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Scanner Appendix

CMA Final Group - III
(Solutions of June - 2024)

Paper - 15 : Direct Tax Laws and International Taxation

Chapter - 1 : Assessment of Income and Computation of Tax Liability of Various Entities

2024 - June [2]

Total income of Moonshine Ltd. for the Assessment Year 2024-25:

	`
Profits and gains of Business or profession:	
Net Profit as per Statement of Profit and Loss	82,00,000
Add:	
Employees contribution to recognized provident fund ` 24 lakhs	4,00,000
Of The same, ` 4 lakh was remitted with a delay of 10 days. Since the remittance was made beyond the due date, not eligible for deduction under section 36(1) (va)	
Commission paid to non-resident Quinto for procuring orders without deduction of tax at source.	Nil
Since the payment was made outside India it is not chargeable to tax and no tax deduction is warranted under section 195. Therefore, there is no disallowance under section 40(a)(i).	

Employer's contribution to recognized provident fund		Nil
Since the payment was made before the 'due date' for filing the return of income under section 139(1) it is eligible for deduction under section 43B.		..
Interest paid for late filing of GST return is allowable deduction		Nil
Fee paid for increasing the authorized share capital is not an allowable expenditure as that would permanently change the capital structure of the company.		2,00,000
Depreciation debited to Statement of Profit and Loss		16,50,000
		1,04,50,000
Less:		
Depreciation as per Income-tax rules, 1962	19,50,000	
Depreciation in respect of new plant and machinery	1,50,000	
Additional depreciation	2,00,000	
Opening stock undervalued by 10%	4,00,000	
Closing stock overvalued by 10%	3,00,000	
Profit on sale of plot to wholly owned subsidiary company credited to Statement of Profit and Loss	10,00,000	
		40,00,000
Profits and gains of business or profession		64,50,000
Capital Gains:		

Sale of vacant plot to wholly owned Indian subsidiary company is not regarded as ‘transfer’ as per section 47(iv).		Nil
Sale of factory building	80,00,000	
Less: WDV of building as on 01.04.2023	34,00,000	
	46,00,000	
Less: Exemption under section 54EC		
The asset was sold on 1st August, 2023. The investment was made in section 54EC bonds in November, 2023 which is within 6 months after the date of transfer. Hence, exemption is allowable.	46,00,000	
Short-term capital gain		Nil
Total Income		**64,50,000**

2024 - June [3] (a)

Total income and tax payable as per normal provisions (Old regime)

	`	`
Income from House property (Let out)		
Rent Received	6,00,000	
Less: Standard Deduction @30%	1,80,000	
Less: Interest on Loan	2,50,000	
		1,70,000
Income from House property (Self-occupied)		
Rent Received	Nil	

Less: Interest on Loan	2,00,000	
		(2,00,000)
Income/ (loss) from house property		(30,000)
Income from Business – Mercury Traders (computed)		11,80,000
Gross total income		11,50,000
Less: Deduction under section 80C in respect of housing loan principal repaid		1,50,000
Total income		10,00,000
Computation of tax liability		
Tax on 10,00,000	1,12,500	
Add: Cess @4%	4,500	
Total tax payable as per normal provisions	1,17,000	
Computation of total income and tax payable as per section 115BAC		
Income from house property (let out) as computed above		1,70,000
Income from business		11,80,000
Total income as per section 115BAC		13,50,000
Computation of tax liability		
Tax on 13,50,000	1,20,000	
Add: Cess @4%	4,800	
Total tax payable as per section 115BAC	1,24,800	

Since, the total tax payable is higher in new regime i.e. section 115BAC, the assessee Amar should opt out of section 115BAC

2024 - June [4] (b)

Long-term capital gain of Non - resident Dravid

Long-term capital gains:
Note: Since the assessee Dravid is a non-resident who held shares of the Indian company which were acquired by utilising foreign currency, the first proviso to section 48 (no indexation benefit would be available) and Rule 115A shall apply.

	USD	`
Sales consideration average of USD rate on the date of sale.	1,00,000	
Net sale consideration	1,00,000	
No indexation benefit	….	
Less: Cost of acquisition Average USD rate on the date of acquisition, i.e., 11.04.21 – (10,000 shares X USD 5) [Since the buying rate is already in USD so no need to convert i.e divided by 72 (The Average USD rate on the date of acquisition)]	50,000	
Long-term capital gains	50,000	
	`	
Long-term capital gains in INR (Buying rate as on the date of sale)	38,00,000	

Less: Exemption under section 115F	28,50,000	
Exemption under section 54EC in respect of REC capital gain bonds not allowed since it is not a capital gain from land or building or both. Also, Chapter XII-A does not allow such exemption other than exemption contained in section 115F.	Nil	
	Long-term capital gain	9,50,000

2024 - June [7] (b)

Condition for allowance of deduction of interest to AEs under section 94B:	
Deer Ltd. being an Indian company as borrower incurs interest expenditure in respect of any debt issued by its non-resident associated enterprise and where such interest exceeds ` 1 crore, interest paid or payable in excess of 30% of EBITDA shall not be allowed as deduction as per section 94B.	
Where the debt is issued by a lender who is not associated but an associated enterprise has guaranteed such lending being explicit or implicit guarantee or by making deposit matching with the amount of funds given by the lender, such debt shall be deemed to have been issued by the associated enterprise and therefore the limitation of interest deduction would apply.	
In this case, Tiger Inc. has 33% shareholding in Deer Ltd. and therefore they are deemed to be associated enterprise. Since the loan is guaranteed by Tiger Inc. to the lender Shine Inc. the interest limitation contained in section 94B would apply.	
Computation of EBITDA	**` in Cr.**

Net Profit	5.00
Add: Interest	9.00
Provision for taxation	3.00
Depreciation	5.00
Amortisation	2.00
EBITDA (Amount allowable as deduction)	24.00
30% EBITDA is the amount eligible for deduction (A)	7.20
Actual interest payable on the borrowing (B)	9.00
Interest liable for disallowance (B)-(A)	1.80
The disallowed interest is eligible for carry forward to subsequent 8 assessment years immediately succeeding the assessment year 2024-25 for claiming the deduction against the income computed under the head 'Profits and gains of business or profession' to the extent of maximum allowable interest expenditure.	

Chapter - 3A : Appeal, Rectification and Revision and Settlement Commission

2024 - June [5] (a)

(i) **Order passed under section 143(3) by the Assessing Officer:**

An assessee, aggrieved by the order passed under section 143(3) by the Assessing Officer, can file an appeal before the Joint Commissioner (Appeals)* under section 246 or the Commissioner of Income tax (Appeals) under section 246(A)(1).

The time limit for filing appeal is within 30 days of the date of service of the notice of demand relating to the assessment.

However, where the assessee does not want to prefer an appeal, then he can move a revision petition before the Principal Commissioner or Commissioner of Income Tax under section 264.

The time limit is within one year from the date on which the order was

communicated to him or the date, on which he otherwise came to know of it, whichever is earlier.

(ii) **Order passed under section 263 by the Commissioner of Income-tax**:
An assessee aggrieved by the order passed under section 263 by the Commissioner of Income-tax can file an appeal to the Income-tax Appellate Tribunal under section 253(1)(c).
The time limit is within 60 days of the date on which the order sought to be appealed against is communicated to the assessee.

(iii) **Order passed by ITAT under section 254:**
An assessee aggrieved by the order passed under section 254 by the Income-tax Appellate Tribunal can file an appeal before the High Court under section 260A.
The time limit is within 120 days from the date of receipt of order of Income Tax Appellate Tribunal.
However, such appeal can be filed only where the order gives rise to a substantial question of law.

Chapter - 5 : Business Restructuring

2024 - June [4] (a)

(i) **Tax consequence of the proposal of Rosy (P) Ltd:**
Section 79(1) of the Income-tax Act, 1961 says that in the case of a company in which public are not substantially interested and not being an eligible start-up referred to in section 80-IAC, no loss incurred in any previous year prior to that previous year would be eligible for carry forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than 51% of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than 51% of the voting power on the last day of the year or years in which the loss was incurred.
Therefore, induction of new shareholders would lead to the business

loss as on 31.03.2023 being not eligible for set off since the existing shareholders would hold less than 51% of the voting power on the last day of the previous year ending 31st March, 2024. Therefore, the brought forward business loss could not be set off by Rosy (P) Ltd. when new shareholders are inducted into the company before 31st March, 2024.

This would not however impact the carry forward and set off of unabsorbed depreciation of Rosy (P) Ltd. This would cover even unabsorbed depreciation brought forward and current year unabsorbed depreciation of ` 10 lakhs.

(ii) **In case Rosy (P) Ltd. is an eligible start-up in terms of section 80-IAC:**

In case Rosy (P) Ltd. is an eligible start-up then the proviso to section 79(1) would be applicable. The brought forward business loss and unabsorbed depreciation would be eligible for carry forward and set off in the future assessment years subject to the satisfaction of the following conditions:

(a) The company must be a closely held company – which is satisfied in this case.

(b) The company is an eligible start-up – this is also presumed to be satisfied.

(c) All the 4 shareholders of the company who held shares on the last day of the previous year in which the loss was incurred continue to hold those shares on the last day of the previous year in which the loss is sought to be carried forward and set off against the income of the said year; The percentage of shareholding will not be considered and it is enough that the existing shareholder continue to hold those shares even though it may be very less percentage of the total shares. The condition is continuance of the same shareholding without transfer/ dilution.

(d) Such loss incurred during the period of 10 years beginning from

the year of incorporation of the company is eligible for such benefit.

Therefore, if Rosy (P) Ltd. is an eligible start-up, the change in shareholding pattern will not impact both business loss and unabsorbed depreciation for carry forward and set off. However, this is subject to the condition that the shareholders who held the shares when the company incurred loss continue to hold shares even in assessment years in which it is sought to be set off.

Chapter - 6 : Different Aspects of Tax Planning

2024 - June [3] (b)

Selection of correct option for expansion by MNO (P) Ltd.

Particulars	Option 1	Option 2	Option 3
Capital employed	100 lakhs	100 lakhs	100 lakhs
Return on investment @ 15%	15,00,000	15,00,000	15,00,000
Commitments:			
Debenture interest @ 12%	2,40,000	3,60,000	7,20,000
Bank interest @14%	Nil	1,40,000	Nil
	2,40,000	5,00,000	7,20,000
Profit before tax	12,60,000	10,00,000	7,80,000
Less: Income tax @ 31.2%	3,93,120	3,12,000	2,43,360
Profit after tax	8,66,880	6,88,000	5,36,640
Profit after tax on capital employed	8.67%	6.88%	5.37%

Conclusion: Since Option 1 gives maximum profit after payment of tax MNO (P) Ltd. may be advised to opt for the same.

Chapter - 9 : Income Computation and Disclosure Standards (ICDS)
2024 - June [5] (b)

Disclosure as per ICDS V – In respect of plant and equipment	`	`
Opening WDV (1st April, 2023)		15,00,000
Add: Assets acquired during the year (used for less than 180 days)		
Purchase cost (after allowing trade discount)	10,80,000	
Add: Cost of installation	40,000	
Add: Stand by equipment	80,000	
Add: Cost of machinery spares **Note:** As per ICDS V, these are charged to Statement of Profit and Loss and are not to be added to the cost of machine.	Nil	
		12,00,000
		27,00,000
Less: Depreciation rate @15%		
On opening WDV @15%	2,25,000	
On Addition @7.50% (Since used for less than 180 days)	90,000	
		(3,15,000)
WDV as on 31st March, 2024		23,85,000

Computation of value of security as per ICDS VIII		
Securities held as stock in trade shall be valued at actual cost initially recognised or the net realisable value at the end of the year, whichever is lower.		
The comparison of actual cost initially recognised and net realisable value shall be done category-wise (viz. shares; debt securities; convertible debentures and any other securities) and not each individual security.		
In respect of equity shares the actual cost ` 560 which is more than NRV which is ` 535 and therefore the NRV ` 535 would be adopted.		
In respect of debt security the actual cost ` 600 is less than NRV of ` 615 and therefore actual cost ` 600 would be adopted.		

Chapter - 11 : DTAA, Transfer Pricing and GAAR

2024 - June [6] (a)

Methods of Bilateral relief in Double Taxation Avoidance Agreements (DTAAs)

Bilateral Relief: In cases where there is DTAA between two tax jurisdictions, Bilateral relief is provided.

There are two ways by which the jurisdictions may agree to provide relief from double taxation viz. Exemption method and Credit method.

Exemption Method:

In this method, one country provides an exemption to such type of income, which is generally the country of residence.

(i) **Full Exemption Method:** Under this method, income earned in the State of source is fully exempt in the State of residence.

(ii) **Exemption with progression:** Under this method, income from the State of source is considered by the State of residence only for rate purposes.

Credit Method:

In this method, the taxpayer remains liable in the country of residence on

his/its global income. However, as far as the quantum of tax liabilities is concerned, credit or deduction for tax paid in the source country is given by the country of residence against its domestic law as if the foreign tax were paid to the country of residence itself.

(i) **Full credit:**
Total tax paid in the State of source is allowed as credit against the tax payable in country of residence.

(ii) **Ordinary Credit:**
State of residence allows credit of tax paid in the State of source restricted to the part of income-tax which is attributable to the income taxable in the State of residence.

(iii) **Tax Sparing:**
State of residence allows credit for deemed tax paid on income which is otherwise exempt from tax in the country of source.

(iv) **Underlying tax credit:**
Credit is allowed to resident not only for the taxes withheld against the dividend income but also for the taxes paid on the underlying profits out of which dividend is paid by a company in the overseas jurisdiction. However, underlying credit may only apply if satisfaction of substantial shareholding requirement is met.

Unilateral method of relief provided in the Income-tax Act, 1961:

Section 91 of the Income-tax Act contains unilateral relief where there is no DTAA between India and foreign jurisdiction.

If any person resident in India proves that his income which accrued or arose outside India and he has paid tax thereon he shall be entitled to the deduction from the Indian income-tax payable of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax in the said foreign country whichever is lower or at the Indian rate if both the rates are equal.

Indian rate of tax means the rate determined by dividing the amount of Indian income-tax (including surcharge and cess) by the total income. Such rate is applied on the foreign income by way of relief under section 91.

2024 - June [6] (b)

Total Income of Madhu for the Assessment Year 2024-25:

Particulars		`
Profits and gains of Business or profession		
Fees from online marketing classes		5,40,000
Capital gains		
Long-term capital gains	26,00,000	
Less: Exemption U/s.54EC in respect of capital gain bonds of REC acquired within the prescribed time of 6 months from the date of transfer.	Not available	
		26,00,000
Income from other sources		
Dividends from Indian companies	2,87,500	
Less: Interest on moneys borrowed for acquisition of shares ` 90,000. But the deduction is limited to 20% of dividend income	57,500	
		2,30,000

Total income		33,70,000
Tax on total income		
Tax on LTCG		2,50,000
Tax on remaining Income		
Slab Rate		66,500
		3,16,500
Add: Cess		12,660
Indian tax payable (A)		3,29,160
Average rate of tax in India:		9.77%
Less: Double taxation relief U/s. (B)		52,758
Tax payable (A) – (B)		2,76,402
Round off		**2,76,400**

2024 - June [7] (a)

ALP and other consequences of Fast Growth Ltd. for the Assessment Year 2024-25:

(i) Determination of ALP – CUP Method
Two enterprises are deemed to be associated enterprise if one enterprise, directly or indirectly holds shares carrying not less than 26% of the voting power in the other enterprise.
In this case, Eric Inc. has 28% shareholding in Fast Growth Ltd. Hence, they are associated enterprises and transfer pricing provisions would apply.
Since details of comparable uncontrolled transitions are available, CUP method will be the most ideal method to adopt for determining the ALP.

	`
Price per unit to unrelated parties	65,000
Less: Excess credit period allowed by unrelated parties	650
ALP per unit	64,350
Price charged to associated enterprise	70,000
Adjustment in ALP per unit	5,650
Total income to be increased by way of primary adjustment	**11.30 cr.**
(ii) Time limit for repatriation	
As the primary adjustment by way of ALP exceeds ` 1 crore, the assessee Fast Growth Ltd. must carry out secondary adjustment. The time limit for secondary adjustment is 90 days from the 'due date' of filing of return under section 139(1). Thus, it must be counted from 30th November, 2024. The same will be 28th February., 2025.	
(iii) Consequence of non-repatriation	
If the amount of primary adjustment is not brought into India within the specified time it shall be deemed to be an advance and liable for interest.	
The interest chargeable: where the transaction is in Indian rupee, at the 1 year marginal cost of fund lending rate (MCLR) of SBI as on 1st day of April, of the relevant P.Y. (here 1-4-2024) + 3.25%	
If the transaction is in foreign currency, the interest shall be at 6 months London Interbank Offered Rate (LIBOR) as on 30th September of the relevant previous year i.e. 30.09.2024 + 3%.	
(iv) Opting for non-repatriation	
In case Fast Growth Ltd. does not want repatriation of primary adjustment then it can pay tax at 20.9664% on ` 11.30 crores being ` 2,36,92,032.	

(v) Remittance by another associated enterprise
If the amount of primary adjustment is remitted by some other concern of the same group such remittance is also to be deemed as repatriation by the foreign entity viz. Eric Inc. in this case. Then also, secondary adjustment is not required.

2024 - June [8] (a)

(i) **Exchange fluctuation loss whether revenue expenditure:**

Issue involved:

Whether the increase in liability due to exchange fluctuation upon repayment to a foreign company of a loan obtained by the assessee for the purpose of its business, which is financing i.e. leasing / hire purchase activity, is allowable as revenue expenditure under section 37(1)?

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, incurred wholly and exclusively for the purposes of the business shall be allowed in computing the business income.

Analysis of the Issue:

The main line of business of KL Ltd. is financing its customers i.e. lease / hire purchase. Such customers may use the borrowings for acquiring capital assets. Both the activities (i.e.) lending and usage are independent of each other.

As far as KL Ltd. is concerned, the borrowing is for the purpose of its business. There is no provision which compels a taxpayer engaged in leasing / hire purchase activities, to capitalize the exchange fluctuation loss. It is an expenditure incurred wholly and exclusively for the purposes of its business. Hence, it can claim the same as business

expenditure.

Only where an assessee who has borrowed funds for acquiring machinery it has to be capitalized where the increase in borrowing is due to exchange fluctuations.

Conclusion:

The increase in liability due to exchange fluctuation arising to the lender for the borrowing made to do regular business activity, can be claimed by KL Ltd. as revenue expenditure.

(ii) **In case it is a fresh claim for the first time before the ITAT:**

The issue involved is whether a new claim can be raised before the ITAT for the first time under section 254.

Provision applicable: Section 254 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 of the issue: The restriction in powers to accept a new claim would apply to the “assessing authority” but would not impinge upon the plenary powers of the Tribunal bestowed under section 254.

Conclusion:

Hence, ITAT can entertain a new claim and since only legal issue is involved (whether the expenditure omitted to be claimed but allowable as revenue expenditure), the same can be entertained by the ITAT.

2024 - June [8] (b)

Deduction of tax paid in foreign country for which FTC is denied:

(i) **Issue Involved:**

Whether tax paid in foreign country for which foreign tax credit under sections 90/91 of the Income-tax Act not allowed by the Assessing Officer can be claimed as business expenditure?

(ii) **Provisions applicable:**

Section 2(43) of the Income-tax Act defines “tax” to mean income-tax chargeable under the provisions of the Income-tax Act, 1961.

Section 40(a) (ii) of the Income-tax Act disallows any tax paid on the income of the assessee.

Explanation 1 to section 40(a)(ii) provides that whenever an assessee is eligible for relief under section 90 or section 91 of the Act, the sum paid on account of any rate or tax levied shall also be liable for disallowance under section 40(a)(ii). In other words, if it is not eligible for section 90 or section 91 relief it is not liable for disallowance under section 40(a) (ii).

(iii) **Analysis of the issue:**

The occasion to insert Explanation 1 to section 40(a)(ii) arose as assessees were claiming to be entitled to obtain necessary credit to the extent of tax paid abroad under section 90 or section 91 of the Income-tax Act, 1961, and also.

Claim the benefit of tax paid abroad as business expenditure on account of it not being covered by section 40(a) (ii).

The Bombay High Court in the case of Reliance Infrastructure Ltd. v CIT (2016) 390 ITR 271 (Bom) held that section 91 excludes taxes on income which is deemed to accrue or arise in India. However, where the income does not accrue or arise in India the tax paid thereon is not hit by section 40(a) (ii).

Thus, that much of tax to the extent not covered by section 40(a)(ii) is eligible for deduction as business expenditure.

(iv) **Conclusion:**

Thus, the assessee"s contention is tenable in law.

Chapter - 12 : Objective Questions

2024 - June[1] {C}

(i) (a)

(ii) (c)

(iii) (c)

(iv) (d)
(v) (c)
(vi) (d)
(vii) (d)
(viii) (a)
(ix) (a)
(x) (b)
(xi) (b)
(xii) (a)
(xiii) (b)
(xiv) (c)
(xv) (d)

Shuchita Prakashan (P) Ltd.
B-45/141,Street No. 5
Guru Nanak Pura Laxmi Nagar
Delhi - 110092
Visit us : www.scanneradda.com