MOCK TEST PAPER 1

FINAL COURSE: GROUP – II

PAPER – 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION

SOLUTIONS

Division A – Multiple Choice Questions

MCQ No.	Most Appropriate Answer	MCQ No.	Most Appropriate Answer
1.	(c)	9.	(b)
2.	(d)	10.	(c)
3.	(d)	11.	(a)
4.	(a)	12.	(d)
5.	(a)	13.	(b)
6.	(d)	14.	(c)
7.	(b)	15.	(d)
8.	(a)		

Division B – Descriptive Questions

1. Computation of Total Income of STP Construction Ltd. for the A.Y.2022-23

	Particulars	Amount (₹)	
I	**Profits and gains of business and profession**		
	Net profit as per the statement of profit and loss		85,00,000
	Add: **Items debited but to be considered separately or to be disallowed**		
	(a) **Interest to public financial institution paid on 20.12.2022**	3,00,000	
	[Disallowance under section 43B would be attracted, since the interest is paid on or after 30.11.2022, being the due date of filing of return]		
	(b) **Fees for technical services paid to non-resident without deduction of tax at source**	6,00,000	
	[Disallowance of 100% of the amount towards fees for technical services to a non-resident, would be attracted under section 40(a)(i) during the previous year 2021-22 since tax was deducted and paid during the subsequent previous year i.e., P.Y. 2022-23]		
	(c) **Damages paid to State Government for defects in construction of flyover**	-	
	[Payment of damages as per the terms of the contract for defects in construction is compensatory in nature		

	and incurred in the normal course of construction business, and hence, such expenditure is deductible under section 37. Since such payment is debited to the statement of profit and loss, no further adjustment is required]		
	(e) **Marked to market losses** [As per ICDS I, marked to market losses cannot be recognized unless the recognition of such loss is in accordance with the provisions of any other ICDS. Since such losses have been debited to the statement of profit and loss, they have to be added back for computing business income]	6,00,000	15,00,000
			1,00,00,000
	***Less:* Items credited to statement of profit and loss, but not includible in business income**		
	(f) **Profit on sale of land to wholly owned subsidiary** [Income is chargeable to tax under the head "Capital Gains". Since the same has been credited to statement of profit and loss, it has to be reduced while computing business income]	10,00,000	
	(g) **Retention money** [Section 43CB read with ICDS III requires recognition of contract revenue, including retention money, on percentage of completion method. Since such amount has been credited to the statement of profit and loss, no adjustment is required]	-	
	(h) **Interest on bank fixed deposit** [Since the fixed deposit has been made with a bank as margin money for obtaining a guarantee required by a State Government for a particular contract, interest income of such deposit is inextricably linked to the business of the assessee and hence, has to be treated as business income and not as income from other sources[1]. Since the same has been credited to the statement of profit and loss, no adjustment is required]	-	
	(i) **Income received from REIT** Short-term capital gain component of ₹ 6 lakhs is taxable in the hands of REIT and hence, exempt in the hands of the unit holder under section 10(23FD). Since ₹ 6 lakhs has been credited to the statement of profit and loss, the same has to be deducted for computing business income	6,00,000	
	Rental income component distributed by REIT As per section 115UA(3), such income would be deemed as income in the hands of unit holder. By	-	16,00,000

[1] *CIT v. K and Co. (2014) 364 ITR 93 (Del)*

	virtue of section 115UA(1), income distributed by REIT to a unit holder would be deemed to be of the same nature and same proportion in the hands of the unit holder as it had been received by or accrued to the REIT. Accordingly, rental income component would be taxable under the head "Profits and gains of business and profession"[2], since REIT is engaged in the business of letting out real estate properties. Since ₹ 4 lakhs has been credited to the statement of profit and loss, no adjustment is required]		
			84,00,000
	***Less:* Permissible deduction**		
	Depreciation		5,00,000
	Depreciation of ₹ 25 lakh computed as per Income-tax Rules, 1962 is allowable as deduction u/s 32. However, depreciation of ₹ 20 lakh has only been charged in the statement of profit and loss. Therefore, the difference of ₹ 5 lakh has to be deducted for computing business income]		
	Profits and gains from business and profession		79,00,000
II	**Capital Gains**		
	Full value of consideration under section 50C	50,00,000	
	[Stamp duty value of ₹ 50 lakh would be deemed as full value of consideration since it is higher than 110% of actual consideration of ₹ 40 lakh (i.e., Cost of ₹ 30 lakh + Profit of ₹ 10 lakh)]		
	Less: Indexed Cost of Acquisition [₹ 30,00,000 × 317/254]	37,44,094	
	***[Note** - Even though STP Construction Ltd. holds 100% of shareholding of Max Inc., transfer of land by STP Construction Ltd. to Max Inc. would be regarded as a transfer for the purpose of levy of capital gains, since Max Inc. is not an Indian company].*		
	Long-term capital gain [Since held for a period of more than 24 months]		12,55,906
	Gross Total Income		**91,55,906**
	***Less:* Deduction under Chapter VI-A**		
	Deduction u/s 80JJAA *[See Working Note below] (Deduction under section 80JJAA is allowable even though it is opting for 115BAA)*		12,96,000
	Total Income		**78,59,906**
	Total Income (rounded off)		**78,59,910**
	Computation of tax liability as per section 115BAA		
	Tax u/s 115BAA on business income [₹ 66,04,000 x 22%]		14,52,880

[2] *Chennai Properties and Investments Ltd. (2015) 373 ITR 673 (SC)*

	Tax u/s 112 on Long-term capital gains on transfer of land with indexation benefit [₹ 12,55,906 x 20%]		2,51,181
			17,04,061
	Add: Surcharge @10%		1,70,406
			18,74,467
	Add: HEC@4%		74,979
	Tax liability		**19,49,446**
	Tax liability (rounded off)		**19,49,450**

Working Note: Computation of deduction u/s 80JJAA

(i) Since casual employees do not participate in recognized provident fund, they do not qualify as additional employees. Further, 35 regular employees employed on 1.5.2021 also do not qualify as additional employees since their monthly emoluments exceed ₹ 25,000. Also, 10 regular employees employed on 1.9.2021 do not qualify as additional employees for the P.Y.2021-22, since they are employed for less than 240 days in that year.

Therefore, only 15 employees employed on 1.4.2021 qualify as additional employees, and the total emoluments paid or payable to them during the P.Y.2021-22 is deemed to be the additional employee cost. Additional employee cost = ₹ 24,000 × 12 × 15 = ₹ 43,20,000

Deduction under section 80JJAA = 30% of ₹ 43,20,000 = ₹ 12,96,000.

(ii) As regards 10 regular employees employed on 1.9.2021, they would be treated as additional employees for previous year 2022-23, if they continue to be employees in that year for a minimum period of 240 days. Accordingly, 30% of additional employee cost in respect of such employees would be allowable as deduction under section 80JJAA during the A.Y. 2023-24.

2. (a) (i) Computation of taxable capital gains for A.Y.2022-23

Particulars	₹
Gross consideration	95,00,000
Less: Expenses on transfer (1% of the gross consideration)	95,000
Net consideration	**94,05,000**
Less: Indexed cost of acquisition (₹ 27,36,000 × 317/105)	82,60,114
	11,44,886
Less: Exemption under section 54GB (₹ 11,44,886 × ₹ 69,00,000 / ₹ 94,05,000)	8,39,948
Taxable long-term capital gains	**3,04,938**

Deemed cost of new plant and machinery for exemption under section 54GB

	Particulars	₹	₹
(1)	Purchase cost of new plant and machinery acquired in August, 2022		66,00,000
	Less: Cost of vehicles, i.e., cars	8,00,000	
	Cost of air-conditioners installed at the residence of Mr. Adarsh	1,00,000	9,00,000
			57,00,000
(2)	Amount deposited in the specified bank before the due date of filing of return		12,00,000
Deemed cost of new plant and machinery for exemption under section 54GB			**69,00,000**

(ii) The company had advanced a loan to an employee who in turn had advanced the same to the Managing Director of the company holding 72% of its capital. By virtue of the provisions of section 2(22)(e), the same shall be treated as the payment by a company in which public are not substantially interested, on behalf of, or for individual benefit of any such share holder (who holds not less than 10% of the voting power), to the extent to which the company possesses accumulated profits.

In this case, the company has reserves of ₹ 8 lakhs and the amount of loan advanced is ₹ 5.5 Lakhs. Therefore, the payment is to be treated as deemed dividend. The amount of interest-free loan of ₹ 5.5 lakhs given by the company to the supervisor who in turn had given the same to Mr. Priyanshu, shall be construed as the amount given for the benefit of Mr. Priyanshu and would be treated as deemed dividend. This has been held by the Supreme Court in the case of *L. Alagusundaram Chettiar v. CIT (2001) 252 ITR 893.*

(b) Computation of total income and tax liability of Mr. Dinesh for A.Y. 2022-23

Particulars	₹	₹
Profits and gains from business and profession		
Income from sole proprietary concern in India	50,00,000	
Share of profit from a partnership firm in India of ₹ 30 lakhs, is exempt	Nil	
Business profit	50,00,000	
Less: Business Loss[3] in Country D (CAD 4000 x ₹ 60/CAD)	2,40,000	
		47,60,000
Income from Other Sources		
Agricultural income from coffee estates in Country D, is taxable in India (CAD 32000 x ₹ 60/CAD)		19,20,000
Gross Total Income		**66,80,000**
Less: **Deductions under Chapter VI-A**		
Under section 80C [deposit in PPF]	1,50,000	
Under section 80D	75,000	
[Medical insurance premium paid ₹ 25,000 for self, allowable in full; ₹ 55,000 for senior citizen parents, restricted to ₹ 50,000]		
Under section 80DD		
[Flat deduction of ₹ 1,25,000 irrespective of the expenditure incurred on dependent sister, being a person with severe disability]	1,25,000	
		3,50,000
Total Income		**63,30,000**
Tax on total income		
Tax on ₹ 63,30,000 [(30% x ₹ 53,30,000) *plus* ₹ 1,10,000]		17,09,000
Add: Surcharge@10%, since total income exceeds ₹ 50 lakh		1,70,900
		18,79,900
Add: HEC@4%		75,196
		19,55,096

[3] *Since the eight year has not expired from the assessment year in which such business loss was incurred, such business loss can be set-off against current year business income.*

Average rate of tax in India [i.e., ₹ 19,55,096/₹ 63,30,000 x 100]	30.886%	
Average rate of tax in Country A [i.e., CAD 8000/CAD 32000]	25%	
Doubly taxed income [₹ 19,20,000 – ₹ 2,40,000]	16,80,000	
Rebate under section 91 on ₹ 16,80,000@25% (lower of average Indian tax rate and rate of tax in Country D)		4,20,000
Tax payable in India [₹ 19,55,096 – ₹ 4,20,000]		**15,35,096**
Tax payable in India (rounded off)		**15,35,100**

Note: Since Mr. Dinesh is resident in India for the P.Y.2021-22, his global income would be subject to tax in India. He is eligible for deduction under section 91 since the following conditions are fulfilled:-

(a) He is a resident in India during the relevant previous year.

(b) Agricultural income accrues or arises to him outside India during that previous year.

(c) Such agricultural income is not deemed to accrue or arise in India during the previous year.

(d) The income in question i.e., agricultural income, has been subjected to income-tax in Country D in his hands and he has paid tax on such income in Country D.

(e) There is no agreement under section 90 for the relief or avoidance of double taxation between India and Country D, where the income has accrued or arisen.

3. (a) Tax consequences in the hands of the charitable trust/institution for A.Y.2022-23

(i) In this case, the main object of the charitable institution is "any other object of general public utility" and therefore, its aggregate receipts from business undertaken in the course of actual carrying out of such advancement of any other object of general public utility should not exceed 20% of total receipts, if it wants to retain its "charitable status". However, the aggregate receipts from business for P.Y.2021-22, in this case, is 24.76% of total receipts. Hence, the institution would lose its "charitable status" for the P.Y.2021-22. Application of 85% of receipts for its main object during the year would not help in retaining its "charitable" status for that year.

(ii) Rent paid in respect of a building used for charitable purposes can be claimed as application of income for charitable purposes. However, since tax deducted on such rent paid for P.Y.2020-21 was remitted after the due date of filing of return of income u/s 139(1) for A.Y.2021-22, ₹ 5,40,000, being 30% of annual rent of ₹ 18 lakh, would not have been allowed as application in the P.Y.2020-21, by virtue of *Explanation 3* to section 11(1) read with section 40(a)(ia). However, since tax so deducted was remitted in December, 2021, the said amount of ₹ 5,40,000 (i.e., 30% of rent not allowed as application in the P.Y.2020-21) would be allowed as application in the P.Y.2021-22 (A.Y.2022-23). Further, the rent of ₹ 21 lakh paid in the P.Y.2021-22 would also be allowed as application in A.Y.2022-23, since the tax deducted in respect of such rent was remitted in July, 2022 i.e., before the due date of filing of return u/s 139(1) for A.Y.2022-23. Therefore, an amount of ₹ 26,40,000 towards rent paid would be allowed as application of income in the P.Y.2021-22 (A.Y.2022-23).

(iii) The effective date of making the application for re-registration under section 12AB is 30.6.2021, being three months from 1st April, 2021. CBDT has, vide Circular No.16/2021 dated 29.8.2021, extended the date upto 31.3.2022. No, the registration granted under section 12AB would be valid only for 5 years and not perpetually, as in the case of registration granted under section 12AA.

(b) (i) Finetune Ltd., an Indian company and Iris Inc, a Country M company are deemed to be associated enterprises since the latter has advanced a loan to the former which constitutes 58.54% of the book value of total assets of the former [Euro 380 crores x ₹ 90/Rs.58,420 crores]. Since the loan advanced by Iris Inc is not less than 51% of the book value of the total assets of Finetune Ltd., the two companies are deemed to be associated enterprises.

A loan transaction between two enterprises, one of whom is a non-resident (Iris Inc, Country M, in this case), would be an international transaction. Accordingly, transfer pricing provisions would be attracted in this case.

(ii) The interest rate charged by Iris Inc. on loan advanced to Finetune Ltd. is 9% p.a. whereas the arm's length interest charged by Iris Inc. in a comparable uncontrolled transaction with Bigbumper Ltd., another Indian company, is 7% p.a. Therefore, the arm's length adjustment (primary adjustment) to be made is = 9% - 7% = 2% of ₹ 34,200 crores (Euro 380 crores x ₹ 90, being the value of 1 Euro) = ₹ 684 crores

The total income (after primary adjustment) of Finetune Ltd for P.Y.2021-22 = ₹ 1900 crores + primary adjustment of ₹ 684 crores = ₹ 2,584 crores.

(iii) Since the primary adjustment has been made by Finetune Ltd. *suo moto* while filing its return of income for A.Y.2022-23, Finetune Ltd. has to carry out secondary adjustment in the following manner.

The excess money (i.e., ₹ 684 crores) lying with Iris Inc has to be repatriated within 90 days from 30.11.2022, being the due date for filing return of income.

If the excess money is not repatriated on or before 28th February, 2023, it would be deemed as an advance made by Finetune Ltd. to Iris Inc and interest would be chargeable from 30.11.2022 at six month LIBOR as on 30th September, 2022 + 3%, since the loan is denominated in Euros. Such interest for the period from 30.11.2022 to 31.3.2023 (assuming that it has not been repatriated upto 31.3.2023) would be included in the total income of Finetune Ltd. for P.Y.2022-23.

(iv) If Finetune Ltd. opts for payment of additional income-tax, it has to pay ₹ 143.410 crores [i.e., 20.9664% (tax@18% + surcharge@12% + cess@4%) of ₹ 684 crores].

4. (a)

Particulars	₹
Gross salary, allowances and monetary perquisites	7,30,000
Non-Monetary perquisites	1,20,000
	8,50,000
Less: Standard deduction under section 16(ia) [not allowable, since Mr. Arun is opting for section 115BAC	-
	8,50,000
Tax Liability	
Upto ₹ 2,50,000 Nil	
₹ 2,50,001 – ₹ 5,00,000 @5% - 12500	
₹ 5,00,001 – ₹ 7,50,000 @ 10% 25,000	
₹ 7,50,001 – ₹ 8,50,000 @ 15% 15,000	52,500
Add: Health and Education cess @4%	2,100
	54,600
Average rate of tax (₹ 54,600 / ₹ 8,50,000 × 100)	**6.424 %**

The company can pay tax on non-monetary perquisites as under –

Tax on non-monetary perquisites = 6.424% of ₹ 1,20,000 = ₹ 7,709

Balance to be deducted from salary = ₹ 46,891 [₹ 54,600 – ₹ 7,709]

(b) The *Explanation* below section 194A(1) provides that where any income by way of interest other than interest on securities is credited to any account, whether called 'interest payable account' or 'suspense account' or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and provisions of section 194A, shall, thus, apply.

However, the CBDT has, vide *Circular No.3/2010 dated 2.3.2010*, clarified that *Explanation* below section 194A(1) will not apply in cases of banks where credit is made to provisioning account on daily/monthly basis for the purpose of macro monitoring only by the use of CBS software.

Since no constructive credit to the depositor's/ payee's account takes place while calculating interest on daily / monthly basis in the CBS software used by banks, tax need not be deducted at source on such provisioning of interest by banks for the purposes of macro monitoring only.

In such cases, tax shall be deducted at source on accrual of interest at the end of the financial year or at periodic intervals as per practice of the bank or as per the depositor's or payee's requirement or on maturity or on encashment of time deposit, whichever event takes place earlier and wherever the aggregate amount of interest income credited or paid or likely to be credited or paid during the financial year by the bank exceeds the limits specified in section 194A i.e., ₹ 40,000.

In view of the above, the action of the Assessing Officer in disallowing the interest expenditure credited in a separate account for macro monitoring purpose is not valid and consequent initiation of penalty proceedings under section 271C is not tenable in law.

(c) **(i)** Equalisation levy @ 2% is attracted on the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated by it, *inter alia*, -

- to a person resident in India; or
- to a non-resident in specified circumstances, which include sale of advertisement targeting a customer who is resident in India.

Citax.com is an e-commerce operator since it is a non-resident managing an electronic facility for online sale of goods and provision of services.

Equalisation levy@2% would **not** be attracted, if -

(i) Citax.com has a PE in India; or

(ii) Equalization levy@6% is deductible by the service recipients, resident in India, in respect of online advertisement services rendered to them; or

(iii) The sales/turnover/gross receipts of Citax.com from taxable e-commerce supply or services is less than ₹ 2 crore in the current previous year i.e., P.Y.2021-22.

In the present case, Equalisation levy @ 2% would be attracted since -

(i) Citax.com does not have a PE in India.

(ii) The amount of billing (or the aggregate amount of billing) to each recipient of advertisement service (being a person resident in India) does not exceed ₹ 1 lakh. Consequently, there would be no requirement for them to deduct equalization levy of 6%.

(iii) The sales/turnover/gross receipts of Citax.com from taxable e-commerce supply or services exceeds ₹ 2 crore in the current previous year i.e., P.Y.2021-22.

Accordingly, equalization levy of ₹ 4,20,000 @2% of Rs. 2.10 crores would be attracted.

(ii) As per section 245S, the advance ruling pronounced by the Authority for Advance Rulings upto 31.8.2021 would be binding on the applicant. Accordingly, the advance rulings pronounced on 25.8.2021 by the Authority for Advance Rulings would be binding on SPO Ltd.

With the constitution of Boards for Advance Rulings for giving advance rulings on or after 1.9.2021, the Authority for Advance Rulings ceased to operate with effect from such date. With effect from 1.9.2021, advance ruling would be pronounced by the Board for Advance Rulings. The binding provision contained in section 245S will not apply to an advance ruling pronounced on or after 1.9.2021 by the Board for Advance Rulings. Accordingly, in the case of SPO Ltd., the binding provision would not apply in respect of the advance ruling pronounced on 5.10.2021 by the Board for Advance Rulings. If SPO Ltd. is aggrieved by the advance ruling pronounced by the Board for Advance Rulings on 5.10.2021, it may appeal to the High Court against such ruling, within 60 days from the date of communication of that ruling.

5. (a) In order to deter the practice of non-disclosure of income, section 271AAB(1A) provides for levy of penalty on undisclosed income found during the course of a search, which relates to specified previous year, i.e.-

- the previous year which has ended before the date of search, but the due date of filing return of income for the same has not expired before the date of search and the return has not yet been furnished (P.Y. 2020-21);
- the previous year in which search is conducted (P.Y. 2021-22).

Accordingly, under section 271AAB(1A), in respect of searches initiated on 30.4.2021,

- penalty@30% would be attracted, if undisclosed income is admitted during the course of search in the statement furnished under section 132(4), and the assessee explains the manner in which such income was derived, pays the tax, together with interest if any, in respect of the undisclosed income, and furnishes the return of income for the specified previous year declaring such undisclosed income on or before the specified date.

  In all other cases, penalty @60% of undisclosed income would be attracted.

(b) In respect of Mr. Sahil, the Assessing Officer has information suggesting that income has escaped assessment for the purposes of section 148 and 148A, since information has been flagged for the relevant assessment year as per risk management policy formulated by the CBDT. Notice can be issued for A.Y.2020-21, A.Y.2019-20 and A.Y.2018-19, since the three year time limit from the end of the relevant assessment year has not expired as on May, 2021. Such notice can be issued after conducting an enquiry, if required, with respect to the information suggesting escapement of income; and providing an opportunity of being heard to Mr. Sahil by serving a show cause notice. Thereafter, on the basis of material available on record including the reply of Mr. Sahil, in response to show cause notice, the Assessing Officer has to decide whether or not it is a fit case to issue notice under section 148 by passing an order, with the prior approval of Principal Commissioner or Principal Director or Commissioner or Director. However, notice cannot be issued in respect of A.Y.2017-18, since the three year time limit has expired in March, 2021. The extended time limit of 10 years from the end of the relevant assessment year cannot be invoked in this case, since the income escaping assessment in respect of Mr. Sahil is not ₹ 50 lakh or more.

In case of Mr. Rahul, the Assessing Officer shall be deemed to have information suggesting that income has escaped assessment for three assessment years immediately preceding A.Y.2022-23,

relevant to P.Y.2021-22 in which search is initiated. Hence, the relevant assessment years in respect of which the Assessing Officer can issue notice to Mr. Rahul are A.Y.2021-22, A.Y.2020-21 and A.Y.2019-20. In this case, there is no requirement to conduct an enquiry or provide an opportunity of being heard to Mr. Rahul by serving a show cause notice.

(c) Article 31 of Vienna Convention of Law of Treaties contains the General Rule of Interpretation. It lays down that following general rule of interpretation:

- A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms thereof in the context and in the light of its object and purpose.
- The context for the purpose of interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexure
  - (a) Any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;
  - (b) Any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related thereto.
- The following shall be taken into account, together with the context in that:
  - (a) Any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
  - (b) Any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
  - (c) Any relevant rules of international law applicable to relation between the parties.

  A special meaning shall be given to a term if it is established that the parties so intended.

6. (a) Section 179 contains the provisions relating to the liability of directors of a private company in liquidation in respect of tax due from the company. Where any tax due from a private company in respect of income of any previous year or from any other company in respect of any income of any previous year during which such other company was a private company cannot be recovered, then, every person who was a director of such company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax. However, the director shall not be so liable if he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Explanation to section 179 clarifies that the expression **"tax due" includes penalty, interest or any other sum payable under the Act.** Therefore, the directors' liability is not confined to tax alone but extends to penalty, interest or any other sum payable by the company

(b) The arrangement of routing investment through Country 'Y' results into a tax benefit. Since there is no business purpose in incorporating company Zen Pvt. Ltd. in Country 'Y', it can be said that the main purpose of the arrangement is to obtain a tax benefit. The alternate course available in this case is direct investment in Ren (P) Ltd. joint venture by Den Pvt. Ltd. The tax benefit would be the difference in tax liabilities between the two available courses.

The next question is, does the arrangement have any tainted element? It is evident that there is no commercial substance in incorporating Zen Pvt. Ltd. as it does not have any effect on the business risk of Den Pvt. Ltd. or cash flow of Den Pvt. Ltd. As the twin conditions of main purpose being tax benefit and existence of a tainted element are satisfied, GAAR may be invoked.

Additionally, as all rights of shareholders of Ren (P) Ltd. are being exercised by Den Pvt. Ltd instead of Zen Pvt. Ltd, it again shows that Zen Pvt. Ltd lacks commercial substance.

Hence, GAAR provisions can be invoked in this case.

(c) Computation of total income and tax liability of Flax Ltd., a non-resident foreign company, for the A.Y. 2022-23

Particulars	₹
Business Income from a unit established at Delhi	9,50,000
Income from other sources	
- Fees for technical services [would be equivalent to the amount of debentures of ₹ 32,00,000 received from an Indian company, issued in consideration of providing technical knowhow for the purpose of business carried out in India]	32,00,000
- Interest on Debentures	2,88,000
- Dividend on Global Depository Receipts (GDRs) of MN Ltd. an Indian company, issued under a scheme of Central Government against the initial issue of MN Ltd. and purchased in foreign currency by Flax Ltd.	8,50,000
- Dividend income on equity shares of Indian companies	16,80,000
- Royalty income received from Flip Ltd., an Indian company. Since such agreement is not approved by the Central Government, TDS is to be deducted @41.6%. [₹ 8,76,000 x 100/58.4, since tax would have been deducted at source @ 41.6%]	15,00,000
Gross Total Income/ Total income	**84,68,000**
Computation of tax liability	
Dividend income of ₹ 16,80,000, taxable @20% u/s 115A	3,36,000
Dividend on GDRs of ₹ 8,50,000, taxable @10% u/s 115AC	85,000
FTS of ₹ 32,00,000, taxable @10% u/s 115A, since it is in pursuance of an agreement approved by the Central Government	3,20,000
Royalty income of ₹ 15,00,000, taxable @40%, since it is not in pursuance of an agreement approved by the Central Government	6,00,000
Interest on debentures of ₹ 2,88,000, taxable @40%, since debt is incurred in Indian currency, it is not eligible for concessional rate of 20% provided u/s 115A	1,15,200
Business income of ₹ 9,50,000 [taxable @40%]	3,80,000
	18,36,200
Add: Health and education cess@4%	73,448
Tax liability	**19,09,648**
Tax liability (rounded off)	**19,09,650**