

## PAPER – 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION

### Part - II

Question No.1 is compulsory.

Answer any **four** questions from the remaining **five** questions.

Working notes should form part of the answer.

All questions relate to Assessment Year 2023-24, unless stated otherwise in the question.

#### Question 1

M/s. Breeze Dental Care Pvt. Ltd., a Tooth brush manufacturing company, having its factory in Rajkot, Gujarat shows a net profit of ₹ 79,50,000 after debiting and crediting of the amounts in its Profit and Loss Account as mentioned below for the year ended March 31, 2023:

- (a) Depreciation as per Companies Act ₹ 85,00,000.
- (b) A gross loss of amount of ₹ 25,00,000, due to destruction of old machinery by fire in the factory. Though ₹ 7,80,000 was received as scrap value on this old machinery on 31-8-2022, the Insurance company did not admit the claim of the company on the charge of negligence.
- (c) Income Tax Assessment of A.Y. 2021-22 was completed in September 2022 with a tax demand of ₹ 5,70,000 which included surcharge of ₹ 60,500 and a cess of ₹ 24,200. The entire sum has been duly paid during the F.Y. 2022-23.
- (d) Power Subsidy received from Central Government amounting to ₹ 13 lakhs. It was received with a stipulation that the same is to be adjusted in the electricity bills for the financial year 2021-22. The subsidy received in the financial year-2022-23. It was not included in the income of year 2021-22.
- (e) Interest received ₹ 7,50,000 on margin money deposited with bank for obtaining bank guarantee to carry on business is included as income in the Profit and Loss Account.
- (f) Purchase price of raw material used for the purpose of in-house research and development is ₹ 14,00,000. (including GST of ₹ 2,75,000 on which ITC is not admissible) is debited in Profit and Loss account.
- (g) Breeze Dental Care Pvt. Ltd. paid ₹ 12 lakhs to JAPA Inc. of China for online digital advertisement. JAPA Inc. has no PE in India. No tax was deducted at source nor was equilisation levy paid on the said amount.

The Suggested Answers for Paper 7: Direct Tax Laws and International Taxation are based on the provisions of direct tax laws as amended by the Finance Act, 2022, which are relevant for November, 2023 examination. The relevant assessment year is A.Y.2023-24.

- (h) Dividend of ₹ 2,50,750 was received from a foreign company, in which Breeze Dental Care Pvt. Ltd. holds 28% in nominal value of equity share capital of the company. An expense (other than Interest payment) of ₹ 15,000 spent on earning this income.
- (i) Interest of ₹ 20,00,000 lakhs<sup>1</sup> relating to F.Y. 2022-23, which is settled by issuing 8% debentures of ₹ 100 each in March, 2023.

**Additional Information:**

- (1) Depreciation as per Income-tax Act, 1961 is ₹ 32,50,000.
- (2) A new Air Compressor machine, necessary for installing with main Plant to keep the Air compression as per guidelines, was purchased and was installed and put to use on 1.5.2022 - ₹ 74,00,000.
- (3) Another new specified Air Pollution Control Equipment was purchased for ₹ 23,45,000 on 18.6.2022.
- (4) Items purchased after 30<sup>th</sup> October, 2022:
- (a) Lorries for transporting goods to sales depots - ₹ 95,00,000.
- (b) Machine imported from Germany - ₹ 1,60,00,000. It arrived at Kandla port on 30.3.2023 and was installed on 10.4.2023.

All the other items were installed during the period ended March 31, 2023. The total turnover of the company for the Financial Year 2020-21 was ₹ 415 crores.

You are required to compute the Total Income and Tax payable of Breeze Dental Care Pvt. Ltd. for the Assessment Year 2023-24 with brief reasons for the treatment of each item given above. The company has not opted for section 115BAA/115BAB. Ignore provisions of MAT.

**(14 Marks)**

**Answer**

**Computation of Total Income and Tax Payable by M/s Breeze Dental Care Pvt. Ltd. for the A.Y. 2023-24**

Particulars		Amount (in ₹)	
I	<b>Profits and gains of business and profession</b>		
	Net profit as per profit and loss account		79,50,000
	<b>Add: Items debited but to be considered separately or to be disallowed</b>		
	(a) Depreciation as per Companies Act	85,00,000	
	(b) Loss due to destruction of machinery by fire	25,00,000	

<sup>1</sup> to be read as ₹ 20 lakhs

<p>Loss of ₹ 25 lakhs due to destruction of old machinery caused by fire is not deductible since it is capital in nature. Since the loss has been debited to profit and loss account, the same is required to be added back while computing business income</p>		
<p><b>(c) Tax paid (including surcharge and cess)</b> Tax paid including surcharge and cess is not allowed while computing business income under section 40(a)(ii). Since the tax paid has been debited to profit and loss account, the same is required to added back while computing business income]</p>	5,70,000	
<p><b>(f) Purchase price of raw material for in-house research</b> Purchase price of raw material used for the purpose of in-house research and development qualifies for 100% deduction u/s 35(2AB) or 35(1)(i). GST on which ITC is not admissible is an expense and can be claimed as deduction under section 37. As the amount has already been debited to profit and loss account, no further adjustment is necessary</p>	Nil	
<p><b>(g) Payment to JAPA Inc. for online digital advertisement</b> Disallowance @ 100% would be attracted under section 40(a)(ib) for non-deduction of equalization levy on payment for online digital advertisement to JAPA Inc. Since the payment has been debited to profit and loss account, the same is required to added back while computing business income</p>	12,00,000	
<p><b>(h) Expenses on earning dividend income</b> The allowability or otherwise of expenses on dividend income has to be considered while computing income under the head "Income from other sources". Since the same has been debited to the profit and loss account, it has to be added back while computing business income]</p>	15,000	

<p><b>(i) Interest<sup>2</sup> settled by issuing debentures</b> As per section 43B, conversion of interest into a debenture shall not be deemed as actual payment, and hence would not be allowed as deduction. Since the interest has been debited to the profit and loss account, it has to be added back while computing business income]</p>	20,00,000	
		1,47,85,000
		<b>2,27,35,000</b>
<b>Less: Items credited but not taxable or chargeable to tax under another head</b>		
<p><b>(b) Scrap value of machinery</b> Scrap value of machinery, being capital in nature, has to be reduced from WDV of machinery. Since the same has been credited to the profit and loss account, it has to be deducted while computing business income</p>	7,80,000	
<p><b>(d) Power Subsidy received from Central Government</b> As per ICDS VII, Government grant (subsidy) which is receivable as compensation for expenses or losses incurred in a previous financial year shall be recognised as income of the period in which it is received. Since the subsidy is received in the P.Y. 2022-23, it would be taxable in P.Y. 2022-23. Since such subsidy has been credited to profit and loss account, no further adjustment is required.</p>	Nil	
<p><b>(e) Interest on margin money deposited with Bank</b> Interest income received on funds kept as margin money for obtaining the bank guarantee would be taxable under the head "Profits and gains of business or profession"<sup>3</sup>. Since such interest has already been credited to profit and loss account, no further adjustment is required.</p>	Nil	

<sup>2</sup> It is assumed that interest is on any loan or borrowing from any public financial institution or a State Financial Corporation or a State Industrial Investment Corporation or a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company or a scheduled bank or co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank

<sup>3</sup> As decided in CIT v. K and Co. (2014) 364 ITR 93 (Del)

(h) <b>Dividend received from foreign company</b> Dividend received from foreign company is taxable under "Income from other sources". Since the same has been credited to the profit and loss account, it has to be deducted while computing business income.	2,50,750	
		10,30,750
		<b>2,17,04,250</b>
<b>Less: Depreciation as per Income-tax Act, 1961</b>		
<b>Normal depreciation [Refer Note below for alternative]</b>		
- Depreciation on assets other than on air compressor, air pollution control equipment & lorries stated in A (2), (3) & (4)	32,50,000	
- On Air Compressor machine [74,00,000 x 15%]	11,10,000	
- On Air Pollution Control Equipment [23,45,000 x 40%]	9,38,000	
- On Lorries for transporting goods to sales depots [95,00,000 x 15% x 50%, since it is used for less than 180 days]	7,12,500	
- On Machine imported from Germany [Nil, since it is not installed in P.Y. 2022-23]	Nil	
		60,10,500
<b>Additional depreciation</b>		
- On Air Compressor machine [74,00,000 x 20%]	14,80,000	
- On Air Pollution Control Equipment [23,45,000 x 20%]	4,69,000	19,49,000
		1,37,44,750
<b>II Income from Other Sources</b>		
<b>Dividend received from foreign company</b> [Dividend received from a foreign company is chargeable to tax under the head "Income from other sources". ₹ 15,000, being an expense other than interest payment is not allowable as deduction from dividend income.]		2,50,750
<b>Gross Total Income/ Total Income</b>		<b>1,39,95,500</b>

<b>Computation of Tax payable</b>		
Tax on ₹ 1,39,95,500 @30% (since the turnover exceed ₹ 400 crores in the P.Y. 2020-21)		41,98,650
Add: Surcharge @ 7% (since total income exceeds ₹ 1 crore but less than ₹ 10 crore)		2,93,906
		44,92,556
Add: Health and Education cess @ 4%		1,79,702
		46,72,258
<b>Tax Payable</b>		<b>46,72,258</b>
<b>Tax Payable (Rounded off)</b>		<b>46,72,260</b>

**Note** – The above solution has been worked out on the assumption that scrap value of machine ₹ 7,80,000 has already been adjusted in computing the depreciation of ₹ 32,50,000. However, if it is assumed that adjustment in respect of scrap value of machine is not considered in the depreciation amount of ₹ 32,50,000, the business income, total income and tax payable would be ₹ 1,38,61,750, ₹ 1,41,12,500 and ₹ 47,11,320, respectively.

### Question 2

- (a) Agro Food Corporation Ltd., a domestic company engaged in manufacturing of FMCG products. It has business of manufacturing, marketing and selling of a wide range of food products and edible oils in India.

The company has prepared Statement of Profit & Loss in accordance with the Schedule III to the Companies Act, 2013 and such Statement of Profit & Loss for the previous year ended 31-03-2023 shows a net profit of ₹ 89 lakhs.

The above net profit was arrived at in respect of its business activities after debiting/crediting the following amounts under different heads:

Debits to the Statement of Profit and loss:

		₹ (lakh)
(i)	Expenditure relating to industrial undertaking qualifying for deduction u/s 10AA.	15.00
(ii)	Depreciation for current year under Companies Act, 2013.	34.00
(iii)	Interest to Financial Institution (an NBFC) not paid up to the date of filing the return.	8.50
(iv)	Penalty for infraction of law	1.50
(v)	Proposed dividend	3.50
(vi)	Provision for Income-tax	2.75
(vii)	Transfer to General Reserve	5.00

(viii)	Expenditure relating to 80-IA undertaking	6.00
<b>Credits to the Statement of Profit and Loss:</b>		
(i)	Amount withdrawn from Reserve created during 2019-20 (Book Profit was not increased by the amount transferred to such reserve in the year 2019-20)	4.00
(ii)	Profits from an Industrial Undertaking covered and qualified for deduction under section 10AA of Income-tax Act	31.70
(iii)	Profits from an Industrial Undertaking covered and qualified under section 80-IA of Income-tax Act, 1961	7.00
(iv)	Deferred tax Credit	3.57
<b>Additional Information:</b>		
(i)	Brought forward Business Loss as per books	8.75
(ii)	Depreciation allowable under Income tax rules	42.00
(iii)	Brought forward Business Loss as per Income-tax Law	9.50
(iv)	Unabsorbed depreciation as per Income-tax Law	10.53
(v)	Unabsorbed depreciation as per Books	Nil

You are requested to compute the Book profit of the company as per section 115JB of the Income-tax Act, 1961 for A.Y. 2023-24.

Also compute the Minimum Alternate tax applicable on Books profits calculated as per section 115JB as applicable to Book Profits. Ignore Tax liability as per normal provisions of law. **(8 Marks)**

- (b) (i) M/s. XY Airlines Inc., incorporated as a company in USA operated its flights to India and vice versa during the financial year 2022-23.

M/s. XY Airlines Inc. collected charges of ₹ 90 lakhs for carriage of passengers and cargo from Delhi to New York and vice versa out of which, ₹ 40 lakhs were received in New York in USD for the passenger and cargo fare booked from New York to Delhi.

The company also collected ₹ 70 lakhs for carriage of passengers and cargo from Mumbai to New York and vice versa out of which, ₹ 30 lakhs were received in New York in USD for the passenger and cargo fare booked from New York to Mumbai.

The total expenses for the year on operation of such flights were ₹ 170 lakhs. Compute the income chargeable to tax of the XY Airlines Inc. in India. **(3 Marks)**

- (ii) Mr. Aadi, a non-resident Indian (Age 45 years), subscribed unlisted equity shares of an Indian company in 2008-09 for ₹ 6,00,000. These shares were sold by him on 05.03.2023 for a consideration of ₹ 9,00,000.

Brokerage paid for sale of these shares is ₹ 15,000. Compute taxable capital gain of Mr. Aadi for the Assessment Year 2023-24, assuming that he has invested in specified assets ₹ 3,50,000, before 31st March 2023.

Cost Inflation Index for Financial Year 2008-09 is 137 and for 2022-23 is 331. Ignore the effect of first proviso to section 48. **(3 Marks)**

**Answer**

**(a) Computation of Book Profit and MAT liability under section 115JB for A.Y.2023-24**

Particulars	₹	₹
Net Profit as per Statement of Profit and Loss		<b>89,00,000</b>
<b>Add:</b> Net profit to be increased by the following amounts as per Explanation 1 to section 115JB:		
- Depreciation	34,00,000	
- Proposed dividend	3,50,000	
- Provision for income-tax	2,75,000	
- Transfer to General Reserves, [Amount carried to any reserves, by whatever name called has to be added back]	<u>5,00,000</u>	
		<u>45,25,000</u>
		1,34,25,000
<b>Less:</b> Net profit to be decreased by the following amounts as per Explanation 1 to section 115JB:		
- Depreciation	34,00,000	
- Amount withdrawn from reserve created during 2019-20 [Since the book profit of 2019-20 was not increased by the amount transferred to such reserve]	Nil	
- Deferred tax credit	3,57,000	
- Unabsorbed depreciation or brought forward business loss, whichever is less, as per the books of account. <i>Lower of unabsorbed depreciation i.e., Nil and brought forward business loss ₹ 8,75,000 as per books of account has to be reduced while computing the book profit</i>	<u>Nil</u>	
		<u>37,57,000</u>
<b>Book Profit</b>		<b>96,68,000</b>



<b>Computation of MAT Liability</b>	
15% of book profit (₹ 96,68,000 x 15%)	14,50,200
Add: Health and Education cess@4%	<u>58,008</u>
Minimum Alternate Tax liability	<b><u>15,08,208</u></b>
<b>MAT liability (rounded off)</b>	<b>15,08,210</b>

**Notes:**

- (1) Only the specified items mentioned under *Explanation 1* to section 115JB can be added back to or reduced from the net profit as per the Statement of Profit and Loss prepared as per the Companies Act for computing book profit for levy of MAT. Since the following items are not specified thereunder, the same cannot be added back/reduced for computing book profit:
- Interest to financial institution (an NBFC) not paid before due date of filing of return of income
  - Penalty for infraction of law
  - Expenditure relating to undertaking eligible for deduction u/s 80-IA
  - Profits from an Industrial undertaking eligible for deduction u/s 80-IA
- (2) As per the proviso to section 115JB(6), the profits from unit established in special economic zone cannot be excluded while computing the book profit, and hence, such income would be liable for MAT. Accordingly, expenditure and profits from an industrial undertaking eligible for deduction u/s 10AA cannot be added back/reduced for computing book profit.
- (3) Depreciation and brought forward business loss as per Income-tax Act, 1961 is not relevant for computing book profit for levy of MAT.
- (b) (i) As per section 44BBA, in the case of a non-resident engaged in the business of operation of aircraft, 5% of the following amounts would be deemed to be the profits and gains from such business:
- (a) paid or payable, whether in or out of India, to the assessee or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods from any place in India; and
  - (b) received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods from any place outside India

In the present case, the income chargeable to tax of M/s XY Airlines Inc. applying the provisions of section 44BBA are as follows:

Particulars		Fare booked from India to outside India whether received in India or not (₹)	Fare booked from New York to Delhi/ Mumbai (₹)
(i)	Fare for Delhi to New York and vice versa	50,00,000 (90,00,000 – 40,00,000)	40,00,000
(ii)	Fare for Mumbai to New York and vice versa	40,00,000 (70,00,000 – 30,00,000)	30,00,000
<b>Total</b>		<b>90,00,000</b>	<b>70,00,000</b>
Presumptive income @5% u/s 44BBA		4,50,000 (90,00,000 × 5%)	Nil (since the amount not received in India)
No deduction would be available in respect of expenditure incurred by M/s XY Airlines Inc.			

(ii) **Computation of taxable capital gain of Mr. Aadi for A.Y. 2023-24**

Particulars	(Amount in ₹)
Full Value of Consideration	9,00,000
Less: Brokerage paid	<u>15,000</u>
Net Consideration	8,85,000
Less: Cost of Acquisition [Indexation benefit would not be available]	<u>6,00,000</u>
<b>Long-term capital gain</b> [Since it was held for more than 24 months]	2,85,000
Less: Exemption u/s 115F [3,50,000 × 2,85,000/8,85,000]	<u>1,12,712</u>
<b>Taxable capital gains</b>	<b><u>1,72,289</u></b>

**Note** – In the question, the information is missing whether the unlisted equity shares were purchased in convertible foreign exchange or not. The above solution is given assuming it is purchased in convertible foreign exchange in which case provisions of Chapter XII-A would be applicable to Mr. Aadi and indexation benefit would not be available to him. However, if it is assumed that unlisted shares are not purchased in convertible foreign exchange, the indexation benefit under normal provisions of the Act would be available. In such case, capital gain/loss would be computed as follows:

Particulars	(Amount in ₹)
Full Value of Consideration	9,00,000
Less: Brokerage paid	<u>15,000</u>
Net Consideration	8,85,000
Less: Cost of Acquisition [6,00,000 x 331/137]	<u>14,49,635</u>
<b>Long-term capital loss</b> [Since it held for more than 24 months]	<b>(5,64,635)</b>

**Question 3**

(a) Mookti Foundation, a Charitable institution registered under section 12AB set up on 1<sup>st</sup> August, 2021 is engaged in preservation of forests. The accountant of the institution provides the following details of the institution to you as a Chartered Accountant. Please discuss the treatment of Application of Income/Expense in the hands of the Charitable institution for the previous year 2022-23 in the following independent situations as per provisions of Income-tax Act, 1961. Your answer should be followed with reasons:

- (i) The institution follows mercantile system of accounting and during the previous year 2022-23, has incurred Electricity expenses amounting to ₹ 1,00,000 for the period pertaining to the year 2022-23. The Electricity expenses was actually paid on 10<sup>th</sup> day of April 2023 through an account payee cheque. In which year the application of income will be treated by the Foundation?
- (ii) The Foundation was cultivating 20 acres of agriculture land. It is doing agriculture operations and earned an agriculture income of ₹ 12,00,000 during Previous year 2022-23 from this activity. Whether exemption under section 10(1) will be available to Mookti Foundation on such income?
- (iii) Mookti Foundation has earned Rental income for previous year 2022-23 amounting to ₹ 3,00,000. It received ₹ 2,00,000 upto 31<sup>st</sup> December, 2022 of such income. However, the balance of ₹ 1,00,000 was received on 31<sup>st</sup> July, 2023. Upto what period the institution can apply the same amount towards the objects of the institution? The institution has exercised the relevant option in this regard.
- (iv) Mookti Foundation borrowed ₹ 45 lakhs from a nationalised bank in April, 2022 for purchase of building in a forest area for the objects of the institution. It spent the whole amount of loan for the same purpose and claimed the same as application of income in March 2023. It repaid the first instalment of ₹ 6 lakhs to the Bank on 31<sup>st</sup> March 2023.

**(8 Marks)**

(b) Smt. Manisha (aged 70 years), a resident individual, furnishes you the following particulars of Income relating to the previous year 2022-23:

Particulars	Amount ₹
Loss from let out property at Delhi (Computed)	4,50,000

<i>Income from business in India (Computed)</i>	8,99,500
<i>Business income in Country "A"</i>	8,00,000
<i>Fixed Deposit Interest in Country A</i>	USD 8,000
<i>Saving Bank Interest in India from PNB Bank</i>	50,500
<i>Contribution to PPF Account of her married son</i>	1,50,000
<i>Interest on PPF Account (in her own name)</i>	58,682
<i>Agriculture income in Country "M"</i>	1,20,000

*Agriculture income is exempt in Country "M" and rate of Tax in Country A is 25%. Assume that there is no double taxation avoidance agreement between India and Country "A" and Country "M".*

*Rate of 1 USD = ₹ 82 for calculation purposes.*

*Compute the total income and tax payable by Smt. Manisha for the A.Y.2023-24. Assume that she did not opt to be governed by provision of section 115BAC. (6 Marks)*

#### Answer

- (a) (i) With effect from A.Y. 2022-23, any sum payable by any trust or institution shall be treated as application of income only in the previous year when such sum is actually paid by it. This is irrespective of the previous year in which the liability to pay such sum was incurred or method of accounting regularly employed by it. Thus, expenditure is allowed as application only when the payment is actually made and not when the liability is incurred.

In the present case, though the Mookti Foundation trust follows mercantile system of accounting, electricity expenses of ₹ 1,00,000 incurred during the P.Y. 2022-23 would be allowable as application of income only in the previous year 2023-24 as actual payment is made on 10<sup>th</sup> April, 2023.

- (ii) Where a trust or an institution has been granted registration for purposes of availing exemption under section 12AB then, such trust or institution cannot claim any exemption under any provision of section 10 [other than exemption of agricultural income under section 10(1)].

Accordingly, agricultural income of ₹ 12,00,000 would be exempt under section 10(1) in the hands of Mookti Foundation registered under section 12AB.

- (iii) In case a trust is unable to apply the minimum of 85% of its income during the previous year as whole or any part of the income has not been received during that year, the period of application is extended to cover the previous year in which the income is actually received or the previous year immediately following the previous year in which the income was received.

Accordingly, in the present case, income of ₹ 1,00,000 which was received on 31<sup>st</sup> July, 2023 can be applied during the P.Y. 2023-24, being the year in which such amount is received or in the P.Y. 2024-25, being the P.Y. immediately following the P.Y. 2023-24.

- (iv) Application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes.

However, the amount not so treated as application or part thereof, shall be treated as application in the previous year in which the loan or borrowing or part thereof is repaid from the income of that year to the extent of such repayment.

Accordingly, amount of ₹ 45 lakhs spent for purchase of building is not allowable as application of income for the P.Y. 2022-23 but the repayment of first instalment of ₹ 6 lakhs on 31<sup>st</sup> March 2023 would be allowed as application.

**(b) Computation of total income and tax payable by Smt. Manisha for A.Y.2023-24**

Particulars	₹	₹
Loss from house property	4,50,000	
Less: As per section 71(3A), set-off of loss against business income in India to the extent of	<u>2,00,000</u>	
Balance loss would be carried forward for set-off to subsequent A.Y.2024-25	(2,50,000)	
<b>Profits and Gains of Business or Profession</b>		
Income from business in India (Computed)	8,99,500	
Less: Set-off of loss from house property	<u>2,00,000</u>	
	6,99,500	
Business income in Country 'A'	<u>8,00,000</u>	14,99,500
<b>Income from Other Sources</b>		
Fixed deposit interest in Country 'A' [USD 8,000 x 82]	6,56,000	
Savings bank interest in India from PNB Bank	50,500	
Interest on PPF Account	Exempt	
Agriculture income in Country 'M'	<u>1,20,000</u>	
		<u>8,26,500</u>
<b>Gross Total Income</b>		23,26,000
<b>Less: Deductions under Chapter VI-A</b>		
Under section 80C – Contribution to PPF	1,50,000	
Under section 80TTB - Interest on savings bank account restricted to	<u>50,000</u>	
		<u>2,00,000</u>

<b>Total Income</b>	21,26,000
<b>Tax liability on ₹21,26,000</b>	
Tax on total income [30% of ₹11,26,000 + ₹1,10,000]	4,47,800
Add: Health and Education cess@4%	<u>17,912</u>
	4,65,712
<b>Less: Deduction under section 91:</b> In respect of Country M, no relief u/s 91 would be available, since agricultural income is exempt in Country M.	
Less: Deduction u/s 91 in respect of doubly taxed income in Country A (See Working Note below)	<u>3,18,944</u>
<b>Tax payable</b>	<b><u>1,46,768</u></b>
<b>Tax payable (Rounded off)</b>	<b>1,46,770</b>
<b>Working Note: Calculation of deduction under section 91</b>	<b>₹</b>
<b>Doubly Taxed Income – Country A</b>	
Business Income	8,00,000
FD interest in Country A	<u>6,56,000</u>
	<b>14,56,000</b>
Indian rate of tax = $4,65,712/21,26,000 \times 100 = 21.9055\%$	
Rate of tax in Country A = 25%	
Lower of the above = 21.9055%	
<b>Deduction u/s 91 [21.9055% x ₹14,56,000]</b>	<b>3,18,944</b>

**Question 4**

- (a) Examine the applicability of Tax to be deducted at Source (TDS) or Tax to be collected at Source (TCS) as per the Income-tax Act, 1961 in the following independent situations. Calculate the amount of tax to be deducted at Source or tax to be collected at Source in given cases as per the provisions applicable for the Assessment Year 2023-24:
- (i) Mr. Ron took a loan of ₹ 10 lakhs from his employer, Thomas Private Limited, an Indian domestic manufacturing company for sponsoring studies of his son in Germany. Out of the said loan, he remitted ₹ 8,75,000 towards fees to the University in Germany for his son's education on 01.10.2022.
- He also remitted to his son an amount of ₹ 4,75,000 for pursuing higher studies in Germany towards his out of pocket expenses on 20.02.2023. Both the remittances were made through the same authorized dealer under the Liberalized Remittance Scheme of RBI. **(3 Marks)**
- (ii) Mr. Mandeep Singh, a manufacturer of textile goods, had a turnover of ₹ 12 crores during Financial year 2021-22 and is covered under provisions of section 44AB of

*Income-tax Act for compulsory audit of Books of Accounts. He purchased a residential house in January 2023 for his personal use for ₹ 5 crores from Mr. Amit and paid a commission@12% of the value of the house to Mr. Pankaj for effecting the deal. The house is not used for business purposes by Mr. Mandeep Singh.*

**(3 Marks)**

*(iii) Registrar General of Hon'ble High Court of Delhi has made a fixed deposit of ₹ 100 lakhs with a nationalised bank out of money deposited by litigants on directions of the Court. Is section 194A applicable in respect of interest on fixed deposits in the name of Registrar General of High Court?*

**(2 Marks)**

*(b) Paras Ltd. is an Indian company engaged in the manufacturing of supreme quality mink blankets. It has total borrowings of ₹ 60 crores by way of loan as on 31.03 2023.*

*SHQ Inc of Germany during the Financial year 2022-23 imported 5 lakh piece of blankets from Paras Ltd. @ ₹ 2,000 per unit for the trading purposes in Germany. Paras Ltd. sold similar blankets to other dealers in Germany @ ₹ 2,100 per unit. Paras Ltd. received a guarantee on 1.04.2022 for availing a cash credit limit of ₹ 9 crores for which SHQ Inc was the guarantor. The terms of trade for other dealers was to make payment within 1 month from the date of sale of goods by Paras Ltd., whereas for SHQ Inc, the credit period allowed was 3 months from the date of sale of goods. The cost of capital was 12% per annum and the supply of goods is assumed to be uniform throughout the year.*

*You are required to determine whether Paras Ltd. and SHQ Inc. are associated enterprises. If yes, compute the Arm's Length Price (ALP) of the transaction between them and the amount to be added to the income of Paras Ltd., if any, by way of an ALP adjustment.*

*Assuming that the above adjustments to the transfer price have been made suo-moto by Paras Ltd. in its return of income, what is the time limit for the repatriation of such excess money? What are the implications if the excess money is not repatriated within such prescribed time limit? Your answer must be based on the latest provisions of Income-tax Act.*

**(6 Marks)**

**Answer**

**(a) (i)** Tax would be collectible at source under section 206C(1G) by the authorised dealer, who received an amount, under the Liberalised Remittance Scheme of the RBI, for overseas remittance from Mr. Ron at the rate of 5% of the sum exceeding ₹ 7 lakhs.

Tax of ₹ 8,750 (5% of ₹ 1,75,000, being the sum exceeding ₹ 7 lakhs) would be collectible by the authorised dealer on 1.10.2022 on remittance of ₹ 8,75,000 for education of his son out of the loan from his employer. The concessional rate of TCS of 0.5% would not be applicable, since the amount of remittance is not out of a loan obtained from any financial institution as referred under section 80E.

Tax of ₹ 23,750 (5% of ₹ 4,75,000) would be collectible by the authorised dealer on 20.2.2023 on remittances of ₹ 4,75,000 for education of his son for out of pocket expenses.

- (ii) Section 194-IA is attracted where the consideration for transfer of immovable property and the stamp duty value of such property, are both, is ₹ 50,00,000 or more.

As per section 194-IA, Mr. Mandeep Singh paying ₹ 5 crores to Mr. Amit, as consideration for transfer of house property, is required to deducted tax at source @1% of consideration or the stamp duty value, whichever is higher.

The tax deduction under section 194-IA would be ₹ 5,00,000, being 1% of ₹ 5 crores<sup>4</sup>.

Since Mr. Mandeep Singh's turnover for the P.Y. 2021-22 exceeded ₹ 1 crore and payment of commission i.e., ₹ 60,00,000 (12% of ₹ 5 crores) exceeds ₹ 15,000, Mr. Mandeep Singh is required to deduct tax under section 194H @5% from commission payment to Mr. Pankaj.

The tax deduction under section 194H would be ₹ 3,00,000, being 5% of ₹ 60 lakhs.

- (iii) The expression "payee" u/s 194A would mean the recipient of income whose account is maintained by the person paying interest. The Registrar General is neither recipient of the amount credited to his account nor to interest accruing thereon. Therefore, he cannot be considered as a 'payee' for the purposes of section 194A.

In the absence of a payee, the machinery provisions for deduction of tax to his credit are ineffective. The interest on FDRs made in the name of Registrar General of the Court would, thus, not be subjected to TDS under section 194A.

- (b) Paras Ltd, an Indian company, and SHQ Inc. of Germany are deemed to be associated enterprises as per section 92A(2), since SHQ Inc. guarantees not less than 10% i.e., 15% in this case (₹ 9 crores/ ₹ 60 crores) of the total borrowing of Paras Ltd.

**Computation of Arms Length Price and adjustment to be made to the income of Paras Ltd**

Particulars	₹
Price of blanket charged from unrelated party (Per blanket)	2,100
Add: Adjustment for cost of capital [₹ 2,100 x 12% x 2/12]	<u>42</u>
<b>Arm's length price per blanket</b>	2,142
Less: Price at which blankets was sold to SHQ Inc.	<u>2,000</u>
<b>Adjustment to be made per blanket</b>	<u><u>142</u></u>

<sup>4</sup> Assuming SDV is lower than the consideration



No of pieces of blanket sold to SHQ Inc. Germany	5,00,000
Adjustment to be made to the income of Paras Ltd. [5,00,000 x 142]	<b>7,10,00,000</b>

If the primary adjustments to transfer price has been made *suo-motu* by Paras Ltd. in its return of income, it has to repatriate the excess money of ₹ 7,10,00,000 on or before 90 days from the due date of filing of return u/s 139(1) for A.Y. 2023-24.

If the excess money of ₹ 7,10,00,000 is not repatriated to India within 90 days from the due date of filing of return u/s 139(1) for A.Y. 2023-24, the same shall be deemed to be an advance made by the Paras Ltd. to SHQ Inc. and the interest on such advance shall be computed at the one year marginal cost of fund lending rate of SBI as on 1<sup>st</sup> April of the relevant previous year + 3.25%.

In a case where the excess money of ₹ 7,10,00,000 has not been repatriated within 90 days from the due date of filing of return u/s 139(1) for A.Y. 2023-24, Paras Ltd. has the option to pay additional income-tax @ 20.9664% (i.e., tax@18% plus surcharge@12% plus cess@4%) on ₹ 7,10,00,000.

Where additional income-tax is so paid by Paras Ltd., it will not be required to make secondary adjustment and compute interest from the date of payment of such tax.

#### Question 5

(a) Answer any **two** out of the following three sub-parts (i), (ii), (iii) Your answer should cover.

(1) Issues involved

(2) Provisions Applicable

(3) Analysis and Conclusion

(i) Mr. Surajit e-filed his Income-tax Return for A.Y. 2023-24 on July 21, 2023. He declared a total income of ₹ 11,75,000.

Total income includes interest from Public Provident Fund (PPF) ₹ 95,530 and long-term capital gains on agricultural land exempt under section 10(37). Both these incomes were disclosed in the schedule of exempt income.

Mr. Surajit also found that by mistake he failed to claim the current year business loss in the Income-tax Return amounting to ₹ 4,50,000 which he is entitled to claim.

In due course of time, the above Income-tax Return got processed under section 143(1) and both the above exemptions for Interest on Public Provident Fund and long-term capital gains on agricultural land were denied. Intimation was served to Mr. Surajit and a demand of tax was raised.

For all the above mistakes in the return he filed a revised return under section 139(5) but time limit for e-verification of revised return had lapsed and the same became invalid.

Assessee filed for rectification under section 154 which was also rejected by the Assessing Officer. Is the Assessing Officer bound to accept the request of Mr. Surajit?

- (ii) *IT Finance (I) Ltd. repays a loan merely by passing adjustment entries in its books of account. Loan repayment was not actually made.*

*The cause shown by the assessee for repayment of the loan otherwise than by account payee cheque/bank draft was on account of the fact that the assessee was liable to receive amount towards the sale price of the shares sold by the assessee to the person from whom loan was received by the assessee. In order to avoid the unnecessary circular transfer of shares, both the parties agreed to set-off the amount payable and receivable by way of passing journal entries and the balance loan amount was paid by the assessee by way of an account payee cheque. The amount of loan settled by way of passing journal entries exceeds ₹ 20,000.*

*Neither the genuineness of the receipt of loan nor the transaction of repayment of loan by way of adjustment through book entries has been doubted in the regular assessment. But the Assessing Officer imposed penalty under section 271E as a contravention of the provisions of section 269T with regard to repayment of loan otherwise than by banking channel.*

*Is the Assessing Officer justified in imposing penalty?*

- (iii) *The assessee, M/s. ABC Finance Limited, a finance company, was engaged in business of leasing and hire purchase of capital equipment to existing Indian enterprises. It had obtained certain amount of loan from a UK based company in foreign currency to be used by the assessee for financing the procurement of capital equipment by its customers. While repaying said amount the assessee had to pay a higher amount in lieu of fluctuation in exchange rate, which resulted in loss of ₹ 3.57 crores. Subsequently, the assessee, while filing the return of income, claimed loss owing to exchange fluctuation, amongst others, of ₹ 1.10 crores as deduction u/s 37(1), and capitalised exchange fluctuation of ₹ 2.47 crores. However, the claim under section 37(1) was denied by the Revenue while processing return.*

*The Commissioner (Appeals) also rejected the assessee's claim and held that provision of section 43A for capitalisation of Exchange rate fluctuation was applicable.*

*In the appeal before ITAT, the appellant not only claimed deduction in respect of loss of ₹ 1.10 crores arising on account of exchange fluctuation, but also set up a fresh claim in respect of revenue expenses to the tune of ₹ 2.47 crores, erroneously capitalised in the return. The Tribunal reversed the findings of the Commissioner (Appeals) and further held that since entire amount of loan was utilised in trading operations, the expenditure so incurred was revenue in nature and allowable under section 37(1).*

Whether the Tribunal is justified in deleting the disallowance of claim of ₹ 1.10 crores made by AO and allowing the additional claim of ₹ 2.47 crores as revenue expense? **(4 x 2 = 8 Marks)**

- (b) ABC Inc., a company incorporated in USA, owns and manages a website which acts as a marketplace for buying and selling of goods and also hosts advertisement. ABC Inc. has no physical presence in India and no permanent establishment in India.

Raghu Ltd is a domestic Indian company. Raghu Ltd made a payment of ₹ 3,00,000 on 30-6-2022 towards procuring online advertisement space to ABC Inc. for his business. Raghu Ltd. remitted the equalization levy on 23-3-2023.

For the purpose of online advertisement, Raghu Ltd. also took the services of LMF Inc., a UK based company who has a permanent establishment in India and the service is effectively connected to the permanent establishment. During the previous year 2022-23 Raghu Limited paid ₹ 4,50,000 to LMF Inc.

Discuss the implications of Equalisation levy alongwith its due date of payment and its implications on Raghu Limited for the Assessment Year 2023-24, in above circumstances. Does any of the above payment have any impact as per the TDS provisions under the Income-tax Act? **(6 Marks)**

#### Answer

- (a) (i) **Issue Involved:** The issue under consideration is whether a rectification application before the Assessing Officer under section 154 can be filed to rectify a mistake
- for denial of exemption in respect of interest on PPF and Long-term Capital Gains on agricultural land u/s 10(37) while processing return u/s 143(1) which was disclosed by the assessee in the Schedule of exempt income of ITR and
  - to claim a business loss which the assessee failed to claim in the return filed by him.

**Provisions Applicable:** As per section 154 with a view to rectifying any mistake apparent from the record an income-tax authority may *inter alia* amend any order passed by it under the provisions of this Act or amend any intimation or deemed intimation under section 143(1).

#### **Analysis and Conclusion:**

The jurisdiction of any authority under the Act to make an order under section 154 depends upon the existence of a mistake apparent on the face of the record. As per section 154, an income-tax authority can rectify mistake which is committed in the intimation passed under section 143(1) or an order passed under the Act.

In the present case, denial of exemption while processing the return under section 143(1) in respect of interest from Public Provident Fund (PPF) and LTCG on agricultural land exempt under section 10(37) are mistakes apparent from record.

However, mistake to claim current year business loss in the return of income cannot not be said to be mistake apparent from record, since current year business loss not forming part of intimation as Mr. Surajit failed to claim the business loss in the ITR filed by him.

Moreover, the assessing authority has no power to entertain a claim for deduction made after filing return of income otherwise than by way of a revised return.<sup>5</sup>

Accordingly, the Assessing Officer is bound to accept the request of Mr. Surajit for rectification only in respect of exemption of interest on PPF and LTCG under section 10(37) and not in respect of claim for business loss.

- (ii) **Issue Involved:** The issue under consideration is whether the repayment of loan by the assessee merely by passing adjustment entries in its books of account be taken as a contravention of the provisions of section 269T to attract penalty under section 271E.

**Provisions Applicable:** Section 269T provides that it is obligatory on every person to repay any loan by an account payee cheque or account payee bank draft, or by use of electronic clearing system through a bank account or through such other prescribed electronic mode, if the amount of loan together with interest, if any, payable thereon is ₹ 20,000 or more.

Failure to comply with the provisions of section 269T would attract penalty u/s 271E.

**Analysis and Conclusion:** Section 269T does not make a distinction between a bonafide or a non-bonafide transaction neither does it require the fulfillment of the condition mentioned therein only in case where there is outflow of funds. It merely puts a condition that in case a loan or deposit is repaid, it should be by way of an account payee cheque/draft or by use of electronic clearing system through a bank account or through such other prescribed electronic mode.

Therefore, in the present case, the assessee has repaid a portion of loan in contravention of provisions of section 269T.

In effect, the assessee has violated the provisions of section 269T by repaying the loan amount by way of passing book entries and therefore, penalty under section 271E is applicable.

However, since the transaction is bona fide in nature being a normal business transaction and has not been made with a view to avoid tax and since the IT Finance (I) Ltd. has shown reasonable cause for the failure under section 269T, no penalty under section 271E could be imposed on the IT Finance (I) Ltd. for contravening the provisions of section 269T by virtue of the provisions of section 273B.

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<sup>5</sup> Goetze (India) Ltd. v. CIT (2006) 284 ITR 323(SC)

Accordingly, the Assessing Officer is not justified in imposing penalty.

**Note** - The facts given in the question are similar to the facts in **CIT v. Triumph International Finance (I.) Ltd. (2012) 345 ITR 270 (Bom.)**. The above answer is based on the rationale of the Bombay High Court ruling in the said case.

- (iii) **Issue Involved:** The issue under consideration is whether the loss incurred on account of foreign currency fluctuation at the time of repayment of loan taken for financing procurement of capital equipment on lease or hire purchase by its customers would be allowable as revenue expenditure.

Another issue under consideration is whether the Tribunal can entertain a fresh claim for the first time in exercise of its powers under section 254.

**Provisions applicable:** Under section 37, any expenditure (not being in the nature of expenditure described in sections 30 to 36), and not being in the nature of capital expenditure or personal expenses of the assessee, laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing income chargeable under the head "Profits and gains of business or profession".

Section 254(1) empowers the Appellate Tribunal to pass such order thereon as it thinks fit, after giving both the parties to the appeal an opportunity of being heard.

**Analysis and Conclusion:** The activity of the M/s ABC Finance Limited of financing its customers for procurement of capital equipment on lease or hire purchase, was an independent transaction or activity of the assessee. The transaction of loan between the M/s ABC Finance Limited and UK based company is necessary for carrying on its business of financing.

It was not for creation of an asset of the assessee as such. The loan was wholly and exclusively used for the purpose of business of financing to its customers.

Accordingly, M/s ABC Finance Limited is justified in availing deduction of the entire expenditure or loss suffered by it in connection with such a transaction in terms of section 37.

As regards the restriction in powers to accept a new claim for the first time, such limitation on accepting new claims would apply to the "assessing authority" but would not impinge upon the plenary powers of the Tribunal bestowed under section 254.

**Note** - The facts given in the question are similar to the facts in **Wipro Finance Ltd. v. CIT (2022) 443 ITR 250** wherein the issue came up before the Supreme Court. The above answer is based on the rationale of the Supreme Court in the said case.

**(b) Implications of Equalisation Levy and due date of payment in respect of transaction with ABC Inc.**

Raghu Ltd. is required to deduct equalisation levy of ₹ 18,000 i.e. @ 6% of ₹ 3 lakhs, being the amount paid or payable towards online advertisement services provided by ABC Inc., a non-resident not having permanent establishment in India.

Raghu Ltd. has to pay the equalization levy to the credit of the Central Government by 7.7.2022, being the 7th of the month immediately following the calendar month in which it is so deducted.

Since Raghu Ltd. has remitted the equalization levy on 23.3.2023, it has to pay simple interest of ₹ 1620 / @ 1% of ₹ 18,000 for 9 months (from July 2022 to March 2023), being the months by which such crediting of the tax is delayed.

Penalty of ₹ 1,000 per day for which failure continues would be levied for delay in payment of equalization levy. However, such penalty cannot exceed the amount of equalization levy of ₹ 18,000.

**TDS impact in respect of transaction with ABC Inc.**

Section 10(50) provides that any income arising from providing any specified service which is chargeable to equalisation levy would be exempt from income-tax. Therefore, ₹ 3 lakhs would be exempt from income-tax in the hands of ABC Inc. and accordingly, no tax is required to be deducted by Raghu Ltd.

**Implications of Equalisation Levy and due date of payment in respect of transaction with LMF Inc.**

Equalisation levy would not be attracted where the non-resident service provider (LMF Inc., in this case) has a permanent establishment in India and the service is effectively connected to the permanent establishment in India.

Since equalisation levy would not be attracted in respect of transaction with LMF Inc., there is no implications on Raghu Ltd.

**TDS impact in respect of transaction with LMF Inc.**

Since LMF Inc. has a PE in India and advertisement services are effectively connected with the PE in India, such advertisement income would be deemed to accrue or arise in India in the hands of LMF Inc. under section 9(1)(i) and be taxable in the hands of LMF Inc. under the Income-tax Act, 1961.

Tax has to be deducted by Raghu Ltd. at the rates in force under section 195 on ₹ 4,50,000 on payment to LMF Inc.

**Question 6**

- (a) *Please discuss the relevant provisions of Income-tax Act in the following independent situations:*

- (i) Examine whether General Anti-Avoidance Rules (GAAR) can be invoked in this case –

XY Ltd an Indian company has 2 manufacturing units, unit C in the SEZ and unit D in non-SEZ. It transfers the goods manufactured by unit D to unit C at a price significantly lower than the market value of goods and thus becomes eligible for higher deduction. **(3 Marks)**

- (ii) Keeping in view the provisions of mandatory filing of return of Income, please comment on the following, whether the following persons are required to file their return of income as per provisions of Income-tax Act for A.Y. 2023-24:

(a) Mr. A incurred expenditure of ₹ 2.40 lakhs for his wife for travel to a foreign country. His taxable income is ₹ 2.25 lakhs only.

(b) Total turnover of the business of Mr. B for F.Y. 2022-23 is ₹ 73 lakhs, but profit from the same business is ₹ 2.10 lakhs, He has no other income. **(2 Marks)**

- (iii) Tax recovery officer attached the properties of A Chowdhury and Sri R Madekar, two directors of ACRM Pvt. Ltd. (the company in liquidation) in respect of the tax due from the company and also for penalty, interest due from the company.

The two directors contended that the directors are not liable for any tax, penalty and interest due from the company. Moreover, a notice under section 156 had not been served on them and therefore, they are not liable for any tax, penalty or interest due from the company. Hence, the proceedings for recovery were not valid.

Discuss what is the correct legal position. **(3 Marks)**

- (b) Examine and state the correctness or otherwise of each of the following in the context of BEPS Action Plan and Income-tax Act, 1961 and answer in brief with reasons/contents thereof:

(i) "Country by Country (CBC) report not requires Multi National Enterprises (MNEs) to provide an annual report of economic indicators". Explain with reference to BEPS Action Plan.

(ii) What are the basic three fundamental pillars of BEPS Action Plans?

(iii) Why there is a need for international collaboration to protect tax sovereignty of its countries? **(6 Marks)**

#### Answer

- (a) (i) As there is no misrepresentation of facts or false submissions, it is not a case of tax evasion. The company has tried to take advantage of tax provisions by diverting profits from non-SEZ unit i.e., Unit D to Unit C, a SEZ unit. This is not the intention

of the SEZ legislation. However, such tax avoidance is specifically dealt with through the provisions contained in section 10AA(9), as per which provisions of section 80-IA(8) would get attracted in such a case.

Further, if the aggregate of such transactions entered into in the relevant previous year exceed the threshold of ₹ 20 crore, domestic transfer pricing regulations under section 92BA would be attracted.

Hence, the Revenue need not invoke GAAR in such a case, though GAAR and SAAR can co-exist as per clarification given in the CBDT Circular

- (ii) (a) In the present case, since Mr. A has incurred expenditure of ₹ 2.40 lakhs which exceeds ₹ 2 lakhs for his wife for travel to a foreign country, he is required to file return of income though his total income of ₹ 2.25 lakhs is lower than the basic exemption limit of ₹ 2.50 lakhs.
- (b) In this case, since Mr. B's turnover from business for the P.Y.2022-23 is ₹ 73 lakhs which exceeds the threshold limit of ₹ 60 lakhs specified for mandatory filing of return of income, he has to file return of his income for A.Y.2023-24 though his total income of ₹ 2.10 lakhs is lower than the basic exemption limit of ₹ 2.50 lakhs.
- (iii) Under section 179, every person who was a director of a private limited company at any time during the relevant previous year shall be jointly and severally liable for the payment of taxes which cannot be recovered from the company, unless he proves that the non-recovery cannot be attributed to any gross negligence, misfeasance or breach of duty on his part in relation to the affairs of the company.

Tax due includes penalty, interest, fees and any other sum payable under the Act.

There is no necessity to issue a notice to a director, because the position of a person on whom liability is fastened is equated to that of an 'assessee' in default.

Accordingly, the proceedings for recovery were valid<sup>6</sup>

**Note** - Before recovery of dues from the directors, it is necessary for the Revenue to establish that such recovery cannot be made from the company and then and then alone it can reach the directors who were responsible for the conduct of its business.

Accordingly, if it is assumed that the tax recovery officer has attached the properties of directors without completing the recovery proceedings from the company, the proceedings of recovery of tax due from the directors were not valid<sup>7</sup>.

<sup>6</sup> S. Basant Singh (DECD.) and Other v. TRO (1998) 233 ITR 508 (P & H) and S. Hardip Singh v. ITO (1987) 166 ITR 759 (P & H)

<sup>7</sup> Bhagwandas J.Patel v. Dy.CIT (1999) 238 ITR 127 (Guj.)



- (b) (i) **Incorrect** – Country by Country (CbC) report requires MNEs to provide an annual report of economic indicators viz. the amount of revenue, profit before income tax, income tax paid and accrued in relation to the tax jurisdiction in which they do business.
- (ii) The Action Plans were structured around three fundamental pillars viz.:
- (a) Introducing **coherence** in the domestic rules that affect cross-border activities.
  - (b) Reinforcing of '**substance**' requirements in existing international standards; Alignment of taxation with location of value creation and economic activity; and
  - (c) Improving **transparency** and **tax certainty**.
- (iii) There is a need for countries to collaborate on tax matters so that they are able to get their due share of taxes due to following reasons –
- The interaction of separate sets of domestic laws enforced by sovereign countries causes frictions, including potential double taxation for corporations operating in many countries.
  - It also causes gaps, in cases where corporate income is untaxed, both in the country of source and in the country of residence, or is taxed only at nominal rates.
  - BEPS relates primarily to instances where the interaction of different tax rules & tax systems leads to double non-taxation.
  - It also relates to arrangements that achieve no or low taxation by shifting profits away from the jurisdictions where the activities creating those profits take place.