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CA FINAL NOV'19

**SUBJECT- DIRECT TAX LAWS AND
INTERNATIONAL TAXATION**

Test Code –CFN 7260

BRANCH - () (Date :)

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PART A : MULTIPLE CHOICE QUESTIONS

ANSWER 1 : MULTIPLE CHOICE QUESTIONS

(2*10 =20 marks)

1. C
2. A
3. D
4. A
5. A
6. B
7. C
8. A
9. C
- 10.C

ANSWER 2 : MULTIPLE CHOICE QUESTIONS

(1*10 =10 marks)

1. C
2. D
3. B
4. D
5. B
6. D
7. D
8. D
9. C
10. D

PART B : DISCRIPTIVE TYPE QUESTIONS

ANSWER : 1

Computation of tax liability for the AY 2019 – 20

Particulars	Note	Amount (Rs.)	Amount (Rs.)
1. Book profit as per (A)	1	46,00,000	
Tax thereon @ 18.5% (A)			8,51,000
2. Total income as per (B)	2	7,00,000	
Tax on total income @ 40% (B)			<u>2,80,000</u>
Tax payable (Higher of A and B)			8,51,000
Add : Health and Education cess @ 4%			34,040
Total tax payable			8,85,040

Computation of MAT credit to be carried forward

Particulars	Amount (Rs.)
Tax payable u/s 115 JB	8,85,040
Less : Tax on total income + health & Education cess @ 4% = Rs. 2,80,000 + 11,200	(2,90,200)
MAT credit available can be carried forward for 15 successive AY	5,93,840

WN 1 : Computation of Book Profit in accordance with section 115JB

Particulars	Amount (Rs. in Lakhs)	Amount (Rs. in Lakhs)
Net profit as per Statement of Profit & Loss Account		65
Add : (i) Proposed dividend	3	
(ii) Provision for taxation	2	
(iii) Amount transferred to General reserve	5	
(iv) Provision for unascertained liabilities	2	
(v) Depreciation as per Companies Act	24	36
		101
Less : (i) Income exempt u/s 10		
- u/s 10(1) – Net agricultural income in India	16	
- u/s 10 (2A) – Share of profit from partnership firm.	15	
(ii) Loss brought forward or unabsorbed depreciation whichever is less – Rs. 12 Lakhs or Nil	Nil	
(iii) Depreciation as per Companies Act	24	
(iv) Amount withdrawn from Reserve	Nil	55
Book Profit	(A)	46

WN – 2 : Computation of Total Income as per Income Tax Act

Particulars	Amount (Rs. in Lakhs)	Amount (Rs. in Lakhs)
Net Profit		65
Add : (i) Depreciation under Companies Act	24	
(ii) Proposed dividend	3	
(iii) Provision for taxation	2	
(iv) Transfer to General reserve	5	
(v) Provision for unascertained liabilities	2	
(vi) Inadmissible expenses		
- u/s 43B – Interest not paid	6	
- Explanation to 37(1) – Penalty for infraction of law	1	43
- Fee for delayed filing of statement of TDS	-	-
		108
Less : (i) Agricultural income – Exempt u/s 10(1)	16	
(ii) Share of profit from firm – Exempt u/s 10 (2A)	15	
(iii) Amount withdrawn from reserve	3	
(iv) Depreciation allowable under Income – tax Rules	30	64
		44
Less : Brought forward business loss u/s 72		(8)
Unabsorbed depreciation u/s 32(2)		(10)

Gross Total Income		26
Less : Deduction under Chapter VI – A		
- Profits eligible u/s 80 – IC (Rs. 6 Lakhs – Rs. 5 Lakhs)		1
Taxable Income before section 10AA deduction		25
Less : Deduction u/s 10AA : Lower of : [Note (d)]		
Profit eligible u/s 10AA (Rs. 30 Lakhs (-) Rs. 12 Lakhs)	18	
Total Income before section 10AA	<u>25</u>	(18)
Taxable Income (B)		7

Notes :

- a. Amount withdrawn from Reserves Rs. 3 Lakhs created during 2016 -17 shall not be reduced from book profit since the book profit for the year 2016 – 17 has not been increased by those reserves. However, while computing the tax payable under normal provision, the same shall be deducted to arrive at the taxable income.
- b. Income and expenditure relating to section 80 – IC/ 10AA should not be considered for the purpose of arriving at book profit u/s115JB.
- c. In the given case as there is no information about unabsorbed depreciation loss, the same has been assumed to be Nil. Therefore, no deduction is warranted under this clause.
- d. The deduction u/s 10AA is computed as per the maximum limits specified under FA 2017.
- e. No treatment required in computation of total income towards revaluation surplus on fair valuation of assets and equity installments as the same has not been credited to statement of profit and loss account. Simply such items credited in the OCI shall also not form part of the book profit.
- f. Under section 37 any expenditure incurred wholly and exclusively for the purpose is allowed as deduction. The fee for delayed submission of the statement of TDS is not in the nature of Interest for delayed remittance of TDS or in the nature of penalty and hence allowed as deductor. (Just like a fee payable to ROC for delayed filing of a statutory return is allowed as deduction)

(14 MARKS)

ANSWER : 2

A. Computation of total income of ABC LLP

Particulars	Rs. (in lacs)
Profit from Unit A [Rs.502 lakhs + Rs.24 lakhs, being disallowance u/s 43B]	526
Profit from Unit B [Rs.753 lacs + Rs.47 lacs, being disallowance u/s 40A(3)]	<u>800</u>
	1326
<i>Less:</i> Deduction under section 10AA [See Working Note below]	<u>348</u>
Total Income	<u>978</u>
Tax on total income@30%	<u>293.40</u>
Add: Surcharge@12%, since total income > Rs.1 crore	<u>35.21</u>
	<u>328.61</u>
Add: Health and Education cess @4%	<u>13.14</u>
Tax liability (as per normal provisions)	<u>341.75</u>

**Computation of Adjusted total income and Alternate Minimum tax of ABC LLP
as per the provisions of section 115JC for A.Y. 2019-20**

Particulars	Rs. (in lakh)
Total income as per the normal provisions	978
Add: Exemption under section 10AA	<u>348</u>
Adjusted Total Income	<u>1326</u>
Tax@18.5% of Adjusted Total Income	254.31
Add: Surcharge @12% as the adjusted total income is > Rs.1 crore	<u>29.44</u>
	274.75
Add: Health and Education cess @4%	<u>10.99</u>
Alternate Minimum Tax as per section 115JC	<u>285.74</u>

Since the tax payable as per the normal provisions of the Act is more than the alternate minimum tax payable, the total income as per normal provisions shall be liable to tax and the tax payable for A.Y. 2019-20 shall be Rs.341.75 lakhs.

Working Note: Computation of deduction under section 10AA in respect of Unit A located in a SEZ

Particulars	Rs. (in lacs)
Total turnover of Unit A = (Rs.1200 lacs + Rs.200 lacs) – Rs.200 lacs, being freight and insurance included therein. Since freight and insurance has been excluded from export turnover, the same has to be excluded from total turnover also	1200
Export Turnover of Unit A Export sale proceeds received in India	1040
Less: Insurance and freight not includible in export turnover	<u>140</u>
	<u>900</u>
Profit "derived from" Unit A Net profit for the year	502
Add: Disallowance under section 43B	<u>24</u>
	526
Less: Items of business income which are in the nature of ancillary profits and hence, do not constitute profit 'derived from' business for the purpose of exemption under section 10AA	
Duty drawback	38
Profit on sale of import entitlement	<u>24</u>
	<u>62</u>
	<u>464</u>

Deduction under section 10AA	
Profit derived from Unit A $\times \frac{\text{Export turnover of Unit A}}{\text{Total turnover of Unit A}} \times 100\%$	
= 100% of 464 \times 900/1200 =	348

B.

Steps	Particulars	Non – Resident Individual (Rs.)
Step 1	Total Income	3,71,000
	Tax on income :	
	Special tax rate u/s 112 for LTCG (Note 1)	1,50,000 * 20% = 30,000
	Balance Income	2,21,000 < BEL, so = Nil
	Total Tax	30,000
	Tax amount (Note 2)	30,000
	Add : Health and Education Cess @ 4% (FA 2018)	1,200
	Total Tax Liability	31,200
Step 2	Adjusted Total Income	
	Total Income	3,71,000
	Add : Specified Deductions :	
	u/s 10AA	65,00,000
	u/s 80 – IB	48,000
	Adjusted Total Income	69,19,000
	Tax Amount @ 18.5%	12,80,015
	Surcharge @ 10%(Since total income exceed 50 lakh but does not exceed 1 crore)	1,28,001.50
	Tax payable including surcharge	14,08,016.50
	Health and Education cess @ 4%	56,321
	AMT (Alternate Minimum Tax)	14,64,337
Step 3	AMT Credit	
	(Step – 2 – Step 1)	14,33,137

(6 MARKS)

ANSWER : 3

A.

Computation of total income of Mr. Singh for A.Y. 19 – 20

Particulars		Amount	Amount
GAV (Higher of expected & actual rent)		2,00,000	
Expected rent (lower of fair rent & std rent)	1,50,000		
- Actual rent	2,00,000		
(-) Municipal taxes paid (including the arrears)		(1,85,000)	
NAV		15,000	
(-) Deduction u/s 24			
(a) 30% of NAV	4,500		
(b) Interest on loan borrowed for major repairs to property	6,00,000	(6,04,500)	
	-	(5,89,500)	
Unrealized rent	5,00,000		
(-) deduction @ 30%	(1,50,000)	3,50,000	
Income from H.P. (See note 3)		(2,39,500)	(2,00,000)
Income from Capital gains			
FVC (As see 50C higher of the following :-			

Actual consideration	25,00,000		
Stamp duty value as on the date of agreement Stamp duty exceed 105% of actual consideration	35,00,000		
Where the date of agreement & date of registration of property are not same, the value assessable by the Stamp Valuation Authority as on the date of agreement may be taken. It is assumed that whole or part of the consideration is received on or before the date of agreement otherwise than by way of cash.			
(-) ICOA (Rs. 25,000 × 280/100)		(70,000)	
As per sec 49(1), cost of acquisition of the residential house gifted to Mr. Singh would be the cost for which Mr. Singh's father acquired the asset. Indexation benefit shall be available w.e.f the p.y. in which the previous owner held the asset (CIT v. Majula J Shah)			
LTCG		34,30,000	
(-) Exemption u/s 54 (see note 1)		34,30,000	Nil
(-) Exemption u/s 54EC (see note 4)			Nil
STCG			
STCG (5 lakhs * 15/27)			2,77,778
IFOS			
Interest Income (Rs. 5 lakh * 5/27) (see note 2)			92,593
Dividend Income (Rs. 5 lakhs * 7/27) (see note 2)		1,29,630	
Dividend received from other investments		11,50,000	
Less : Exempt u/s 10(34)		(10,00,000)	2,79,630
Total Income (see note 3)			4,50,001

Notes :

- (1) Section 54 and 54F have been amended by FA 2014, clarify that the exemption available there under would be in respect of the investment in one Residential house in India. In Ananda Basappa's case, the assessee had invested in two adjacent flats and necessary modifications were effected so that the flats can be used as single residence. The High court held that the assessee was entitled to exemption u/s 54 in respect of investment in both the residential flats, since they were intended to be used as a single residence. It appears that even after the amendment by Finance Act 2014, the above ruling will continue to hold goods, since section 54 and 54F use the expression "residential house" and not "residential unit".
- (2) In case taxability of income distributed by securitization trust to the investor the income will be taxable in the hands of investor in the same proportion as it is in the hands of securitization trust in the ratio of 5 : 7 : 15.
 - (i) Interest Income of Rs. 5 Lakh * 5/27 = Rs. 92,593 @ normal slab rates applicable to the individual
 - (ii) Dividend Income of Rs. 5 Lakh * 7/27 = Rs. 1,29,630 is Exempt subject to section 115BBDA.
 - (iii) STCG of Rs. 5 Lakh * 15/27 = Rs. 2, 77,778 @normal slab rates applicable to the individuals.
- (3) Section 71 regulates the provisions pertaining to Inter – head adjustments of losses. A new sub section 3(A) has been inserted to provide that set off of loss under the head "Income form House Property" against any other head of income shall be restricted to Rs. 2 lakh for any assessment year. However, unabsorbed losses shall be allowed to be carried forward for set off in subsequent years in accordance with the existing provisions of section 71B.
- (4) Although there is no further need of exemption u/s 54EC but even otherwise it is not available since the investment in the notified bonds is made on 15/03/2019, which is beyond 6 months from the date of transfer.

(10 MARKS)

B.

- (i) SS Inc holds 30% of capital of DS Ltd. (i.e. more than 26%) and accordingly is an AE of DS Ltd. as per section 92A.
- (ii) XY Inc. has financed an amount which is more than 51% of the book value of assets of DS Ltd. and accordingly, DS Ltd. and XY Inc are related enterprises as per section 92A.

Computation of adjusted total income :

Particulars	Amount (Rs. In Lakhs)
Income of DS Ltd. before any adjustments	150
Add : Adjustments as per Chapter X	
(i) Difference for excess payment of royalty [$(12 - 9) * 63$]	189
(ii) Difference for excess interest paid on loan of USD 75 Lakhs. [$500 * 3\% (15\% - 12\%) * 63$]	945
Adjusted total income	1,284

It is assumed that DS Ltd. has not gone under safe harbour or advance pricing agreement. However, the provision of section 92CE on secondary adjustment may get invoked as TP adjustment is in excess of Rs. 1 crore.

(4 MARKS)**ANSWER : 4****A.**

- (i) Since the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, the maturity proceeds of Rs. 4.50 lakh are not exempt under section 10(10D) in the hands of Mr. X. Therefore, tax is required to be deducted @ 1% under section 194DA on the maturity proceeds of Rs. 4.50 lakhs payable to Mr. X.
- (ii) Since the annual premium is less than 20% of sum assured in respect of a policy taken before 1.4.2012, the sum of Rs. 2.75 Lakhs due to Mr. Y would be exempt under section 10(10D) in his hands. Hence no tax is required to be deducted at source under section 194DA on such sum payable to Mr. Y.
- (iii) Even though the annual premium exceeds 10% of sum assured in respect of policy taken after 31.3.2012, and consequently, the maturity proceeds of Rs. 95,000 would not be exempt under section 10(10D) in the hands of Mr. Z, the tax deduction provisions under section 194DA are not attracted since the maturity proceeds are less than Rs. 1 lakhs.

(3 MARKS)**B. Computation of total income of LMN Limited for the A.Y. 2019-20**

c.

Particulars	Rs.(in lacs)	
Business income before setting-off brought forward losses of PQR Ltd.	130.00	
Speculative profit before setting-off brought forward losses of PQR Ltd.	10.00	140.00
<i>Add:</i> Excess depreciation claimed in the scheme of amalgamation of PQR Limited with LMN Limited.		
Value at which assets are transferred by PQR Ltd.	150	
WDV in the books of PQR Ltd.	100	

Excess accounted	50	
Excess depreciation claimed in computing taxable income of LMN Ltd. [Rs.50 lacs × 15 %] [<i>Explanation 2</i> to section 43(6)]		7.50
		147.50
Set-off of brought forward business loss of PQR Ltd. (See Notes 2 & 4)		(120.00)
Set-off of unabsorbed depreciation under section 32(2) read with section 72A (See Notes 2 & 4)		(18.00)
Set-off of unabsorbed capital expenditure under section 35(1)(iv) read with section 35(4) (See Note 5)		(2.00)
Business income		7.50

Notes:

1. It is presumed that the amalgamation is within the meaning of section 72A of the Income-tax Act, 1961.
2. In the case of amalgamation of companies, the unabsorbed losses and unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected and such business loss and unabsorbed depreciation shall be carried forward and set-off by the amalgamated company for a period of 8 years and indefinitely, respectively.
3. As per section 72A(7), the accumulated loss to be carried forward specifically excludes loss sustained in a speculative business. Therefore, speculative loss of Rs.4 lacs of PQR Ltd. cannot be carried forward by LMN Ltd.
4. Section 72(2) provides that where any allowance or part thereof unabsorbed under section 32(2) (i.e., unabsorbed depreciation) or section 35(4) (i.e., unabsorbed scientific research capital expenditure) is to be carried forward, effect has to be first given to brought forward business losses under section 72.
5. Section 35(4) provides that the provisions of section 32(2) relating to unabsorbed depreciation shall apply in relation to deduction allowable under section 35(1)(iv) in respect of capital expenditure on scientific research related to the business carried on by the assessee. Therefore, unabsorbed capital expenditure on scientific research can be set-off and carried forward in the same manner as unabsorbed depreciation.
6. The restriction contained in section 73 is only regarding set-off of loss computed in respect of speculative business. Such a loss can be set-off only against profits of another speculation business and not non-speculation business. However, there is no restriction under the Income-tax Act, 1961 regarding set-off of normal business losses against speculative income. Therefore, normal business losses can be set-off against profits of a speculative business.

Consequently, there is no loss or allowance to be carried forward by LMN Ltd. to the F.Y. 2019-20.

(6 MARKS)

C. Computation of the total income of the trust :

Particulars	Amount (Rs.)	Amount (Rs.)
Donations received		100 Lakhs
(-) 15% ad hoc exemption		(15 Lakhs)
Balance		85 lakhs
(-) Applied Income		
Actual Application	82 Lakhs	
Deemed Application on account of non receipt	1 Lakh	
Deemed Application for any other reason	2 Lakhs	(85 Lakhs)
Taxable Income		Nil

Note :

1. The exemption of the same income cannot be claimed when it is actually applied in the next year.
2. The amount deemed to be applied on account of any other reason shall be utilized in the following year. Therefore, in the above case, the income shall have to be applied in the PY 2019 – 20. On failure to do so, the amount of unapplied income shall be liable to tax in the AY 2020 – 21 relevant to pay 2019 – 20.

Furthermore, in respect of above, the trust shall have to exercise the option of deemed application of the income before the due date of filing the Return of Income.

(5 MARKS)**ANSWER : 5**

A. As per the provisions of section 281B, there can be provisional attachment of property in a case, where -

- (i) The proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment is pending.
- (ii) Such attachment is necessary for the purpose of protecting the interest of Revenue in the opinion of the Assessing Officer.
- (iii) The previous approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director has been obtained by the Assessing Officer.

The Assessing Officer, may, by an order in writing attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule.

Such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of order made under section 281B(1). However, the period can be extended by the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director, as the case may be, for the reasons to be recorded in writing for a further period or periods as he thinks fit. The total period of extension in any case cannot exceed 2 years or 60 days after the date of order of assessment or reassessment, whichever is later.

The Assessing Officer shall, by order in writing, revoke provisional attachment of a property made under section 281B(1) in a case where the assessee furnishes a guarantee from a scheduled bank, for an amount not less than the fair market value of such provisionally attached property or for an amount which is sufficient to protect the interests of the revenue.

(4 MARKS)

OR

- A. It has been seen that the Indian Courts have often relied on the foreign judicial precedents. In the case of CIT v. Vishakhapatnam Port Trust (1983) 144 ITR 146 (AP), it was held that any person interpreting tax treaty must consider foreign judicial precedents relating to similar treaties. Various foreign judicial precedents were relied upon in the said case. Also, in the Azadi Bachao Andolan case (supra), various foreign case laws were relied upon. In case of McDowell and Company Ltd. v Commercial Tax Officer (1985) 154 ITR 148, where in distinction between tax evasion and tax avoidance was observed, various English case laws were referred

The Tribunal in case of Meera Bhatia v ITO (1985) 154 ITR 148, emphasized the importance of foreign judicial precedents by observing :

“In legal matters like interpretation of the international tax treaties and with a view to ensure consistency in judicial interpretation thereof under different tax regimes, it is desirable that the interpretation given by the foreign Courts should also be given due respect and consideration unless, of course, there are any contrary decisions from the binding judicial forums or unless there are any other good reasons to ignore such judicial precedents of other tax regimes.”

However, in case of CIT v PVAL Kulandagan Chettiar (supra), the Supreme Court found the OECD model and decisions of foreign jurisdictions not relevant given the specific factual circumstances of the case.

Thus, it can be said that foreign judicial precedents have persuasive value in case where identical definition is present under treaties, however, they are not binding on the domestic courts. Also, the foreign judicial decisions may not be relied upon in case where (i) there are peculiar facts which restrict these decisions from being of relevance (ii) there is binding decision of the jurisdictional court or (iii) when language of treaty is different – The Law and Practice of Tax Treaties : An Indian Perspective

(4 MARKS)

- B. As per the provision of Sec 271AAB, in case where search u/s 132 has been initiated and
- The assessee does not admit nor discloses income in return filed for specified P.Y., then penalty @ 60% of undisclosed income shall be levied.
 - The assessee admits the undisclosed income and specifies the manner in which it was derived, substantiates the manner in which the undisclosed income was derived and pay tax along with interest in respect of the undisclosed income within the specified date. Then penalty shall be 30% of the undisclosed income.

Case (a) The amount of penalty u/s 271AAB = 60% of (50 lakh + 2 crore + 80 lakh)
= Rs. 198 lakh

Case (b) The amount of penalty shall be 30% of the undisclosed income
Therefore, penalty u/s 271AAB = 30% *(50 lakh + 2 crore + 80 Lakh)
= 99 Lakh

Note : Penalty u/s 270A shall not be imposed on the Assessee in respect of Undisclosed Income referred u/s 271AAB.

- C. Penalty under section 221 is attracted when an assessee is in default or is deemed to be in default in making payment of tax.
The issue under consideration in this case is whether the Assessing officer was justified in levying penalty under section 221 when the assessee had voluntarily remitted the tax deducted at source, though belatedly.

This issue came up before the Bombay High Court in the case of Reliance Industries Ltd. v. CIT (2015) 377 IRT 74. The High Court observed that as per section 201, a person is deemed to be an assessee – in – default for failure to deduct tax or after deduction, pay the tax to the credit of the Government within the prescribed time.

In the case on hand, the assessee has deducted the tax but failed to pay the tax so deducted to the credit of the Government within the prescribed time. Hence, it would be deemed to be an assessee – in – default for failure to pay the tax after deduction. Consequently, penalty under section 221 would be attracted.

Further, the assessee would not cease to be liable to penalty under section 221 merely by reason of the fact that before the levy of penalty, he has paid the tax [Explanation to section 221 (1)]. The action of the Assessing Officer in this case is, therefore, justified.

(3 MARKS)

D. The service of notice in the given cases should be on the persons mentioned hereunder :

Person	Notice to be addressed and served on
A dissolved firm	Any person who was a partner (not being a minor) immediately before dissolution.
A deceased person	The legal heirs of the deceased.
A partitioned HUF	Last Manager of the HUF, or, if he is dead, then all adult members of the erstwhile HUF.

(3 MARKS)

ANSWER : 6

A. A treaty is not intended to create a charge. It is intended to provide the benefit from double non –taxation. Further, section 90(2) of the Income – tax Act provides that, provisions of the Act or DTAA whichever are beneficial to assessee shall apply. It was held by Supreme Court in Azadi Bachoo Andolan case (supra) that provisions of tax treaty (to the extent they are more beneficial to the assessee) would override domestic tax law. This has also been accepted by CBDT by its Circular No. 333, dated April 2, 1982. Also, in the opinion of the author

- It is possible to apply treaty provisions for one year and provisions of the Act in the other year.
- It is possible to apply provisions of treaty for one source of income say business income and provisions of the Act for the other say capital gains.
- It is possible to apply provisions of treaty for same source of income from Country A and provisions of the Act for same nature of income from country B.

- (3 MARKS)

B. Under section 90(2), where the Central Government has entered into an agreement for avoidance of double taxation with the Government of any country outside India or specified territory outside India, as the case may be, then, in relation to the assessee to whom such agreement applies, the provisions of the Income – tax Act, 1961 shall apply to the extent they are more beneficial to the assessee. Thus, in view of paragraph 2 of the Article 24(Non – Discrimination) of the Double Taxation Avoidance Agreement (DTAA), it appears that the Indian branch of DS Limited, incorporated in Mauritius, is liable to tax in India at the rate applicable to domestic company (30%), which is lower than the rate of tax applicable to a foreign company (40%).

However, Explanation 1 below sub – section (3) of section 90 clarifies that the charge of tax in respect of a foreign company at a rate higher than the rate at which a domestic company

is chargeable, shall not be regarded as less favourable charge or levy of tax in respect of such foreign company. Therefore, in view of this Explanation, the action of the Assessing Officer in levying tax @ 40% on the Indian branch of DS Ltd. is in accordance with law.

(3 MARKS)

C. Computation of interest payable u/s 234A, 234B & 234C :

- **Section 234A** : Since the ROI is filed belatedly in Nov. 2018, therefore, the interest u/s 234A on balance tax liability for 2 months shall be levied. Accordingly, Rs. 6,175, i.e., [Rs. 3,08,750 (WN 1) × 1% × 2 months] shall be levied u/s 234A.
- **Section 234B** : Aggregate of advance tax paid on or before 31.03.2018 is Rs. 2,67,000 ≠ at least 90 % of total tax payable, i.e., Rs. 5,75,750 (WN 1) × 90% = Rs. 5,18,175. Accordingly, interest of Rs. 24,700. [Rs. 3,08,750 × 1% × 8 months] shall be levied u/s 234B.
- **Section 234C** : Rs. 15,906

WN 1 : Computation of Total Income & Total Tax payable for A.Y. 2019 – 20.

Particulars	Amount	Amount
	Rs.	Rs.
Net Total Income		21,00,000
Tax on Total Income Rs. 21,00,000*30%	6,30,000	
Add : Health & Education Cess @ 4%	25,200	6,55,200
Less : TDS	54,450	
Less : Relief u/s 90	25,000	(79,450)
TOTAL TAX LIABILITY		5,75,750
Less : Advance Tax paid		(2,67,000)
NET TAX LIABILITY		3,08,750

WN 2 : Computation of Interest u/s 234C :

Instalment	Advance tax payable (Rs.)	Advance Tax paid (Rs.)	Shortfall	% of Advance Tax paid	Interest
1	86,363 (15%)	40,000	46,363	6.94	1,391
2	2,59,088(45%)	1,05,000	1,54,088	18.23	4,623
3	4,31,813 (75%)	2,05,000	2,26,813	NA	6,804
4	5,75,750 (100%)	2,67,000	3,08,750	NA	3,088
				Total	15,906

Note :

In respect of the first & second installments paid on 15th June & 12th Sep, the provisions of Section 234C envisage a concessional rate of 12% & 36% respectively. Accordingly, in the Instant case, with respect to the first & second installments, interest u/s 234C is leviable, as the assessee has paid advance tax less than 12% & 36%.

(8 MARKS)