penalty or other sum payable. The provisions of the Income-tax Act, 1961 would apply to any such assessment or imposition of penalty or other sum.

In this case, since the discontinuance has taken place after scrutiny assessment proceedings for A.Y.2016-17 has commenced, the proceedings may be continued against the persons who were partners of the firm (at the time of discontinuance) from the stage at which the proceedings stood at the time of discontinuance.

- (b) Section 269SS prohibits acceptance of any advance of ₹ 20,000 or more in relation to transfer of immovable property otherwise than by way of account payee cheque/bank draft or use of ECS through a bank account, whether or not the transfer has actually taken place.

This provision will not be applicable in a case where both the payer and recipient have agricultural income and neither of them has any income chargeable to tax in India.

In this case, Mr. A has accepted an advance of ₹1 lakh by of a crossed cheque for transfer of immovable property, i.e., agricultural land, which is in contravention of section 269SS. Further, the exemption from applicability of this provision would not be available even though Mr. A, the recipient, has agricultural income because Mr. B, the payer of advance, is not having agricultural income.

Accordingly, penalty under section 271D equal to the amount of such advance would be attracted. This is irrespective of Mr. A having returned the advance by a crossed cheque.

However, such penalty can be imposed only by the Joint Commissioner.

Accordingly, the proposed action for levy of penalty under section 271D by the Assessing Officer would be valid, only if the Assessing Officer is a Joint Commissioner. If he is not a Joint Commissioner, the proposed action for levy of penalty under section 271D would not be valid.

- (c) (i) **The statement is not correct.**

As per section 92CA(4), where the Assessing Officer (AO) has referred the computation of arm's length price to the Transfer Pricing Officer (TPO) and the TPO has passed an order determining the arm's length price (ALP), the A.O. has to proceed to compute the total income of the assessee in conformity with the ALP so determined by the TPO.

Therefore, the AO cannot complete the assessment of income from international transaction in disregard of the order passed by the TPO by accepting the contention of the assessee.

(ii) The statement is not correct.

As per Rule 10Q, an agreement, after being entered, may be revised by the Board either *suo moto* or on request of the assessee or the competent authority in India or the Director General of Income-tax (International Taxation), if–

- (1) there is a change in critical assumptions or failure to meet a condition subject to which the agreement has been entered into;
- (2) there is a change in law that modifies any matter covered by the agreement but is not of the nature which renders the agreement to be non-binding; or
- (3) there is a request from competent authority in the other country requesting revision of agreement, in case of bilateral or multilateral agreement.