



CA FINAL
SUBJECT- ELECTIVE PAPER
(INTERNATIONAL TAXATION)
Test Code – FNJ 7369
(Date :)

(Marks - 100)

Attempt any four out of five case study based questions.

Each case study carries 25 Marks.

CASE STUDY -1

'A' Ltd., an Indian company, was incorporated in the year 2009. It is a wholly owned subsidiary of A Inc, USA. A Ltd. is engaged in the business of manufacturing and selling virtual reality cameras. During the previous year 2019-20, A Ltd. entered into various transactions with the following enterprises for purchase of raw materials, use of technology and sale of finished goods. The earnings before interest, dividend, tax and amortization of A Ltd for Financial year 2019-20 is Rs. 200 crores. The details of the transactions entered into by A Ltd. during F.Y.2019-20 are given hereunder:

S. No	Transaction	Enterprise	Amount (Rs. in crores)
1	Purchase of raw-materials	AA Ltd, China	150
2	Payment of royalty	A Inc, USA	5
3	Sale of finished goods	AAA Ltd, Taiwan	50

Prior to F.Y.2019-20, A Ltd. had obtained loan of Rs. 1000 crores @8% from A LLC, Cyprus in April, 2018.

The following additional information pertaining to loans obtained by A Ltd. is provided for the previous year 2019-20:

- Interest of Rs. 80 crores paid to A LLC, Cyprus on the loan of Rs. 1000 crores. The book value of the total assets of A Ltd is Rs. 1800 crores.
- A Ltd. obtained loan of Rs. 100 crores from Bank of Chennai, India based on a guarantee provided by A Inc., USA. Interest of Rs. 8 crores paid on such loan and guarantee fee of Rs. 50 lacs paid to A Inc., USA.
- A Ltd. obtained loan of Rs. 50 crores from TN Mercantile Bank, India based on a letter of comfort provided by Mr. Balaji, who is an Indian resident and director of A Ltd. Interest of Rs. 4 crores is paid towards such loan.
- A Ltd. obtained an independent loan of Rs. 300 crores from Union City Bank, India for which interest of Rs. 3 crores has been paid to the bank.
- A Ltd. obtained loan of Rs. 50 crores from Bank of Taiwan, India Branch. Guarantee was provided by AAA Ltd., Taiwan. Interest paid for the concerned year is Rs. 3 crores.

Guarantee fees paid to AAA Ltd. is Rs. 25 lakhs. A Ltd. holds shares carrying 25% voting power in AAA Ltd., Taiwan.

- A Ltd. obtained interest-free loan of Rs. 50 crores from A Pty, Singapore. Out of the 25 directors of A Pty., Singapore, 10 are appointed by A Ltd.
- A Ltd. obtained foreign currency loan of \$ 10 million from Wells Fargo Bank of USA, in USA, based on a back to back deposit made by A Inc. USA to the tune of \$ 5 million in the bank. Interest of Rs. 6 crores is paid on such loan.
- A Ltd. obtained foreign currency loan of \$ 20 million from Bank of USA, in USA, based on a back to back deposit made by A Inc., USA to the tune of \$ 20 million in the bank. Interest works out to Rs. 12 crores.
- A Ltd. had to incur a sum of Rs. 1 crore as an interest towards the delayed payment to AA Ltd. China, being its creditor for supply of raw material. 90% of raw materials required by A Ltd. is supplied by AA Ltd., China. The price and other conditions for supply of raw material are influenced by AA Ltd., China.

Based on the above facts, you are required to answer the following questions:

I. OBJECTIVE TYPE QUESTIONS

Write the most appropriate answer to each of the following questions by choosing one of the four options given. (5 x 2 = 10 Marks)

1. Which of the following enterprises are associated enterprises/deemed associated enterprises of A Ltd.?
 - (a) A Inc., USA; A LLC, Cyprus; and AAA Ltd., Taiwan.
 - (b) A Inc., USA; A LLC, Cyprus; and A Pty, Singapore.
 - (c) A Inc., USA; A LLC, Cyprus; and AA Ltd., China.
 - (d) A Inc., USA; AA Ltd., China; and A Pty, Singapore.
2. Which of the following approaches does India follow in relation to secondary adjustments?
 - (a) Deemed equity approach
 - (b) Deemed dividend approach
 - (c) Deemed loan approach
 - (d) Either (a) or (c)
3. If A Ltd. does not furnish transfer pricing report for F. Y 2019-20, what would be quantum of penalty imposable under the Income-tax Act, 1961 for such a failure?
 - (a) 1% of the value of international transaction
 - (b) 2% of the value of international transaction
 - (c) Rs. 1 crore – fixed penalty
 - (d) Rs. 1 lakh – fixed penalty

4. In a case where primary adjustment to transfer price is made suo motu by A Ltd., the time limit for repatriation of “excess money” is -
- (a) 60 days from 30th September of the Assessment Year
 - (b) 90 days from 30th September of the Assessment Year
 - (c) 60 days from 30th November of the Assessment Year
 - (d) 90 days from 30th November of the Assessment Year
5. The excess money which is available with the AE, if not repatriated to India within the prescribed time, shall be deemed to be an advance made by A Ltd. to such AE, if the primary adjustment to transfer price, made by it suo motu in its return of income, is in respect of -
- (a) A.Y.2016-17 and the amount of primary adjustment is Rs. 2 crores.
 - (b) A.Y.2019-20 and the amount of primary adjustment is Rs. 1 crore
 - (c) A.Y.2019-20 and the amount of primary adjustment is Rs. 1.05 crore
 - (d) A.Y.2018-19 and the amount of primary adjustment is Rs. 1 crore.

II. DESCRIPTIVE QUESTIONS

1. Based on the details provided in respect of interest paid by A Ltd., determine the amount of interest to be disallowed for A.Y.2020-21 under the relevant provisions of the Income-tax Act, 1961 relating to limitation of interest deduction, giving reasons for treatment of each item of interest. Consequently, determine the permissible interest deduction while computing income under the head “Profits and gains of business or profession”. **(8 Marks)**
2. (i) Which Action Plan of BEPS is based on thin capitalization? Mention the provision incorporated in the Income-tax Act, 1961 in line with this Action Plan. **(2 Marks)**
- (ii) A Ltd. is contemplating to stop the current business activity and start a new business vertical. In this regard, it wants to know whether the interest disallowed under the relevant provision of the Income-tax Act, 1961 can be carried forward to next year and whether it could be set-off against the income of the new business. **(2 Marks)**
3. A Ltd, being a wholly owned subsidiary of a US entity A Inc., wants to understand whether transfer pricing provisions under the Income-tax Act, 1961 will trigger if it receives interest- free loan from its foreign AE parent A Inc., USA. Advise. **(3 Marks)**

CASE STUDY -2

Good Day Inc of USA and its associates:

Good Day Inc of USA is engaged in multiple trading and manufacturing activities throughout the world. It has a liaison office at Mumbai meant for sourcing raw materials in India for the purpose of carrying out manufacturing activity at USA. It also provided plant and machinery on hire to be used for extraction of mineral oils in India. During the previous year 2019 -20, it received mobilization advance of Rs. 2 crores from an Indian company for movement of rigs from a foreign country to an offshore site at Mumbai and subsequently they were put to use (i.e.) for extraction of mineral oil. It also received Rs. 5 crores by way of hire towards provision of plant and machinery for the previous year 2019-20 in India. Good Day Inc. has a subsidiary company by name Kite Inc. at Portugal, which is engaged in supply of electronic goods worldwide.

Democrat (P) Ltd, Chennai

Democrat (P) Ltd is a subsidiary of Giant Trade Ltd of UK. It is engaged in manufacturing and trading of consumer durables both by import and export. It is also engaged in executing turnkey projects. It had 4 directors viz. Ashok Chatterjee, Mithun Banerjee, Dr Deepak Mitra and Meenakshi Jain. The director, Ashok Chatterjee, sold 30% of the shares owned by him to his son, Santhosh Chatterjee, in June 2015 and resigned from the directorship of the company. The whereabouts of Ashok Chatterjee are not known to the company.

Democrat (P) Ltd. gave loan of Rs. 6 crores on 01.07.2019 to its associated concern in Australia without charging interest. For giving the said advance, Democrat (P) Ltd. mobilized funds by issuing 8% Debentures on 01.06.2019.

Kite Inc. of Portugal entered into an agreement for supply of electronic goods to Democrat (P) Ltd. of Chennai on regular basis. As per agreement, it supplied goods worth Rs. 10 crore every month from April, 2019 onwards and the supply is to be made for 42 months continuously.

Democrat (P) Ltd. permitted yet another of its associated enterprise by name Maxwell (P) Ltd. registered in South Africa to use the hired machineries for exploration of mineral oil in Kenya. Democrat (P) Ltd. paid Rs. 5 crores to Dusseldorf Inc. of Germany towards hire charges of plant and machinery for the previous year 2019-20. The usage of Maxwell (P) Ltd. is equal to 55% of the total hire charges paid and the balance was for the use by Democrat (P) Ltd. Maxwell (P) Ltd. did not share or pay any hire charges and the entire amount was paid by Democrat (P) Ltd.

During the Previous Year 2019-20, Democrat (P) Ltd. sponsored a football tournament in India. Mr. Dickie Bird, a citizen of UK but resident of India (for Assessment Year 2020 -21), a famous international referee received Rs. 4,50,000 for acting as referee in the tournament from Democrat (P) Ltd.

Income-tax assessment of Democrat (P) Ltd.

The income-tax return of the Assessment Year 2019-20 was filed by Democrat (P) Ltd on 20.12.2019 declaring total income of Rs. 52.50 crores. The assessee obtained report in respect of international transactions from the 'Accountant' (as mentioned in the *Explanation* below section 288(2) and the report contained information about the international transactions of the assessee. The Assessing Officer referred the international transactions to Transfer Pricing Officer (TPO) for determination of arm's length price without providing an opportunity of hearing to Democrat (P) Ltd. The TPO wanted the documents and information in respect of the international transactions and the assessee could not furnish information and documents for the transactions of the value of Rs. 4.50 crores. The Assessing Officer passed the order of assessment based on the TPO report subsequently. (**Note:** The law

as regards scope of work and power of TPO are the same for the Assessment Years 2019-20 and 2020-21. There is no change in legal provision.)

Proposed joint venture between Democrat (P) Ltd and Good Day Inc.

The Democrat (P) Ltd jointly with Good Day Inc. bid for a turnkey project worth Rs. 500 crores in India. It was Democrat (P) Ltd who solicited the association of Good Day Inc. in executing the turnkey project. The parties have agreed to enter into an agreement to specifically allot the scope of work between them and to bear the profits and losses arising thereon respectively. There would be no common risk sharing in the arrangement between the companies. However, they apprehend that they could be assessed as an AOP during the income-tax assessment.

Purchase of land from non-resident

Democrat (P) Ltd acquired a vacant site at Mysore from Ms. Kousalya, a non-resident settled in Germany, for expansion of its manufacturing activity. The land was acquired by Ms. Kousalya in April, 2006, when she was a resident of India. Now, Democrat (P) Ltd acquired the said land for Rs. 48 lakhs on 10th March, 2020. Ms. Kousalya does not have permanent account number and has also not furnished tax residency certificate.

The tax was deducted at source out of the purchase price and was remitted to the exchequer on 20th March, 2020. The balance amount of purchase price has not yet been remitted to Ms. Kousalya as the approval for remittance is pending from RBI.

Rajesh Mitra son of Dr. Deepak Mitra, shareholder in Democrat (P) Ltd

Rajesh Mitra son of Dr. Deepak Mitra born and brought up in India acquired 10,000 equity shares of Democrat (P) Ltd on 10.06.2010 for Rs. 9 lakhs. He left India for employment in USA in January, 2012 and settled there. He has never visited India subsequently. His entire shareholdings in Democrat (P) Ltd were sold for Rs. 28.80 lakhs on 10.01.2020. The amounts were repatriated to his bank account in USA subsequently.

The exchange rates are given below:

On 10.06.2011 1\$= Rs.45;

On 10.01.2020 1\$ = Rs.72.

Cost inflation index P.Y.2010-11 = 167; P.Y. 2019-20 = 289.

Fair Market Value (FMV) of each equity share as on 31.01.2018 = Rs.300

Activity profile of director Mithun Banerjee

Director Mithun Banerjee is a renowned technocrat, and is one of the directors of the company Democrat (P) Ltd since 01.06.2015. He is a partner in Lilly LLP, New York. A notice for assessment of his income under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 was served on 01.05.2019 for the alleged undisclosed income / assets held in USA. The initial capital contribution in the firm was made in the previous year 2006-07 was his only contribution and the accumulations are by way of profits which were not disclosed by him for income-tax assessment, in India. He has not withdrawn any amount from the firm at anytime.

The Balance Sheet of Lilly LLP is given below:

	01.04.2019	01.10.2019	31.03.2020
	In US\$		
Cash on hand (as per books)	10,000	12,000	15,000
Cash at Bank (as per books)	20,000	18,000	15,000
Stock in trade (as per books)	30,000	30,000	30,000
Vacant site FMVs as on 1.4.2019 \$ 40,000	20,000	50,000 (FMV)	60,000 (FMV)
Plant and machinery	75,000	50,000 (FMV)	40,000 (FMV)
	(As per books)		
Bullion FMV as on 01.04.2019 \$ 25,000	15,000	30,000 (FMV)	35,000 (FMV)
	1,90,000	1,90,000	1,95,000
Liabilities			
Sundry Creditors (as per books)	50,000	55,000	60,000
Partners' Capital			
Mithun Banerjee (25%)	30,000	No fresh capital introduction.	
Bimal (50%)	50,000	No fresh capital introduction.	
Senthil (25%)	60,000	No fresh capital introduction.	
	1,90,000		

The partnership agreement provides that in the event of dissolution, the net worth exceeding the capital of the partners is to be shared in the profit sharing ratio.

The reference rate of RBI of 1 US \$ as against Indian Rupee on various dates are as under:

01.04.2019 = Rs.65; 01.05.2019 = Rs.68; 31.03.2020 = Rs.72

Choose the most appropriate alternative for the following MCQs: (2 x 5 = 10 Marks)

1.1 What is the 'due date' within which the liaison office of Good Day Inc. has to submit the annual statement to the Income-tax authority for the year ended 31st March, 2020?

- (A) 30-05-2020
- (B) 31-07-2020
- (C) 30-09-2020
- (D) 31-03-2021

- 1.2 Compute the amount of capital gain/loss in the hands of Rajesh Mitra on sale of shares of Democrat (P) Ltd.
- (A) Long-term capital loss Rs.1,20,000
 - (B) Long-term capital gain Rs.13,22,515
 - (C) Long-term capital gain Rs.19,80,000
 - (D) Long-term capital gain Rs.2,70,000
- 1.3 Under what section tax is deductible at source on the payments made to Mr. Dickie Bird who acted as referee in the football tournament for the amounts received from Democrat (P) Ltd ?
- (A) under section 194E
 - (B) under section 194J
 - (C) under section 115BBA
 - (D) under section 195
- 1.4 Kite Inc of Portugal in December, 2019, after the monthly supply of goods, applied for advance ruling. How much fee would it need to pay for obtaining the advance ruling?
- (A) Rs.10 lakhs
 - (B) Rs.5 lakhs
 - (C) Rs.2 lakhs
 - (D) Rs.10,000
- 1.5 At what rate Democrat (P) Ltd must deduct tax at source on the amount paid to Ms. Kousalya for purchase of vacant land?
- (A) 20.8%
 - (B) 31.2%
 - (C) 30.9%
 - (D) 20.6%
- A. Compute the income of Good Day Inc. in respect of providing plant and machinery on hire for extraction of mineral oils as per the applicable presumptive provisions of the Income- tax Act, 1961. **(3 marks)**
- B. Will your answer be different if Good Day Inc. spent only Rs. 1.50 crore out of Rs. 2 crore mobilization advance received for movement of rigs to offshore site at Mumbai? **(2 marks)**
- C. State the legal correctness of the action of the Assessing Officer as regards making reference to the Transfer Pricing Officer without providing an opportunity of hearing to the assessee i.e., Democrat (P) Ltd. **(3 marks)**
- D. Is the passing of assessment order by the Assessing Officer based on TPO's report without passing draft assessment order, tenable in law? **(3 marks)**
- E. Compute the undisclosed income / asset of Mithun Banerjee under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. Also, compute the tax liability of Mithun Banerjee. **(4 marks)**

CASE STUDY -3

Shivam completed his engineering from BITS Country "P" and thereafter, came back to India in Mid 2011 for further training and job placement. Since then, he has been working with a reputed MNC in Delhi and has been staying in a rented accommodation in Defence Colony, Delhi along with his parents and his wife Sudha, who is a doctor by profession.

Shivam has keen interest in Carnatic music and performs in music concerts in the Delhi Tamil Sangam from time to time along with his friend Arvind. Shivam and Arvind also perform in music concerts in Margazhi Maha Utsav held in Chennai every December. Carnatic Music is Shivam's passion and he does not charge for performing in music concerts.

Arvind visits Country "P" for 60 days every year. For the rest of the year, he stays in Delhi. He is engaged in the business of wholesale trade in foodgrains in Delhi. He has no source of income in Country "P" except rental income from house property purchased by him in the P.Y.2015-16 and interest on fixed deposits made by him with a bank in that country out of his Indian income.

Sudha and her team are engaged in a project with Cure House Inc., a company based in Country "R", to provide consultancy services in field of medicine to various research institutes in India. The engagement began during May 2019 and continued throughout the year. Due to the nature of project, Sudha frequently travels across the country to various institutes. There is no fixed place for provision of consultancy services. The expected revenue from the project is Rs. 70 crores.

Shivam's employer is an MNC which has offices across the globe. The Indian office of the company has been processing, in respect of Mr. Shivam, basic salary of Rs. 70,000, dearness allowance of Rs. 30,000 and special allowance of Rs. 5,000 every month.

During the year 2019-20, the company initiated a Global Mobility Program and selected Shivam for secondment to Country "Q" on a three-year assignment. Once Shivam starts

his assignment, no further salary shall be processed from India payroll and he shall receive salary for services rendered in Country "Q" in his Country "Q" bank account. As per the terms of global mobility program, Shivam would be entitled to a monthly basic salary of QGD 1400 and cost of living allowance of QGD 1000. Tax at the rate of 15% would be withheld on such salary as per Country "Q" tax laws. Shivam would be staying there in a rent-free accommodation provided by the company for the three year period.

Shivam left India on September 30, 2019 for his overseas assignment and reached Country "Q" next day. His parents and Sudha stayed in India in the same rented accommodation in Defence Colony, Delhi owing to Sudha's work commitments. For F.Y.2019-20, Shivam paid rent of Rs. 25,000 per month in respect of the said accommodation.

On July 31, 2019, the company announced a bonus of Rs. 3,00,000 for the previous financial year (i.e. F.Y.2018-19). As a retention policy, such bonus was paid after the first half of the financial year i.e. in October 2019. Shivam received the bonus amount in his salary account with the bank in Country "Q".

Shivam had invested his overseas salary in purchase of securities of a Country "Q" company which yielded an interest income of QGD 5,000 due as on March 31, 2020. Such interest was taxed at 15% of the gross amount as per Country "Q" domestic tax laws. The rate of tax in respect of such income as per the India- Country "Q" DTAA is also 15% on the gross amount.

He has also purchased shares of Country "Q" Company and dividend of QGD 1,000 was credited to his bank account on March 31, 2020. Just like Indian tax laws, dividend paid by Country "Q" Company is exempt in the hands of shareholders.

On 31.03.2020, he had earned interest income of QGD 150 from his saving bank account in Country "Q", which is also exempt as per the domestic tax laws of Country "Q".

Shivam also owns a residential house property in Mumbai, which was let out at a monthly rent of Rs. 50,000 and security deposit equivalent to two months' rent was invested to earn interest at the rate of 10% per annum from the same. He annually spends Rs. 60,000 for medical treatment and nursing of his dependent disabled mother.

During his engineering days, Shivam had also invested in bonds issued by the Government of Country "P" and earned annual interest of foreign currency equivalent to INR 30,000 during the previous year. Such interest earned was exempt from tax in Country "P".

Other points:

As per Country "Q" tax laws, tax year means a financial year, being a period of 12 months beginning with 1st April. As per tax residency laws in Country "Q", a person shall be regarded as resident if he stays in Country "Q" for more than 180 days in a financial year.

QGD is the currency abbreviation for the Country "Q" dollar, the currency of Country "Q".

Based on the above facts, you are required to answer the following questions:

I. MULTIPLE CHOICE QUESTIONS (2 X 5 = 10 MARKS)

Write the most appropriate answer to each of the following questions

1. Delhi Tamil Sangam, as per its rules, pays a fixed honorarium per concert to each musician performing in the concerts organised by it. Shivam, however, refuses to accept this sum. If he requests Delhi Tamil Sangam to pay such sum directly to Help All, an unregistered institution providing relief to the poor and needy in rural India, what would be the tax consequence?
 - (a) No amount would be chargeable to tax in the hands of Mr. Shivam, since this is a case of diversion of income at source by overriding title.
 - (b) The amount payable to Help All would be chargeable to tax only in the hands of Mr. Shivam, since it is a case of application of income.
 - (c) The amount payable to Help All would be chargeable to tax only in the hands of the institution which has received the amount.
 - (d) The amount payable to Help All would be chargeable to tax both in the hands of Mr. Shivam and in the hands of the institution.

2. Mr. Arvind opened a bank account in Country "P" on 1.7.2017. He has made deposits of foreign currency equivalent to INR 5 lakhs on 1.7.2017, INR 7 lakhs on 1.10.2017, INR 12 lakhs on 1.9.2019 and INR 25 lakhs on 1.3.2020, in that bank, out of Indian income which has not been assessed to tax in India. The deposit of INR 12 lakhs on 1.9.2019 is made out of the withdrawal of earlier deposits made on 1.7.2017 and 1.12.2017 with the said bank. Further, out of INR 25 lakhs deposited by him on 1.3.2020, Mr. Arvind withdrew INR 2 lakhs on 31.3.2020. The value of an undisclosed asset in form of bank account under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 will be taken as:

(a) INR 49 lakhs

(b) INR 47 lakhs

(c) INR 37 lakhs

(d) INR 35 lakhs

3. If Cure House Inc. opts for advance ruling for the project of providing consultancy in field of medicine, such ruling shall be binding on:

(a) Cure House Inc., in relation to the abovementioned project

(b) Jurisdictional Assessing Officer of Cure House

(c) Both (a) and (b)

(d) Cure House Inc. and Jurisdictional Assessing Officer in relation to the abovementioned project and for any future transaction of similar nature in India

4. Which of the following would **not** be considered as a permanent home of Mr. Shivam in context of the relevant rule in the DTAA with Country "Q" for dual residency?

(i) House in Defence Colony, Delhi where his family lives

(ii) Own house in Mumbai which has been let out

(iii) Rent-free accommodation provided by his employer in Country "Q"

The correct answer is -

(a) Only (i) above

(b) Only (ii) above

(c) Only (iii) above

(d) Both (i) and (iii) above

5. Mr. Arvind acquired a flat in Country "P" in the P.Y.2015-16 for INR 50 lakhs. Out of the said sum, INR 20 lakhs was assessed to tax in total income of the P.Y.2015-16 and earlier years. This asset comes to the notice of the Assessing Officer in the year 2019-20. If the value of the flat on 1.4.2019 is INR 90 lakhs, the amount chargeable to tax in the year 2019-20 would be:

(a) INR 90 lakhs

(b) INR 70 lakhs

(c) INR 54 lakhs

(d) INR 30 lakhs

II. DESCRIPTIVE QUESTIONS

1. (i) With reference to the DTAA between India and Country "Q", examine whether Shivam is a resident in India or Country "Q" in the previous year 2019-20.

(5 Marks)

- (ii) With reference to the DTAA between India and Country "R", comment on whether provision of consultancy services through Sudha would lead to creation of PE in India for Cure House Inc., a Country "R" company.

(2 Marks)

2. Determine the total income and tax liability of Shivam for the previous year 2019-20 as per the provisions of the Income-tax Act, 1961. Advance tax calculations may be ignored. Ignore the perquisite value of rent free accommodation provided to Shivam in Country "Q". Indicate reasons for treatment of each item. Working Notes should form part of your answer.

(8 Marks)

EXHIBIT I

Telegraphic Transfer Buying Rate

SBI TT buying rate for Country "Q" – India currency conversion:

Date	Exchange Rate (INR)	Date	Exchange Rate (INR)
30.09.2019	45.95	31.01.2020	47.83
31.10.2019	46.85	29.02.2020	48.52
30.11.2019	45.10	31.03.2020	48.61
31.12.2019	46.95		

EXHIBIT II

Rate of exchange for conversion into rupees of income expressed in foreign currency [Rule 115 of the Income-tax Rules, 1962]

- (1) The rate of exchange for the calculation of the value in rupees of any income accruing or arising or deemed to accrue or arise to the assessee in foreign currency or received or deemed to be received by him or on his behalf in foreign currency shall be the telegraphic transfer buying rate of such currency as on the specified date.

Explanation: For the purposes of this rule

- (1) "telegraphic transfer buying rate" shall have the same meaning as in the Explanation to rule 26;

As per Explanation to Rule 26 "telegraphic transfer buying rate", in relation to a foreign currency, means the rate or rates of exchange adopted by the State Bank of India, for buying such currency, having regard to the guidelines specified from time to time by the Reserve Bank of India for buying such currency, where such currency is made available to that bank through a telegraphic transfer.

(2) "specified date" means—

- (a) in respect of income chargeable under the head "Salaries", the last day of the month immediately preceding the month in which the salary is due, or is paid in advance or in arrears;
- (b) in respect of income[by way of] "interest on securities", the last day of the month immediately preceding the month in which the income is due;
- (c) in respect of income chargeable under the heads "Income from house property", "Profits and gains of business or profession" [not being income referred to in clause (d)] and "Income from other sources" (not being income by way of dividends [and "Interest on securities"]), the last day of the previous year of the assessee;
- (d) in respect of income chargeable under the head "Profits and gains of business or profession" in the case of a non-resident engaged in the business of operation of ships, the last day of the month immediately preceding the month in which such income is deemed to accrue or arise in India ;
- (e) in respect of income by way of dividends, the last day of the month immediately preceding the month in which the dividend is declared, distributed or paid by the company;
- (f) in respect of income chargeable under the head "Capital gains", the last day of the month immediately preceding the month in which the capital asset is transferred :]

Provided that the specified date, in respect of income referred to in sub-clauses (a) to (f) payable in foreign currency and from which tax has been deducted at source under rule 26, shall be the date on which the tax was required to be deducted under the provisions of the Chapter XVII -B.

Nothing contained in sub-rule (1) shall apply in respect of income referred to in clause (c) of the Explanation to sub-rule (1) where such income is received in, or brought into India by the assessee or on his behalf before the specified date in accordance with the provisions of the Foreign Exchange Regulation Act, 1973.

EXHIBIT III

Foreign Tax Credit [Rule 128 of the Income-tax Rules, 1962]

- (1) An assessee, being a resident shall be allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India, in the manner and to the extent as specified in this rule:

Provided that in a case where income on which foreign tax has been paid or deducted, is offered to tax in more than one year, credit of foreign tax shall be allowed across those years in the same proportion in which the income is offered to tax or assessed to tax in India.

(2) The foreign tax referred to in sub-rule (1) shall mean,—

(a) in respect of a country or specified territory outside India with which India has entered into an agreement for the relief or avoidance of double taxation of income in terms of section 90 or section 90A, the tax covered under the said agreement;

(b) in respect of any other country or specified territory outside India, the tax payable under the law in force in that country or specified territory in the nature of income-tax referred to in clause (iv) of the Explanation to section 91.

(3) The credit under sub-rule (1) shall be available against the amount of tax, surcharge and cess payable under the Act but not in respect of any sum payable by way of interest, fee or penalty.

(4) No credit under sub-rule (1) shall be available in respect of any amount of foreign tax or part thereof which is disputed in any manner by the assessee:

Provided that the credit of such disputed tax shall be allowed for the year in which such income is offered to tax or assessed to tax in India if the assessee within six months from the end of the month in which the dispute is finally settled, furnishes evidence of settlement of dispute and an evidence to the effect that the liability for payment of such foreign tax has been discharged by him and furnishes an undertaking that no refund in respect of such amount has directly or indirectly been claimed or shall be claimed.

(5) The credit of foreign tax shall be the aggregate of the amounts of credit computed separately for each source of income arising from a particular country or specified territory outside India and shall be given effect to in the following manner:—

(i) the credit shall be the lower of the tax payable under the Act on such income and the foreign tax paid on such income :

Provided that where the foreign tax paid exceeds the amount of tax payable in accordance with the provisions of the agreement for relief or avoidance of double taxation, such excess shall be ignored for the purposes of this clause;

(ii) the credit shall be determined by conversion of the currency of payment of foreign tax at the telegraphic transfer buying rate on the last day of the month immediately preceding the month in which such tax has been paid or deducted.

(6) In a case where any tax is payable under the provisions of section 115JB or section 115JC, the credit of foreign tax shall be allowed against such tax in the same manner as is allowable against any tax payable under the provisions of the Act other than the provisions of the said sections (hereafter referred to as the "normal provisions").

(7) Where the amount of foreign tax credit available against the tax payable under the provisions of section 115JB or section 115JC exceeds the amount of tax credit available against the normal provisions, then while computing the amount of credit under section 115JAA or section 115JD in respect of the taxes paid under section 115JB or section 115JC, as the case may be, such excess shall be ignored.

(8) Credit of any foreign tax shall be allowed on furnishing the following documents by the assessee, namely:—

- (i) a statement of income from the country or specified territory outside India offered for tax for the previous year and of foreign tax deducted or paid on such income in Form No.67 and verified in the manner specified therein;
- (ii) certificate or statement specifying the nature of income and the amount of tax deducted therefrom or paid by the assessee,—
 - (a) from the tax authority of the country or the specified territory outside India; or
 - (b) from the person responsible for deduction of such tax; or
 - (c) signed by the assessee:

Provided that the statement furnished by the assessee in clause (c) shall be valid if it is accompanied by,—

- (A)an acknowledgement of online payment or bank counter foil or challan for payment of tax where the payment has been made by the assessee;
 - (B)proof of deduction where the tax has been deducted.
- (9) The statement in Form No.67 referred to in clause (i) of sub-rule (8) and the certificate or the statement referred to in clause (ii) of sub-rule (8) shall be furnished on or before the due date specified for furnishing the return of income under sub-section (1) of section 139, in the manner specified for furnishing such return of income.
- (10) Form No.67 shall also be furnished in a case where the carry backward of loss of the current year results in refund of foreign tax for which credit has been claimed in any earlier previous year or years.

Explanation—For the purposes of this rule 'telegraphic transfer buying rate' shall have the same meaning as assigned to it in Explanation to Rule 26.

EXHIBIT IV

EXTRACTS OF DTAA BETWEEN INDIA AND COUNTRY “Q”

ARTICLE 4

FISCAL DOMICILE

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who is a resident of a Contracting State in accordance with the taxation laws of that State.
2. “Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests) ;
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode ;

- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national ;
- (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement

ARTICLE 23

AVOIDANCE OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except where express provision to the contrary is made in this Agreement.
2. Where a resident of India derives income which, in accordance with the provisions of this Agreement, may be taxed in Country "Q", India shall allow as a deduction from the tax on the income of that resident an amount equal to the Country "Q" tax paid, whether directly or by deduction. Where the income is a dividend paid by a company which is a resident of Country " Q" to a company which is a resident of India and which owns directly or indirectly not less than 25 per cent of the share capital of the company paying the dividend, the deduction shall take into account the Country "Q" tax paid in respect of the profits out of which the dividend is paid. Such deduction in either case shall not, however, exceed that part of the tax (as computed before the deduction is given) which is attributable to the income which may be taxed in Country "Q".

EXHIBIT V

EXTRACT OF DTAA BETWEEN INDIA AND COUNTRY "R"

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a sales outlet;
 - (g) a warehouse in relation to a person providing storage facilities for others;
 - (h) a farm, plantation or other place where agricultural, forestry, plantation or related activities are carried on; and

- (i) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. The term "permanent establishment" shall also include:
- (a) a building site, a construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or activities continue for a period or periods aggregating more than 180 days;
- (b) the furnishing of services including consultancy services by an enterprise through employees or other personnel by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the Contracting State for a period or periods aggregating more than 180 days within any twelve-month period.

CASE STUDY -4

Rio Grande Inc, a notified Foreign Institutional Investor (FII), derived the following incomes for the financial year 2019-20:-

- (1) Interest received on investment in Rupee Denominated Bonds of Cauvery Ltd., an Indian company issued in March, 2019 - Rs.4,70,000
- (2) Dividend from listed equity shares of Indian companies – Rs.2,80,000
- (3) Interest on securities – Rs.15,48,000 (Expenses of Rs.13,000 has been incurred to earn such income)
- (4) **Income from sale of securities and shares:**

(i) Bonds of Vaigai Ltd.

[Date of purchase 7th July 2016; Date of sale 5th February, 2020]

Sale proceeds	Rs. 58,00,000
Cost of purchase	Rs. 29,00,000
Cost Inflation Index: F.Y.2015-16:254 ; F.Y.2019-20:289	

(ii) Listed equity shares of Mahanadi Ltd.

[Date of purchase – 5th June, 2019; Date of sale – 4th January, 2020]

Sale Consideration	Rs. 14,50,000
Purchase cost	Rs. 6,00,000

[STT paid both at the time of purchase and sale]

(iii) Unlisted equity shares of Godavari Ltd.

[Date of purchase – 2nd August, 2019; Date of sale – 29th March, 2020]

Sale Consideration	Rs. 7,80,000
Purchase cost	Rs. 2,65,000

Rio Grande Inc. wants to know its total income and tax liability for the A.Y. 2020-21. It has no other income during the F.Y.2019-20.

Zara Ltd. is a company resident in Country A. It had set-up a liaison office at Calcutta to receive trade inquiries from customers in India. The work of the liaison office is not only restricted to forwarding of the trade inquiries to Zara Ltd. but the liaison office also negotiates and enters into contracts on behalf of Zara Ltd. with the customers in India. Zara Ltd. wants to know whether setting up of a liaison office would constitute business connection in India.

Based on the above facts, answer the following questions –

Multiple Choice Questions

Write the most appropriate answer to each of the following questions

(2 X 5 = 10 MARKS)

1. In respect of interest payable to Rio Grande Inc. on Rupee Denominated Bonds issued outside India by Cauvery Ltd., –
 - (a) tax is deductible at source at the rates in force under section 195
 - (b) tax is deductible at source@5.2%.
 - (c) tax is deductible at source@20.8%
 - (d) no tax is deductible at source.
2. If we assume that Rupee Denominated Bonds were issued outside India by Cauvery Ltd. in October, 2019 and Zara Ltd. has also subscribed to such bonds, then, in respect of interest payable to Zara Ltd. on such rupee denominated bonds,
 - (a) tax is deductible at source at the rates in force under section 195
 - (b) tax is deductible at source@5.2%.
 - (c) tax is deductible at source@10.4%
 - (d) no tax is deductible at source.
3. If we assume that Rio Grande Inc. had purchased listed shares of Vaigai Ltd. (STT paid) and not bonds, the date of purchase and sale remaining the same as given in respect of bonds, the entire capital gains arising on sale of such shares would be -
 - (a) Exempt from tax
 - (b) taxable@20% with indexation benefit.
 - (c) taxable@10% without indexation benefit.
 - (d) None of the above.
4. If the liaison office set up in India by Zara Ltd. does not conclude contracts in India but habitually plays the principal role leading to conclusion of service contracts, then, the activities of the liaison office -
 - (a) would not constitute business connection for attracting deemed accrual provisions under section 9(1)(i), since it does not actually conclude contracts.
 - (b) would not constitute business connection for attracting deemed accrual provisions under section 9(1)(i), since contract is for provision of services by Zara Ltd. and not purchase and sale of goods

- (c) would not constitute business connection due to reasons stated in (a) and (b) above
- (d) constitutes business connection for attracting deemed accrual provisions under section 9(1)(i).
5. What are the provisions which have been incorporated in Indian tax laws in line with BEPS Action 1?
- (i) Expansion of scope of business connection to include activities of an agent who habitually plays a principal role leading to conclusion of contracts
- (ii) Expansion of scope of business connection to include activities which constitute significant economic presence
- (iii) Introduction of equalization levy
- (a) Only (iii) above
- (b) (i) and (iii) above
- (c) (ii) and (iii) above
- (d) (i), (ii) and (iii) above.

DESCRIPTIVE QUESTIONS

1. Compute the total income and tax liability of Rio Grande Inc. for A.Y.2020 -21. **(12 Marks)**
2. Would the activities carried out by the liaison office set up in India by Zara Ltd. constitute business connection to attract deemed accrual provisions under section 9(1)? **(3 Marks)**

CASE STUDY -5

Mr. Eashwar, an Indian citizen aged 55 years, carries on the business of trading in garments in India. He has also set up a branch office in Country X and Country Y for trading in garments in those countries. He visits Country X and Y frequently for furtherance of his business. During the P.Y.2019 -20, he made three visits to Country X from 13th May, 2019 to 13th June, 2019, from 18th August, 2019 to 5th October, 2019 and from 17th January, 2020 to 4th February, 2020. He visited Country Y thrice from 3rd April, 2019 to 24th April, 2019, from 4th July, 2019 to 14th August, 2019 and 5th March, 2020 to 20th March, 2020. The number of days of his stay in Country X and Y during the past ten years is as follows –

Previous Year (P.Y.)	No. of days in Country X	No. of days in Country Y
P.Y.2018-19	97	78
P.Y.2017-18	95	85
P.Y.2016-17	98	82
P.Y.2015-16	100	80
P.Y.2014-15	103	75
P.Y.2013-14	110	70
P.Y.2012-13	120	60
P.Y.2011-12	118	60
P.Y.2010-11	115	62
P.Y.2009-10	108	72

He has not visited any other country in the last 10 years. He has a passion for writing and has written two literary books, from which he earns royalty income in Country X. He has purchased agricultural land in Country X. In Country Y, he has purchased a house, which he has let out. He has invested in shares of a company incorporated in Country Y. The following are the particulars of income earned by him in India, Country "X" and Country "Y" for the previous year 2019-20.

Particulars	Rs.
Income from the business of trading in garments	
In India	34,30,000
In Country X	10,45,000
In Country Y	(1,30,000)
Agricultural income in Country "X" (gross) (taxable in Country X)	1,25,000
Dividend received from a company incorporated in Country "Y" (gross) (taxable in Country Y)	40,000
Royalty income from a literary book from Country "X" (gross) (taxable in Country X)	4,00,000
Expenses incurred for earning royalty	40,000
Rent from a house situated in Country "Y" (gross) (taxable in Country Y)	1,80,000
Municipal tax in respect of the above house (not allowed as deduction in country "Y")	10,000

Note: Business loss in Country "Y" not eligible for set off against other incomes as per law of that country. The rates of tax in Country "X" and Country "Y" are 20% and 30%, respectively.

Mr. Eashwar's younger brother, Mr. Karan, aged 48 years, earns income from a business in Country Z.

Mr. Eashwar's elder sister, Mrs. Radha Srinivas, aged 61 years, is married and settled in Calcutta. She is a Hindustani classical singer and composer who gives concerts in India and Country W. She visits Country W every year during the music season in October to participate in the Mega music concert held there. For the rest of the year, she gives concerts in India. She earns Rs.10 lakhs from concerts held in India and CWD 10145 from concerts held in Country W. Tax deducted in Country W in October, 2019 in respect of income earned by her in that country was 2500 CWD. She earns income of CUD 10000 by way of royalty in respect of copyright of her musical compositions in Country U. The royalty is paid to her every year on 25th March after deduction of tax@10%. In India, she has interest income of Rs.4 lakhs from fixed deposits in her name and Rs.25,000 from savings bank account. She pays medical insurance premium of Rs.27,000 to insure her health and Rs.30,000 to insure the health of her husband, a resident aged 64 years. She deposits Rs.1.50 lakhs in public provident fund and Rs.3 lakhs in five-year fixed deposit in the name of her son, Mr. Ramesh. The conversion rates are as follows -

TT buying rate	30.9.2019	31.10.2019	29.2.2020	31.3.2020
Country U dollar (CUD)	Rs.70	Rs.74	Rs.78	Rs.80
Country W dollar (CWD)	Rs.70	Rs.72	Rs.68	Rs.69

Based on the above facts, answer the following questions, assuming that India has –

- (i) no double taxation avoidance agreement with Countries W, X and Y;
- (ii) a double taxation avoidance agreement with Country Z in line with OECD Model Convention, 2017
- (iii) a double taxation avoidance agreement with Country U in line with UN Model Convention, 2017
- (iv) India follows credit method for providing double taxation relief with respect to taxes paid in Countries Z and U.

Multiple Choice Questions

Write the most appropriate answer to each of the following

(2 x 5 = 10 marks)

1. The total income of Mr. Eashwar for the A.Y.2020-21 is –
 - (a) Rs.46,89,000
 - (b) Rs.48,19,000
 - (c) Rs.49,89,000
 - (d) Rs.51,19,000
2. For the purpose of computing deduction under section 91 for A.Y.2020-21, the “doubly taxed income” of Mr. Eashwar in respect of income earned in Country X and Country Y would be –
 - (a) Rs.15,30,000 and Rs.1,59,000, respectively
 - (b) Rs.12,30,000 and Rs.1,59,000, respectively
 - (c) Rs.15,30,000 and Rs.29,000, respectively
 - (d) Rs.12,30,000 and Rs.29,000, respectively
3. The rebate under section 91 available to Mr. Eashwar for A.Y.2020-21 is –
 - (a) Rs.2,53,842
 - (b) Rs.3,48,995
 - (c) Rs.3,13,842
 - (d) Rs.2,88,995
4. As per the India-Country Z DTAA and India-Country U DTAA, royalty, if any, arising to Mr. Karan and Ms. Radha Srinivas in Country Z and Country U, respectively, would be taxable –
 - (a) Only in India
 - (b) Royalty arising to Mr. Karan may be taxed either in India or in Country Z and royalty arising to Ms. Radha Srinivas may be taxed either in India or in Country U
 - (c) Royalty arising to Mr. Karan would be taxable only in India; Royalty arising to Ms. Radha Srinivas may be taxed either in India or in Country U
 - (d) Royalty arising to Ms. Radha Srinivas would be taxable only in India; Royalty arising to Mr. Karan may be taxed either in India or in Country Z
5. Let us suppose that, as per the DTAA between India and Country U, a particular income earned by Mrs. Radha Srinivas in Country U may be taxed in Country U. While computing her total income under the Income-tax Act, 1961, the said income –
 - (a) should not be taken into account at all

- (b) should be taken into account; thereafter, deduction is to be allowed from the tax payable in India on her total income.
- (c) may be taken into account in order to compute the amount of tax on the remaining income.
- (d) may be taken into account; thereafter, deduction may be allowed from the tax payable in India on her total income.

DESCRIPTIVE QUESTIONS

1. Determine the residential status of Mr. Eashwar for A.Y.2020-21.

(5 Marks)
2. Compute the total income and tax liability of Ms. Radha Srinivas for A.Y.2020 -21, and determine the foreign tax credit available to her.

(10 Marks)