

TAXATION

RTP MAY – 2020

CA INTER NEW COURSE

SECTION A : INCOME TAX LAW

PART I : STATUTORY UPDATE

The Income-tax law, as amended by the Finance Act, 2019 and the Finance (No. 2) Act, 2019, including significant notifications/ circulars and legislative amendments made upto 31st October, 2019, are applicable for May, 2020 examination. The relevant assessment year for May, 2020 examination is A.Y.2020-21. The August 2019 edition of the Study Material is based on the provisions of income-tax law as amended by the Finance Act, 2019 and Finance (No. 2) Act, 2019 and hence, the same is relevant for May 2020 examination.

The significant notifications/circulars and legislative amendments made upto 31.10.2019 which are relevant for May, 2020 examination but not covered in the August 2019 edition of the Study Material, are given hereunder;

Chapter 1 : Basic Concepts

The August, 2019 edition of the Study Material contains the CBDT Press Release dated 24.8.2019, at Pg.4.362 of Module 2. According to this Press Release, the enhanced surcharge of 25% and 37% on Income-tax, as the case may be, applicable where the total income of Individuals/HUFs/ AOPs/BoIs/Artificial Juridical persons exceeds ₹ 2 crore and ₹ 5 crore, respectively, has been withdrawn on income-tax payable at special rates on short-term capital gain under section 111A and long-term capital gains under section 112A arising from the transfer of equity share in a company or unit of an equity-oriented fund/ business trust, which has been subject to securities transaction tax.

Consequently, the manner of computation of surcharge on income-tax, in case of Individuals/HUFs/ AOPs/BoIs/Artificial Juridical persons for A.Y.2020-21 would be as follows:

	Particulars	Rate of surcharge on income-tax	Example	
			Components of total income	Applicable rate of surcharge
(i)	Where the total income (including income under section 111A and 112A) > ₹ 50 lakhs but ≤ ₹ 1 crore	10%	<ul style="list-style-type: none"> • STCG u/s 111A ₹ 30 lakhs; • LTCG u/s 112A ₹ 25 lakhs; and • Other income ₹ 40 lakhs 	Surcharge would be levied @ 10% on income – tax computed on total income of ₹ 95 lakhs.
(ii)	Where total income (including income under section 111A and 112A) exceeds ₹ 1 crore but does not exceeds ₹ 2 crore	15%	<ul style="list-style-type: none"> • STCG u/s 111A ₹ 60 lakh; • LTCG u/s 112A ₹ 65 lakh; and • Other income ₹ 50 lakhs 	Surcharge would be levied @ 15% on income –tax computed on total income of ₹ 1.75 crores
(iii)	Where total income (excluding income under section 111A and 112A) exceeds ₹ 2 crore but does not exceeds ₹ 5 crore	25%	<ul style="list-style-type: none"> • STCG u/s 111A ₹ 54 lakhs; • LTCG u/s 112A ₹ 55 lakhs; and 	Surcharge would be levied @ 15% on income –tax on: <ul style="list-style-type: none"> • STCG of ₹ 54 lakhs chargeable to tax u/s 111A and

	The rate of surcharge on the income – tax payable on the portion of income chargeable to tax under section 111A and 112A	Not exceeding 15%	<ul style="list-style-type: none"> Other income ₹ 3 crores 	<ul style="list-style-type: none"> LTCG of ₹ 55 lakhs chargeable to tax u/s 112A. <p>Surcharge @ 25% would be leviable on income-tax computed on other income of ₹ 3 crores included in total income</p>
(iv)	Where total income (excluding income under section 111A and 112A) exceeds ₹ 5 crore	37%	<ul style="list-style-type: none"> STCG u/s 111A ₹ 50 lakhs; LTCG u/s 112A ₹ 65 lakhs; and Other income ₹ 6 crores 	<p>Surcharge would be levied @ 15% on income –tax on:</p> <ul style="list-style-type: none"> STCG of ₹ 50 lakhs chargeable to tax u/s 111A and LTCG of ₹ 65 lakhs chargeable to tax u/s 112A. <p>Surcharge @ 37% would be leviable on the income-tax computed on other income of ₹ 6 crores included in total income.</p>
	Rate of surcharge on the income-tax payable on the portion of income chargeable to tax under section 111A and 112A	Not exceeding 15%		
(v)	Where total income (including income under section 111A and 112A) exceeds ₹ 2 crores in cases not covered under (iii) and (iv) above	15%	<ul style="list-style-type: none"> STCG u/s 111A ₹ 60 lakhs; LTCG u/s 112A ₹ 55 lakhs; and Other income ₹ 1.10 crores 	<p>Surcharge would be levied @ 15% on income –tax computed on total income of ₹ 2.25 crores</p>

Chapter 4 : Unit 3: Profits and gains from Business and Profession

Increased rate of depreciation in respect of motor vehicles acquired and put to use during the period from 23.8.2019 to 31.3.2020 [Notification 69/2019 dated 20.9.2019]

	Particulars	Depreciation allowable as a % of WDV
(i)	<p>Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired during the period from 23.8.2019 to 31.3.2020 and put to use on or before 31.3.2020</p> <p>Note – For motor buses, motor lorries and motor taxis used in a business of running them on hire, except those covered in (i) above, the rate of depreciation would continue to be 30%.</p>	45%
(ii)	<p>Motor cars other than those used in a business of running them on hire, acquired during the period from 23.8.2019 to 31.3.2020 and put to use on or before 31.3.2020</p> <p>Note – For motor cars, other than those used in a business of running them on hire, acquired or put to use on or after 1.4.1990, except those covered in (ii) above, the rate of depreciation would continue to be 15% .</p>	30%

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Chapter 4 : Unit 4 – Capital Gains

Notification of Cost Inflation Index for Financial Year 2019-20 [Notification No. 63/2019, dated 12.9.2019]

Clause (v) of Explanation to section 48 defines "Cost Inflation Index", in relation to a previous year, to mean such Index as the Central Government may, by notification in the Official Gazette, specify in this behalf, having regard to 75% of average rise in the Consumer Price Index (Urban) for the immediately preceding previous year to such previous year.

Accordingly, the Central Government has, in exercise of the powers conferred by clause (v) of Explanation to section 48, specified the Cost Inflation Index for the financial year 2019-20 as 289.

S.No	Financial Year	Cost Inflation Index	S.No	Financial Year	Cost Inflation Index
1	2001-02	100	11	2011-12	184
2	2002-03	105	12	2012-13	200
3	2003-04	109	13	2013-14	220
4	2004-05	113	14	2014-15	240
5	2005-06	117	15	2015-16	254
6	2006-07	122	16	2016-17	264
7	2007-08	129	17	2017-18	272
8	2008-09	137	18	2018-19	280
9	2009-10	148	19	2019-20	289
10	2010-11	167			

Chapter 9: Advance Tax, Tax Deduction at Source and Introduction to Tax Collection at Source

Tax deducted at source on cash withdrawals [Section 194N]

The Finance (No. 2) Act, 2019 has inserted section 194N, with effect from 1.9.2019 to require every person, being a banking company, a co-operative society engaged in carrying on the business of banking or a post office who is responsible for paying, in cash, any sum or aggregate of sums exceeding ₹ 1 crore during the previous year to any person from one or more accounts maintained by such recipient-person with it, to deduct tax at source @2% of sum exceeding ₹ 1 crore. The deduction is to be made at the time of payment of such sum.

- **Clarification as to the applicability of section 194N and manner of computing the threshold limit of ₹ 1 crore thereunder, where cash withdrawals have taken place prior to 1.9.2019 [Press Release dated 30.8.2019]**

The CBDT has, vide Press Release dated 30.8.2019, clarified that section 194N is to come into effect from 1st September, 2019. Hence, any cash withdrawal prior to 1st September, 2019 will not be subjected to the TDS under section 194N. However, since the threshold of ₹ 1 crore is with respect to the previous year 2019-20, calculation of amount of cash withdrawal for triggering deduction under section 194N shall be counted from 1st April, 2019. Hence, if a person has already withdrawn ₹ 1 crore or more in cash upto 31st August, 2019 from one or more accounts maintained with a banking company or a cooperative bank or a post office, TDS@2% shall apply on all subsequent cash withdrawals.

- **No tax is required to be deducted at source under section 194N on cash withdrawals by persons or class of persons as notified by the Central Government [Notification No. 68/2019 dated 18.9.2019, Notification No. 70/2019 dated 20.09.2019 & Notification No. 80/2019, dated 15.10.2019]**
The proviso to section 194N provides that no tax is, however, required to be deducted at source on payments made to inter alia such other person or class of persons as notified, in consultation with the RBI, by the Central Government.

Accordingly, the Central Government has, vide these notifications, after consultation with the Reserve Bank of India (RBI), specified –

- I. Cash Replenishment Agencies (CRA's) and franchise agents of White Label Automated Teller Machine Operators (WLATMO's)** maintaining a separate bank account from which withdrawal is made only for the purposes of replenishing cash in the Automated Teller Machines (ATM's) operated by such WLATMO's and the WLATMO have furnished a certificate every month to the bank certifying that the bank account of the CRA's and the franchise agents of the WLATMO's have been examined and the amounts being withdrawn from their bank accounts has been reconciled with the amount of cash deposited in the ATM's of the WLATMO's.
- II. Commission agent or trader, operating under Agriculture Produce Market Committee (APMC), and registered under any Law relating to Agriculture Produce Market** of the concerned State, who has intimated to the banking company or co-operative society or post office his account number through which he wishes to withdraw cash in excess of ₹ 1 crore in the previous year along with his Permanent Account Number (PAN) and the details of the previous year and has certified to the banking company or co-operative society or post office that the withdrawal of cash from the account in excess of ₹ 1 crore during the previous year is for the purpose of making payments to the farmers on account of purchase of agriculture produce and the banking company or co-operative society or post office has ensured that the PAN quoted is correct and the commission agent or trader is registered with the APMC, and for this purpose necessary evidences have been collected and placed on record.
- III. (a) the authorised dealer and its franchise agent and sub-agent; and**
(b) Full-Fledged Money Changer (FFMC) licensed by the RBI and its franchise agent;

Such persons should maintain a separate bank account from which withdrawal is made only for the purposes of –

- (i)** purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in cash as per the directions or guidelines issued by RBI; or
- (ii)** disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS) of the RBI;

The exemption from the requirement to deduct tax u/s 194N would be available only if a certificate is furnished by the authorised dealers and their franchise agent and subagent, and the Full-Fledged Money Changers (FFMC) and their franchise agent to the bank that withdrawal is only for the purposes specified above and the directions or guidelines issued by the RBI have been adhered to. "Authorised dealer" means any person who is authorised by the RBI as an authorised dealer to deal in foreign exchange [Section 10(1) of the Foreign Exchange Management Act, 1999].

- **Person to whom credit to be given for tax deduction at source and payment thereof under section 194N [Notification No. 74/2019, dated 27.9.19]**
Rule 37BA provides the manner of giving credit for tax deducted and remitted to the Central Government i.e., it specifies the person to whom credit for tax deducted is to be given and also the assessment year for which the credit may be given.

Accordingly, the CBDT has, vide this notification, inserted sub-rule (3A) in Rule 37BA, to provide that, for the purposes of section 194N, credit for tax deducted at source shall be given to the person from whose account tax is deducted and paid to the Central Government account for the assessment year relevant to the previous year in which such tax deduction is made.

Chapter 10: Provisions for filing return of income and self-assessment

Manner for allotment of PAN to a person who has not been allotted a PAN but possesses Aadhaar number [Notification No. 59/2019, dated 30.8.2019]

The Finance (No.2) Act, 2019, has inserted sub-section (5E) to section 139A, w.e.f. 1.9.2019, to provide inter alia that every person who is required to furnish or intimate or quote his PAN and who has not been allotted a PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar Number in lieu of the PAN and such person would be allotted a PAN in such manner as may be prescribed.

Rule 114(4) requires submission of application for allotment of PAN by the applicant in the prescribed form accompanied by the prescribed documents as proof of identity, address and date of birth of such applicant.

The CBDT has, vide this notification, inserted sub-rule (1A) to Rule 114 w.e.f. 1.9.2019 to provide that any person, who has not been allotted a PAN but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN in accordance with section 139A(5E), shall be deemed to have applied for allotment of PAN and he shall not be required to apply or submit any documents under Rule 114.

Further, sub-rule (1B) has also been inserted in Rule 114 to provide that any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for allotment of the PAN under section 139A(1)/(1A)/(3) by intimating his Aadhaar number and he shall not be required to apply or submit any documents under Rule 114.

Date for intimation of Aadhaar number to the prescribed authority extended [Notification No. 75/2019, dated 28th September 2019]

As per section 139AA, every person who has been allotted Permanent Account Number (PAN) as on 1st July, 2017, and who is eligible to obtain Aadhaar Number, shall intimate his Aadhaar Number to prescribed authority on or before a date as may be notified by the Central Government.

Accordingly, the Central Government has, vide Notification No. 31/2019, dated 31.03.2019, notified that every person who has been allotted permanent account number as on 1st July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to the Principal DGIT (Systems) or Principal Director of Income-tax (Systems) on or before 30th September, 2019.

The Central Government has, vide this notification extended the date from 30th September, 2019 to 31st December, 2019.

Notwithstanding the last date of intimating/linking of Aadhaar Number with PAN being 31.12.2019, it is clarified that w.e.f. 01.04.2019, it is mandatory to quote and link Aadhaar number while filing the return of income, either manually or electronically, unless specifically exempted.

PART II: QUESTIONS AND ANSWERS

OBJECTIVE TYPE QUESTIONS

Question 1

Mr. Sarthak (age 37 years) a share broker, sold a building to his friend Anay, who is a dealer in automobile spare parts, for ₹ 120 lakh on 10.11.2019, when the stamp duty value was ₹ 150 lakh. The agreement was, however, entered into on 1.9.2019 when the stamp duty value was ₹ 140 lakh. Mr. Sarthak had received a down payment of ₹ 15 lakh by a crossed cheque from Anay on the date of agreement. Mr. Sarthak purchased the building for ₹ 95 lakh on 10.5.2017. Further, Mr. Sarthak also sold an agricultural land (situated in a village which has a population of 5,800) for ₹ 60 lakhs to Mr. Vivek on 01.03.2020, which he acquired on 15.06.2014 for ₹ 45 lakhs. Stamp duty value of agricultural land as on 1.3.2020 is ₹ 75 lakhs

CII for F.Y. 2014-15: 240; F.Y. 2017-18: 272; F.Y. 2019-20: 289.

In the light of the above facts, you are required to answer the following:

- (i) Is there any requirement to deduct tax at source on consideration paid or payable on transfer of building and agricultural land?
- No; no tax is required to be deducted at source on transfer of any capital asset
 - Yes; Mr. Anay is required to deduct tax at source under section 194-IA.
 - Yes; Mr. Vivek is required to deduct tax at source under section 194-IA.
 - Yes; Mr. Sarthak is required to deduct tax at source under section 194-IA.
- (ii) In respect of transfer of building, capital gains chargeable to tax in the hands of Mr. Sarthak would be-
- long-term capital gains of ₹ 49,06,250
 - long-term capital gains of ₹ 39,06,250
 - short-term capital gains of ₹ 45,00,000
 - short-term capital gains of ₹ 55,00,000
- (iii) Assuming that Mr. Sarthak has other income exceeding basic exemption limit, the tax payable (excluding surcharge and health and education cess) on transfer of building and agricultural land, would be –
- ₹ 7,81,250
 - ₹ 13,97,500
 - ₹ 9,81,250
 - ₹ 10,97,500
- (iv) In respect of purchase of building from Mr. Sarthak, income chargeable to tax in the hands of Mr. Anay would be –
- ₹ 20 lakh
 - ₹ 30 lakhs
 - ₹ 15 lakhs
 - Nil

Answer: (i) (b) , (ii) (a) , (iii) (c) , (iv) (b) .

Question 2

Mr. Hardik (age 45 years) is appointed as senior executive officer in Sky India Limited, Mumbai on 01.02.2019 in the scale of ₹ 35,000-3500-65,000. He is paid dearness allowance @40% of salary forming part of retirement benefits.

He is given rent free unfurnished accommodation on 01.5.2019 which he occupied only from 01.10.2019. The company pays lease rent of ₹ 5,000 p.m.

He has been provided a car of 2000 cc capacity which is used by him for private purposes only. The actual cost of the car is ₹ 8,00,000. The monthly expenditure of car is ₹ 5,000, which is fully met by the employer.

He pays lumpsum premium of ₹ 1,50,000 towards health insurance for self and his wife for 48 months on 01.10.2019 by account payee cheque. He also contributes ₹ 1,50,000 towards PPF.

In the light of above facts, you are required to answer the following:

(i) Value of rent-free accommodation chargeable to tax in the hands of Mr. Hardik, would be –

- (a) ₹ 44,835
- (b) ₹ 44,100
- (c) ₹ 45,570
- (d) ₹ 30,000

(ii) Mr. Hardik would be eligible for deduction in respect of health insurance premium paid during the previous year 2019-20, for –

- (a) ₹ 30,000
- (b) ₹ 18,750
- (c) ₹ 25,000
- (d) ₹ 37,500

(iii) Perquisite value of car chargeable to tax in the hands of Mr. Hardik would be –

- (a) ₹ 28,800
- (b) ₹ 21,600
- (c) ₹ 60,000
- (d) ₹ 1,40,000

Answer : (i) (d) , (ii) (c) , (iii) (d) .

Question 3

Mr. Raghav has three houses for self-occupation. What would be the tax treatment for A.Y.2020-21 in respect of income from house property?

- (a) One house, at the option of Mr. Raghav, would be treated as self-occupied. The other two houses would be deemed to be let out.
- (b) Two houses, at the option of Mr. Raghav, would be treated as self-occupied. The other house would be deemed to be let out.
- (c) One house, at the option of Assessing Officer, would be treated as self-occupied. The other two houses would be deemed to be let out.
- (d) Two houses, at the option of Assessing Officer, would be treated as self-occupied. The other house would be deemed to be let out.

Answer: (b) .

Question 4

Arun's gross total income of P.Y. 2019-20 is ₹ 2,45,000. He deposits ₹ 45,000 in PPF. He pays electricity bills aggregating to ₹ 1.20 lakhs in the P.Y.2019-20. Which of the statements is correct?

- (a) Arun is not required to file his return of income u/s 139(1) for P.Y. 2019-20, since his total income

before giving effect to deduction under section 80C does not exceed the basic exemption limit.

- (b) Arun is not required to file his return of income u/s 139(1) for P.Y. 2019-20, since his electricity bills do not exceed ₹ 2,00,000 for the P.Y.2019-20.
- (c) Arun is not required to file his return of income u/s 139(1) for P.Y. 2019-20, since neither his total income before giving effect to deduction under section 80C exceeds the basic exemption limit nor his electricity bills exceed ₹ 2 lakh for the P.Y.2019-20.
- (d) Arun is required to file his return of income u/s 139(1) for P.Y. 2019-20, since his electricity bills exceed ₹ 1 lakh for the P.Y.2019-20.

Answer: (d) .

Question 5

Mr. Ritvik has purchased his first house in Gwalior for self-occupation on 5.4.2019 for ₹ 45 lakhs (stamp duty value being the same) with bank loan sanctioned on 30.3.2019 and disbursed on 3.4.2019. He paid interest of ₹ 3.8 lakhs during the P.Y.2019-20. What is the tax treatment of interest paid by him?

- (a) Interest of ₹ 2 lakhs allowable u/s 24
- (b) Interest of ₹ 2 lakhs allowable u/s 24 and ₹ 1.8 lakhs allowable u/s 80EEA
- (c) Interest of ₹ 2 lakhs allowable u/s 24 and ₹ 1.5 lakhs allowable u/s 80EEA
- (d) Interest of ₹ 1.5 lakhs allowable u/s 24 and ₹ 1.5 lakhs allowable u/s 80EEA

Answer: (a) .

Question 6

During the P.Y.2019-20, Mr. Ranjit has short-term capital gains of ₹ 95 lakhs taxable under section 111A, long-term capital gains of ₹ 110 lakhs taxable under section 112A and business income of ₹ 90 lakhs. Which of the following statements is correct?

- (a) Surcharge@25% is leviable on income-tax computed on total income of ₹ 2.95 crore, since total income exceeds ₹ 2 crore.
- (b) Surcharge@15% is leviable on income-tax computed on total income of ₹ 2.95 crore.
- (c) Surcharge@15% is leviable in respect of income-tax computed on capital gains of ₹ 2.05 crore; in respect of business income, surcharge is leviable@25% on income tax, since total income exceeds ₹ 2 crore.
- (d) Surcharge@15% is leviable in respect of income-tax computed on capital gains of ₹ 2.05 crore; surcharge@10% is leviable on income-tax computed on business income, since the same exceeds ₹ 50 lakhs but is less than ₹ 1 crore.

Answer: (b) .

DESCRIPTIVE QUESTIONS

Question 7

Mr. Shridhar (age 45 years), a citizen of India, serving in the Ministry of Finance in India, was transferred to Indian Embassy in Australia on 15th March 2019. His income during the financial year 2019-20 is given hereunder:

Particulars	₹
Rent from a house situated at Australia, received in Australia. Thereafter, remitted to Indian bank account.	5,25,000
Interest on Post office savings bank account in India	4,500
Salary from Government of India	9,25,000
Foreign Allowances from Government of India	8,00,000

Mr. Shridhar did not come to India during the financial year 2019-20. Compute his Gross Total Income for the Assessment year 2020-21.

Solution

Mr. Shridhar is a non-resident for the A.Y.2020-21, since he was not present in India at any time during the previous year 2019-20 [Section 6(1)].

As per section 5(2), a non-resident is chargeable to tax in India only in respect of following incomes:

- (i) Income received or deemed to be received in India; and
- (ii) Income accruing or arising or income deemed to accrue or arise in India.

Computation of Gross Total Income of Mr. Shridhar for A.Y. 2020-21

Particulars	₹
Salaries	
Salary from Government of India (Income chargeable under the head 'Salaries' payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India under section 9(1)(iii). Hence, such income is taxable in the hands of Mr. Shridhar, a citizen of India, even though he is a nonresident and rendering services outside India)	9,25,000
Foreign Allowance from Government of India [Any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt under section 10(7)].	Nil
Gross Salary	<u>9,25,000</u>
Less: Standard Deduction under section 16(ia) of ₹ 50,000, being lower of gross salary or ₹ 50,000	50,000
	<u>8,75,000</u>
Income from House Property	
Rent from a house situated at Australia, received in Australia (Income from property situated outside India would not be taxable in India in the hands of a non-resident, since it neither accrues or arises in India nor is it deemed to accrue or arise in India nor is it received in India)	Nil
Income from Other Sources	
Interest on Post office savings bank account – exempt upto ₹ 3,500	1,000
Gross Total Income	<u>8,76,000</u>

Note – Interest on Post office saving bank account of ₹ 1,000 would be allowed as deduction under section 80TTA.

Question 8

Mr. Ramesh furnishes the following particulars for the previous year 2019-20 in respect of an industrial undertaking established in "Special Economic Zone" in March 2014. It began manufacturing in April 2014.

Particulars	₹
Total sales	85,00,000
Export sales [proceeds received in India]	45,00,000
Domestic sales	40,00,000
Profit from the above undertaking	20,00,000

Export Sales of F.Y. of 2019-20 include freight and insurance of ₹ 5 lacs for delivery of goods outside India. Compute the amount of deduction available to Mr. Ramesh under section 10AA for A.Y. 2020-21.

Solution**Computation of deduction under section 10AA for A.Y. 2020-21**

<p>Since A.Y. 2020-21 is the 6th assessment year from A.Y. 2015-16, relevant to the previous year 2014-15, in which the SEZ unit began manufacturing of articles or things, it shall be eligible for deduction of 50% of the profits derived from export of such articles or things, assuming all the other conditions specified in section 10AA are fulfilled.</p> <p>= Profits of Unit in SEZ × $\frac{\text{Export turnover of unit in SEZ}}{\text{Total turnover of unit in SEZ}} \times 50\%$</p> <p>= 20,00,000 × $\frac{40,00,000}{80,00,000} \times 50\% = ₹ 5,00,000$</p>
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Working Notes:

	₹
Export Turnover	
Sale proceeds received in India	45,00,000
Less: Freight and insurance for delivery of goods outside India to be excluded from export turnover	<u>5,00,000</u>
	40,00,000
Total turnover	85,00,000
Less: Freight and insurance not includible [Since freight and insurance has been excluded from export turnover, the same has to be excluded from total turnover also].	<u>5,00,000</u>
	80,00,000

Question 9

Mrs. Daya, a resident of India, owns a house property at Panipat in Haryana. The Municipal value of the property is ₹ 8,50,000, Fair Rent of the property is ₹ 7,30,000 and Standard Rent is ₹ 8,20,000 per annum.

The property was let out for ₹ 85,000 per month for the period April 2019 to December 2019.

Thereafter, the tenant vacated the property and Mrs. Daya used the house for self occupation. Rent for the months of November and December 2019 could not be realized from the tenant. Mrs. Daya has not instituted any legal proceedings for recovery of the unpaid rent.

She paid municipal taxes @ 12% during the year and paid interest of ₹ 50,000 during the year for amount borrowed towards repairs of the house property.

You are required to compute her income from house property for the A.Y. 2020-21.

Solution**Computation of income from house property of Mrs. Daya for the A.Y.2020-21**

Particulars	Amount in ₹	
Computation of Gross Annual Value		
Expected Rent for the whole year = Higher of Municipal Value of ₹8,50,000 and Fair Rent of ₹ 7,30,000, but restricted to Standard Rent of ₹ 8,20,000	8,20,000	
Actual rent receivable for the let-out period = ₹ 85,000 × 9	7,65,000	
[Unrealised rent is not deductible from actual rent in this case since Mrs. Daya has not instituted any legal proceedings for recovery of unpaid rent. Hence, one of the conditions laid out in Rule 4 has not been fulfilled]		
GAV is the higher of Expected Rent for the whole year and Actual rent received/receivable for the let-out period	8,20,000	
Gross Annual Value (GAV)		8,20,000
Less: Municipal taxes (paid by the owner during the previous year) = 12% of ₹ 8,50,000		1,02,000
Net Annual Value (NAV)		7,18,000
Less: Deductions under section 24		
(a) 30% of NAV = 30% of ₹ 7,18,000	2,15,400	
(b) Interest on amount borrowed for repairs (Fully allowable as deduction, since it pertains to let out property)	<u>50,000</u>	2,65,400
Income from house property		4,52,600

Question 10

Dr. Arjun runs a clinic in Delhi. As per new rule in the city, private cars can be plied in the city only on alternate days. He has purchased a car on 25-09-2019, for the purpose of his medical profession, as per following details:

Cost of car (excluding GST)	15,00,000
Add: Delhi GST at 14%	2,10,000
Add: Central GST at 14%	<u>2,10,000</u>
Total price of car	<u>19,20,000</u>

He put his car to use from 25.9.2019 itself. He estimates the usage of the car for personal purposes will be 25%. He is advised by his friends that since the car has run only on alternate days, half the depreciation, which is otherwise allowable, will be actually allowed. He has started using the car immediately after purchase.

Determine the depreciation allowable on car for the A.Y. 2020-21, if this is the only asset in the block. If this car would also be used in the subsequent Assessment Year 2021-22 on the same terms and conditions above, what will be the depreciation allowable? Assume that there is no change in the legal position under the Income-tax Act, 1961.

Solution**Computation of depreciation allowance**

Particulars	₹
Since the car was put to use for more than 180 days in the P.Y.2019-20, full depreciation@30% (higher rate of depreciation is allowable on the actual cost, since car is	

purchased during the period 23.8.2019 to 31.3.2020] of ₹ 19,20,000, which is the total price (inclusive of GST) would be allowable.	
However, the depreciation actually allowed would be restricted to 75%, since 25% of usage is estimated for personal use, on which depreciation is not allowable	
Depreciation for P.Y.2019-20 = $30\% \times ₹ 19,20,000 \times 75\% =$	4,32,000
Written Down Value as on 1.4.2020 = $₹ 19,20,000 - ₹ 4,32,000 = ₹ 14,88,000$	
Depreciation for P.Y.2020-21 = $30\% \times ₹ 14,88,000 \times 75\% =$	3,34,800

Note - As per section 17(5) of the CGST Act, 2017, input tax credit would not be available in respect of motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the taxable supplies, namely, further supply of such motor vehicles; or transportation of passengers; or imparting training on driving such motor vehicles. Since Dr. Arjun used the car for his professional purpose and not for any purpose stated in exception cases, input tax credit would not be available and hence, both CGST & SGST would form part of actual cost of car.

Question 11

Rayaan gifted ₹ 15 lakhs to his wife, Sargam on her birthday on, 23rd February, 2019. Sargam lent ₹8,00,000 out of the gifted amount to Karuna on 1st April, 2019 for six months on which she received interest of ₹ 80,000. The said sum of ₹ 80,000 was invested in shares of a listed company on 5th October, 2019, which were sold for ₹ 96,000 on 28th March, 2020. Securities transactions tax was paid on purchase and sale of such shares. The balance amount of gift was invested on 1st April 2019, as capital by Sargam in her new business. She suffered loss of ₹ 52,000 in the business in Financial Year 2019-20.

In whose hands the above income and loss shall be included in Assessment Year 2020-21, assuming that capital invested in the business was entirely out of the funds gifted by her husband. Support your answer with brief reasons.

Solution

In computing the total income of any individual, there shall be included all such income as arises directly or indirectly, to the spouse of such individual from assets transferred directly or indirectly, to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart.

Interest on loan: Accordingly, ₹ 80,000, being the amount of interest on loan received by Mrs. Sargam, wife of Mr. Rayaan, would be includible in the total income of Mr. Rayaan, since such loan was given out of the sum of money received by her as gift from her husband.

Loss from business: As per Explanation 2 to section 64, income includes loss. Thus, clubbing provisions would be attracted even if there is loss and not income.

Thus, the entire loss of ₹ 52,000 from the business carried on by Mrs. Sargam would also be includible in the total income of Mr. Rayaan, since as on 1st April 2019, the capital invested was entirely out of the funds gifted by her husband.

Short-term capital gain: Income from the accretion of the transferred asset is not liable to be included in the hands of the transferor and, therefore, short-term capital gain of ₹ 16,000 (₹ 96,000, being the sale consideration less ₹ 80,000, being the cost of acquisition) arising in the hands of Mrs. Sargam from sale of shares acquired by investing the interest income of ₹ 80,000 earned by her (from the loan given out of the sum gifted by her husband), would not be included in the hands of Mr. Rayaan. Thus, such income is taxable in the hands of Mrs. Sargam.

Question 12

Compute total income of Mr. Mathur for the assessment year 2020-21 from the following information furnished by him for the financial year 2019-20.

Particulars	₹
Salary income (computed)	4,70,000
Loss from self-occupied house property	2,00,000
Loss from let out house property	60,000
Loss from speculation business-X	80,000
Profit from speculation business-Y	40,000
Income from trading and manufacturing business @ 8%	3,50,000
Interest on PPF deposit	95,000
Long term capital gain on sale of Vacant site (Computed)	2,10,000
Short term capital loss on sale of Jewellery	1,50,000
Investment in tax saver deposit on 31-03-2020	60,000
Brought forward loss of business of assessment year 2014-15	5,50,000
Donation to a charitable trust recognized under section 12AA and approved under section 80G paid by cheque	1,10,000
Enhanced compensation received from government for compulsory acquisition of land (held for a period of 5 years) in the year 2006	3,00,000

Solution**Computation of total income of Mr. Mathur for A.Y.2020-21**

Particulars	₹	₹
Salaries		4,70,000
Profits and gains from business or profession		
Profit from speculation business Y	40,000	
Less: Loss of ₹ 80,000 from speculation business X set-off against profit from speculation business Y to the extent of such profit	<u>(40,000)</u>	
Loss of ₹ 40,000 from speculation business X to be carried forward to A.Y. 2021-22 for set-off against profits from speculation business.		
Income from trading and manufacturing business @8%	3,50,000	
Less: Brought forward business loss of A.Y. 2014-15 setoff since a period of eight assessment years has not expired.	<u>(3,50,000)</u>	Nil
Balance loss of ₹ 2,00,000 to be carried forward to A.Y 2021-22		
Capital Gains		
Enhanced compensation received from government for compulsory acquisition [Taxable in P.Y. 2019-20 since enhanced compensation is taxable on receipt basis]	3,00,000	
Long term capital gain on sale of vacant site	2,10,000	
Less: Short term capital loss on sale of jewellery	<u>(1,50,000)</u>	
	3,60,000	
Less: Loss from house property can be set-off to the extent of ₹ 2,00,000 as per section 71(3A) [since long-term capital gains would be chargeable to tax @20%, it would be beneficial to set-off the loss from house property against LTCG]. Balance loss of ₹ 60,000 to be carried forward to A.Y. 2021-22.	<u>(2,00,000)</u>	1,60,000
Income from Other Sources		
Interest on PPF deposit	95,000	
Less: Exempt under section 10(11)	<u>(95,000)</u>	Nil
Gross Total Income		6,30,000
Less: Deduction under Chapter VI-A		

Deduction under section 80C		
Investment in tax saver deposit on 31.3.2020	60,000	
Deduction under section 80G		
Donation to recognized and approved charitable trust [Donation of ₹ 1,10,000 to be first restricted to ₹ 41,000, being 10% of adjusted total income of ₹ 4,10,000 i.e., [₹ 6,30,000 – ₹ 1,60,000 – ₹ 60,000]. Thereafter, deduction would be computed at 50% of ₹ 41,000.	<u>20,500</u>	80,500
Total Income		5,49,500

Question 13

Mr. Manohar, a resident individual, age 53 years provides consultancy services in the field of Taxation. His Income and Expenditure account for the year ended 31st March, 2020 is as follows:

Income and Expenditure account for the year ending 31st March, 2020

Expenditure	Amount(₹)	Income	Amount(₹)
To Salary	4,00,000	By Consulting fees	58,00,000
To Motor car expenses	88,000	By share of profit from HUF	55,000
To Depreciation	87,500	By Interest on saving bank deposits	25,000
To Medical expenses	70,000	By Interest on income tax refund	26,000
To Purchase of computer	90,000		
To Bonus	25,000		
To General expenses	1,05,000		
To Office & administrative	1,15,000		
To Excess of income over Expenditure	49,25,5000		
	59,06,000		59,06,000

The following other information relates to the financial year 2019-20:

- (1) Salary includes a payment of ₹ 22,000 per month to his sister-in-law who is in-charge of the marketing department. However, in comparison to similar business, the reasonable salary of a marketing supervisor is ₹ 18,000 per month.
 - (2) Written down value of the assets as on 1st April, 2019 are as follows:

Motor Car (25% used for personal use)	₹ 3,50,000
Furniture and Fittings	₹ 80,000
 - (3) Medical expenses includes:
 - Family planning expenditure ₹ 15,000 incurred for the employees which was revenue in nature.
 - Medical expenses for his father ₹ 55,000. (Father's age is 65 years and he is not covered under any medical insurance policy). ₹ 2,500 incurred in cash and remaining by credit card.
 - (4) The computer was purchased on 5th June, 2019 on credit. The total invoice was paid in the following manner:
 - ₹ 18,000 paid in cash as down payment on the date of purchase.
 - Remaining amount was paid through account payee cheque on 10th August, 2019.
 - (5) Bonus was paid on 30th September, 2020.
 - (6) General expenses include commission payment of ₹ 42,000 to Mr. Mahesh for the promotion of business on 17th September, 2019 without deduction of tax at source.
 - (7) He also received gold coins from a family friend on the occasion of marriage anniversary on 15th November, 2019. The market value of the coins on the said date was ₹ 85,000.
- The consultancy fees for the previous year 2018-19 was ₹ 52,50,300.

Compute the total income and the tax liability of Mr. Manohar for the assessment year 2020-21.

Solution

Computation of Total Income of Mr. Manohar for the A.Y.2020-21

Particulars	₹	₹
Profit and gains from business or profession		
Net income as per Income and Expenditure Account		49,25,500
Add: Expenses debited but not allowable		
- Excess salary of ₹ 4,000 per month to sister-in-law [not disallowed since sister-in-law does not fall within the definition of 'relative' under section 2(41)]	-	
- Motor car expenses attributable to personal use not allowable (₹ 88,000 × 25%)	22,000	
- Depreciation as per books of account	87,500	
- Medical expenses of ₹ 15,000 for family planning expenditure for the employees [disallowed, since such expenditure is allowable to company assessee only]	15,000	
- Medical expenditure of ₹ 55,000 incurred for his father, not allowable, since it is personal in nature]	55,000	
- Purchase of computer (not allowable since it is capital in nature)	90,000	
- Bonus (allowed since it is paid on the due date of filing of return of income i.e., on 30.9.2020) [For the P.Y.2019-20, the gross receipts i.e., fees of Mr. Manohar from consultancy services is ₹ 58 lakhs (exceeding ₹ 50 lakhs), he has to get his books of account audited under section 44AB, in which case, his due date for filing return of income would be 30.9.2020]	-	
- Commission paid without deduction of tax at source [Mr. Manohar would be liable to deduct tax at source under section 194-H on commission paid during the P.Y.2019-20, since his gross receipts from profession during the P.Y.2018-19 exceeded the monetary limit specified in section 44AB i.e., ₹ 50 lakhs. Thus, 30% disallowance would be attracted since he has not deducted tax at source on the commission]	12,600	
		2,82,100
		52,07,600
Less: Income credited but not taxable or taxable under any other head		
- Share of profit from HUF (Exempt)	55,000	
- Interest on saving bank deposit	25,000	
- Interest on income-tax refund	26,000	
		1,06,000
		51,01,600
Less: Depreciation allowable under the Income-tax Act, 1961 [See Working Note]		76,175
		50,25,425
Income from Other Sources		
- Interest on saving bank deposits	25,000	
- Interest on income-tax refund	26,000	
- Value of gold coins received from a family friend on the occasion of marriage anniversary (taxable under section 56(2)(x), as the fair market value of such coins exceeds ₹ 50,000)	85,000	1,36,000
Gross Total Income		51,61,425
Less: Deduction under Chapter VI-A		
Section 80D		
Medical expenses for father (Deduction allowable to the extent of ₹ 50,000 since father, aged 65 years, is a senior citizen and is not covered under any medical insurance policy)		50,000

Total Income	51,11,425
Total Income (Rounded Off)	51,11,430

Computation of tax liability of Mr. Manohar for A.Y. 2020-21

Particulars	₹	₹
Tax on total income of ₹ 51,11,430		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000 @5%	12,500	
₹ 5,00,000 – ₹ 10,00,000 @ 20%	1,00,000	
Above ₹ 10,00,001 i.e., 41,11,430 @30%	<u>12,33,429</u>	13,45,929
Add: Surcharge @ 10% [Since his total income exceed ₹ 50,00,000]		<u>1,34,593</u>
		14,80,522
Less: Marginal Relief		
Excess tax payable [14,80,522-13,12,500 being the amount of tax payable on total income of ₹ 50 lakhs]	1,68,022	
Amount of income in excess of ₹ 50,00,000	<u>1,11,430</u>	<u>56,592</u>
		14,23,930
Add: Health & Education cess @4%		<u>56,957</u>
Tax Liability		<u>14,80,887</u>
Tax Liability(rounded off)		14,80,890

Working note:

Computation of depreciation allowable as per Income-tax Act, 1961

Particulars	₹
On Motor Car	
₹ 3,50,000 × 15% × 75%	39,375
On Furniture and fitting	
₹ 80,000 × 10%	8,000
On Computer	
₹ 72,000 x 40% [Actual cost of the computer is ₹ 72,000 (i.e., ₹ 90,000 – ₹ 18,000). ₹ 18,000 paid otherwise than by way of account payee cheque/bank draft or use of ECS is not includible in actual cost.	28,800
	76,175

Question 14

The following details are provided by Mr. Divakar, an individual, for the assessment year 2020-21.

	Amount (₹)
Total estimated tax payable	4,40,000
TDS (deductible but not deducted)	55,000

Determine the advance tax payable with their due dates for the assessment year 2020-21.

Solution

Computation of Advance Tax payable for the A.Y. 2020-21

Particulars	₹
Tax Payable	4,40,000
TDS (deductible but not deducted), cannot be reduced for computing advance tax liability	<u>Nil</u>
Net Tax Payable	4,40,000

Due dates for payment of advance tax

Due date of installment	Amount payable
-------------------------	----------------

On or before 15th June, 2019	₹ 66,000 [15% of ₹ 4,40,000]
On or before 15th September, 2019	₹ 1,32,000 [₹ 1,98,000 (45% of ₹ 4,40,000) less ₹ 66,000, (amount paid in earlier installment)]
On or before 15th December, 2019	₹ 1,32,000 [₹ 3,30,000 (75% of ₹ 4,40,000) Less ₹ 1,98,000 (amount paid in earlier installment or installments)]
On or before 15th March, 2020	₹1,10,000 [₹ 4,40,000 (whole amount of advance tax liability less ₹ 3,30,000 (amount paid in earlier installment or installments)]

Question 15

Mr. Sudarshan, due to inadvertent reasons, failed to file his Income-tax return for the assessment year 2020-21 on or before the due date of filing such return of income.

- (i) Can he file the above return after due date of filing return of income? If yes, which is the last date for filing the above return?
- (ii) What are the consequences of non-filing the return within the due date under section 139(1)?

Solution

If any person fails to furnish a return within the time allowed to him under section 139(1), he may furnish the belated return for any previous year at any time –

- (i) before the end of the relevant assessment year; or
- (ii) before the completion of the assessment,

whichever is earlier.

The last date for filing return of income for A.Y.2020-21, therefore, is 31st March 2021.

Thereafter, Mr. Sudarshan cannot furnish a belated return after this date.

Consequences for non-filing return of Income within the due date under section 139(1)

Carry forward and set-off of certain losses: Business loss, speculation business loss, loss from specified business under section 35AD, loss under the head “Capital Gains”; and loss from the activity of owning and maintaining race horses, would not be allowed to be carried forward for set-off against income of subsequent years, where a return of income is not furnished within the time allowed under section 139(1).

Interest under section 234A: Interest under section 234A@1% per month or part of the month for the period commencing from the date immediately following the due date under section 139(1) till the date of furnishing of return of income is payable, where the return of income is furnished after the due date.

Fee under section 234F: Fee of ₹ 5,000 would be payable under section 234F, if the return of income is not filed on or before the due date specified in section 139(1) but filed on or before 31st December of the assessment year and ₹ 10,000 would be the fee payable under section 234F where the return is furnished after 31st December of the assessment year. However, such fee cannot exceed ₹ 1,000, if the total income does not exceed ₹ 5,00,000.

Section B: INDIRECT TAXES

QUESTION / ANSWERS

- (1) All questions should be answered on the basis of the position of GST law as amended up to 31.10.2019.**
- (2) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. Further, GST compensation cess should be ignored in all the questions, wherever applicable.**

Question 1.

Mr. Mandeep, a registered dealer, is doing building material business in the State of Assam. He availed architect services for his business from his friend in London free of cost. He also availed designing services from his brother in London for ₹ 5 Lakhs for his personal purposes.

He availed services which are liable to tax under reverse charge for which date of invoice was 01.09.20XX, payment date as per his books of account and as per his bank account was 15.11.20XX and 18.11.20XX respectively.

His turnover for the current financial year is as follows:

Taxable supply of goods – ₹ 55 Lakhs

Exempt supply of goods – ₹ 16 Lakhs

Inward supply liable to tax under reverse charge – ₹ 8 Lakh

He intends to start providing services also from the next financial year and also to avail composition scheme. He also wishes to make supplies to the Government.

Based on the information given above, choose the most appropriate answer for the following questions:-

- I. In respect of services imported by Mr. Mandeep, which of the following is a correct statement?
- i. Architect services for his business from his friend in London free of cost is considered as a supply
 - ii. Designing services from his brother in London for ₹ 5 Lakh for his personal purposes is considered as a supply.
 - iii. Architect services for his business from his friend in London free of cost is not considered as a supply
 - iv. Designing services from his brother in London for ₹5 Lakh for his personal purposes is not considered as a supply.
- (a) i & ii
 - (b) i & iv
 - (c) ii & iii
 - (d) iii & iv
- II. The time of supply of services, received by him and taxable under reverse charge, is
- (a) 01.09.20XX
 - (b) 01.11.20XX
 - (c) 15.11.20XX
 - (d) 18.11.20XX
- III. Aggregate turnover of Mr. Mandeep for the given financial year will be,
- (a) ₹ 63 Lakhs
 - (b) ₹ 79 Lakhs
 - (c) ₹ 71 Lakhs
 - (d) ₹ 47 Lakhs

IV. Mr. Mandeep will be eligible for composition scheme in the next financial year, but he can supply services only upto:

- (a) ₹ 5.00 Lakhs
- (b) ₹ 6.3 Lakhs
- (c) ₹ 7.90 Lakhs
- (d) ₹ 7.10 Lakhs

V. In case he supplies services to State Government by way of any activity in relation to any function entrusted to a Municipality under Article 243W of the Constitution, in the next financial year, which of the following will be exempt?

i. Pure Services

ii. Composite supply of goods and services in which value of supply of goods constitutes not more than 25% of value of said composite supply

iii. Composite supply of goods and services in which value of supply of service constitutes not more than 25% of value of said composite supply

- (a) i & iii
- (b) ii & iii
- (c) i, ii & iii
- (d) i & ii

Answer: I. (c), II. (b), III. (c), IV. (d), V. (d).

Question 2

ABC Ltd. is a registered pharmaceutical company. The company invented one drug for instant cure of cancer. They supplied free samples of this medicine to various doctors. What will be the tax treatment of these free samples under GST?

- (a) ABC Ltd. is liable to pay tax on supply of free samples and eligible to claim input tax credit.
- (b) ABC Ltd. is not liable to pay tax on supply of free samples but eligible to claim input tax credit.
- (c) ABC Ltd. is neither liable to pay tax on supply of free samples nor eligible to claim input tax credit.
- (d) ABC Ltd. is liable to pay tax on supply of free samples but not eligible to claim input tax credit.

Answer: (c)

Question 3

Kala Niketan School is an educational institution providing pre-school education and education up to higher secondary school. Which of the following services are exempt if provided to Kala Niketan School?

- (i) Transportation of students, faculty and staff
 - (ii) Catering services
 - (iii) Cleaning services performed in such educational institution
- (a) (i)
 - (b) (i) and (iii)
 - (c) (ii) and (iii)
 - (d) (i), (ii) and (iii)

Answer: (d)

Question 4

Calculate the amount of eligible input tax credit-

S.No.	Particulars	GST paid (₹)
1.	A Mini bus having seating capacity of 15 persons (including driver) used for running on hire	15,00,000
2.	Car having seating capacity of 8 people used for business purposes	1,00,00,000
3.	Car having seating capacity of 4 persons used for imparting training on driving such car	50,00,000
4.	Special purpose vehicle having seating capacity of 2 persons used for transportation of goods	60,00,000

- (a) ₹ 2,25,00,000/-
- (b) ₹ 2,10,00,000/-
- (c) ₹ 1,25,00,000/-
- (d) ₹ 75,00,000/-

Answer: (c)

Question 5

Mr. Avishkar is a painter registered under GST in Delhi. He sends his artwork for exhibition in Mumbai. At what point of time, supply is considered to have been made under GST?

- (a) When painting is completed.
- (b) When painting is sent for exhibition in Mumbai.
- (c) When painting is displayed at the exhibition in Mumbai.
- (d) When painting is purchased by one of the visitors in the exhibition.

Answer: (d)

Question 6

Which of the following is not covered under Schedule III of CGST Act, 2017?

- (a) Director's monthly salary under employment agreement
- (b) Sitting fees to independent directors for attending AGMs
- (c) Payment to employee for providing broking services to the employer for purchase of commercial property. Such services do not form part of the employment contract entered into by the employer with the employee.
- (d) Both (b) and (c)

Answer: (d)

Question 7

Which of the following service is not exempt under GST?

- (a) Loading and unloading of paddy
- (b) Loading and unloading of sugarcane
- (c) Loading and unloading of tea bags
- (d) Loading and unloading of potato

Answer: (c)

Question 8

Mr. Vicky Frankyn, an unregistered famous author, received ₹ 3 crore of consideration from Shiv Bhawan Publications (SBP) located in Indore for supply of services by way of temporary transfer of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works of his new book. He finished his work & made available the book to the publisher, but has yet not raised the invoice.

Mr. Vicky Frankyn is of the view that SBP is liable to pay tax under reverse charge on services provided by him. SBP does not concur with his view and is not ready to deposit the tax under any circumstances.

Examine whether the view of Mr. Vicky Frankyn is correct. Further, if the view of Mr. Vicky Frankyn is correct, what is the recourse available with Mr. Vicky Frankyn to comply with the requirements of GST law as SBP has completely refused to deposit the tax.

Answer:

Yes, the view of Mr. Vicky Frankyn is correct. GST is payable under reverse charge in case of supply of services by an author by way of transfer/permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary work to a publisher located in the taxable territory in terms of reverse charge Notification No. 13/2017 CT(R) dated 28.06.2017. Therefore, in the given case, person liable to pay tax is the publisher – SBP.

However, since SBP has completely refused to deposit the tax on the given transaction, Mr. Vicky Frankyn has an option to pay tax under forward charge on the same. For the purpose, he needs to fulfill the following conditions:

- (i) since he is unregistered, he has to first take registration under the CGST Act, 2017
- (ii) he needs to file a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;
- (iii) he has to make a declaration on the invoice, which he would issue to SBP, in prescribed form.

Question 9

(a) Chanchal started providing beauty and grooming services and inaugurated “Care & Care Beauty Centre” in Janak Puri, Delhi on 01st April, 20XX. She opted to pay tax under Notification No. 2/2019 CT (R) dated 07.03.2019 in the said financial year. The aggregate turnover of Care & Care Beauty Centre for the quarter ending 30th June, 20XX was ₹ 20 lakh. Further, for the half year ending 30th September, 20XX, the turnover reached ₹ 50 lakh. Care & Care Beauty Centre recorded a rapid growth and the turnover reached ₹ 70 lakh by the end of October, 20XX. Determine the total tax liability of Care & Care Beauty Centre by the end of October, 20XX.

(b) Care & Care Beauty Centre wishes to opt for composition scheme from the next financial year. You are required to advise it whether it can do so?

Note: Rate of GST applicable on such services is 18%.

Answer:

(a) Notification No. 2/2019 CT (R) dated 07.03.2019 provides an option to a registered person to pay CGST @ 3% [Effective rate 6% (CGST+ SGST/ UTGST)] on first supplies of goods and/or services upto an aggregate turnover of ₹ 50 lakh made on/after 1st April in any financial year, subject to specified conditions.

It is clarified in the notification that first supplies of goods or services or both shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from 1st April of a FY to the date from which he becomes liable for registration under the said Act, but for the purpose of determination of tax payable under this notification, shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

Thus, Care & Care Beauty Centre is eligible to pay tax under this notification upto the turnover of ₹ 50 lakh. The total tax payable by it is as under:-

Period	Tax Rate	Turnover (₹)	Tax liability (₹)
I Quarter	Since turnover did not exceed ₹ 20 lakh, it was not required to obtain registration. Hence, no tax was required to be paid	20 Lakh	Nil
II Quarter	Effective rate is 6% (CGST+ SGST/ UTGST)] under Notification No. 2/2019 CT (R)	30 Lakh [(50-20) lakh]	1,80,000
For the month of October, 20XX	Normal rate of GST of 18% is to be applied	20 lakh [(70-50) lakh]	3,60,000
Total tax payable			5,40,000

- (b) No, Care & Care Beauty Centre cannot opt for composition scheme from the next financial year. Fundamentally, the composition scheme can be availed in respect of goods and only one service namely, restaurant service. As regards services other than restaurant services are concerned, only marginal supply of the such services for a specified value along with the supply of goods and/or restaurant service, as the case may be, is permitted under section 10(1) of CGST Act, 2017. Therefore, a person engaged exclusively in supply of services other than restaurant services is not eligible to opt for composition scheme.

Question 10

The temple of ancestral deity of Mr. Aman goel and his family is located at Beri, Haryana. The temple is run by a charitable organisation registered under section 12AA of the Income Tax Act, 1961. The family has got unshakeable faith in their ancestral deity. Mr. Aman is a big entrepreneur having flourishing business of tiles in Gurugram. Upon the birth of their first child, he donated ` 10 lakh to the said temple for construction of a sitting hall in the temple. On the main door of the sitting hall, a name plate was placed stating “Donated by Mr. Aman Goel upon birth of his first child”.

You are required to examine the levability of GST on the donation received from Mr. Aman Goel?

Answer:

It has been clarified vide Circular No. 116/35/2019 GST dated 11.10.2019 that when the name of the donor is displayed in the religious institution premises, by placing a name plate or similar such acknowledgement, which can be said to be an expression of gratitude and public recognition of donor’s act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

In the given case, there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, since the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, hence GST is not leviable.

Question 11

- (a) Holiday Guest House, situated at Shimla, provides boarding & lodging services to tourists at economical cost. The charges of a single deluxe room per day are ₹ 999. Mr. X has booked one deluxe room for two days during Christmas holidays. You are required to determine whether GST is payable by Holiday Guest House on the above booking. If yes, determine the amount of GST so payable.

Will your answer change, if the charges of a single deluxe room per day charged by Holiday Guest House are ₹ 1,000?

- (b) M/s Damodar Ltd. provides services by way of storage of seasonal fruits and vegetables in Bhatinda, Punjab. The monthly rental for a godown is ₹ 15,000. Examine whether GST is payable by M/s Damodar Ltd.

Answer:

- (a) Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to ₹ 1,000 per day or equivalent have been exempted from GST vide an exemption notification.

Thus, in view of the above-mentioned provisions, GST is not payable by Holiday Guest House on the booking done by Mr. X as the charges for a unit of accommodation per day is less than ₹ 1,000.

The answer will remain the same even if the charges of a single deluxe room per day is ₹ 1,000 as the exemption is also available in the case where value of supply of a unit of accommodation per day is ₹1,000/ i.e., such services are taxable only where value of supply of a unit of accommodation per day exceeds ₹ 1,000/-. Thus, no GST is payable by Holiday Guest House on the booking done by Mr. X even if the charges of a single deluxe room per day is ₹ 1,000.

- (b) Services by way of storage/ warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea have been exempted from GST under an exemption notification under GST.

Thus, no GST is payable on the services provided by M/s Damodar Ltd. by way of storage of seasonal fruits and vegetables in Bhatinda, Punjab.

Question 12

M/s Siya Ram is a trader of decorative items in Hauz Khas, Delhi. His aggregate turnover exceeded ₹ 20 lakh in the month of October, 20XX. He applied for registration on GST portal, but missed to submit the details of his bank account. His tax consultant advised him that prior submission of bank details is mandatory to obtain registration. Examine whether the advice of Mr. Siya Ram's tax consultant is correct.

Answer:

The advice of Mr. Siya Ram's consultant that prior submission of bank details is mandatory to obtain registration is no more valid in law.

A new rule 10A has been inserted in the CGST Rules, 2017 vide Notification No. 31/2019 CT dated 28.06.2019 which allows the registered person to furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision, soon after obtaining certificate of registration and a GSTIN, but not later than 45 days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier.

This relaxation is however not available for those who have been granted registration as TDS deductor/ TCS collector under rule 12 or who have obtained suo-motu registration under rule 16.

Question 13

Mr. Gauri Shiva, a registered person in Punjab, supplies goods taxable @ 12% [CGST @ 6%, SGST @ 6% & IGST @ 12%] in the States of Punjab and Haryana. He has furnished the following details in relation to independent supplies made by him in the quarter ending June, 20XX:-

Supply	Recipient	Nature of supply	Value (₹)
1	Mr. A, a registered person	Inter-State	2,20,000
2	Mr. B, a registered person	Inter-State	2,55,000
3	Mr. C, an unregistered person	Inter-State	1,80,000
4	Mr. D, an unregistered person	Inter-State	2,60,000
5	Mr. M, an unregistered person	Inter-State	3,00,000

6	Mr. N, an unregistered person	Inter-State	50,000
7	Mr. O, an unregistered person	Inter-State	2,50,000
8	Mr. P, an unregistered person	Inter-State	2,80,000
9	Mr. Q, a registered person	Inter-State	1,50,000
10	Mr. R, a registered person	Inter-State	4,10,000

The aggregate annual turnover of Mr. Gauri Shiva in the preceding financial year was ₹ 1.20 crore. With reference to rule 59 of the CGST Rules, 2017, discuss the manner in which the details of above supplies are required to be furnished in GSTR-1.

Answer

Rule 59 of the CGST Rules, 2017, inter alia, stipulates that the details of outward supplies of goods and/or services furnished in form GSTR-1 shall include the—

(a) invoice wise details of all –

- (i) inter-State and intra-State supplies made to the registered persons; and
- (ii) inter-State supplies with invoice value more than two and a half lakh rupees made to the unregistered persons;

(b) consolidated details of all –

- (i) intra-State supplies made to unregistered persons for each rate of tax; and
- (ii) State wise inter-State supplies with invoice value upto two and a half lakh rupees made to unregistered persons for each rate of tax;

Thus, in view of the above-mentioned provisions, Mr. Gauri Shiva should furnish the details of outward supplies of goods made by him during the quarter ending June 20XX in the following manner:-

Supply	Recipient	Nature of supply	Value (₹)	Manner of furnishing details
1	Mr. A, a registered person	Inter-State	2,20,000	Invoice-wise details
2	Mr. B, a registered person	Inter-State	2,55,000	Invoice-wise details
3	Mr. C, an unregistered person	Inter-State	1,80,000	Consolidated details of supplies 3 and 4
4	Mr. D, an unregistered person	Inter-State	2,60,000	
5	Mr. M, an unregistered person	Inter-State	3,00,000	Invoice-wise details
6	Mr. N, an unregistered person	Inter-State	50,000	Consolidated details of supplies 6 and 7
7	Mr. O, an unregistered person	Inter-State	2,50,000	
8	Mr. P, an unregistered person	Inter-State	2,80,000	Invoice-wise details
9	Mr. Q, a registered person	Inter-State	1,50,000	Invoice-wise details
10	Mr. R, a registered person	Inter-State	4,10,000	Invoice-wise details

Question 14

Discuss the correctness of the following statements:-

- (i) Once generated, an e-way bill cannot be cancelled.
- (ii) E-way bill generated in one State is valid in another State.

Answer

- (i) The said statement is partially correct. Where an e-way bill has been generated, but goods are either not transported at all or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill. However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B of the CGST Rules, 2017.
- (ii) The said statement is correct. The e-way bill generated under Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory.

Question 15

Mr. Ram Narayan, a registered supplier under GST, wants to first discharge his self assessed tax liability for the current period before settling the dues for the previous tax period. Examine briefly whether he can do so?

Answer

As per section 49(8) of the CGST Act, 2017, the liability of a taxable person has to be discharged in a chronological order as under:-

- (a) self -assessed tax and other dues for the previous tax periods have to be discharged first;
- (b) the self -assessed tax and other dues for the current period have to be discharged next;
- (c) Once these two steps are exhausted, thereafter any other amount payable including demand determined under section 73 or section 74 of the CGST Act, 2017 to be discharged. In other words, the liability if any, arising out of demand notice and adjudication proceedings comes last.

This sequence has to be mandatorily followed.

Thus, in view of the above-mentioned provisions, Mr. Ram Narayan cannot discharge his self-assessed tax liability for the current period before settling the dues for the previous tax period.

Note: GST law has been subject to frequent changes since its inception. Although many clarifications are continually being issued by way of FAQs or otherwise, many issues continue to arise on account of varying interpretations on several of its provisions. Therefore, alternate answers may be possible for the above questions depending upon the view taken.