

PAPER – 4 : TAXATION
SECTION A : INCOME TAX
PART II

Question No.1 is compulsory.

Candidates are also required to attempt any **three** questions from the rest.

Working notes should form part of the respective answers.

All questions pertaining to income-tax relate to assessment year 2019-20, unless stated otherwise in the questions.

Question 1

Mr. X working in a private company from last 10 years. His salary details for the financial year 2018-19 are :

(i) Basic Salary	1,50,000 p.m.
(ii) Dearness Allowance	55,000 p.m.
(iii) Commission	35,000 p.m.
(iv) Transport Allowance	5,000 p.m.
(v) Medical Reimbursement	20,000 paid during the year

Mr. X resigned from the services on 30th September, 2018. He was paid gratuity of ₹ 20 lakhs on his retirement. A lumpsum amount of ₹ 36 lakhs was also paid from unrecognised provident fund. The provident fund amount consisted of employer's contribution ₹ 13.20 lakhs and interest thereon ₹ 3 lakhs. The employee's contribution was ₹ 16.20 lakhs and interest thereon was ₹ 3.60 lakhs.

He had taken the possession of house on 28th February, 2019 after making payment of final instalment of housing loan to bank. Loan was taken on 01-04-2017. The accumulated interest as on 31st March, 2018 was ₹ 1.5 lakh. He made payment of ₹ 2,20,000 during the year which included interest ₹ 1,10,000 for 11 months.

He started business of hiring of goods vehicle, purchased 3 small goods vehicle on 15th November, 2018 and 3 heavy vehicles having gross weight of 15 MTs each on 1st December, 2018. He did not maintain books of accounts for income and expenditure of hiring of goods vehicle. One of his friend gifted him ₹ 6 lakhs to purchase the vehicles.

He was holding 25% equity shares in CMF Ltd., an Indian company. The paid up share capital of company as on 31st March, 2018 was ₹ 20 lakh divided into 2 lakh shares of ₹ 10 each which were issued at a premium of ₹ 30 each. Company allotted shares to shareholders on 1st October, 2013.

The Suggested Answers for Paper 4A: Income-tax are based on the provisions of income-tax law as amended by the Finance Act, 2018. The relevant assessment year is A.Y.2019-20.

Company bought back 30% of its share on 30th April, 2018 under the provisions of Companies Act, 2013 on making payment of ₹ 60 per share.

He paid insurance premium of ₹ 20,000 on his life policy during the financial year 2018-19. The policy was taken in April 2011 and sum assured was ₹ 1,50,000. He also made payment of ₹ 25,000 towards L.I.C. pension fund and premium of ₹ 40,000 towards mediclaim policy for self and wife.

Compute total income and tax payable thereon for the Assessment year 2019-20. There was no change in salary of Mr. X from last two years. Cost inflation Index is :

Financial Year	Cost Inflation Index
2013-14	220
2018-19	280

(14 Marks)

Answer

Computation of Total Income of Mr. X for the A.Y.2019-20

Particulars	₹	₹
Salaries		
Basic Salary = 1,50,000 x 6	9,00,000	
Dearness Allowance = 55,000 x 6	3,30,000	
Commission = 35,000 x 6	2,10,000	
Transport Allowance = 5,000 x 6 [Fully taxable, since standard deduction would be available in lieu of exemption]	30,000	
Medical reimbursement [Fully taxable, since standard deduction would be available in lieu of exemption]	20,000	
Gratuity – Amount received	20,00,000	
Less: Least of the following exempt u/s 10(10) [Assuming that Mr. X is not covered under the Payment of Gratuity Act, 1972]		
(i) Actual Gratuity received ₹ 20,00,000		
(ii) ½ month's salary for every year of completed service [½ x 1,50,000 (Basic) x 10] = ₹ 7,50,000 [Assuming that DA does not form part of pay for retirement benefits]		
(iii) Notified limit ₹ 10,00,000/₹ 20,00,000 ²		

² Limit of ₹ 20,00,000 notified vide Notification No. 16/2019 dated 08.03.19 w.r.e.f. 29.3.2018.

Least of the above is exempt	<u>7,50,000</u>		
		12,50,000	
Employer's contribution to unrecognized PF		13,20,000	
Interest on employer's contribution to unrecognized PF		<u>3,00,000</u>	
Gross Salary		43,60,000	
Less: Standard deduction u/s 16(ia) [Actual salary or ₹ 40,000, whichever is less]		<u>40,000</u>	
Net Salary			43,20,000
Income from house property			
Annual value of self-occupied house (presumed self-occupied, since no information relating to letting out has been given in the question)		Nil	
Less: Deduction u/s 24(b)			
Current year interest		1,10,000	
One-fifth of Pre-construction interest [₹ 1,50,000/5]		<u>30,000</u>	
Loss from house property set-off against salary income			<u>(1,40,000)</u>
			41,80,000
Profits and gains of business or profession			
Income from business of hiring goods vehicle			
Other than heavy goods vehicles = 3 x (₹ 7,500 p.m.) x (5 months)		1,12,500	
Heavy goods vehicles = 3x (15 MTs x ₹ 1,000 per MT) x (4 months)		<u>1,80,000</u>	
			2,92,500
Capital Gains			
Long-term gain chargeable to tax under section 112A (<i>Assuming that the shares are listed and Mr. X has paid STT both at the time of purchase and at the time of sale of shares</i>)			
Buyback consideration [2,00,000 x 25% x 30% x ₹ 60 per share]		9,00,000	
Less: Cost of acquisition [2,00,000 x 25% x 30% x ₹ 40 per share]		<u>6,00,000</u>	
Note: Due to absence of information in the question, it is assumed that the purchase cost of ₹ 40 per share is higher than the fair market value as on 31.1.2018. Accordingly, the purchase cost of ₹ 40 per share is taken as the cost of acquisition			
Long-term capital gains (since shares are held for a period of			3,00,000

more than 12 months before buyback)		
Income from Other Sources		
Interest on employee's contribution to unrecognised PF	3,60,000	
Employee contribution to unrecognized PF is not taxable as it was not given any deduction or benefit at the time of original contribution	Nil	
Gift from friend taxable u/s 56(2)(x) since the same exceeds ₹ 50,000. It is fully taxable	<u>6,00,000</u>	<u>9,60,000</u>
Gross Total Income		57,32,500
Less: Deduction under Chapter VI-A		
Section 80C		
Repayment of housing loan (since he has taken possession of house in the P.Y.2018-19, the income therefrom is chargeable to tax under the head "Income from house property")	1,10,000	
Life Insurance premium [fully deductible, since, in respect of a policy taken before 1.4.2012, the actual premium paid (₹ 20,000) or 20% of the sum assured (₹ 150,000 x 20% = ₹ 30,000), whichever is lower, has to be deducted]	<u>20,000</u>	
	1,30,000	
Section 80CCC		
Payment to LIC Pension Fund	<u>25,000</u>	
	1,55,000	
Restricted to ₹ 1,50,000, being the maximum allowable deduction		1,50,000
Section 80D		
Medical insurance for self and spouse ₹ 40,000, restricted to		<u>25,000</u>
		<u>1,75,000</u>
Total Income		55,57,500

Computation of tax liability of Mr. X for A.Y. 2019-20

Particulars	₹	₹
Tax on total income of ₹ 55,57,500		
Tax on long-term capital gains of ₹ 2,00,000 arising from transfer of listed shares @10% under section 112A after deducting ₹ 1 lakh.	20,000	

Tax on other income of ₹ 52,57,500 [₹ 55,57,500 – ₹ 3,00,000 capital gains]		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000 [i.e., ₹ 2,50,000@5%]	12,500	
₹ 5,00,001 – ₹ 10,00,000 [i.e., ₹ 5,00,000@20%]	1,00,000	
₹ 10,00,001 – ₹ 52,57,500 [i.e., ₹ 42,57,500@30%]	<u>12,77,250</u>	
		14,09,750
Add: Surcharge @ 10%		<u>1,40,975</u>
		15,50,725
Add: Health and Education cess@4%		<u>62,029</u>
Tax liability		<u>16,12,754</u>
Round off		<u>16,12,750</u>

Notes:

- (1) **Computation of taxable gratuity:** Question is silent as to whether Mr. X is covered under the Payment of Gratuity Act, 1972 or no. In the above solution, it is assumed that Mr. X is not covered in the Payment of Gratuity Act, 1972. Further, since the information as to whether DA forms part of salary or not is not given in the question, the gratuity exemption is computed in the above solution assuming that DA does not form part of pay for retirement benefits. Taxable gratuity can also be computed assuming that Mr. X is covered under the Payment of Gratuity Act, 1972 and/or DA forms part of salary for retirement benefits.
- (2) **Computation of deduction in respect of Interest on housing loan:** In the question, it has been given that Mr. X has taken possession of the house after making payment of final instalment of housing loan to bank on 28.2.2019. The above solution has been worked out on this basis. However, normally, possession is taken after making final payment to the builder and not the bank. In case if it is assumed that possession of the house is taken after making final payment to the builder, in such case, the current year interest payable would be ₹ 1,20,000. Loss from house property would be ₹ 1,50,000.
- (3) **Long-term capital gains on buy-back of shares:** In the above solution, long-term capital gain on buy-back of shares is computed under section 112A on the assumption that shares are listed on the recognised stock exchange and STT is paid both at the time of purchase and transfer of such shares. However, in case it is assumed that no STT has been paid by Mr. X at the time of acquisition, the provisions of section 112 will apply and not section 112A.

Further, in case it is assumed that the shares are not listed in the recognized stock exchange, in such case, the capital gain would be fully exempt under section 10(34A).

Question 2

(a) Mr. Bachhan has provided the following details of his income for the year ended 31-3-2019:

		₹
(1)	Short term capital gains on sale of shares in Indian Company received in Japan.	85,000
(2)	Dividend from a Chinese Company received in China	30,000
(3)	Rent from property in Bangladesh deposited in a bank at Dhaka, later on remitted to India through approved banking channels	96,000
(4)	Dividend from ABC Ltd., an Indian Company	22,000

Compute his total income for the Assessment Year 2019-20, in case of he is:

- (i) Resident and ordinarily resident;
- (ii) Resident but not ordinarily resident; or
- (iii) Non-resident

(4 Marks)

(b) The following issues arise in connection with the deduction of tax at sources under chapter XVII-B. Discuss the liability for tax deduction in these cases:

- (i) An employee of the Central Government receives arrears of salary for the earlier 3 years. He inquires whether amount will be received after deduction of tax at source during the current year.
- (ii) A T.V. channel pays ₹ 10 lacs as prize money to the winner of a quiz programme.
- (iii) A Nationalized bank pays ₹ 50,000 per month as rent to the Central Government for a building in which one of its branch is situated.
- (iv) A television company pays ₹ 50,000 to a cameraman for shooting of a documentary film.

(3 Marks)**Answer**

(a) **Computation of total income of Mr. Bachhan for the A.Y. 2019-20**

Particulars	Resident and ordinarily resident (ROR)	Resident but not ordinarily resident (RNOR)	Non-resident (NR)
	₹	₹	₹
Short term capital gains on sale of shares of an Indian company received in Japan [Since income is deemed to accrue/arise in India, it	85,000	85,000	85,000

is taxable in his hands, whether he is ROR, RNOR or non-resident]			
Dividend from a Chinese company received in China [Since it accrues and is received outside India, it is taxable only in case of ROR]	30,000	-	-
Rent from property ³ in Bangladesh deposited in a Bank at Dhaka, later on remitted to India through approved banking channels [Since it accrues and is received outside India, it is taxable only in case of ROR]	96,000	-	-
Less: Deduction u/s 24@ 30%	<u>28,800</u>	-	-
Income from house property	67,200	-	-
Dividend of ₹ 22,000 from ABC Ltd., an Indian Company [Exempt under section 10(34) in all three cases]	Exempt	Exempt	Exempt
Total Income	1,82,200	85,000	85,000

(b) Liability for TDS in certain instances**(i) Payment of arrears of salary for earlier 3 years**

Yes, the amount of arrears of salary will be paid to the employee after deduction of tax at source.

Tax will be deducted at source after providing relief under section 89 if the recipient-employee furnishes necessary particulars to the tax deductor.

(ii) Payment of prize money to the winner of a Quiz Programme by a T.V Channel

The T.V channel is required to deduct tax at source @ 30% at the time of payment of the prize money to the winner of a quiz programme, since the amount of prize money exceeds ₹ 10,000.

(iii) Payment of rent by a nationalized bank to the Central Government

No tax is required to be deducted by the nationalized bank on the amount of rent, since such amount is paid to the Central Government.

³ Assuming it is a house property and the rent received is the net annual value, in the absence of related information.

(iv) Payment to cameraman for shooting of a documentary film

The television company is required to deduct tax at source @ 10% under section 194J at the time of credit or payment, whichever is earlier, on the professional fees payable to the cameraman for shooting a documentary film, since such amount exceeds ₹ 30,000 during the financial year.

Alternative view: If the cameraman is an employee of the television company, the provisions of section 192 will apply at the time of payment and tax has to be deducted on salary income. The tax will be deducted at the average rate of income-tax computed on the basis of the rates in force.

Question 3

- (a) Krishna furnishes the following particulars for the previous year 2017-18 and 2018-19 in respect of an industrial undertaking established in "Special Economic Zone" during the financial year 2013-14.

Particulars	2017-18 (₹)	2018-19 (₹)
Total sales	60,00,000	85,00,000
Export sales	48,00,000	55,00,000
Domestic sales	12,00,000	30,00,000
Money received in or brought to India in convertible foreign exchange up to 30-09-2018/30-09-2019.	43,20,000	40,00,000
Profit from the above undertaking	6,00,000	10,00,000

Total Sales of F.Y. of 2018-19 include freight of ₹ 5 lacs for delivery of goods outside India. Compute the amount of deduction available to Mr. Krishna under section 10AA.

(3 Marks)

- (b) M/s. Keshav Enterprises, a sole proprietorship own four machines, put in use for business in March, 2017. The depreciation on these machines is charged @ 15%. The written down value of these machines as on 1st April, 2018 was ₹ 7,70,000. Two of the old machines were sold on 15th July, 2018 for ₹ 10,00,000. A second hand plant was bought for ₹ 6,10,000 on 30th December, 2018. You are required to:
- Determine the claim of depreciation for Assessment Year 2019-20.
 - Compute the capital gains liable to tax for Assessment Year 2019-20.
 - If Keshav Enterprises had sold the two machines in July, 2018 for ₹ 15,00,000, explain, will there be any difference in your above workings?

(4 Marks)

Answer**(a) Computation of deduction under section 10AA for A.Y. 2019-20**

Since A.Y. 2019-20 is the 6 th assessment year from A.Y. 2014-15, relevant to the previous year 2013-14, in which the SEZ unit began manufacturing of articles or things ⁴ , 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.				
=	Profits of Unit in SEZ	x	$\frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}}$	x 50%
=	10,00,000	x	$\frac{35,00,000}{80,00,000}$	x 50% = ₹ 2,18,750

Working Note:

Export Turnover	
Sale proceeds received in India	40,00,000
Less: Freight not includible in export turnover	<u>5,00,000</u>
	35,00,000
Total turnover	
Less: Freight not includible [Since freight has been excluded from export turnover, the same has to be excluded from total turnover also].	<u>5,00,000</u>
	80,00,000

Notes:

- (1) The question mentions the quantum of money received in India up to 30.9.2018/30.9.2019. Section 10AA does not specify any time limit for repatriation of export proceeds. 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 nine months from the date of export for all exporters including Units in Special Economic Zones (SEZs). Erstwhile section 10A(3) specified a time limit of six months from the end of the previous year. Section 10AA, however, does not specify any time limit. The only requirement is that the consideration has to be brought into India. Accordingly, this question has been solved assuming that ₹ 40 lakhs is the money received or brought into India within the time limit permitted by RBI. Further, it is presumed that ₹ 5 lakhs for delivery of goods outside India is

⁴ Since question mentions that the SEZ unit was established in the P.Y. 2013-14, it is logical to assume that it began manufacturing in the same previous year.

included in this sum. Alternatively, it is possible to work out the deduction under section 10AA assuming that the entire sum of ₹ 55 lakhs has been brought into India within the time limit prescribed by RBI.

- (2) Since the question does not specify for which assessment year the deduction under section 10AA is required to be computed, the deduction available under section 10AA is computed for the assessment year 2019-20 only. Also, in the instructions relating to Part II Section A given in page 1 of the question paper, point no.4 clearly states that answers to all questions should relate to A.Y.2019-20, unless otherwise stated.

(b) (i) **Computation of depreciation for A.Y.2019-20**

Particulars	₹
W.D.V. of the block as on 1.4.2018	7,70,000
Add: Purchase of second hand plant during the year [in December, 2018]	<u>6,10,000</u>
	13,80,000
Less: Sale consideration of old machinery during the year [in July, 2018]	<u>10,00,000</u>
W.D.V of the block as on 31.03.2019	<u>3,80,000</u>
Depreciation @ 15% but restricted to 50% thereon. ₹3,80,000 X 7.5% [Since the value of the block as on 31.3.2019 represents part of actual cost of second hand plant purchased in December, 2018, which has been put to use for less than 180 days, depreciation is restricted to 50% of the prescribed percentage of 15% i.e. depreciation is restricted to 7½%. Therefore, the depreciation allowable for the year is ₹ 28,500 being 7½% of ₹ 3,80,000]	<u>28,500</u>

- (ii) In the given case, no capital gains would arise, since the block of asset continues to exist, and some of the assets are sold for a price which is lesser than the written down value of the block as increased by the actual cost of asset purchased during the year.
- (iii) If the two machines are sold in July, 2018 for ₹ 15,00,000, then short term capital gains would arise, since the sale consideration is more than the aggregate of the written down value of the block at the beginning of the year and the additions made during the year.

Particulars	₹	₹
Sale consideration		15,00,000
Less: W.D.V. of the machines as on 1.4.2018	7,70,000	
Purchase of second plant during the year	6,10,000	
		13,80,000
Short term capital gains		1,20,000

Question 4

- (a) Mr. Deepak has a residential house property taxable under section 22. Such property was acquired on 12-08-2005 for ₹ 2,00,000. The property is sold for ₹ 23,00,000. The sub-registrar refused to register the documents for the said value, as according to him, stamp duty value based on State Government guidelines was ₹ 28,00,000. Mr. Deepak preferred an appeal to the revenue divisional officer who fixed the value of the house ₹ 25,00,000. He acquired another residential house on 31-03-2019 for ₹ 17,00,000 for self-occupation. On 01-03-2020, he sold such new residential house for ₹ 30,00,000.

Compute his capital gain for the A.Y. 2019-20 and 2020-21. (Cost Inflation Index : 2001-02; 2005-06 and 2018-19 are, 100; 117 and 280) **(4 Marks)**

- (b) Briefly explain with example, the meaning of Cross Transfer, the objective to make such transactions and implications thereof under the Income-tax Laws. **(3 Marks)**

Answer

- (a) **Computation of capital gain in the hands of Mr. Deepak for A.Y. 2019-20**

Particulars	₹
Full value of consideration	25,00,000
[As per section 50C, in case the actual sale consideration (i.e., ₹ 23 lakhs, in this case) is less than the stamp duty value (i.e., ₹ 28 lakhs, in this case) assessed by the stamp valuation authority (Sub-registrar, in this case), the stamp duty value shall be deemed as the full value of consideration if it exceeds 105% of the sale consideration However, if assessee has preferred an appeal to the Valuation Officer (i.e., revenue divisional officer, in this case) and the Valuation Officer has fixed the value of the house (i.e., ₹ 25 lakh, in this case) less than stamp duty value (i.e., ₹ 28 lakh, in this case), such value determined by the Valuation Officer shall be deemed as the full value of consideration.]	
Less: Indexed cost of acquisition [₹ 2,00,000 x 280/117]	<u>4,78,632</u>
Long-term capital gain [Since the residential house is held for more than 24 months]	20,21,368
Less: Exemption under section 54	
Purchase of new residential house property on 31.3.2019 (i.e., within two years from the date of transfer of residential house)	<u>17,00,000</u>
Taxable long term capital gain	<u>3,21,368</u>

Computation of capital gains in the hands of Mr. Deepak for A.Y. 2020-21

Particulars	₹
Full value of consideration	30,00,000
Less: Cost of acquisition [As per section 54, if the new residential house purchased (i.e., on 31.3.2019, in this case) is transferred within 3 years of its purchase (i.e., on 1.3.2020, in this case), and the cost of acquisition of the new house (i.e., ₹ 17 lakhs, in this case) is lower than the long-term capital gain (i.e., ₹ 20,21,368, in this case), the cost of acquisition of such new residential house shall be taken as Nil, while computing capital gains on sale of the new residential house]	Nil
Short term capital gain [Since the residential house is held for a period less than 24 months]	30,00,000

Note – The date/year of sale of the old residential house property is not given in the question. It is assumed that the said residential house property was sold in the P.Y.2018-19.

(b) Meaning of Cross Transfer and tax implications thereof

Cross transfer means transfer of income-yielding assets whether directly or indirectly so as to reduce the burden of taxation on the transferors.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted⁵.

In such a case, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected as to form part of a single transaction, and each transfer constitutes consideration for the other by being mutual or otherwise.

Example: If Mr. A makes a gift of ₹5,00,000 to the wife of his brother B for the purchase of a house by her and simultaneously, Mr. B makes a gift of shares in a foreign company worth ₹5,00,000 owned by him to Mr. A's minor son, the income from the assets transferred would be assessed in the hands of the deemed transferor. This is because both Mr. A and Mr. B are the indirect transferors of the income to their minor son and spouse, respectively, with an intention to reduce their burden of taxation. Accordingly, dividend from shares accruing to Mr. A's minor son is taxable in the hands of Mr. A and rental income from house property accruing to Mrs. B is taxable in the hands of Mr. B.

⁵ It was so held by the Apex Court in CIT vs. Keshavji Morarji (1967) 66 ITR 142.

Question 5

- (a) Miss Himanshi (68 years) is a resident individual. During the assessment year 2019-20, she has income from Long-term capital gain on transfer of equity shares ₹ 1,80,000 (Securities transaction tax has been paid on acquisition and transfer of the said shares) and income from other sources ₹ 2,75,000. Compute her tax liability for Assessment year 2019-20. **(3 Marks)**

- (b) Answer any **one** of the followings:

- (i) Prakash is retired Government Officer aged 65 years, resides in Cochin, derived following income:

	₹
Pension	6,60,000
Interest from bank on fixed deposits (Gross)	55,000

Compute the total income of Mr. Prakash for the assessment year 2019-20 from the following particulars:

- Life insurance premium paid by cheque ₹ 22,500 for insurance of his life. The insurance policy was taken on 08-09-2015 and the sum assured is ₹ 2,00,000.
- Premium of ₹ 26,000 paid by cheque for health insurance of self and his wife.
- ₹ 1,500 paid in cash for his health check-up and ₹ 4,500 paid through cheque for preventive health check-up of his parents, who are senior citizens.
- Paid interest of ₹ 6,500 on loan taken from bank for MBA course pursued by his daughter.
- A sum of ₹ 15,000 donated in cash to an institution approved for the purpose of section 80G for promoting family planning. **(4 Marks)**

OR

- (ii) Mr. Rahman furnishes the following information for the financial year 2018-19.

Particulars	₹
Loss from speculation business-A	70,000
Profit from speculation business-B	30,000
Loss from self-occupied house property	2,20,000
Income from let out house property	4,20,000
Income from trading and manufacturing business @ 8%	2,00,000
Salary income	3,70,000
Interest on PPF deposit	65,000

Long term capital gain on sale of Vacant site	1,10,000
Short term capital loss on sale of Jewellery	50,000
Investment in tax saver deposit on 31-03-19	60,000
Brought forward loss of business of assessment year 2013-14	1,00,000
Donation to a charitable trust recognized under section 12AA and approved under section 80G	1,40,000
Enhanced compensation received from government for compulsory acquisition of land in the year 2006	3,00,000

Compute total income of Mr. Rahman for the assessment year 2019-20 and loss he is eligible to carry forward. **(4 Marks)**

Answer

(a) Computation of tax liability of Miss Himanshi for A.Y.2019-20

Particulars	₹
Long term capital gain under section 112A on transfer of equity shares of (STT paid both at the time of acquisition and transfer)	1,80,000
Income from other sources	<u>2,75,000</u>
Gross Total Income/Total Income	4,55,000
Tax on ₹ 4,55,000	
Tax on income of ₹ 2,75,000 from other sources [being lower than the basic exemption limit of ₹ 3,00,000, applicable in case of a senior citizen]	Nil
Long term capital gain of ₹ 1,80,000 would be reduced by (i) ₹ 1,00,000, being the amount not taxable under section 112A; and (ii) a sum of ₹ 25,000, (i.e., ₹ 3,00,000 – ₹ 2,75,000, being income from other sources) being the unexhausted basic exemption limit.	
Thus, tax on long term capital gain under section 112A will be on ₹ 55,000@10%.	5,500
Add: Health and Education cess @4%	<u>220</u>
Tax liability	5,720

(b) (i) Computation of total income of Mr. Prakash for A.Y.2019-20

Particulars	₹	₹	₹
Income under the head "Salaries"			
Pension	6,60,000		
Less: Standard deduction u/s 16(ia) Lower of ₹ 40,000 or actual salary/pension	<u>40,000</u>		6,20,000
Income from Other Sources			
Interest from bank on fixed deposit (Gross)			<u>55,000</u>

Gross Total Income			6,75,000
Less: Deduction under Chapter VI-A			
Deduction under section 80C			
LIC premium of ₹ 22,500 (restricted to 10% of ₹ 2,00,000, being the sum assured, as the policy is taken after 31.3.2012)		20,000	
Deduction under section 80D			
Premium for health insurance for self and his wife paid by cheque, allowed upto ₹ 50,000 since Mr. Prakash is a senior citizen	26,000		
Preventive health check-up for self, ₹ 1,500, and for his parents, ₹ 4,500, restricted to ₹ 5,000 (deduction allowed even if the same is paid in cash)	<u>5,000</u>		
		31,000	
Deduction under section 80E			
Interest on loan taken from bank for MBA course pursued by his daughter		6,500	
Deduction under section 80G			
Donation to an approved institution for promoting family planning not allowed since the amount exceeding ₹ 2,000 is paid in cash		Nil	
Deduction under section 80TTB			
Interest on fixed deposit with bank allowable as deduction upto ₹ 50,000, since Mr. Prakash is a senior citizen		<u>50,000</u>	
			<u>1,07,500</u>
Total Income			5,67,500

OR

(b) (ii) Computation of total income of Mr. Rahman for A.Y.2019-20

Particulars	₹	₹
Salaries⁶		3,70,000
Income from house property		
Income from let out house property	4,20,000	

⁶ It is assumed that the figure of ₹ 3,70,000 given in the question is computed. In the alternative, standard deduction of ₹ 40,000 may be provided in which case, the net salary would be ₹ 3,30,000. The gross total income, deduction under section 80G and total income would, accordingly, change.

Less: Loss from self-occupied house property cannot exceed ₹ 2 lakhs. Hence, the set-off is limited to ₹ 2 lakhs.	<u>2,00,000</u>	2,20,000
Profits and gains from business or profession		
Profit from speculation business B	30,000	
Less: Loss of ₹ 70,000 from speculation business A set-off against profit from speculation business B to the extent of such profit	<u>(30,000)</u>	Nil
Income from trading and manufacturing business @8%	2,00,000	
Less: Brought forward business loss of A.Y. 2013-14 set-off since a period of eight assessment years has not expired	<u>(1,00,000)</u>	1,00,000
Capital Gains		
Enhanced compensation received from government for compulsory acquisition [Taxable in P.Y. 2018-19 since enhanced compensation is taxable on receipt basis]	3,00,000	
Long term capital gain on sale of vacant site	1,10,000	
Less: Short term capital loss on sale of jewellery	<u>50,000</u>	3,60,000
Income from Other Sources		
Interest on PPF deposit	65,000	
Less: Exempt	<u>65,000</u>	Nil
Gross Total Income		10,50,000
Less: Deduction under Chapter VI-A		
Deduction under section 80C		
Investment in tax saver deposit on 31.3.2019	60,000	
Deduction under section 80G		
Donation to recognized and approved charitable trust ⁷ [Donation of ₹ 1,40,000 to be first restricted to ₹ 63,000, being 10% of adjusted total income of ₹ 6,30,000 i.e.,		

⁷ It is assumed that donation is paid by a mode other than cash.

[₹ 10,50,000 – ₹ 3,60,000 ⁸ – ₹ 60,000]. Thereafter, deduction would be computed at 50% of ₹ 63,000.	31,500	91,500
Total Income		9,58,500

Losses to be carried forward to A.Y.2020-21	
Particulars	₹
Loss from speculation business A (₹ 70,000 - ₹ 30,000) Loss from speculation business can be set-off only against profits of any other speculation business. If loss cannot be so set-off, the same has to be carried forward to the subsequent year for set off against income from speculation business, if any, in that year ⁹ .	40,000

⁸ It is assumed that enhanced compensation of ₹ 3,00,000 is long-term capital gains. If it is assumed that the same is short-term capital gains, then, this amount should not be reduced for computing adjusted total income.

⁹ Such loss can be carried forward only if return of income is filed on or before the due date under section 139(1). It can be carried forward for four assessment years.

PAPER – 4 : TAXATION
SECTION B: INDIRECT TAXES

Question No. 6 is compulsory.

Attempt any **three** questions from the rest.

“Working notes should form part of the respective answers.”

“Wherever necessary, suitable assumptions may be made by the candidates, and disclosed by way of note.”

“All questions should be answered on the basis of the position of GST law as amended upto 31st October, 2018.”

Question 6

Mr. Uttam Kumar a registered supplier of service in Kolkata, has provided following information for the month of October, 2018:

No.	Particulars	Amount in (₹)
1.	Intra-State taxable supply of service	6,40,000
2.	Amount received from Kapola Pvt. Ltd., for service provided to company. (He is a director in Kapola P. Ltd.), being Intra-State transaction.	5,00,000
3.	Paid legal fee to senior advocate for one legal matter within State, being Intra-State transaction.	50,000
4.	Amount received for service provided by him as a commentator to a local recognized sports body, being Intra-State transaction	1,20,000
5.	Amount received for acting as a coach in recreational activities relating to sports, from one local charitable entity registered under section 12AA of the Income Tax Act, 1961, being Intra- State transaction.	30,000

Compute the net GST liability (CGST, SGST or IGST) of Mr. Uttam Kumar for the month of October, 2018.

Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively.

All the amounts given are exclusive of CGST, SGST and IGST, wherever applicable. **(8 Marks)**

Answer

Computation of net GST liability of Mr. Uttam Kumar

October, 2018

Particulars	Amount (₹)	CGST (₹)	SGST (₹)
Intra-State taxable supply of service	6,40,000	57,600	57,600

Add: Amount received from Kapola Pvt. Ltd. for service provided to company, being intra-State transaction ¹ [Note-1]	5,00,000	Nil	Nil
Add: Legal fee paid to senior advocate for one legal matter within the State, being intra-State transaction ² [Note-2]	50,000	4,500	4,500
Add: Amount received for services provided as a commentator to a local recognized sports body, being intra-State transaction [Note-3]	1,20,0000	10,800	10,800
Add: Amount received for acting as a coach in recreational activities relating to sports from one local charitable entity registered under section 12AA of the Income Tax Act, 1961, being intra-State transaction [Note-4]	30,000	Nil	Nil
Total tax payable		72,900	72,900
Less: Cash paid towards tax payable under reverse charge [A] [Note-5]		4,500	4,500
Output tax payable against which ITC can be set off		68,400	68,400
Less: ITC of tax paid on legal fees paid to senior advocate ³		4,500	4,500
Output tax payable after set off of ITC [B]		63,900	63,900
Net GST liability [A] + [B]		68,400	68,400

Notes:-

1. Services supplied by a director of a company to the said company are taxable under reverse charge and thus, the tax leviable thereon will be paid by the company.
2. Services provided by a senior advocate by way of legal services are taxable under reverse charge and thus, the tax leviable thereon will be paid by Mr. Uttam Kumar.
3. Services provided to a recognized sports body by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized

¹ It has been assumed that services provided to Kapola Pvt. Ltd. by Mr. Uttam Kumar are in the capacity of being a director in the company.

² It has been assumed that the turnover of Mr. Uttam Kumar in the previous year 2017-18 exceeded ₹ 20,00,000.

³ It has been assumed that the matter for which the legal fees is paid to the senior advocate is in the course or furtherance of business.

sports body is exempt from GST vide exemption notification. However, services provided as a commentator to a local recognized sports body is taxable..

4. Services by way of coaching in recreational activities relating to sports by charitable entities registered under section 12AA of the Income-tax Act are exempt from GST vide exemption notification.
5. The amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.

Question 7

- (a) Koli Ltd. supplies machinery to Ghisa Ltd. (Dealer in same State), provides following particulars regarding the same. Determine the value of taxable supply of machinery.

No.	Particulars	Amount (₹)
(i)	Price of Machinery (exclusive of taxes and discounts)	5,50,000
(ii)	One part is directly fitted in machinery at place of Ghisa Ltd. (amount paid by Ghisa Ltd. directly to supplier, as per contract this amount should be paid by Koli Ltd. and not included in price)	20,000
(iii)	Installation and testing charges for machinery, not included in price	25,000
(iv)	Discount 2% on machinery price (recorded in the invoice)	
(v)	Koli Ltd. provides additional 1% discount at year end, based on additional purchase of other machinery	

(5 Marks)

- (b) Jamku Ltd. a registered person is engaged in the business of spices. It provides following details for GST paid during October, 2018.

No.	Particulars	GST Paid (₹)
1.	Raw spices purchase	
	- Raw spices used for furtherance of business	50,000
	- Raw spices used for personal use of Directors	20,000
2.	Electric machinery purchased to be used in the manufacturing process.	25,000
3.	Motor vehicle used for transportation of the employee	55,000

4.	Payment made for material and to contractor for construction of staff quarter.	1,25,000
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Determine the amount of ITC available to Jamku Ltd. for the month October, 2018 with all related workings and explanations.

All the conditions necessary for availing the ITC have been fulfilled. **(4 Marks)**

Answer

(a) Computation of taxable value of supply of machinery

S. No.	Particulars	Amount (₹)
(i)	Price of machinery (exclusive of taxes and discounts)	5,50,000
(ii)	Add: Amount paid by Ghisa Ltd. directly to the supplier for a part fitted in the machinery [Note-1]	20,000
(iii)	Add: Installation and testing charges [Note-2]	25,000
(iv)	Less: Discount 2% on machinery price [₹ 5,50,000 x 2%] [Note-3]	(11,000)
(v)	Less: Additional 1% discount at year end [Note-4]	Nil
	Value of taxable supply	5,84,000

Notes:

As per section 15 of CGST Act, 2017

- Any amount that the supplier is liable to pay in relation to a supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods shall be included in the value of supply.
- Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of supply.
- Since discount is given at the time of supply of machinery and recorded in the invoice, the value of the supply shall not include such discount.
- Though the additional discount is established before or at the time of supply, it shall not be excluded from the value of supply on the assumption that the same is not linked to the relevant invoice and proportionate ITC has not been reversed by Ghisa Ltd.

(b) Computation of ITC available with Jamku Ltd. for the month of October 2018

Particulars	GST paid ₹
Purchase of raw spices for furtherance of business [Note-1]	50,000

Purchase of raw spices for personal use of directors [Note-2]	Nil
Electric machinery purchased to be used in the manufacturing process [Note-1]	25,000
Motor vehicle used for transportation of employee [Note-3]	Nil
Payment made for material and to contractor for construction of staff quarter [Note-4]	Nil
Total ITC	75,000

Notes:-

1. Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.
2. ITC is not available on goods used for personal consumption.
3. ITC on motor vehicles can be availed, *inter alia*, when they are used for making the taxable supply of transportation of passengers. In the given case, since the supplier is in the business of spices, it cannot avail credit on motor vehicle used for transportation of the employee. Thus, ITC on motor vehicle used for transportation of the employee is blocked credit.
4. ITC is not available on goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Question 8

- (a) *Examine the liability of compulsory registration under section 24 of the CGST Act, 2017, in each independent cases mentioned below:*
- (1) *Meenu, a supplier in Maharashtra, is engaged in supply of potatoes within Maharashtra and also outside Maharashtra, whose turnover exceeds threshold limit under GST Law. (2 Marks)*
 - (2) *Jinu Oils, Gujarat, is engaged in supplying machine oil as well as petrol. Total turnover of machine oil is ₹ 20 lakh and of petrol is ₹ 15 lakh. (2 Marks)*
 - (3) *Tilu is working as an agent, he is supplying goods as an agent of Tiku (who is registered taxable person) and its aggregate turnover does not exceed ₹ 20 lakh during the financial year. (1 Marks)*
- (b) *Jolla provides continuous supply of services regarding Annual Maintenance Contract (AMC) of Air conditioner and all electronic items of Khotu Ltd. He provides following details regarding same:*

They made contract for the AMC. As mentioned in contract, AMC will start from 01-10-2017 and will be valid for a year. AMC ends on 30-09-2018. Jolla receives payment for the AMC on 31-10-2018.

Explain the time of issue of invoice in case of Continuous supply of Service (CSS) as per provisions of CGST Act, 2017 and accordingly determine time of issue of invoice in following different circumstances:

- (1) *As mentioned in contract Khotu Ltd. have to make payment on 05-11-2018.*
- (2) *If terms of payment is not mentioned in AMC and also not agreed by both the parties.*

(4 Marks)

Answer

- (a) (1) Section 24 of the CGST Act provides that persons making any inter-State taxable supply of goods are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

However, an agriculturist, to the extent of supply of produce out of cultivation of land, is not liable to registration.

Assuming that Meenu is engaged in cultivation and supply of potatoes, she is not liable to registration irrespective of the fact that she is engaged in making inter-State supply and her turnover exceeds the threshold limit.

Note: Any person engaged exclusively in the business of supplying exempted goods is not liable to registration. Since potatoes are exempted goods, Meenu is not liable to obtain registration irrespective of the fact that she is engaged in making inter-State supply and her turnover exceeds the threshold limit.

- (2) Section 24 of the CGST Act specifies the categories of persons who are required to be mandatorily registered under GST irrespective of the quantum of their aggregate turnover.

In the given case, Jinu Oils does not fall in any of the specified categories. Therefore, it is not required to obtain registration compulsorily under GST.

However, as per section 22 of the CGST Act, 2017, if the aggregate turnover of the person exceeds Rs 20 lakhs in a financial year or exceeds Rs 10 lakhs for persons in a specified state, is liable for registration.

Aggregate turnover includes exempted turnover of goods or services;

Accordingly, Jinu Oils is liable obtain registration on the basis of the turnover since its aggregate turnover [₹ 35 lakh - including turnover of exempt supply of petrol] exceeds the threshold limit of ₹ 20 lakhs.

- (3) Section 24 of the CGST Act provides that persons who make taxable supply of goods and/or services on behalf of other taxable persons whether as an agent or otherwise

are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

Therefore, Tilu will be mandatorily required to obtain registration.

(b) In case of continuous supply of services

- (i) Where due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment.
- (ii) Where due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment
- (iii) Where payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

In view of the aforesaid provisions, time of issue of invoice will be as follows in the given different circumstances:

- (1) If it is mentioned in contract that Khotu Ltd. has to make payment on 05.11.2018, the invoice shall be issued on or before 05.11.2018.
- (2) If terms of payment are not mentioned in AMC and are also not agreed by both the parties, the invoice shall be issued on or before 31.10.2018.

Note: The question has been answered by considering the annual maintenance contract as continuous supply of service. However, as per section 2(33) of the CGST Act, 2017 "continuous supply of services" inter alia means a supply of services with periodic payment obligations.

Question 9

- (a) *Examine in relation to composition levy scheme under the CGST Act, 2017 and the rules made thereunder in the following individual cases :*
 - (1) *Ketu is a manufacturer of ice-cream and pan masala in State of Maharashtra. His turnover for the year does not exceed ₹1 Crore. He wants to register for composition levy scheme. Is he eligible for it? (1 Marks)*
 - (2) *Jadhu of Gujarat opts for composition scheme during a financial year 2017-18. But on 10-02-2018 his turnover crosses ₹ 1 Crore, can he continue under composition levy scheme. (2 Marks)*
 - (3) *X Ltd. has 2 branches K & L in Delhi, having same PAN. Branch K opts for normal scheme. X Ltd. want to continue composition levy in case of its branch L. Can X Ltd. continue composition levy only for branch L? (2 Marks)*
- (b) *Please answer following individual independent cases with reference to section 37 of the CGST Act, 2017 and rule 59 of CGST Rules, 2017:*
 - (1) *Mr. Kolly is registered supplier in the State of Gujarat. He is filing GSTR 1 every month. During the month of February, 2018 he was out of India and so did not do any*

transaction during the month. He believes that as there is no transaction there is no need to file GSTR 1 for the month of February, 2018. Is he correct? (1 Marks)

(2) *Mr. Kaji is a registered dealer in Kerala. He was registered as a normal tax payer for FY 2017-18. But on 15-01-2018, he converted from normal tax payer to composition tax payer. Is he liable to file GSTR-1 for the month of February, 2018? (2 Marks)*

(3) *Mrs. Zeel a registered dealer in Rajasthan did not file GSTR 1 for the month of June, 2018 but she wants to file GSTR 1 for the month of July, 2018. Is it possible? (1 Marks)*

Answer

(a) (1) A registered person who is engaged in manufacture of, *inter alia*, ice cream and pan masala, is not eligible to opt for composition levy even if his aggregate turnover does not exceed ₹ 1 crore.

Therefore, in the given case, Ketu is not eligible to opt for composition levy.

(2) The option to pay tax under composition levy availed of by a registered person lapses with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of ₹ 1 crore. He needs to pay tax under normal scheme from that day.

Since in the given case, the turnover of Jadhu crosses ₹ 1 crore on 10.02.2018, he cannot continue under composition scheme from that day.

(3) Where person having the same Permanent Account Number, has more than one registration, the registered person shall not be eligible to opt for composition scheme unless all such registered persons opt to pay tax under composition scheme. In other words, all the registrations under the same PAN have to opt for composition scheme. In view of the same, in the given case, X Ltd. cannot continue with composition scheme only for branch L.

(b) (1) No, Mr. Kolly is not correct.

GSTR-1 needs to be filed even if there is no business activity (Nil Return) in the tax period. Therefore, in the given case, even though Mr. Kolly was out of India and thus had not done any transaction during February 2018, he is still required to file GSTR-1 for the said month.

(2) A person paying tax under composition scheme is not liable to furnish the details of outward supplies in GSTR-1.

Further, in cases where a taxpayer has been converted from a normal taxpayer to composition taxpayer, GSTR-1 is to be filed only for the period during which the taxpayer was registered as normal taxpayer.

Therefore, in the given case, Mr. Kaji is not liable to file GSTR-1 for February, 2018 since he had already shifted to composition scheme on 15.01.2018.

- (3) There is no specific bar under the law on filing of GSTR-1 for current month when GSTR-1 for the previous month has not been filed.

Therefore, in the given case, Mrs Zeel can file GSTR-1 for July, 2018 even though she has not filed GSTR-1 for the preceding month, i.e., June, 2018.

Note: Question specifies that Mr. Kaji has converted from normal taxpayer to composition tax payer on 15.01.2018. However, as per rule 4(1) of the CGST Rules, 2017, the option to pay tax under composition scheme shall be effective from the beginning of the financial year, where the intimation is filed by any registered person who opts to pay tax under section 10. Further, as per rule 3(3A) of the CGST Rules, 2017, a person who has been granted certificate of registration under sub-rule (1) of rule 10 may opt to pay tax under composition scheme with effect from the first day of the month immediately succeeding the month in which he files an intimation on the common portal on or before the 31st day of March, 2018.

Question 10

- (a) Explain the meaning of consignment note in relation to Goods Transport Agency and state its contents as per provisions of the CGST Act, 2017. **(4 Marks)**

OR

Explain the services provided by way of tolerating non-performance of a contract and its chargeability under the provisions of the CGST Act, 2017.

- (b) What are the E-ledgers? State the entries to be debited to electronic liability register under the CGST Act, 2017 and the CGST Rules, 2017. **(5 Marks)**

Answer

- (a) Consignment note means a document, issued by a Goods Transport Agency (GTA) against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered.

The contents of consignment note are as follows:-

- (i) gross weight of the consignment
- (ii) the name of the consignor and consignee (any one),
- (iii) registration number of the goods carriage in which the goods are transported,
- (iv) details of the goods transported,
- (v) details of the place of origin and destination,
- (vi) GSTIN of the person liable for paying tax
- (vii) other information as prescribed for a tax invoice, under rule 46 of CGST Rules, 2017

(a) Alternative

Non-performance of a contract is the failure to fulfill the obligations under a contract. It is generally one of the conditions stipulated in any contract for supply of goods/services.

The agreement entered into between the parties stipulates that both the service provider and service recipient abide by the terms and conditions of the contract. In case any of the parties breach the contract for any reason including non-performance of the contract, then such person is liable to pay damages in the form of fines or penalty to the other party.

Tolerating non-performance of a contract in lieu of damages or fines is a supply in terms of section 7 of the CGST Act, 2017 as it is made for a consideration by a person in the course or furtherance of business.

Further, tolerating non-performance of a contract is treated as a supply of service in terms of section 7 read with Schedule II of CGST Act, 2017.

However, in case of supplies to Government, non-performance of contract by the supplier of service for which consideration in the form of fines or liquidated damages is payable is exempt from GST.

(b) Electronic Ledgers or E-Ledgers, i.e., Electronic Cash Ledger and Electronic Credit Ledger, are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic tax liability register.

The entries to be debited to electronic liability register under the CGST Act, 2017 and the CGST Rules, 2017 are as follows: -

- (i) all amounts payable towards tax, interest, late fee and any other amount as per return filed;
- (ii) all amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by an Assessing authority or as ascertained by the taxable person;
- (iii) the amount of tax and interest payable due to mismatch;
- (iv) any amount of interest that may accrue from time to time.