

PAPER – 4 : TAXATION
SECTION A: INCOME TAX LAW

Question No.1 is compulsory.

*Candidates are also required to answer any **two** questions from the remaining questions.*

Working notes shall form part of the respective answers.

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

Question 1

Mrs. Mitul, a resident individual, aged 63 years, is a qualified medical practitioner. She runs her own clinic. Income & Expenditure A/c of Mrs. Mitul for the year ending March 31st 2019 is as under :

Expenditure	₹	Income	₹
To Salary to Staff	1,20,000	By Consultation Fees	12,00,000
To Administrative Exp.	2,90,000	By Salary received from True Care Hospitals (P) Ltd.	1,80,000
To Conveyance Expenses	24,000	By Rental Income from House Property	78,000
To Power & Fuel	24,000	By Dividend from Foreign Companies	10,000
To Interest on Housing Loan	1,00,000		
To Interest on Education Loan for son	26,000		
To Amount paid to scientific research association approved & Notified under section 35	25,000		
To net profit	<u>8,59,000</u>		
Total	14,68,000	Total	14,68,000

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

Explanatory Information:

- (i) She is working part-time with True Care Hospitals (P) Ltd. Her salary details are as under:

Basic Pay	₹ 13,000 p.m.
Transport Allowance	₹ 2,000 p.m.
Total	₹ 15,000 p.m.

Further, during P.Y. 2018-19, her son had undergone a medical treatment in True Care Hospitals (P) Ltd. free of cost. The hospital would have charged a sum of ₹ 60,000 for a similar treatment to unrelated patients.

- (ii) She owns a residential house. Ground floor of the house is self-occupied by her while first floor has been rented out since 01/10/2018. The reconstruction of the house was started on 01-04-2018 and was completed on 30-09-2018. The monthly rent is ₹ 10,000. The tenant also pays ₹ 3,000 p.m. as power back-up charges. She took a housing loan of ₹ 12 lakhs on 01-04-2018. Interest on housing loan for the period 01-04-2018 to 30-09-2018 was ₹ 60,000 and for the period 01-10-2018 to 31-03-2019 was ₹ 40,000. During the year, she also paid municipal taxes for the F.Y. 2017-18 ₹ 5,000 and for F.Y. 2018-19 ₹ 5,000.

(iii) **Other information:**

- (a) Conveyance expenses include a sum of ₹ 12,000 incurred for conveyance from house to True Care Hospitals (P) Ltd. and vice versa in relation to her employment.
- (b) Power & fuel expenses include a sum of ₹ 6,000 incurred for generator fuel for providing power back-up to the tenant.
- (c) Administrative expenses include a sum of ₹ 10,000 paid as Municipal Taxes for her house.
- (d) Clinic equipments' details are:
Opening W.D.V. of clinic equipments as on 01-04-2018 was ₹ 1,00,000 and fresh purchase made on 28-08-2018 is ₹ 25,000 which was paid in cash.
- (e) She also paid tuition fee of ₹ 40,000 for her grand-daughter, which has been debited to her Capital A/c.
- (f) She availed a loan of ₹ 8,00,000 from bank for higher education of her son. She repaid principal of ₹ 50,000 and interest of ₹ 26,000 during P.Y. 2018-19.

You are required to compute her total income and net tax liability for the Assessment Year 2019-20. **(14 Marks)**

Answer**Computation of total income and tax liability of Mrs. Mitul for A.Y. 2019-20**

	Particulars	₹	₹	₹
I	Income from Salaries:			
	Basic Pay (₹ 13,000 x 12)		1,56,000	
	Transport Allowance (₹ 2,000 x 12) [Fully taxable]		24,000	
	Cost of treatment for son in True Care Hospitals (P) Ltd. [Exempt, since value of medical treatment provided to an employee's family member in any hospital maintained by the employer is excluded from the definition of perquisite] ¹		<u>Nil</u>	
	Gross Salary		1,80,000	
	Less: Standard deduction u/s 16 [Actual salary or ₹40,000, whichever is less]		<u>40,000</u>	
				1,40,000
II	Income from House Property			
	Let out portion [First floor] ²			
	Gross Annual Value [Rent received is taken as GAV = ₹ 10,000 p.m. x 6 months]		60,000	
	Less: Municipal taxes paid by her in the P.Y.2018-19 pertaining to let out portion [(₹ 5,000 + ₹ 5,000)/2], allowable since it is paid during the year, even if it relates to earlier years		<u>5,000</u>	
	Net Annual Value (NAV)		55,000	
	Less: Deduction u/s 24			
	(a) 30% of ₹ 55,000	16,500		
	(b) Interest on housing loan [(₹ 60,000 (+) ₹ 40,000)/2]	<u>50,000</u>	<u>66,500</u>	
			(11,500)	
	Self-occupied portion [Ground Floor]			
	Annual Value	Nil		
	Less: Deduction u/s 24			

¹ As per clause (i) of proviso to section 17(2)² It is assumed that the ground floor and first floor are of equal area

	Interest on housing loan for reconstruction ₹ 50,000[(₹ 60,000 + ₹ 40,000)/2] restricted to	<u>30,000</u>	<u>(30,000)</u>	<u>(41,500)</u>
				98,500
III	Profits and gains of business or profession			
	Net profit as per Income and Expenditure account		8,59,000	
	Less: Items of income to be treated separately under the respective head of income			
	(i) Salary received from True Care Hospitals (P) Ltd.	1,80,000		
	(ii) Rent from house property	78,000		
	(iii) Dividend from foreign companies	<u>10,000</u>		
			<u>2,68,000</u>	
			5,91,000	
	Less: Allowable expenditure			
	• Depreciation on Clinic equipments On Opening WDV ₹ 1,00,000@15%	15,000		
	On additions during the year ₹ 25,000, no depreciation is allowable, since payment was made in cash and hence, it will not form part of actual cost.	Nil		
	• Additional deduction of 50% for amount paid to scientific research association (Since weighted deduction of 150% is available in respect of such payment)	<u>12,500</u>		
			<u>27,500</u>	
			5,63,500	
	Add: Items of expenditure not allowable while computing business income			
	(i) Interest on housing loan for reconstruction of residential house	1,00,000		
	(ii) Interest on education loan for son	26,000		
	(i) Conveyance expenses in relation to her employment with True Care Hospitals debited to Income and Expenditure A/c, not allowed	12,000		
	(ii) Power and fuel expenses incurred for	6,000		

	providing power back up to tenant not deductible			
	(iii) Municipal tax paid relating to residential house included in administrative expenses, not deductible	<u>10,000</u>	<u>1,54,000</u>	7,17,500
	<i>As per section 44ADA, Mrs. Mitul can opt to claim 50% of gross receipts (₹ 6 lakhs, being 50% of ₹ 12 lakhs) or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by her. In this case, since Mrs. Mitul has maintained books of account, she can claim the higher sum actually earned ₹ 7,17,500 as her income from profession. This solution has been worked out by considering the higher sum actually earned by her i.e., ₹ 7,17,500 as her income from profession.³</i>			
IV	Income from Other Sources			
	Power back up charges from tenant (₹ 3,000 p.m. x 6 months)	18,000		
	Less: Actual expenditure incurred for providing power back up	<u>6,000</u>		
			12,000	
	Dividend from foreign companies [not exempt u/s 10(34)]		<u>10,000</u>	<u>22,000</u>
	Gross Total Income			8,38,000
	Less: Deduction under Chapter VI-A			
	Deduction under section 80C – Tuition fee paid for grand child is not allowable		Nil	
	Deduction under section 80E - Interest on loan taken for higher education of her son is deductible [principal repayment is not deductible]		<u>26,000</u>	<u>26,000</u>
	Total income			<u>8,12,000</u>

³ Alternatively, if ₹ 6 lakhs, being 50% of ₹ 12 lakh, is considered as her professional income, her total income and tax liability would be ₹ 6,94,500 and ₹ 50,860, respectively.

Computation of tax liability of Mrs. Mitul for A.Y.2019-20

Particulars	₹	₹
Tax on total income of ₹ 8,12,000		
Upto ₹ 3,00,000	Nil	
₹ 3,00,001 – ₹ 5,00,000[@5% of ₹ 2 lakh]	10,000	
₹ 5,00,000 – ₹ 8,12,000[@20% of ₹ 3,12,000]	<u>62,400</u>	
		72,400
Add: Health and education cess @4%		<u>2,896</u>
Total tax liability		<u>75,296</u>
Tax liability (rounded off)		75,300

Note: Loss from house property can also be set-off against business income. In such a case, salary income would be ₹ 1,40,000 and business income would be ₹ 6,76,000 (i.e., ₹ 7,17,500- ₹ 41,500). Gross total income, total income and tax liability would remain the same.

If professional income is computed based on presumptive provisions under section 44ADA, her business income would be ₹ 5,58,500 (i.e., ₹ 6,00,000 – ₹ 41,500) and salary income would be ₹ 1,40,000. Gross total income, total income and tax liability would remain the same.

Question 2

- (a) Mr. Jagdish, aged 61 years, has set-up his business in Thailand and is residing in Thailand since last 20 years. He owns a house property in Bangkok, half of which is used as his residence and half is given on rent (such rent received, converted in INR is ₹ 6,00,000). The annual value of the house in Thailand is ₹ 50,00,000 i.e. converted value in INR.

He purchased a flat in Pune during F.Y. 2014-15, which has been given on monthly rent of ₹ 27,500 since 01.07.2017. The annual property tax of Pune flat is ₹ 40,000 which is paid by Mr. Jagdish whenever he comes to India. Mr. Jagdish last visited India in July 2017. He has taken a loan from Union Bank of India for purchase of the Pune flat amounting to ₹ 15,00,000. The interest on such loan for the F.Y. 2018-19 was ₹ 84,000. However, interest for March 2019 quarter has not yet been paid by Mr. Jagdish.

He had a house in Jaipur which was sold in May 2014. In respect of this house he received arrears of rent of ₹ 96,000 in Feb. 2019 (not taxed earlier).

He also derived some other incomes during F.Y. 2018-19 which are as follows:

Profit from business in Thailand ₹ 2,75,000

Interest on bonds of a Japanese Co. ₹ 45,000 out of which 50% was received in India.

Income from Apple Orchid in Nepal given on contract and the yearly contract fee of ₹ 5,00,000, for F.Y. 2018-19 was deposited directly by the contractor in Kathmandu branch of Union Bank of India in Mr. Jagdish's bank account maintained with Union Bank of India's Pune Branch.

Compute the total income of Mr. Jagdish for Assessment Year 2019-20 chargeable to income tax in India. **(7 Marks)**

- (b) *Examine & explain the TDS implications in the following cases along with reasons thereof, assuming that the deductees are residents and having a PAN which they have duly furnished to the respective deductors.*
- Mr. Tandon received a sum of ₹ 1,75,000 as pre-mature withdrawal from Employees Provident Fund Scheme before continuous service of 5 years on account of termination of employment due to ill-health.*
 - A sum of ₹ 42,000 has been credited as interest on recurring deposit by a banking company to the account of Mr. Hasan (aged 63 years).*
 - Ms. Kaul won a lucky draw prize of ₹ 21,000. The lucky draw was organized by M/s. Maximus Retail Ltd. for its customer.*
 - Finance Bank Ltd. sanctioned and disbursed a loan of ₹ 10 crores to Borrower Ltd. on 31-3-2019. Borrower Ltd. paid a sum of ₹ 1,00,000 as service fee to Finance Bank Ltd. for processing the loan application.*
 - Mr. Ashok, working in a private company, is on deputation for 3 months (from December, 2018 to February, 2019) at Hyderabad where he pays a monthly house rent of ₹ 52,000 for those three months, totalling to ₹ 1,56,000. Rent is paid by him on the first day of the relevant month.* **(7 Marks)**

Answer

- (a) Stay in India for a minimum period of 182 days in the relevant previous year or, in the alternative, 60 days in the relevant previous year and 365 days in the four immediately preceding previous years is required to qualify as a resident. In this case, since Mr. Jagdish has not visited India at any time during the P.Y.2018-19, he would be a non-resident for that year.

Computation of Total Income of Mr. Jagdish, a non-resident, for the A.Y. 2019-20

	Particulars	₹	₹
(i)	<u>Income from house property</u>		
	<u>Income from house property at Bangkok</u>		NIL
	[Income from house property at Bangkok neither accrues or arises in India, nor is it deemed to accrue or arise in India; and it is also not stated to be		

	received in India. Hence, it is not taxable in India, since he is a non-resident]		
	<u>Income from house property in Pune (taxable in India since it accrues and arises in India)</u>		
	Gross Annual Value of Pune flat ⁴ (₹ 27,500 x 12)	3,30,000	
	Less: Municipal taxes (Deduction is not allowable, since no amount has been paid during the previous year 2018-19)	<u>Nil</u>	
	Net Annual Value (NAV)	3,30,000	
	Less: Deductions u/s 24		
	(a) 30% of NAV	99,000	
	(b) Interest due on housing loan (allowable even if not paid)	<u>84,000</u>	
		<u>1,83,000</u>	
		1,47,000	
	Arrears of rent received in respect of Jaipur house (taxable u/s 25A, even if he is not the owner of the house property in the P.Y.2018-19)	96,000	
	Less: Deduction@30%	<u>28,800</u>	<u>67,200</u>
			2,14,200
(ii)	<u>Profits and gains of business or profession</u>		
	Profit from business in Thailand (not taxable in the hands of a non-resident, since it neither accrues or arises in India nor is it deemed to accrue or arise in India; and it is also not stated to be received in India)		Nil
(iii)	<u>Income from Other Sources</u>		
	Interest on bonds of a Japanese company [Only ₹ 22,500, being 50% of ₹ 45,000 is taxable in India, since it is stated to be received in India]	22,500	
	Income from Apple Orchid in Nepal [Contract fee directly credited to bank account in India is taxable in India, since it is received in India]	<u>5,00,000</u>	5,22,500
	Total Income		7,36,700

Note: Contract fee for Apple Orchid has been stated to have been deposited directly by the contractor in the Kathmandu branch of UBI in Mr. Jagdish's bank account maintained with UBI's Pune Branch. Since the deposit is stated to have been made by

⁴ Rent received is taken as the gross annual value in the absence of information related to expected rent

the contractor directly in UBI's Pune branch, the income is received in India and hence, would be taxable in the hands of Mr. Jagdish. The above solution has been worked out accordingly. However, due to the use of the word "in the Kathmandu branch", a view is taken that such receipt is actually received in Kathmandu and subsequently it is remitted to Indian branch, the amount of ₹ 5 lakh would not be taxable in India and hence, the total income would be ₹ 2,36,700.

(b) TDS implications

(i) On pre-mature withdrawal from EPF

No tax is deductible under section 192A even though the employee, Mr. Tandon, has not completed 5 years of continuous service, since termination of employment is on account of his ill-health. Hence, Rule 8 of Part A of the Fourth Schedule is applicable in this case.

(ii) On credit of interest on recurring deposit by a banking company

Since the interest on recurring deposit credited to the account of Mr. Hasan, a senior citizen, does not exceed ₹ 50,000 in the P.Y.2018-19, no tax is deductible at source under section 194A.

(iii) On payment of prize winnings of ₹ 21,000

Tax is deductible @ 30% under section 194B by M/s. Maximus Retail Ltd., from the prize money of ₹ 21,000 payable to the customer, since the winnings exceed ₹ 10,000.

(iv) On payment of service fee to bank

Even though service fee is included in the definition of "interest" as defined under section 2(28A), no tax is deductible at source under section 194A, since the service fee are paid to a banking company, i.e., Finance Bank Ltd.

(v) On payment of rent exceeding ₹ 50,000 by a salaried individual

Mr. Ashok, a salaried individual, is liable to deduct tax at source @5% under section 194-IB on ₹ 1,56,000 (being rent for 3 months from December 2018 to February 2019) from the rent of ₹ 52,000 payable on 1st February, 2019, since the monthly rent exceeds ₹ 50,000.

Question 3

- (a) Mr. Prakash is in the business of operating goods vehicles. As on 1st April, 2018, he had the following vehicles :

Vehicle	Gross Vehicle Weight (in Kgs.)	Date of Purchase	Put to use during F.Y. 2018-19
A	8500	2-4-2017	Yes
B	13000	15-5-2017	Yes
C	12000	4-8-2017	No (as under repairs)

During P.Y. 2018-19, he purchased the following vehicles :

Vehicle	Gross Vehicle Weight (in Kgs.)	Date of Purchase	Date on which put to use
D	11000	30-4-2018	10-5-2018
E	15000	15-5-2018	18-5-2018

Compute his income under section 44AE of the Income-tax Act, 1961 for A.Y. 2019-20.

(4 Marks)

- (b) Mr. Rajan provides you the following details with regard to sale of certain securities by him during F.Y. 2018-19:

(i) **Sold 10000 shares of A Ltd. on 05-04-2018 @ ₹ 650 per share**

A Ltd. is a listed company. These shares were acquired by Mr. Rajan on 05-04-2016 @ ₹ 100 per share. STT was paid both at the time of acquisition as well as at the time of transfer of such shares which was affected through a recognized stock exchange.

On 31-01-2018, the shares of A Ltd. were traded on a recognized stock exchange as under :

Highest price - ₹ 300 per share

Average price - ₹ 290 per share

Lowest price - ₹ 280 per share

(ii) **Sold 1000 units of B Mutual Fund on 20-04-2018 @ ₹ 50 per unit**

B Mutual Fund is an equity oriented fund. These units were acquired by Mr. Rajan on 15-04-2017 @ ₹ 10 per unit. STT was paid only at the time of transfer of such units. On 31-01-2018, the Net Asset Value of the units of B Mutual Fund was ₹ 55 per unit.

(iii) **Sold 100 shares of C Ltd. on 25-04-2018 @ ₹ 200 per share**

C Ltd. is an un-listed company. These shares were issued by the company as bonus shares on 30-09-1997. The Fair Market Value of these shares as on 01-04-2001 was ₹ 50 per share.

Cost Inflation Index for various financial years are as under :

2001-02	- 100
2016-17	- 264
2017-18	- 272
2018-19	- 280

Calculate the amount chargeable to tax under the head 'Capital Gains' and also calculate tax on such gains for A.Y. 2019-20 assuming that the other incomes of Mr. Rajan exceeds the maximum amount not chargeable to tax. (Ignore surcharge and cess).

(6 Marks)

- (c) MLX Investments (P) Ltd. was incorporated during P.Y. 2016-17 having a paid up capital of ₹ 10 lacs. In order to increase its capital, the company further issues, 1,00,000 shares (having face value of ₹ 100 each) during the year at par as on 01-08-2018. The FMV of such share as on 01-08-2018 was ₹ 85.

(i) Determine the tax implications of the above transaction in the hands of company, assuming it is the only transaction made during the year.

(ii) Will your answer change, if shares were issued at ₹ 105 each?

(iii) What will be your answer, if shares were issued at ₹ 105 and FMV of the share was ₹ 120 as on 01-08-2018?

(4 Marks)

Answer

- (a) Since Mr. Prakash does not own more than 10 vehicles at any time during the previous year 2018-19, he is eligible to opt for presumptive taxation scheme under section 44AE. As per section 44AE, ₹ 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, per month or part of the month for each heavy goods vehicle and ₹ 7,500 per month or part of month for each goods carriage other than heavy goods vehicle, owned by him would be deemed as his profits and gains from such goods carriage.

Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg.

Calculation of presumptive income as per section 44AE

Type of carriage	No. of months the vehicle is owned by Mr. Prakash	Rate per ton per month	Ton	Amount ₹
(1)	(2)	(3)	(4)	(5) [(2) x (3) x (4)]
Heavy goods vehicle				
Vehicle B (13,000 kgs) held throughout the year	12	1,000	13 (13,000/1,000)	1,56,000
Vehicle E (15,000 kgs) purchased on 15.5.2018	11	1,000	15 (15,000/1,000)	1,65,000
Goods vehicles other than heavy goods vehicle		Rate per month		

Vehicle A held throughout the year	12	7,500	-	90,000
Vehicle C held throughout the year	12	7,500	-	90,000
Vehicle D purchased on 30.4.2018	12	7,500	-	90,000
Total				5,91,000

The “put to use” date of the vehicle is not relevant for the purpose of computation of presumptive income under section 44AE, since the presumptive income has to be calculated per month or part of the month for which the vehicle is owned by Mr. Prakash.

(b) Computation of amount chargeable to tax under the head “Capital Gains” in the hands of Mr. Rajan

	Particulars	₹
(i)	<u>Sale of 10,000 shares of A Ltd. on 5.4.2018 @ 650 per share</u> Sales consideration (10,000 x ₹ 650) Less: Cost of acquisition Higher of: - Actual cost (10,000 x ₹ 100) - Lower of: • ₹ 30,00,000 (₹ 300 x 10,000), being fair market value as on 31.1.2018 (Highest price of the shares traded on 31.01.2018); and • ₹ 65,00,000, being full value of consideration on transfer Long-term capital gain under section 112A [Since shares held for more than 12 months and STT is paid both at the time of purchase and sale. Benefit of indexation is, however, not available on LTCG taxable u/s 112A].	65,00,000 <u>30,00,000</u> 10,00,000 30,00,000 35,00,000
(ii)	<u>Sale of 1,000 units of B Mutual Fund⁵ on 20.4.2018 @ ₹ 50 per unit</u> Sale consideration (1,000 x ₹ 50) Less: Cost of acquisition - Higher of - - Actual cost (1,000 x ₹ 10) - Lower of:	50,000 <u>50,000</u> 10,000 50,000

⁵ Assuming that the units are not listed on the stock exchange as on 31.1.2018.

	<ul style="list-style-type: none"> • ₹ 55,000 (₹ 55 x 1,000), FMV, being Net Asset Value as on 31.1.2018; and • ₹ 50,000, being full value of consideration on transfer 	
	Long-term capital gain under section 112A [Since shares are held for more than 12 months and STT is paid at the time of sale]	Nil
(iii)	<u>Sale of 100 shares of C Ltd. on 25.4.2018 @ 200 per share</u> Sale consideration (100 x ₹ 200) Less: Indexed Cost of acquisition [100 x ₹ 50 (being FMV on 1.4.2001) x 280/100] Long-term capital gain under section 112 [Since shares are unlisted and held for more than 24 months]	20,000 <u>14,000</u> <u>6,000</u>

Computation of tax on such capital gains for A.Y. 2019-20

Particulars	₹
Tax under section 112A @ 10% on long-term capital gains of ₹ 34,00,000 [LTCG of ₹ 35,00,000 (-) ₹ 1,00,000] arising on sale of shares of A Ltd.	3,40,000
Tax under section 112 @ 20% on long-term capital gains of ₹ 6,000 arising on sale of unlisted shares of C Ltd.	<u>1,200</u>
Total tax payable	<u>3,41,200</u>

(c) The provisions of section 56(2)(viib) would be attracted, where consideration is received from a resident person by a company, other than a company in which public are substantially interested, in excess of the face value of shares i.e., where shares are issued at a premium. In such a case, the difference between the consideration received and the fair market value would be chargeable to tax under the head "Income from Other Sources".

- In this case, since MLX Investments (P) Ltd., a closely held company issued 1,00,000 shares (having face value of ₹ 100 each) at par i.e., ₹ 100 each, though issue price is greater than FMV, no amount would be chargeable to tax as income from other sources.
- In this case, since shares are issued at a premium, the amount by which the issue price of ₹ 105 each exceeds the FMV of ₹ 85 each would be chargeable to tax under the head "Income from other sources". Hence, ₹ 20 lakh, being ₹ 20 (i.e., ₹ 105 - ₹ 85) x 1,00,000 shares, would be chargeable under section 56(2)(viib).
- If shares are issued at ₹ 105 each and FMV of share is ₹ 120 each, no amount would be chargeable to tax even though the shares were issued at a premium, since shares are issued at a price which is less than the fair market value.

Question 4

- (a) Mr. Mahadev, a noted bhajan singer of Rajasthan and his wife Mrs. Dariya furnish the following information relating to the Assessment Year 2019-20.

		₹
1	Income of Mr. Mahadev - professional bhajan singer (computed)	5,65,000
2	Salary income of Mrs. Dariya (computed)	3,80,000
3	Loan received by Mrs. Dariya from Ramu & Jay (Pvt) Ltd. (Mrs. Dariya holds 35% shares of the Co. The Co. has incurred losses since its inception 2 years back)	2,50,000
4	Income of their minor son Golu from winning singing reality show on T.V.	2,50,000
5	Cash gift received by Golu from friend of Mr. Mahadev on winning the show	21,000
6	Interest income received by minor married daughter Gudia from deposit with Ramu & Jay Pvt Ltd.	40,000

Compute total taxable income of Mr. Mahadev & Mrs. Dariya for the Assessment Year 2019-20. **(5 Marks)**

- (b) Following are the details of incomes/losses of Mr. Rishi for the F.Y. 2018-19:

(Figures in brackets represents losses)	₹
Taxable salary income (computed)	3,60,000
Taxable income from house property (computed)	
- from rented house property X	1,20,000
- from rented house property Y	(3,40,000)
Taxable profit from business (computed)	
- business P	2,30,000
- business Q	(12,000)
- business R (speculative business)	15,000
- business T (speculative business)	(25,000)
Taxable Income from other sources :	
- from card games	16,000
- from owning & maintenance of race horses	(7,000)
- interest on securities	5,000

You are required to determine the Gross total income of Mr. Rishi for Assessment Year 2019-20. **(5 Marks)**

- (c) What are the clarifications given by CBDT with respect to section 206C(1F) relating to following issues :
- Whether TCS on sale of motor vehicle is applicable only to luxury car?
 - Whether TCS is applicable on each sale or aggregate value of sale of motor vehicle, exceeding ₹10 lakhs ?
 - Whether TCS is applicable in case of an individual?
 - Whether TCS on sale of motor vehicle is at retail level also or only by manufacturer to distributor or dealer ?

(4 Marks)

OR

Elaborate the conditions, non-fulfilment of which would render a return of income filed by an assessee not maintaining regular books of accounts, defective.

(4 Marks)

Answer

(a) Computation of Taxable income of Mr. Mahadev for A.Y. 2019-20

Particulars	₹
Professional income (bhajan singer)	5,65,000
Income of minor son – Golu	
- Income from winning singing reality show on T.V.	Nil
Income derived by a minor child from any activity involving application of his/her skill, talent, specialized knowledge and experience is not to be included in the hands of parent. Hence, ₹ 2,50,000 earned by minor son Golu from reality show on TV would not be included in the income of either parent.	
- Cash gift received by Golu from friend of Mr. Mahadev on winning the show	Nil
The cash gift received by his minor son Golu (not on account of her skill) from his friends would not be taxable, since its value does not exceed ₹ 50,000.	
Income of minor married daughter – Gudia	
Interest income on deposit with Ramu & Jay Pvt. Ltd.	40,000
Less: Exempt under section 10(32)	<u>1,500</u>
(Income of minor daughter would be included in the hands of Mr. Mahadev, since his income, before including minor daughter's income, is higher than his wife's income).	38,500
Taxable Income	6,03,500

Computation of Taxable income of Mrs. Dariya for A.Y. 2019-20

Particulars	₹
Salary income (computed)	3,80,000
Loan received from Ramu & Jay (Pvt.) Ltd. [Such loan amount would not be considered as deemed dividend under section 2(22)(e), even though Mrs. Dariya has substantial interest (holding 20% shares or more) in the Ramu & Jay (Pvt.) Ltd., a closely held company, since the company does not have any accumulated profits on account of losses incurred in last 2 years from inception]	Nil
Taxable Income	3,80,000

(b) Computation of gross total income of Mr. Rishi for the A.Y.2019-20

Particulars	₹	₹
Salary Income (computed)	3,60,000	
Less: Set-off of loss from house property ₹ 2,20,000, restricted to	<u>2,00,000</u>	
		1,60,000
Income from House Property		
Income from Property X	1,20,000	
Less: Loss from Property Y [inter-source set-off is permitted under section 70(1)]	<u>3,40,000</u>	
Loss from house property	2,20,000	
Less: Loss eligible for set-off against salary income as per section 71(3A), restricted to	<u>2,00,000</u>	
Loss to be carried forward to A.Y. 2020-21 as per section 71B, for set-off against income from house property, if any, in that year.	<u>(20,000)</u>	
Profits and gains of business or profession		
Income from business P	2,30,000	
Less: Loss from business Q (inter-source set-off is permitted)	<u>12,000</u>	
		2,18,000
Income from speculation business R	15,000	
Less: Loss from speculation business T [can be set-off only against income from speculation business as per section 73(1)]	<u>25,000</u>	

Loss to be carried forward to A.Y. 2020-21 for set-off against speculative business income of that year by virtue of section 73(2).	(10,000)	
Income from Other Sources		
Income from card games	16,000	
Interest on securities	<u>5,000</u>	21,000
Loss from owning & maintaining race horses [Not allowed to be set-off against any other income under this head or under any other head. Thus, such loss has to be carried forward to A.Y. 2020-21 for set-off against income, if any, from owning and maintaining race horses in that year by virtue of section 74A(3)]	(7,000)	
Gross Total Income		3,99,000

Note: Loss from house property of ₹ 2 lakh can also be set-off against business income instead of salary income. In such a case, salary income would be ₹ 3,60,000 and business income would be ₹ 18,000. Gross total income would remain the same.

Any other permutation for set-off of house property (other than income from card games), including partial set-off against one head and the remaining against another, is also possible.

(c) (First Alternative)

- (i) No, as per section 206C(1F), the seller shall collect tax @ 1% from the purchaser on sale of any motor vehicle of the value exceeding ₹ 10 lakhs.
- (ii) Tax is to be collected at source @ 1% on sale consideration of a motor vehicle exceeding ₹ 10 lakhs. It is applicable to each sale and not to aggregate value of sale made during the year.
- (iii) The term "seller" includes *inter alia*, an individual who is liable to audit as per the provisions of section 44AB during the financial year immediately preceding the financial year in which the motor vehicle is sold. Thus, an individual shall be liable for collection of tax at source on sale of motor vehicle by him.
- (iv) TCS on sale of motor vehicle is applicable on all transactions of retail sales only. Accordingly, it will not apply on sale of motor vehicles by manufacturers to dealers/distributors.

(c) (Second Alternative)

Where regular books of account are not maintained by the assessee, the return should be accompanied by -

- (i) a statement indicating -
 - (1) the amount of turnover or gross receipts,
 - (2) gross profit,
 - (3) expenses; and
 - (4) net profitof the business or profession;
- (ii) the basis on which such amounts mentioned in (i) above have been computed,
- (iii) the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.

Note: The above answer is based on the provisions of section 139(9) of the Income-tax Act, 1961. However, since returns are now required to be e-filed, many of the details need to be incorporated as part of the relevant return form itself.

PAPER – 4 : TAXATION
SECTION B: INDIRECT TAXES

Question No. 5 is compulsory.

Candidates are also required to answer any **two** questions from the remaining **three** questions.

All questions should be answered on the basis of position of GST law as amended by significant notifications/circulars issued upto 30th April, 2019.

Working notes should form part of the answer.

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

Question 5

M/s. Grey, a registered taxable person under regular scheme provides following information in respect of supplies made by it during the month of April, 2019:

	(All amount in rupees)
(i) Inter-state supply of goods	1,00,000
(ii) Intra-state supply of 500 packets of detergent @ ₹ 400 each alongwith a plastic bucket worth ₹ 100 each with each packet, being a mixed supply. (Rate of GST on detergent is 18% and on plastic bucket is 28%)	
(iii) Supply of online educational journals to M/s. Pinnacle, a private coaching centre providing tuitions to students of Class X-XII, being intra-state supply.	50,000

M/s. Grey has also received the following inward supplies:

(iv) Inter-state supply of goods (out of which invoice for goods worth ₹ 20,000 is missing and no other tax paying document is available)	70,000
(v) Repairing of bus with seating capacity of 20 passengers used to transport its employees from their residence, being intra-state supply.	50,000

Details of opening balances of ITC as on 1-4-2019 are as follows:

CGST	5,000
SGST	5,000
IGST	40,000

Following additional information is provided :

- (a) Rate of GST in respect of all inward and outward supplies except item (ii) above is 18%. i.e. CGST and SGST @ 9% and IGST @ 18%.
- (b) All figures mentioned above are exclusive of taxes.
- (c) All the conditions for availing the ITC have been fulfilled except specifically given and M/s. Grey is not eligible for any threshold exemption.

Compute the minimum net GST payable in cash by M/s. Grey for the month of April, 2019.

(8 Marks)

Answer

**Computation of minimum net GST payable in cash by M/s. Grey
for the month of April, 2019**

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
<u>Total tax liability</u>				
Inter-State supply of goods	1,00,000			18,000
Intra-State supply of 500 packets of detergents along with a plastic bucket [Note-1]	2,00,000 (500 x 400)	28,000 (2,00,000 x 14%)	28,000 (2,00,000 x 14%)	
Supply of online educational journal to private coaching centre [Note-2]	50,000	4,500 (50,000 x 9%)	4,500 (50,000 x 9%)	
Total tax liability (A)		32,500	32,500	18,000
<u>Input tax credit (ITC)</u>				
Brought forward ITC		5,000	5,000	40,000
Inter-State purchase of goods [Note-3]	50,000			9,000
Repairing of bus with seating capacity of 20 passengers [Note-4]	50,000	4,500	4,500	
Total ITC (B)		9,500	9,500	49,000
<u>Minimum net GST payable in cash</u>				
Total tax liability		32,500	32,500	18,000
Less: Set off of IGST liability from IGST credit				(18,000)

Set off IGST credit against CGST and SGST liability in any order and in any proportion		(23,000)	(8,000)	
Set off of CGST and SGST credit against CGST and SGST liability respectively		(9,500) CGST	(9,500) SGST	
Minimum net GST payable in cash		Nil	15,000	Nil

Notes:-

1. Supply of detergent and bucket together with a single price of ₹ 400 is a mixed supply. Being a mixed supply comprising of two supplies, it shall be treated as supply of that particular supply that attracts highest rate of tax (28%).
2. Supply of online educational journal is exempt only when the same is provided to an educational institution which provides a qualification recognised by law. Since, the private coaching centre does not provide any recognised qualification, the supply of online educational journals to the same will be taxable.
3. ITC can be taken only on the basis of a valid tax paying document. Thus, ITC will not be available on goods for which the invoice is missing.
4. ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed. Further, ITC is allowed on repair and maintenance services relating to motor vehicles, ITC on which is allowed.

Note: Under the amended position of law, the IGST credit, after being set off against IGST liability, can be utilised against CGST and SGST liability in any order and in any proportion. Thus, there cannot be one answer for the minimum net CGST and SGST payable in cash [i.e. GST liability] as the amount of CGST and SGST liabilities are the same as also the amount of ITC for CGST and SGST is also the same.

Question 6

- (a) Mr. Zafar of Assam, provides the following information for the preceding financial year 2018-19. You are required to find out the aggregate turnover for the purpose of eligibility of composition levy scheme and determine whether he is eligible for composition levy scheme or not, for the F.Y. 2019-20.

Particulars	Amount (₹ in lakh)
Value of taxable outward supplies (out of above, ₹ 10 lakh was in course of inter-state transactions).	50.00
Value of exempt supplies (which include ₹ 30 lakh received as interest	70.00

on loans & advances).	
Value of inward supplies on which he is liable to pay tax under reverse charge	5.00
Value of exports	5.00
All the amounts are exclusive of GST.	

(6 Marks)

- (b) Know & Grow Publishers, a registered dealer in India, paid an advance of ₹ 50,000 to Mr. Ganatra, an author, for the copyright covered under Section 13(1)(a) of the Copyright Act, 1957, of his original literary work on 5-9-2018. It made the balance payment of ₹ 1,50,000 on 12-12-2018. You are required to determine the time of supply, if Mr. Ganatra raised the invoice on :

(i) 6-10-2018, or

(ii) 17-12-2018

(4 Marks)**Answer**

- (a) Computation of aggregate turnover of Mr. Zafar for FY 2018-19 for the purpose of eligibility of composition levy scheme

Particulars	Amount in lakh (₹)
Value of taxable outward supplies [Value of all taxable supplies including inter-State supplies are includible in aggregate turnover]	50
Value of exempt supplies [Value of exempt supplies is includible in aggregate turnover. However, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, though exempt, is not includible in aggregate turnover for determining eligibility for composition scheme]	40
Value of inward supplies on which Mr. Zafar is liable to pay tax under reverse charge [Excludible from aggregate turnover]	Nil
Value of exports [Includible in aggregate turnover]	<u>5</u>
Aggregate turnover for determining eligibility for composition scheme	95

A registered person of Assam is eligible to opt for composition levy if his aggregate turnover does not exceed ₹ 1.5 crore in the preceding financial year provided he is not engaged in inter-State outward supplies of goods. Therefore, in the given case, assuming that he is not engaged in making any inter-State outward supply of goods in FY 2019-20, Mr. Zafar is eligible to opt for composition levy for FY 2019-20 since his aggregate turnover does not exceed ₹ 1.5 crore in FY 2018-19.

- (b) GST on supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher is payable under reverse charge by such publisher, i.e. Know & Grow Publishers.

The time of supply of service, on which GST is payable under reverse charge, is earlier of the following:

- (a) Date of payment as entered in the books of account of the recipient or date on which payment is debited from the bank account, whichever is earlier
- or
- (b) 61st day from the date of issue of invoice by the supplier
- (i) If the invoice is issued on 06.10.2018, time of supply is as under:
- For the payment of ₹ 50,000: 05.09.2018 [earlier of date of payment and 61st day from date of issue of invoice]
 - For the payment of ₹ 1,50,000: 06.12.2018 [earlier of date of payment and 61st day from date of issue of invoice]
- (ii) If the invoice is issued on 17.12.2018, time of supply is as under:
- For the payment of ₹ 50,000: 05.09.2018 [earlier of date of payment and 61st day from date of issue of invoice]
 - For the payment of ₹ 1,50,000: 12.12.2018 [earlier of date of payment and 61st day from date of issue of invoice]

Question 7

- (a) Explain the registration requirements under GST law in the following independent cases:
- (i) Mr. Ahmad of Jammu engaged in the business of supplying tobacco based Pan Masala with an aggregate turnover of ₹ 24 lacs.
- (ii) Mr. Lepcha of Mizoram is engaged in the supply of papers with an aggregate turnover of ₹ 13 lacs.

Will your answer be different if Mr. Lepcha is located in Meghalaya ? **(5 Marks)**

- (b) Mr. Shah, a consignor is required to move goods from Ahmedabad (Gujarat) to Nadiad (Gujarat). He appoints Mehta Transporter for movement of goods. Mehta Transporter

moves the goods from Ahmedabad (Gujarat) to Kheda (Gujarat). For completing the movement of goods from Kheda (Gujarat) to Nadiad (Gujarat), Mehta Transporter now hands over the goods to Parikh Transporter.

Explain the procedure regarding e-way bill to be followed by consignor and transporter as per provisions of GST law and rules made thereunder. **(5 Marks)**

Answer

- (a) (i) A person is eligible for enhanced threshold limit of ₹ 40 lakh in the State of Jammu and Kashmir if he is engaged exclusively in intra-State supply of goods.

However, the enhanced threshold limit is not applicable if the person is engaged, *inter alia*, in the supply of pan masala and all goods of chapter 24 i.e. Tobacco and manufactured tobacco substitutes. In that case, the normal threshold limit of ₹ 20 lakh will be applicable.

In view of said provisions, in the given case, Mr. Ahmad is liable to register since his aggregate turnover (₹ 24 lakh) exceeds the applicable threshold limit for registration of ₹ 20 lakh.

- (ii) The enhanced threshold limit of ₹ 40 lakh as applicable to a person engaged exclusively in intra-State supply of goods, is not applicable to Mizoram [a specified Special Category State]. Instead, a lower threshold limit of ₹ 10 lakh for registration is applicable for Mizoram.

Thus, in the given case, Mr. Lepcha of Mizoram is liable to register since his aggregate turnover (₹ 13 lakh) exceeds the applicable threshold limit for registration of ₹ 10 lakh.

The enhanced threshold limit of ₹ 40 lakh is also specifically not applicable in the State of Meghalaya. Instead, the normal threshold limit of ₹ 20 lakh for registration is applicable to it.

Therefore, if Mr. Lepcha is located in Meghalaya, he is not liable to register since his aggregate turnover (₹ 13 lakh) does not exceed the applicable threshold limit for registration of ₹ 20 lakh.

- (b) In the given scenario, only one e-way bill is required to be issued.

Part A can be filled by either Mr. Shah or recipient of goods or Mehta Transporter on the appropriate authorisation.

Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in Part A, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in Part B.

Thus, on reaching Kheda, Mr. Shah or the recipient of the goods, who has filled Part A of the e-way bill, or Mehta Transporter can, before the transfer and further movement of goods, update the details of conveyance in Part B of the e-way bill.

Further, the consignor or the recipient, who has furnished the information in Part A, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in Part B for further movement of the consignment.

Thus, on reaching Kheda, Mr. Shah or the recipient of the goods, or Mehta Transporter can assign the said e-way bill to Parikh Transporter who will thereafter update the details of conveyance in Part B.

However, upon updation of the details of the conveyance by Parikh transporter in Part B, Mr. Shah or recipient, as the case may be, who has furnished the information in Part A shall not be allowed to assign the e-way bill number to another transporter.

Question 8

- (a) *Explain in brief the conditions to be fulfilled by a registered person under GST law for availing the option to pay concessional tax @ 3% (effective rate 6%) under GST as per the provisions of notification number 2/2019 CT(R) dated 7-3-2019 as amended, with effect from 1st April, 2019.* **(5 Marks)**
- (b) *Discuss the provisions of Section 39(9) of the CGST Act, 2017, relating to rectification of errors/omissions in GST returns already filed and also state its exceptions. State the time limit for making such rectification.* **(5 Marks)**

OR

- (c) (i) *Explain the consequences, if the taxable person under GST law files the GST return under Section 39(1) of the CGST Act, 2017, but does not make payment of self-assessment tax.* **(2 Marks)**
- (ii) *State the items which are to be debited to electronic liability register of the taxable person under the CGST Act, 2017 and rules thereunder.* **(3 Marks)**

Answer

- (a) The registered person desirous of availing the option to pay concessional tax @ 3% (effective rate 6%) under *Notification No. 2/2019 CT (R) dated 7-3-2019* should -
 - (i) not be engaged in making any supply which is not leviable to tax.
 - (ii) not be engaged in making any inter-State outward supply of goods and/or services.
 - (iii) neither be a casual taxable person nor a non-resident taxable person.
 - (iv) not be engaged in making any supply through an electronic commerce operator who is required to collect tax at source.

- (v) not be engaged in making supplies of notified goods.
- (vi) neither collect any tax from the recipient nor be entitled to any input tax credit.
- (vii) issue a bill of supply instead of tax invoice.
- (viii) not have the aggregate turnover in the preceding financial year exceeding ₹ 50 lakh
- (ix) not be eligible for composition scheme.

Note: Any five conditions may be mentioned out of the above mentioned nine conditions.

- (b) Omission or incorrect particulars discovered in the returns filed under section 39 can be rectified in the return to be filed for the month/quarter during which such omission or incorrect particulars are noticed.

Any tax payable as a result of such error or omission will be required to be paid along with interest.

Exception

Section 39(9) of the CGST Act does not permit rectification of error/omission discovered on account of scrutiny, audit, inspection or enforcement activities by tax authorities.

The time limit for making such rectification is earlier of the following dates:

- (i) Due date for filing return for September month of next financial year
or
 - (ii) Actual date of filing annual return
- (c) (i) If the taxable person under GST law files the GST return under section 39(1) of the CGST Act, 2017, but does not pay the self-assessment tax, the return is not considered as a valid return¹.
- Since the input tax credit can be availed only on the basis of a valid return, the taxable person, in the given case, will not be able to claim any input tax credit.
- He shall pay interest, penalty, fees or any other amount payable under the CGST Act for filing return without payment of tax.
- (ii) The items to be debited to electronic liability register of the taxable person are as under:-
 - (a) all amounts payable towards tax, interest, late fee and any other amount as per return filed;

¹ Currently GST portal does not allow filing of returns without payment of tax.

- (b) all amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by an Assessing authority or as ascertained by the taxable person;
- (c) the amount of tax and interest as a result of mismatch.
- (d) any interest amount that may accrue from time to time.

Note: Any three points may be mentioned out of the above mentioned four points.