

Roll No. ....

**Final New Syllabus  
Paper - 6 C  
International Taxation**

JAN 2021

Total No. of Questions – 5

Total No. of Printed Pages – 24

Time Allowed – 4 Hours

Maximum Marks – 100

## DER

Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate who has not opted for Hindi Medium, his/her answers in Hindi will not be valued.

**This Question Paper comprises five case study questions. The candidates are required to answer any four case study questions out of five.**

Answers in respect of Multiple Choice Questions are to be marked on the OMR Answer Sheet only

Answers to other questions are to be written on the descriptive type answer book.

Answers to Multiple Choice Questions, if written in the descriptive type answer book will not be evaluated.

Candidates may use calculator.

All questions relate to Assessment Year 2020-21, unless otherwise stated in the questions / case studies

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**Case Study 1**

Best Ltd. is an Indian company and is a wholly owned subsidiary of Best Plc, UK. Best Ltd. is engaged in the business of manufacturing and selling telecommunication equipment. During the previous year 2019-20, Best Ltd. inter alia has transactions with the following enterprises :

S No	Transactions	Enterprise	Amount (₹ In Cr.)
1	Purchase of tools and spare-parts	Best BV, Netherlands	100
2	Payment of royalty	Best PLC, UK	25
3	Sale of telecom equipment	Best Pty. Ltd, Singapore	150

The EBITDA (earnings before interest, dividend, tax, depreciation and amortization) of Best Ltd. for Financial year 2019-20 is ₹150 crores.

On April 1, 2019, Best Ltd. had obtained loan of ₹ 700 crores @ 8% from Best LLC, Cyprus.

The following additional information pertaining to loans obtained and interest payments of Best Ltd. are provided:

- The book value of the total assets of Best Ltd. is ₹ 1200 crores.
- Loan of ₹ 100 crores from Bank of India based on a guarantee provided by Best PLC., UK. Interest of ₹ 8 crores paid on such loan and guarantee fee of ₹ 30 lakhs paid to Best PLC., UK.
- Loan of ₹ 70 crores from the Bank of Germany, India Branch. Guarantee was provided by Best GmbH., Germany. Interest paid for the concerned year is ₹ 5 crore. Guarantee fees paid to Best GmbH is ₹ 20 lakhs. Best Ltd. holds shares carrying 25% voting power in Best GmbH., Germany.

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- Foreign currency loan of EURO 10 million from the Bank of London, in UK, based on a back to back deposit made by Best Plc. Interest paid to bank amounts to ₹ 6 crores.
- Best Ltd. had to incur a sum of ₹ 1 crore as an interest towards the delayed payment to Best BV, Netherlands, being its creditor for supply of tools and spare parts. 95% of raw materials required by Best Ltd. are supplied by Best BV. The price and other conditions for supply of raw material are influenced by Best BV.

**Mr. Robin, Director at Best PLC and sports person**

Mr. Robin is the director of Best PLC, UK and is a citizen and tax resident of Country UK. He came to India on 25<sup>th</sup> January, 2020 for participation in a sports car race championship. He left India on 30<sup>th</sup> March, 2020 for UK. He received ₹ 35 lakhs for participation in the championship in India. He also received ₹ 5 Lakhs from XYZ Ltd. for advertisement of a product on television. Mr. Robin also wrote an article in a sports magazine about maintenance of sports car for which he received ₹ 1,00,000. Mr. Robin also visited Goa for 2 days during March 2020 and won ₹ 25,000 in a casino in Goa. He incurred ₹ 1 lakh towards his travel costs to India. All other expenses were met by his sponsors. He also won a prize of ₹ 2,00,000 from a local race competition in New Delhi. He has no other income in India during the year ended 31<sup>st</sup> March 2020.

Ms. Rachel, sister of Mr. Robin and a dancer by profession also accompanied him to India during January-March 2020. She earned ₹ 5 lakhs from dance performances given by her in India during that period. She has no other income in India.

Both Mr. Robin and Ms. Rachel did not file their return of income in India. Ms. Rachel received a notice from the income-tax department under section 142(1) of the Act to furnish a return of income for the AY 2020-21.

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**Choose the correct alternative for the following MCQs :**

**2×5**

**= 10**

1.1 To mitigate tax litigation, Mr Robin has been advised to make an application for advance ruling. Is he eligible to make the application ?

- (a) No. Since the matter is pending by virtue of notice issued to Ms Rachel.
- (b) No. Since the application can be made only prior to the transaction.
- (c) Yes. The income tax notice is not in respect of Mr Robin's transactions/income.
- (d) Yes but the application has to be made within 6 months of receipt of income in India.

1.2 Which of the following approaches does India follow in relation to secondary adjustments ?

- (a) Deemed equity approach
- (b) Deemed dividend approach
- (c) Deemed loan approach
- (d) Either (b) or (c)

1.3 In a case where primary adjustment to transfer price is made suo motu by Best Ltd., the time limit for repatriation of "excess money" is -

- (a) 90 days from the due date of filing of return of income
- (b) 120 days from the due date of filing of return of income
- (c) 60 days from the date of filing of return of income
- (d) 90 days from the date of filing of return of income

1.4 The application of tax treaties between two countries helps in solving which of the following problem ?

- (a) Juridical double taxation
- (b) Economic double taxation
- (c) Both (a) and (b)
- (d) Double Non-taxation

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- 1.5 Which Action Plan of OECD BEPS and provision of the Income-tax Act, 1961 address the issue of thin capitalization ?
- (a) Action Plan 6 and Section 92CE
  - (b) Action Plan 4 and Section 92CE
  - (c) Action Plan 6 and Section 94B
  - (d) Action Plan 4 and Section 94B

**You are required to answer the following issues :**

- 1.6 Based on the details provided, determine the permissible interest deduction while computing income under the head "Profits and gains of business or profession" of Best Ltd. for A.Y. 2020-21 under the relevant provisions of the Income-tax Act, 1961, giving reasons for treatment of each item of interest. **8**
- 1.7 Best Ltd. wants to understand the implications to it under the transfer pricing provisions of the Income-tax Act, 1961, if it receives interest-free loan from its foreign AE parent Best PLC., UK. Please Advise. **2**
- 1.8 Calculate tax liability of Mr. Robin and Ms. Rachel for AY 2020-21. Assuming that the tax deductible on their income has been duly fully deducted, is Mr. Robin and Ms. Rachel required to file return of income in India for AY 2020-21. **5**

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**Case Study 2**

X Ltd. is an Indian Company in which Y Plc, Gibraltar holds 40% shareholding and voting power. During the previous year 2017-18, X Ltd. supplied 500 scanners to Y Plc. at \$ 1950 per piece. The price of scanners supplied to other unrelated parties in USA is \$ 2250 per piece. During the course of assessment proceedings relating to A.Y. 2018-19, the Assessing Officer carried out primary adjustments and added a sum of ₹ 150 lakhs, being the difference between actual price of scanner and arm's length price and it was duly accepted by X Ltd. The Assessing Officer passed the order on 1 June 2019. On account of this primary adjustment, the excess money of ₹ 150 lakhs is available with Y Plc. The rate of exchange of 1 USD is ₹ 80 and six-month LIBOR as on 30 September 2017 is 9.50%.

The consolidated turnover of X Ltd. and Y Plc (which forms an international group) is ₹ 7,400 Crore. Assume India does not have an arrangement for exchange of the CbC report with UK.

**Advance Pricing Agreement**

X Ltd. wishes to apply for bilateral advance pricing agreement with the Government of India to avoid transfer pricing adjustments in future on the international transactions being undertaken by it.

**Liaison office of Y Plc.**

Y Plc has set up a liaison office in New Delhi to receive trade inquiries from customer in India. The work of the liaison office is not only restricted to forwarding of the trade inquiries to Y Plc but it also negotiates and secures customer contracts for Y Plc in India. Y Plc wishes to know whether the liaison office would constitute a business connection in India.

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**Ms. Sushmita, Director of X Ltd and Independent Consultant**

Ms. Sushmita is one of the director of X Ltd. and is also independently engaged as a consultant in a technical consultancy project of another foreign company based out of Country S viz., Tech Inc. Due to the nature of project, Sushmita frequently travels across the country and there is no fixed place for provision of consultancy services. The expected revenue from the project to Tech Inc is ₹ 20 crores. There are no other personnel of Tech Inc in India.

Ms. Sushmita receives fee for her services from Tech Inc in her bank account in Country S. Ms. Sushmita had also acquired a flat in Country S in the P.Y. 2017-18 for INR 60 lakhs. Out of the said sum, INR 30 lakhs was assessed to tax in total income of the P.Y. 2017-18 and earlier years. This asset comes to the notice of the Assessing Officer on 1 May 2020. The value of flat was ₹ 110 lakhs on 1 April 2020 and ₹ 120 lakhs on 1 May 2020.

**Choose the correct alternative for the following MCQs :**

**2×5  
= 10**

2.1 If X Ltd. does not furnish transfer pricing report from an accountant for F.Y. 2019-20, what would be the quantum of penalty imposable under the Income-tax Act, 1961 for such a failure ?

- (a) 1% of the value of international transaction
- (b) 2% of the value of international transaction
- (c) ₹ 10 Lakhs (maximum penalty)
- (d) ₹ 1 lakh

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2.2 If Tech Inc. opts for advance ruling to understand the taxability of the project of providing consultancy in the field of computers and scanners, such ruling shall be binding on :

- (a) Tech Inc.
- (b) Jurisdictional Assessing Officer of Tech Inc.
- (c) Both (a) and (b), in relation to the mentioned project
- (d) Both Tech Inc. and Jurisdictional Assessing Officer in relation to the mentioned project and for any future transaction of similar nature in India.

2.3 The amount chargeable to tax in the hands of Ms. Sushmita during the year 2020-21 under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 :

- (a) ₹ 110 lakhs
- (b) ₹ 50 lakhs
- (c) ₹ 55 lakhs
- (d) ₹ 80 lakhs

2.4 Assume that Ms. Sushmita has sold the flat on 29 March 2020 for ₹ 70 lakhs. What would be the amount chargeable to tax under the Black Money law under this case ?

- (a) ₹ 30 lakhs
- (b) ₹ 50 lakhs
- (c) ₹ 40 lakhs
- (d) ₹ 35 lakhs

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2.5 Assume that X Ltd. has entered into an advance pricing agreement on 20<sup>th</sup> February 2020 covering the transactions for the period starting from 1 April 2019. The Annual Compliance Report for the assessment year 2020-21 shall be furnished within :

- (a) 60 days from 31<sup>st</sup> March 2020
- (b) 30 days from 31<sup>st</sup> March 2021
- (c) 90 days from 20<sup>th</sup> February 2020
- (d) 30 days from due date of filing of income tax return for PY 2019-20

**You are required to answer the following issues :**

- 2.6 X Ltd. wants to know the effect of the transaction of supply of computers to Y Plc., in respect of which the Assessing Officer carried out primary adjustments in computing the total income for A.Y. 2020-21, considering that the excess money is still lying with Y Plc X Ltd. had declared an income of ₹ 300 lakhs. **5**
- 2.7 With reference to the DTAA between India and Country "S", comment on whether provision of consultancy services through Sushmita would lead to creation of PE of Tech Inc. in India. Assume that the DTAA between India and Country S is akin to UN Model Convention. Will your answer change if the DTAA between India and Country S is akin to OECD Model Convention 2017 ? **3**
- 2.8 Whether the activities carried out by the liaison office of Y Plc in India constitute business connection to attract deemed accrual provisions under section 9(1) of the Income Tax Act ? **2**
- 2.9 What are the circumstances when a constituent entity resident in India is required to file CbC report in India and on the basis of the same decide whether X Ltd. is required to file CbC report in India. What is the due date of filing CbC report with Indian tax authorities ? **5**

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**CASE STUDY 3**

Boss Ltd. is the Indian parent company holding group of various multinational companies having diversified business portfolio. Its group companies are located in Country P, Country Q, Country R and Country S.

Boss Ltd. undertakes various transactions with its subsidiaries situated in the countries mentioned above at a predetermined profit margin. One of its subsidiaries Castro Ltd. (Country P) is engaged in the business of manufacturing and trading of heavy machines. Boss Ltd. purchased a machine from Castro Ltd. for \$22,000 which included warranty for 4 months. The identical machine was purchased by Boss Ltd. by paying \$19,000 from completely unrelated party with 1 year of warranty. Fair value of warranty is \$1,200 for one year. However, Castro Ltd. provided credit of 6 months to Boss Ltd. Arm's length interest rate is 8% p.a. Net profit before tax of Boss Ltd. is ₹ 48,00,000. Assume 1 \$ = ₹ 50.

**Mr. Nitin, Employee of Quality Ltd, Country Q**

Mr. Nitin is the employee of the Quality Ltd. (Country Q). Quality Ltd. is the associate enterprise of Boss Ltd. Mr. Nitin, Citizen of Country Q came on deputation to Boss Ltd. He first time came to India on 25<sup>th</sup> April, 2019 and left India on 21<sup>st</sup> October, 2019. For F.Y. 2019-20, Nitin has earned salary of ₹ 15,00,000 in India and ₹ 23,00,000 in Country Q. Out of that ₹ 23,00,000 earned in Country Q, ₹ 9,00,000 was received in India and ₹ 14,00,000 was received in Country Q.

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**Efficient Ltd, Country R – subsidiary of Boss Ltd**

Efficient Ltd. (Country R) is one of the subsidiary companies of the Boss Ltd. Efficient Ltd. has filed case in Indian Court regarding interpretation of one of the clauses of the India-Country R DTAA and it has made references to the decision given by the Supreme Court of Country E regarding the interpretation of the similar matter in Country X – Country Y DTAA. However, Income-tax department has contended that such reference of Foreign Court decision cannot be made in an Indian Court for interpretation of treaties.

**Safety Ltd, Country S**

Safety Ltd. (Country S) has office in India which maintains stock of goods for storage, display as well as delivery to the Indian customers. This activity is preparatory and all sales orders and contracts are executed by the head office in Singapore.

**Ms. Dona, Director of Safety Ltd.**

Ms. Dona, resident and ordinarily resident, and a director of Safety Ltd. did not disclose foreign asset worth ₹ 25 Lakh in income tax return.

**Competent Ltd., Indian subsidiary of Boss Ltd.**

Competent Ltd., another Indian subsidiary of Boss Ltd. has earned following income in Country Y :

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<b>Income</b>	<b>Date of Accrual of Income</b>
Dividend	25 <sup>th</sup> May, 2019
Profit of Shipping Business	12 <sup>th</sup> December, 2019
Capital Gain	31 <sup>st</sup> March, 2020

Assume India has a DTAA with Country P, Q, R and S in line with OECD Model Tax Convention.

**Choose the correct alternative for the following MCQs :**

**2×5  
= 10**

3.1 Meaning of the term not defined in the tax treaty is interpreted by looking into the meaning of same term in the domestic tax law prevailing at the time of application of the treaty. It is known as :

- (a) Static approach
- (b) Integrated approach
- (c) Ambulatory approach
- (d) Purposive interpretation

3.2 Calculate the amount of penalty leviable on Ms. Dona under the Black Money (Undisclosed Income and Assets) and Imposition of Tax Act, 2015 -

- (a) ₹ 25 lakhs
- (b) ₹ 50 lakhs
- (c) ₹ 10 lakhs
- (d) ₹ 1 crore

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3.3 In the interpretation of the treaty, the provisions shall be interpreted in such a way that it enables provisions of the treaty to work and to have their appropriate effects. Which of the following basic principle suggest the above ?

- (a) Purposive Interpretation
- (b) The principle of effectiveness
- (c) Liberal Construction
- (d) Reasonableness and Consistency

3.4 The Telegraphic Transfer Buying Rate (TTBR) and Telegraphic Transfer Selling Rate (TTSR) are given as below for Competent Ltd. in respect of Dividend received by it from Country Y :

TTBR on 30<sup>th</sup> April, 2019 – ₹ 65/CYD

TTSR on 31<sup>st</sup> March, 2019 – ₹ 66/CYD

TTBR on 25<sup>th</sup> May, 2019 – ₹ 65/CYD

TTSR on 25<sup>th</sup> May, 2019 – ₹ 66/CYD

What will be the specified date and rate of exchange respectively for conversion of dividend income ?

- (a) 30<sup>th</sup> April, 65/CYD
- (b) 31<sup>st</sup> March, 66/CYD
- (c) 25<sup>th</sup> May, 65/CYD
- (d) 25<sup>th</sup> May, 65.5/CYD

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3.5 Boss Ltd. has advanced a loan of ₹ 60 Crores to a non-resident company. Is the company required to furnish information in Form 15CA in respect of this transaction and if so, in which part ?

- (a) Part B of Form 15CA
- (b) Part C of Form 15CA
- (c) Part D of Form 15CA
- (d) Not required to furnish Form 15CA

**You are required to answer the following issues :**

3.6 Calculate Boss Ltd.'s profit chargeable to tax after transfer pricing adjustments. **4**

3.7 Assume Boss Ltd. is liable to pay tax under the provisions of section 115JB i.e. MAT provisions and Boss Ltd. is not required to prepare its books of account as per Indian Accounting Standards (IND-AS). Whether transfer pricing adjustments will still be made to the book profits computed under section 115JB ? Will your answer change if Boss Ltd. prepares books as per IND-AS ? **3**

3.8 Determine residential status of Mr. Nitin for A.Y. 2020-21 and calculate Mr. Nitin's income which will be chargeable to tax in India. **4**

3.9 Analyse the correctness of contention made by the income-tax department in the case filed by Efficient Ltd. **2**

3.10 State whether Safety Ltd.'s office in India will constitute Permanent Establishment in India. Would your answer change if India's DTAA with Country S was in line with UN Model Convention ? **2**

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**CASE STUDY 4**

Income-tax assessment of Surat Textiles (P) Ltd. was completed on 10<sup>th</sup> March, 2020 for the assessment year 2018-19. Additions were made to the extent of ₹ 60 lakhs to the returned income after making reference to the TPO. The TPO called for information and documents relating to international transactions and those were furnished to him. To buy peace, the assessee did not object to the upward revision of income due to ALP re-determined by TPO and there was no other addition to the returned income.

Surat Textiles (P) Ltd. had 55% shares in Tiger Ltd. of UK. On 30<sup>th</sup> June, 2019, Surat Textiles (P) Ltd. sold all its shareholding in Tiger Ltd. UK to Deer Ltd. of USA for a consideration of ₹ 10 crores. The shares were acquired on 05.06.2005 for ₹ 170 lakhs.

Surat Textiles (P) Ltd. has exported goods to its associated enterprise in France. The Tax Manager of the company says that the DTAA between India and France contains Most Favoured Nation (MFN) Clause.

Surat Textiles (P) Ltd. has a branch at Frankfurt, Germany. The increase or decrease in value of assets and liabilities of the branch due to foreign exchange translation as on 31<sup>st</sup> March, 2020 are given below :

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Foreign currency translation gain :	Cash ₹ 6 lakhs;
	Receivables ₹ 9 lakhs;
Foreign currency translation loss:	Office building ₹ 10 lakhs;
	Payables to suppliers ₹ 8 lakhs.

Surat Textiles (P) Ltd. issued bonds in accordance with Foreign Currency Exchangeable Bonds Scheme, 2008 and mobilized ₹ 50 crores during the previous year 2008-09. Auckland Pte. of Singapore is one of the subscribers to bond to the extent of 20% by making payment in foreign currency. On 1<sup>st</sup> October, 2019 the bonds were converted to equity shares and Surat Textiles (P) Ltd. allotted 8 lakh equity shares of ₹ 100 each in exchange of the said bonds to Auckland Pte. Singapore. The value of each equity share of Surat Textiles (P) Ltd. as per rule 11UA was determined at ₹ 250 per share.

Cost inflation index FY 2008-09 = 137 ; F.Y 2019-20 = 289.

**Pune Autos (P) Ltd.**

Pune Autos (P) Ltd., is a subsidiary of Surat Textiles (P) Ltd. It is engaged in manufacture of core auto components. In April, 2017, it received a bulk order from its associated enterprise by name Randall Ltd. of Malaysia for manufacture and supply of core auto components and it exported in bulk quantities on monthly basis from May, 2017. Randall Ltd. would repack the auto components and sell the same in its brand name.

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Following details pertain to the previous year 2019-20 of Pune Autos (P) Ltd :

Particulars		₹ in Crores
Goods exported to Randall Ltd		687
Cost of goods exported (before considering below expenses / incomes )	397	
ESOP shares allotted to employees	50	
Interest paid / payable	20	
Pre-operating expenses	15	
Loss on account of currency fluctuations	5	
Transport (Amount reimbursed to associated enterprise, who incurred ₹ 8 Crores the same on behalf of the assessee)	10	
Depreciation	95	
Income tax paid	25	
		617
Net Profit		70

### **World Tex Inc. of Malaysia**

World Tex Inc. of Malaysia is the holding company of Surat Textiles (P) Ltd. In the previous year 2007-08, World Tex Inc. acquired a vacant land at Chennai for establishing a manufacturing unit. It abandoned that idea and hence sold the vacant land in April, 2019. Also, World Tex Inc. established a manufacturing unit in Pune in the previous year 2014-15 which was engaged in manufacture and sale of woolen garments in India. The manufacturing unit being branch of World Tex Inc. had no connection with subsidiary Surat Textiles (P) Ltd. in its business operations in India. In January, 2020, World Tex Inc. decided to sell its manufacturing unit located in Pune and wind-up its operations in India. It

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transferred plant and machinery, receivables, inventory, patents, payables for a composite consideration of ₹ 800 lakhs. The net worth of the undertaking was arrived at ₹ 500 lakhs.

**Anand Arora - MD of Surat Textiles (P) Ltd.**

Anand Arora, who was Managing Director of Surat Textiles (P) Ltd. left India and settled in UK from July, 2017. He acquired shares in listed companies in India after his departure by remitting foreign currency and earned dividend income (covered by section 115-O) of ₹ 1,20,000 credited to his bank account in India for the year ended 31<sup>st</sup> March, 2020. He earned income by way of interest on debentures held in Indian companies of ₹ 3,00,000 credited to his bank account in India and those debentures were purchased during the previous year 2018-19 by remitting foreign currency. He acquired 10,000 equity shares of ₹ 100 each by remitting foreign currency viz. £ 15,000 on 5<sup>th</sup> June, 2018. He sold all the equity shares on 30<sup>th</sup> January, 2020 through off-market transaction for £ 20,000.

TT buying rates of 1£ on various dates are as follows: 05.06.2018 = ₹ 80; 31.05.2018 = ₹ 78; 31.12.2019 = ₹ 88 and 30.01.2020 = ₹ 90

He has a let out property at Bengaluru fetching monthly rent of ₹ 25,000 which was credited to his bank account in India.

He is a partner in ABC & Co, Cochin since April, 2002 where he has 10% share. His income for the previous year 2019-20 from the firm was (i) interest on capital of ₹ 36,000 (at 18%); and (ii) share income from firm ₹ 25,000.

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Choose the most appropriate alternative for the following MCQs :

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= 10

- 4.1 How much is the amount Surat Textiles (P) Ltd. has to pay by way of penalty for under-reported income for the assessment year 2018-19 arising due to ALP determined by the TPO ? The rate of tax applicable to the assessee may be taken as 30%.
- (a) Nil  
(b) ₹ 9 lakhs  
(c) ₹ 6 lakhs  
(d) ₹ 18 lakhs
- 4.2 How much of the foreign currency translation as on 31<sup>st</sup> March, 2020 would go to impact the total income of Surat Textiles (P) Ltd. for the assessment year 2020-21 ?
- (a) Total income would decrease by ₹ 3 lakhs  
(b) Total income would increase by ₹ 7 lakhs  
(c) Total income would increase by ₹ 5 lakhs  
(d) Total income would increase by ₹ 15 lakhs
- 4.3 What is the time limit / due date within which Surat Textiles (P) Ltd. has to inform the Assessing Officer having jurisdiction over it, about the sale of shares of Tiger Ltd. to Deer Ltd. ?
- (a) 30<sup>th</sup> November, 2020 – due date for filing its return of income specified in section 139(1).  
(b) 29<sup>th</sup> June, 2020 – within 90 days from the end of the financial year in which the shares were sold.  
(c) 31<sup>st</sup> March, 2020 – being the last day of the previous year in which the shares were sold.  
(d) 28<sup>th</sup> September, 2019 – within 90 days from the date of sale of shares held in foreign company.

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- 4.4 How much is the chargeable amount of capital gains in the hands of Auckland Pte. on conversion of bonds into equity shares of Surat Textiles (P) Ltd. ?
- (a) Long-term capital loss ₹ 109.48 lakhs
  - (b) Long-term capital gain ₹ 10 crores
  - (c) No capital gain
  - (d) Long-term capital loss ₹ 13.094 crores
- 4.5 Where would you find the Most Favoured Nation clause in a tax treaty between two Contracting States as per UN Model ?
- (a) Article 1 of the DTAA
  - (b) Article 25 of the DTAA
  - (c) Protocol to the DTAA
  - (d) Preamble to the DTAA

**You are required to answer the following issues :**

- 4.6 Compute the total income and tax liability of Anand Arora for the assessment year 2020-21. 7
- 4.7 Determine how the World Tex Inc. on sale of its manufacturing unit located in Pune, would be subjected to tax in India as per the UN Model Convention. No computation is required. 4
- 4.8 Determine whether the operating profit margin of Pune Autos (P) Ltd. is eligible for availing Safe Harbour Rules (SHR) applicable for the assessment year 2020-21. Your answer must show your workings to justify the conclusion. Also state the time period within which it has to communicate its desire for opting SHR. 4

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**CASE STUDY 5****Hockey World Championship**

HWC, a company incorporated under the laws of UK entered into an agreement with Hockey Federation India Limited (HFIL). HWC and HFIL are deemed associate enterprises. Under the Agreement, HFIL will license all the commercial rights in the championship for a period of 25 years to HWC. The Agreement also provides that a contract will be entered into between HWC and participating teams and HWC will be given the exclusive commercial right in relation to the Hockey championship which it could exploit directly or through its affiliates.

For the purpose of conducting the event in India, HWC will also enter into an event promotion agreement with the Sports Event International Limited ('SEIL'), an Indian company, granting it the right to host, stage and promote the hockey matches in stadiums in India for a consideration of USD 40 million for a period of 5 years. The agreement inter-alia required that the matches are conducted as per the format provided by HCW and that the stadiums are required to be modified/constructed in the form and manner prescribed by HWC. HWC and its employees will have full access to the entire stadium during each championship.

HFIL is mandated to engage a third party approved by HWC to carry out all the service relating to origination of international television feed. However, all broadcasting and other intellectual property rights relating to the event shall be irrevocable and unconditionally be assigned to the HWC.

In HCW's view, the duration of the event will be only 10 days and there will be limited grant of access to it, which may not be sufficient to constitute the degree of permanence necessary to establish a PE. Further, since the construction of the

stadium will be done by HFIL and hence it will not have right of disposal over the stadiums.

Assume India has a DTAA with UK in line with UN Model Tax Convention.

#### Advertisement

To advertise the hockey championship, HWC entered into an agreement with Game Inc. USA who does not have a PE in India. HWC paid INR 10 lakhs for such advertisement and however, it did not deduct and pay the equalization levy on the same. The Assessing Officer assessed the same and raised demand for equalization levy alongwith interest. HWC wants to file appeal before Commissioner of Income-tax (Appeals) against such order of the assessing officer.

#### Mr. Hira, Non-executive director of HFIL

Mr. Hira is a resident Indian professional. He also has passion for stand-up comedy and performs shows in India and in abroad on part time basis. For the previous year 2019-20, he has furnished below information in respect of income earned by him in India and in Country P and Country R. India does not have a DTAA with both these countries.

Particulars	Amount (₹)
Professional income earned in India	12,50,000
Fee for technical services rendered in country P	2,50,000
Expenses incurred to earn FTS	35,000
Income from agricultural land in country R	55,000
Income earned on part time basis from stage shows in country R	75,000
Amount deposited in 5 years fixed deposit in a scheduled bank	50,000
Cash paid towards health insurance premium of self and spouse	30,000

The income earned in Country P and Country R are taxed at the rate of 15% and 20% in the source country respectively.

(23)

DER

Marks

Choose the correct alternative for the following MCQs :

2×5

= 10

- 5.1 In the given case, the subject-matter is to decide which type of following PE under India - UK DTAA
- (a) Fixed Place PE
  - (b) Construction PE
  - (c) Service PE
  - (d) All of the above
- 5.2 Assume that HWC has filed application before Authority of Advance Ruling (AAR) to check whether income earned by it in India will be taxable in India and such application got rejected by AAR. What recourse will it have against such order of AAR ?
- (a) Appeal before Income Tax Appellate Tribunal
  - (b) Appeal before High Court
  - (c) Writ petition before High Court
  - (d) Appeal before appellate authority of AAR
- 5.3 What is the time limit in which HWC can file an appeal before Commissioner of Income-tax (Appels) against the order of assessing officer levying the equalization levy and interest thereon ?
- (a) Within 30 days from the date of the order;
  - (b) Within 30 days from the date of receipt of the order;
  - (c) Within 30 days from the date of receipt of the notice of demand;
  - (d) Appeal cannot be filed;
- 5.4 Assuming that HWC does not have fixed place PE in India, it may constitute PE, if it sends its employees to India for rendering consultancy services in PY 2019-20 for
- (a) 182 days
  - (b) 183 days
  - (c) 184 days
  - (d) No PE is constituted irrespective of number of days of stay of personnel in India.

DER

P.T.O.

- 5.5 Which of the following statements is true in the context of satisfaction or otherwise of the disposition test by HWC ?
- (a) Disposition test fails since HWC has limited access to the stadiums, the access is available only for limited period each time the event is conducted
  - (b) Disposition test fails since construction of the stadium is by an Indian contractor
  - (c) Disposition test is satisfied, since HWC had access and exercised control over the entire event.
  - (d) Disposition test is satisfied, because HWC and HFIL are Associated Enterprises.

**You are required to answer the following issues :**

- 5.6 From the facts of the case, you are required to advise whether the agreement entered into by HWC and its activities pursuant thereto constitute a PE in India. Justify your answer with reasoning and decided case law, if any. 6
- 5.7 Advise HFIL whether it is required to withhold any tax on the payments to HWC. State reasons for your answer. 3
- 5.8 Compute the total income, foreign tax credit and final tax liability of Mr. Hira for AY 2020-21. 6