

**Final New Syllabus**

**Paper - 6 C**

MAY 2022

Roll No. .... **International Taxation**

Total No. of Case Study Questions – 5

Total No. of Printed Pages – 32

Time Allowed – 4 Hours

Maximum Marks – 100

**FRQ**

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.

The 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 (MCQs) are to be marked on the OMR Answer Sheet as given on the Cover Page of the answer book.

Answer to MCQs, if written anywhere other than the OMR Sheet on the cover page of the answer book, the same will not be evaluated.

Candidates should answer the Case Study Questions as selected by them in totality i.e., MCQ as well as descriptive Question of the same Case Study Question.

Candidates are not permitted to answer MCQs of one Case Study Question and the descriptive questions of another Case Study Question and vice-versa.

Candidates may use calculator.

All questions relate to **Assessment Year (AY) 2022-23**, unless stated otherwise in the questions / case studies.

**FRQ**

**P.T.O.**

Final New Syllabus  
Paper - (2)  
International Taxation  
FRQ

Marks

CASE STUDY : 1

**Socrates Ltd., Mumbai**

Socrates Ltd. is engaged in redistribution of air coolers in India which are manufactured by its AE Aristotle Inc., USA. It is also engaged in redistribution of air coolers in India manufactured by Walters Ltd. of UK which is an unrelated party. During the financial year 2021-22, Socrates Ltd. sold 1.8 lakh air coolers of Aristotle Inc. and 60,000 air coolers of Walters Ltd. The gross profit margin was 10% of sales in the case of Aristotle Inc. and 20% of sales in the case of Walters Ltd.

Aristotle Inc. is an internationally recognized brand and industry estimates peg the benefit of the brand value at 1% of sales. Walters Ltd. extended 3 months credit period and whereas Aristotle Inc. extended a credit period of only 1 month. The cost of capital was 12% per annum. There are no other differences between the transaction with related party and unrelated party. Total sales made by Socrates Ltd. in the financial year 2021-22 in respect of redistribution of goods of Aristotle Inc., was ₹ 90 crores and whereas it was ₹ 36 crores in respect of Walters Ltd.

In light of the significant increase in the volume of business and to mitigate the risks of a transfer pricing litigation, Socrates Ltd. filed for an Advance Pricing Agreement and concluded the same in January 2021. It was valid for financial years beginning 2020-21. The APA which was signed also included a rollback provision.

FRQ

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**FRQ**

**Marks**

During the course of its business, Socrates Ltd. entered into an agreement for management consultancy services from McKolsey GmbH, Germany. As per the agreement, McKolsey GmbH, Germany was required to send its consultant(s) for conducting a work place improvement and productivity enhancement study at Socrates facilities. The said consultants were required to study certain process and practices of Socrates Ltd. at different locations where it operated and suggest areas of improvement. The consultant(s) were required to be present at the facilities of Socrates for specified time limit to complete the ground work as agreed in the agreement.

McKolsey GmbH sent an expert in air cooler industry, Dr. Richards to India. Dr. Richards was an employee of McKolsey and had resigned a few months before coming to India. However, Dr. Richards was working for McKolsey as a consultant and was sent to India for this special project. Socrates Ltd. is required to pay ₹ 150 lakhs to McKolsey GmbH for the management consultancy services including those furnished by Dr. Richards who came on their behalf and stayed in India.

McKolsey GmbH's tax advisors have advised them to file for an advance ruling to obtain certainty on the tax treatment of the receipts from Socrates Ltd. in its hands.

**FRQ**

**P.T.O.**

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Marks

**Additional advertising efforts including digital marketing :**

Vivi Digital Services Pte Ltd. is a company registered in Singapore. Vivi Digital owns, operates and manages a digital platform for online sale of air coolers. Vivi Digital operates the platform 'buycoolers.com' which facilitates sale of air coolers owned by companies which are registered as sellers on its platform. Aristotle Inc, USA entered into an agreement with Vivi Digital to register itself as a seller on the platform. Aristotle Inc wanted to sell certain high-end air coolers which were not currently marketed by Socrates Ltd. Vivi Digital facilitated sale of goods of Aristotle Inc to customers in India during the financial year 2021-22. During the said year, Aristotle was able to sell additional air coolers worth ₹ 5.60 crores through the buycooler.com platform to customers in India directly.

***Aristotle Inc, USA***

Aristotle Inc. USA besides supplying goods to Socrates Ltd. and selling its high-end air coolers on the digital platform was also engaged in systematic and continuous solicitation of business activities with users in India. Aristotle wanted to get a better understanding of the market and users in India to be able to expand its operations. During the financial year 2021-22, Aristotle Inc had its own website and was also using third party companies to engage in interaction with users directly. As per the last count, Aristotle had 2,50,000 users in India (i.e. who had IP address in India). Separately, Aristotle also paid \$100,000 to Kiwi Research Limited, New Zealand for purchase of data relating to preferences of users residing in India.

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Marks

*Brand ambassador - Mike Pluto*

In early 2021, Mike Pluto a famous football player was signed up as a brand ambassador by Aristotle for all its products around the world. In July 2021, Socrates Ltd. was planning the inauguration of a new retail outlet in Delhi which would also sell Aristotle air coolers.

In June 2021 Mike Pluto came to India and participated in a local football tournament organized by RAPTO Co Ltd. in India. He was paid ₹ 10 lakhs as participation fee. He incurred ₹ 4 lakhs towards his travel and stay expenses. Socrates Ltd. agreed to pay ₹ 15 Lakhs to Mike Pluto if he attended the inauguration of the new retail outlet since it would be a great advertisement given that he was the brand ambassador. Socrates also agreed to bear the taxes applicable on the said ₹ 15 Lakhs, if any.

Mike Pluto extended his stay and attended the inauguration and earned the advertising fee of ₹ 15 Lakhs (net of tax applicable). While here in India, Mike Pluto participated in a game show on television and won ₹ 10 Lakhs as prize money for winning the game.

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

**5×2  
=10**

1.1 How much is the amount of equalization levy payable for the sales facilitated by Vivi Digital through buycoolers.com for sale of goods of Aristotle Inc, USA ?

- (A) @2% being ₹ 11.20 lakhs payable by Vivi Digital, Singapore
- (B) @2% being ₹ 11.20 lakhs payable by Aristotle Inc, USA
- (C) NIL
- (D) @6 % being ₹ 33.60 lakhs payable by Socrates Ltd.

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P.T.O.

(6)

**FRQ**

**Marks**

- 1.2 Assuming that the DTAA between India and Germany is as per UN Model, how many days of stay of Dr. Richards in India would lead to existence of PE of McKolsey GmbH in India?
- (A) 90 days in total
  - (B) 183 days in the fiscal year
  - (C) 183 days in total
  - (D) Dr. Richards' stay in India does not create a PE of McKolsey GmbH since he is not an employee.
- 1.3 For which of the financial years Socrates Ltd. can avail rollback benefit on the assumption that it has satisfied all other conditions contained in the Income-tax Act, 1961 ?
- (A) Financial year 2016-17 to financial year 2019-20
  - (B) Financial year 2015-16 to financial year 2019-20
  - (C) Financial year 2017-18 to financial year 2020-21
  - (D) Financial year 2016-17 to financial year 2020-21
- 1.4 Socrates Ltd. had a dispute on the covered transaction under the APA for financial year 2017-18 and the ITAT has passed an order disposing such appeal as on the date of signing the APA. What would be the years of rollback under such a scenario ?
- (A) Socrates Ltd. can chose the years it wants to apply for rollback and it need not chose all applicable years.
  - (B) Rollback applies to all applicable years and Socrates Ltd. cannot choose. Hence, rollback doesn't apply for any year.
  - (C) Rollback applies to applicable years other than FY 2017-18.
  - (D) Rollback applies to all applicable years including FY 2017-18 and the ITAT order is not to be considered.

**FRQ**

(7)

**FRQ**

**Marks**

1.5 If McKolsey GmbH obtains an advance ruling in respect of the taxability of the receipts from the management consultancy agreement with Socrates, such ruling shall be binding on:

- (A) McKolsey GmbH, in relation to the above receipt.
- (B) For all similar income streams of McKolsey in India during this year.
- (C) The Jurisdictional Assessing Officer of McKolsey GmbH in respect of all receipts of McKolsey.
- (D) McKolsey and the Jurisdiction Assessing Officer of McKolsey in respect of the Socrates Agreement.

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

- 1.6 Compute the arm's length price of the transaction between Socrates Ltd. and Aristotle Inc. using the most appropriate method and state the amount of income liable for adjustment in the hands of Socrates Ltd., if any. **5**
- 1.7 What is the total income and total tax liability of Mike Pluto for the assessment year 2022-23 ? How much is the amount of income tax liability for Socrates Ltd. in respect of the amount paid to Mike Pluto? Is Mike Pluto required to file ITR for the assessment year 2022-23 ? **6**
- 1.8 State whether Aristotle Inc, USA being engaged in systematic and continuous soliciting of business with users in India and /or incurring expenditure for obtaining data from KIWI Research Limited, New Zealand would lead to either Aristotle or KIWI Research Limited having a business connection in India? State the tax consequence, if any arising out of such actions for both companies. **4**

**FRQ**

**P.T.O.**

(8)

FRQ

Marks

CASE STUDY : 2

**Edison Ltd., Cochin**

Edison Ltd., Cochin is a company engaged in trading activities. It is an associate of Moon Inc. of USA. The annual consolidated group revenue of Moon Inc. is USD 2,000 million for the accounting year 2021-2022 (TT buying rate on the last day of the accounting year is 1 USD = ₹ 75). Edison Ltd. is one of the constituent entities of Moon Inc Group. (being an international group). The annual turnover of Edison Ltd. always exceeded ₹ 600 crores which included ₹ 100 crores being the volume of transactions with associated enterprises outside India.

During the financial year 2021-2022, some of the significant transactions entered into by Edison Ltd. are :

- (1) **Dividend received** : Edison Ltd. has 27 percent equity shareholding in Mc Dermott LCC of USA. It received dividend of ₹ 90 lakhs on 5<sup>th</sup> February, 2022. It declared Interim dividend of ₹ 40 lakhs on 5<sup>th</sup> October, 2021. It has income only under the head 'Profits and gains from business or profession' (computed) ₹ 125 lakhs for the assessment year 2022-23 and has opted for section 115BAA.
- (2) **Transfer Pricing adjustment** : Edison Ltd. imported raw materials from its associated enterprise located in Sri Lanka in the previous year 2019-20. The ALP determination by applying the most appropriate method resulted in upward revision of its income by ₹ 140 lakhs. Edison Ltd. has not contested the variation and does not want to do secondary adjustment.

FRQ



(9)

FRQ

Marks

- (3) **Digital advertising** : In order to attract new age customers, Edison Ltd. decided to use digital advertisements for its products. In this connection, it entered into agreement with Tatla Pte of Singapore on January 1, 2022. Tatla Singapore could organize digital advertising space for Edison and Edison paid ₹ 6 lakhs on 5<sup>th</sup> February, 2022 towards online advertisement of its products to Tatla Pte of Singapore. Edison was not aware of the provisions of Equalisation Levy and accordingly had not remitted the same at the time of payment. An Internal audit conducted in April highlighted this lapse. It remitted the equalization levy amount on 30<sup>th</sup> April, 2022 as soon as the findings of the Internal audit were known.
- (4) **Business Trust** : Edison Ltd. had certain infrastructure project. In order to monetize the same, it contributed those into 'Edison InvIT' and listed the same in accordance with the SEBI guidelines. Edison InvIT is eligible to be treated as a 'business trust' (registered as an infrastructure trust under SEBI Regulation 2014) for the purposes of the Income-tax Act. Edison InvIT paid interest of ₹ 15 lakhs to a non-resident investor out of the interest income received by it from a SPV.
- (5) **Purchase of Software** : Edison Ltd. acquired a ready to use software from Clinton Inc. of USA for ₹ 15 lakhs. It also solicited the services of Bimsys Co Ltd., Bengaluru to add some features in the software so purchased to make it perfectly usable for its business. It paid ₹ 5 lakhs to Bimsys Co Ltd.

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P.T.O.

(10)

FRQ

Marks

**Tripathi, General Manager, Edison Ltd.**

Tripathi joined as General Manager of Edison Ltd. in December, 2021. He was in Country 'P' for 10 years and used to visit India in every financial year for a stay of 100 days. He returned to India permanently in March, 2021. During the previous year 2021-2022, he has been in India throughout. He has income both in India and Country P. There is no DTAA between India and Country P. The following are the details of the income (in INR) for the year ended 31<sup>st</sup> March, 2022 :

Salary from Edison Ltd. (after standard deduction)	24,00,000
Consultancy income in India (computed)	5,00,000
Income from property in Country 'P'	3,00,000
Agricultural income in Country 'P'	2,00,000
Business loss in Country 'P' (converted in Indian currency)	(4,00,000)
Dividend from companies in Country 'P'	5,00,000
Rate of tax in country P (without any basic exemption limit)	15%

Note: Income in Country P converted in INR.

**Ashok (P) Ltd., Mumbai**

Ashok (P) Ltd., Mumbai is a related party of Edison Ltd. It is engaged in manufacture of medical diagnostic equipments. Ashok (P) Ltd. has accumulated reserves and surplus exceeding ₹ 100 crores. Its holding company (i.e.) Bimal Co Ltd. located in State Z has working capital crunch. The Board of Directors of Ashok (P) Ltd. have drawn a plan of action to pump money in Bimal Co Ltd. and the plan is as under :

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Marks

Incorporate a company by name AB Co Ltd. in Country W (which is a low tax jurisdiction) with Ashok (P) Ltd. having 10 % share capital and Bimal Co Ltd. to have the balance 90% of equity. The company AB Co Ltd. would have no business activity. It was decided that Bimal Co Ltd. would transfer fraction of its shares in AB Co Ltd. as and when it requires money to Ashok (P) Ltd. at 50 times to 100 times more than its cost of acquisition. The capital gain is tax-free in both Country Z and Country W as per domestic laws.

Choose the correct alternative for the following MCQs :

5×2  
=10

2.1 How much is the amount of tax payable by Edison Ltd. on dividend income received from Mc Dermott LLC of USA ?

- (A) ₹ 15,02,280
- (B) ₹ 14,32,080
- (C) ₹ 8,34,600
- (D) ₹ 7,80,000

2.2 Compute the amount of tax payable by Edison Ltd. as a consequence of primary adjustment in respect of its transactions with its associated enterprise in Sri Lanka to get relief from making secondary adjustment.

- (A) ₹ 29,35,296
- (B) ₹ 26,20,800
- (C) ₹ 24,46,080
- (D) ₹ 21,84,000

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P.T.O.

(12)

FRQ

Marks

2.3 How much is payable by way of penalty by Edison Ltd. for the delay in remittance of equalization levy ?

- (A) ₹ 54,000
- (B) ₹ 53,000
- (C) ₹ 36,000
- (D) ₹ 10,000

2.4 At what rate is Edison InvIT required to deduct tax at source on the interest income distributed to non-resident ?

- (A) 41.6%
- (B) 31.2%
- (C) 10.4%
- (D) 5.2%

2.5 How much is the withholding of tax to be made by Edison Ltd. for the software acquired from Clinton Inc. and how much is deductible at source on the payment made to Bimsys Co Ltd. ?

- (A) 41.6% on ₹ 15 lakhs and 10% on ₹ 5 lakhs
- (B) 10% on ₹ 15 lakhs and Nil on ₹ 5 lakhs
- (C) 20.8% on ₹ 15 lakhs and 20.8% on ₹ 5 lakhs
- (D) Nil on ₹ 15 lakhs and 10% on ₹ 5 lakhs

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(13)

FRQ

Marks

You are required to answer the following issues :

- 2.6 Is Edison Ltd. required to keep and maintain information and documents as a constituent entity of the international group ? Also state whether it has to furnish any report in this regard ? If yes, which report and by which due date ? 5
- 2.7 As the Tax Manager of Ashok (P) Ltd. you have to evaluate the proposed plan of action in the light of its permissibility under the Income-tax Act,1961. 4
- 2.8 Compute the tax liability of Tripathi for the assessment year 2022-23. 6
- Note : Assume he has not opted for section 115BAC.

FRQ

P.T.O.

(14)

FRQ

Marks

**CASE STUDY : 3**

Mr. Ram is a citizen of India who has been a Non-Resident for Indian tax and exchange control purposes. Ram holds 40% of voting power in ACo Inc, a company incorporated under the law of Country A. For the purpose of expansion of business, the said company enters into an agreement with MinMax Ltd., a company incorporated under the Indian laws. ACo Inc does not hold shares in MinMax Ltd. but only enters into a 'preferred distributor' agreement.

**Business activities of MinMax Ltd.**

As per one of the clauses of the above agreement, ACo Inc has the power to appoint 7 directors out of the 12 directors on the Board of MinMax Ltd. Mr Ram is appointed as one of the Directors of the Indian company, MinMax Ltd. This is to exercise control over the operations of MinMax Ltd. and to ensure that interests of ACo Inc are protected and that MinMax does not enter into any agreement or business relationship with competitors of ACo Inc.

The total purchase by MinMax Ltd. for the FY 2021-22 is estimated to be ₹ 500 Crores, out of which, purchase of ₹ 50 Crores would be sourced locally and the balance is to be supplied by ACo Inc. The price for entire purchase has been fixed in the agreement and the conditions for supply are determined by ACo Inc.

MinMax Ltd. would need to expand its operations to cater to the demands of ACo Inc and proposes to borrow ₹ 200 Crores from State Bank of India (SBI). Since the borrowing is for the purposes of operations of ACo Inc, 100% of the guarantees required by the Bank are provided by ACo Inc. This is the first time that ACo Inc has given guarantees to an unrelated company. The total borrowings of MinMax Ltd. is ₹ 1000 Crores.

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(15)

**FRQ**

**Marks**

MinMax Ltd. buys mobile phones from ACo Inc. The mobile phones are branded for which royalty of ₹ 100 per mobile phone sold is paid to ACo Inc. Similar mobile phones are sold to other customers in India by ACo Inc directly. The credit period offered to MinMax Ltd. is 2 months, whereas for other customers pay immediately. During the FY 2021-22, 10 lakh mobile phones were bought for an aggregate sum of ₹ 2600 Crores from ACo Inc. Assume the royalty is included in ₹ 2600 Crores. The entire purchase of MinMax Ltd. were sold in the FY 2021-22. MinMax Ltd. failed to report ACo Inc as an Associated Enterprise and transactions with them were not reported as 'international transactions'. MinMax Ltd. has received a notice from the Income Tax department in this regard. MinMax Ltd. is now considering the option of filing Form 3CEB and TP study/documentation relating to determination of Arm's Length Price.

**Contract with BigData Company**

During the financial year 2020-2021, MinMax Ltd. entered into an agreement with BigData Company, a company registered and incorporated in Country K (India does not have a DTAA with Country K). The agreement was for provision of certain data analytics services which would amount to fees for technical services under the Income-tax Act. The agreement required an advance payment of USD 100,000. The payment being made by a resident company (ie MinMax Ltd.), taxes were required to be withheld at source under section 195 of the Act and net amount was to be remitted to BigData Company. BigData Company has drawn the attention of MinMax to a clause in the agreement which requires MinMax to pay the agreed amounts to BigData Company in full and that MinMax needs to bear the taxes in India, if applicable. Accordingly, the said advance of USD 100,000 has been paid to BigData Company on March 31, 2022.

**FRQ**

**P.T.O.**

(16)

FRQ

Marks

**Nesla Inc owned by Ram**

Nesla Inc, a company manufacturing Electric vehicles. Nesla Inc is owned by Mr. Ram and is a company headquartered in Country A. Mr. Jeff is citizen and resident of Country A since 2005 and has been working in Nesla. Mr. Jeff is appointed as Head of South Asia - Operations in April 2021 to understand the prospects in South Asian market and preparation of a plan for selling vehicles in the South Asian market. Presently Ram's enterprises are not engaged in any business in South Asia.

Jeff travels to India in April 2021 and stays in a hotel in New Delhi for ten days. Thereafter, Jeff travels extensively in India, Sri Lanka, Singapore, etc to meet prospective dealers, automobile experts, etc. Jeff also gives interviews in various auto magazines and automobile shows on TV about the plans of Nesla. Jeff's job requires him to visit his head office in Country A every 25 days for reporting purposes. When Jeff visits the headquarters in June 2021, he discusses the possibility of importing one Model-N Electric vehicle of Nesla Inc. He feels that display of the car in India to prospective customers would increase the interest in the company's products. Ram approves the plan and one Model-N car is sent to India to be placed at the Mumbai airport for display. The car is imported in accordance with the Customs law. Mumbai Airport Limited, the operator of the airport charges ₹ 5,00,000 per month rent to Nesla Inc for space for displaying the car. Many prospective customers reach out to Jeff wanting to place orders for the car. Jeff informs that he is not authorised to obtain orders and the orders, if any, have to be placed directly on Nesla and the cars have to be imported directly by those who are interested. Given the increased interest, Mr. Jeff also meets prospective businessmen who could be appointed as dealers. It is decided that Nesla would appoint dealers in India and start selling their cars from April 2022. Jeff concludes the financial year 2021-2022 with a clear plan for India. He ends up spending about 80 days in India in the financial year.

FRQ



(17)

FRQ

Marks

Choose the correct alternative from the following MCQs :

5×2  
=10

- 3.1 As regards the requirement for Mr. Ram to obtain a Permanent Account Number (PAN) in India. Which of the below statements are true ?
- (A) Ram is required to obtain a PAN if he has taxable income in India
  - (B) Ram is required to obtain a PAN since he is a director of an Indian company
  - (C) Ram is required to obtain since he is a director and has taxable Income
  - (D) Ram is not required to obtain a PAN in India
- 3.2 In respect of transfer pricing provisions, which of the following statement is NOT true ?
- (A) The Assessing Officer has powers to determine arm's length price if information and documents relating to an international transaction has not been maintained by the taxpayer.
  - (B) Where any other International Transaction, other than those reported by the assessee, come to the notice of the TPO, he cannot apply the transfer pricing provisions on such transactions.
  - (C) Where in respect of any International Transactions, the assessee has not furnished the report u/s 92E, the TPO can apply the transfer pricing provisions on the same.
  - (D) The Assessing Officer will proceed for the assessment in conformity with the ALP as determined by the TPO.

FRQ

P.T.O.

(18)

**FRQ**

**Marks**

3.3 Which of the below statement is False ?

- (A) 2% of penalty is to be levied if the persons fail to report the International Transaction which is required to be reported.
- (B) The penalty of ₹ 2 lakhs shall be payable if the persons fail to file the report of an accountant.
- (C) The penalty u/s 271AA shall be in addition and not in substitution of penalty u/s 271BA.
- (D) Failure to report any International Transaction would be considered as misreporting of Income and 200% of the tax payable on underreported Income.

3.4 In respect of taxability of Mr. Jeff's salary (resident of Country A – India has a DTAA following UN Model), which statement is true ?

- (A) Salary is taxable for 80 days because he has rendered services in India.
- (B) Salary is taxable, but he can claim short stay exemption because his stay is less than 90 days in India.
- (C) Salary is not taxable, because the foreign enterprise is not engaged in any business or trade in India.
- (D) Salary is not taxable because the remuneration is not liable to be deducted from the income of the employer chargeable under Income Tax Act, 1961.

3.5 Which is the most appropriate method for determining the arm's length price of the transaction of purchase of mobile phones by MinMax Ltd. from ACo Inc:

- (A) Comparable Uncontrolled Price Method
- (B) Resale Price Method
- (C) Profit Split Method
- (D) Cost Plus Method

**FRQ**

(19)

FRQ

Marks

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

- 3.6 Are ACo Inc and MinMax Ltd. 'associated enterprises'? If they are, list all the circumstances which lead to the conclusion that they are associated enterprises. **4**
- 3.7 You are a practising Chartered Accountant specializing in International taxation and Nesla Inc approaches you to advise them on India tax implications of their presence in India. What would your advice be on presence of a Permanent Establishment, filing of returns or compliances, if any, for the FY 2021-22. **5**
- 3.8 In respect of the payment of USD 100,000 made to BigData Company on March 31, 2022, you are required to advise on the following :
- (a) MinMax Ltd. has not complied with the TDS provisions until date. What is the amount to be remitted if taxes are to be grossed up assuming a TDS rate of 10%? And what amount needs to be deposited today with applicable interest ? (Assume applicable exchange rate to be 1 USD = 75.60 INR) **3**
- (b) No work has commenced on the project as on date. MinMax Ltd. is contemplating cancelation of the contract. If the contract is cancelled after the TDS is remitted, would the amount remitted be refundable ? If yes, who can claim that refund and what is the process ? **3**

FRQ

P.T.O.

(20)

**FRQ**

**Marks**

**CASE STUDY : 4**

Business International Ltd. (BI), is a multinational Group with interests in multiple businesses. The consolidated group revenue of BI Group is more than ₹ 1000 Crores. A-XI Ltd., an Indian company successfully bid for Indian Cricket League (ICL). A-XI Ltd. is a part of the BI Group. The company selected 15 players cricket team. As per ICL mandate, the team composition would be mixed Indian and Foreign players. A-XI Ltd. selected foreign players from South Africa, Australia, Kenya and Bangladesh. A-XI Ltd. has to pay franchisee fees \$ 10 MN to International Cricket Control Board (ICCB). As per the agreement, A-XI Ltd. will get share of 5% in revenue generated through selling of match telecast right and 5% revenue for the sale of tickets. The worldwide telecast rights for the event have been awarded to Sumito Satellite, Japan . For the promotion of the team, A-XI Ltd. hired David Bothom, Ex Australian Cricketer. A-XI Ltd. also entered into an agreement with Albert Advertising, a Singapore company for online advertisement of match promos. All the foreign players will get \$1MN as match fees.

More details about each of the parties with whom A-XI Ltd. transacts and details of the transactions are as under :

**FRQ**

(21)

FRQ

Marks

1. Peter, Player from South Africa.

In the financial year 2021-22, Peter was in India for a test series for 60 days and after 20 days rest period in India, he played ICL for another 60 days.

His income from India is as below :

Particulars	Amount	Remarks
Test match fee	\$ 0.5 MN	
ICL Match Fees	\$ 1.0 MN	
Advertisement for an automobile company headquartered in US	\$ 0.25 MN	The shooting was held in India. The payer company is from US.
Article writing fee (Articles on ICL)	\$ 0.10 MN	The article was published in newspaper widely circulated in India.
Participation fees charged in live TV show in India.	\$ 0.25 MN	
Article writing fee for an online platform. (Articles on Motivation, etc. of Sportsmen)	\$ 0.25 MN	Published in leading sports portal accessible worldwide.
Auction of his Cricket bat	\$ 1.00 MN	Which is donated to a charitable Institution in India (approved under section 80G).

FRQ

P.T.O.

**2. Shiv Paul, Player from Kenya.**

He was in India in FY 2021-22 for 90 days only. His father was citizen of India, settled in Kenya. His father has a residential house in Jaipur (Rajasthan) which is rented to an Individual and the monthly rental income ₹ 2 lakhs. Rent is paid by the tenant to a Private Trust created by his father where Shiv Paul is the sole beneficiary, and the trust is registered in Cayman Island. The private trust is non-discretionary, specific, irrevocable trust. The bank account of the trust is in Kenya and rent is remitted to Kenya Bank Account. Apart from ICL match fees he also participated in advertisement of fashion wear and income from such advertisement shoot is ₹ 10 Lakhs.

**3. Albert Advertising, Singapore.**

Albert Advertising is a company based in Singapore and Sumio Satellite, a company based in Japan is one of the largest shareholders with 40% of the shares being held by them. A-XI Ltd. also holds 65% equity in Sumito Satellite. Mr. Raghvendra is CEO of Albert Advertising, and he is also Director (Marketing) of A-XI Ltd. The total contract value of A-XI Ltd. and Albert Advertising is for \$ 50 MN and the entire amount has been paid in advance by A-XI Ltd. Albert Advertising has entered into similar type of agreement with other companies. The contract values are an average of about \$ 45 MN. In those later agreements, the terms are different and importantly, the companies are permitted to pay the fees over a 3 months period. Mr. Raghvendra does not hold any equity in A-XI Ltd. A-XI Ltd. has given the corporate guarantee to Singapore Bank for a loan of \$ 2 Million obtained by Albert Advertising. Albert Advertising's total borrowings are about \$ 30 million.

(23)

FRQ

Marks

4. **Raghavendra, CEO of Albert Advertising;**

Raghavendra is the CEO of Albert Advertising since January 2019. He has been a part of the senior management of the BI Group for many decades. Raghavendra was with Sumito Satellite Japan as Manager marketing from January 2008 to December 2014. He relocated to India in January 2015 accepting the role of Director Marketing at A-XI Ltd. He was in India from January 2015 to December 2018 and relocated to Singapore from 2019. He has been a non-resident since PY 2019-2020. In March 2022, the income-tax department came to know of a residential property acquired by Raghavendra in Japan in 2016. A notice under section 10 of the Black Money Act, 2015 has been issued.

Raghavendra says he bought the house for \$ 5,00,000 in 2016. The fair value of the house as determined valuer recognised by the Govt of Japan as on 31<sup>st</sup> March, 2022 is \$ 1.5 million.

5. **Sumito Satellite, Japan;**

The company got the live telecast right of ICL matches and the contract value is \$ 200 Mn. The said amount is payable to ICCB. Sumito Satellite expects to earn about \$ 400 Mn by selling timeslot for advertisement during the tournament. To carry on the activities in India, the company has set up a project office in Delhi. The Company has deputed two technicians, who would be staying in India for a total period of 100 days to manage uninterrupted relay of live telecast of ICL matches. The salary of technician A and Technician B would be \$ 5000 per month. Since, Sumito Satellite needs more staff; they propose to hire some staff from A-XI Ltd. who will work under the supervision of technician A and B. For hiring of staff from A-XI Ltd., Sumito Satellite would pay \$ 1 Lakh.

FRQ

P.T.O.

(24)

FRQ

Marks

6. **David Bothom, Ex Australian Cricketer.**

He is resident of Australia, stayed in India in the PY 2021-22 for 65 days, he will get ₹ 25 lakhs for promotion of matches. Apart from this he wrote some article in newspaper and his fees for writing articles is ₹ 5 lakh and he has also become the visiting faculty for coaching in Indian Cricket Academy and his fees for the same is ₹ 10 Lakh.

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

**5×2  
=10**

4.1 What is the due date for filing Country by country reporting by A-XI Ltd. ?

- (A) On or before the due date of furnishing the return of income.
- (B) One month before the specified date of filing of Income tax return.
- (C) Within the end of twelve months from the end of the accounting period of the reporting entity.
- (D) On or before the end 30<sup>th</sup> November of the Assessment year.

4.2 Is the tenant of the Jaipur house required to deduct tax at source while remitting the rent, if the rent is taxable in India ?

- (A) No, because individual assessee is not required to deduct TDS unless the Turnover in the preceding years from business exceeds ₹ 1 Crorc.
- (B) No, because the house is being used for residential purpose and not for business purpose.
- (C) Yes, because TDS is applicable while making payment to Non-Resident and the sum is chargeable to tax in India.
- (D) Yes, because the rent payment is more than ₹ 2.40 lakhs.

FRQ



(25)

FRQ

Marks

- 4.3 Raghavendra wants to argue that the notice issued to him under section 10 of the Black Money Act, 2015 is invalid since he is a non-resident in 2021-2022 and that he had acquired the property out of his tax paid income in Japan while he was a non-resident. What would you advise?
- (A) The notice is invalid since he is a non-resident in the year of issue of notice.
- (B) The notice is invalid since the assets have been acquired out of income earned while he was a non-resident.
- (C) The notice is valid since the property was acquired in the year when he was a resident.
- (D) The notice is valid even if he was a non-resident in all the years in question.
- 4.4 As a Transfer Pricing consultant, please advise whether A-XI Ltd. and Albert Advertising is Associated Enterprise or not ?
- (A) Yes, because one enterprise participates directly in the shares carrying not less than twenty six percent of the voting power in the other enterprise.
- (B) Yes, because one enterprise participates indirectly in the shares carrying not less than twenty six percent of the voting power in the other enterprise.
- (C) Yes, because Mr. Raghvendra is the common director in both the companies.
- (D) Yes, because one enterprise guarantees loan exceeding the prescribed percent of the total borrowings of the other enterprise.

FRQ

P.T.O.

(26)

**FRQ**

**Marks**

4.5 Whether employees of Sumito Satellite will create Permanent Establishment in India ?

- (A) Yes, because employees stay in India is more than ninety days.
- (B) No, because project does not last more than six months.
- (C) No, because PE cannot be created because of the stay of employees in India.
- (D) Yes, because the foreign company has a project office in India.

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

4.6 Give a brief note on the taxability of each source of income of Peter, the South African player. (Assume exchange rate for computing income to be 1 USD = 75 INR)

**7**

4.7 If the house property in Japan is held to be an undisclosed foreign asset under the Black Money Act, what is the maximum tax and interest liability that Raghavendra could have? You need not comment on other penal implications. (Assume exchange rate for computing income to be 1 USD = 75 INR)

**3**

4.8 Give a brief note on the total income and tax liability of Shiv Paul, Kenya Player. Whether your answer would be different if there is no trust, and the payment of rent is made directly to the account of Shiv Paul outside India.

**5**

**FRQ**

(27)

FRQ

Marks

**CASE STUDY : 5**

**Megastar Ltd., Delhi**

Megastar Ltd. is a company with businesses across multiple sectors both in India and abroad. It wanted to expand its manufacturing capacity by importing machinery from its associated enterprise located outside India with offshore supply of spares and contract for installation in its premises. It apprehends some dispute because of some complexities in the terms of contract. It proposes to obtain an advance ruling in this regard.

Megastar Ltd. recruited one mechanical engineer and one software specialist. The details are given below:

	<b>Mechanical Engg.</b>	<b>Software Specialist</b>
Name	Robert	Vishnu
Place of residence before joining for employment	UK	India
Period of stay in India in preceding 4 years	90 days	Since birth
Nationality	Indian Origin	Indian citizen
Date of joining (assume for counting period of stay)	29.10.2021	01.11.2021
Place of posting	New Delhi	Country Z
Salary income (computed)	25,00,000	25,00,000
Other income by way of rent outside India	6,00,000	Nil
Tax payable in the place of posting	As per IT Act	No Income- tax

FRQ

P.T.O.

(28)

**FRQ**

**Marks**

**Transfer Pricing disputes**

Megastar Ltd. has a subsidiary, Ministar SA, in Country J and there has been supply of finished goods by Megastar Ltd. to Ministar SA. Ministar SA has onward sold those goods as a sole distributor for certain countries including Country J. There is a DTAA between India and Country J. For the assessment year 2019-20, there are some disputes with regard to arms length price of the supply of finished goods and the TPO had proposed an upward adjustment to the revenue earned from Ministar SA. The company has contested the order and currently an appeal against the order is pending before the ITAT.

For the immediately preceding assessment year (ie AY 2018-19), the income-tax officer passing an order in conformity with the order of the TPO had made an upward adjustment to the price of the goods sold to Ministar SA by adopting a different method of determining arm's length price. Megastar had challenged the order before the ITAT (subsequent to being unsuccessful before the DRP). The ITAT heard the matter and disposed off the appeal by setting aside the order of the TPO directing them to consider afresh with full discretion. The remand proceedings are currently being undertaken by the TPO.

Megastar Ltd. proposes to enter into an agreement with its associated enterprise Mike SPA of Belgium for supply of goods for ₹ 150 crores in the financial year 2022-23. The agreement is in the proposal stage and not yet finalized. It is contemplating to go in for Advance Pricing Agreement.

**FRQ**

(29)

FRQ

Marks

**Other transactions**

Megastar has a subsidiary in Country J. The DTAA between India and Country J provides for taxation of dividend @ 20% in respect of dividends received by shareholders of a company in Country J. The DTAA between India and Country K provides for concessional rate of tax in respect of dividend @ 10%.

Megastar Ltd. entered into a contract with Mano Pte, Singapore for ₹ 5 crore in the financial year 2021-22. Mano Pte Ltd. designed and developed an online platform to facilitate online sale of goods worldwide by Megastar Ltd. The said payment was for the design and development services and also include fees for maintenance and support for one year after the installation of such a platform. There is no PE of Mano Pte Ltd. in India. The payment does not amount to Royalty under India – Singapore DTAA.

**Proceedings against Robert**

While conducting the background check for the employment of Robert, it was found that Robert was resident in India till the assessment year 2014-15 left for employment in June, 2015. He acquired a property in July 2017 out of unaccounted money kept in a bank account outside India. These amounts were accumulated when he was resident in India and were not disclosed for income tax in India. Notice under section 10 of the Black Money Act, 2015 was issued in December, 2020.

FRQ

P.T.O.

(30)

FRQ

Marks

Choose the correct alternative for the following MCQs :

5×2  
=10

- 5.1 How much is the fee payable for the APA by Megastar Ltd. in respect of the agreement for supply of goods to its associated enterprise Mike SPA of Belgium ?
- (A) ₹ 5 lakhs  
(B) ₹ 10 lakhs  
(C) ₹ 15 lakhs  
(D) ₹ 20 lakhs
- 5.2 What is the time limit for completion of assessment of Robert under the Black Money Act, 2015 ?
- (A) 31.03.2021  
(B) 31.03.2022  
(C) 31.03.2023  
(D) 31.12.2022
- 5.3 What is the monetary limit applicable for Megastar Ltd. who is a resident when it wants to get a ruling about its tax liability from the Board for Advance Rulings for the transaction it is proposing to undertake for import of machinery with offshore supply of spares and contract for installation in its premises ?
- (A) ₹ 100 crores in aggregate  
(B) ₹ 300 crores in aggregate  
(C) ₹ 100 crores per annum  
(D) No monetary limit

FRQ

(31)

FRQ

Marks

5.4 Which of the following action of Megastar Ltd. in respect of payment made to Mano Pte would be a proper compliance of law?

- (A) Deduct tax at source @10% on the payment of ₹ 5 crores.
- (B) It is neither royalty nor Equalization levy. Hence, no need to withhold tax on the payment made to Mano Pte.
- (C) Deduct @6% as Equalization Levy.
- (D) Deduct @2% as equalization levy.

5.5 Insertion of which clause in the DTAA between India and Country J would enable taxation of dividend @ 10% instead of 20%?

- (A) Non-discrimination clause
- (B) Most Favoured Nation Clause
- (C) Limitation of benefit clause
- (D) Tax Parity Clause

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

5.6 You are the tax consultant for Megastar Ltd. The Board of directors want you to give a brief outline about the option of preferring MAP in respect of dispute relating to arms length price of the supply of goods. Please comment on the issues eligible for MAP, procedure for resolution by Competent Authorities, time limit for its resolution and time limit for acceptance / non-acceptance of the resolution.

5

FRQ

P.T.O.

(32)

**FRQ**

**Marks**

- 5.7 If Megastar were to file a request for APA beginning financial year 2022-2023 covering the transactions relating to Ministar, SA,
- (a) Can the current outstanding disputes of AY 2018-19 and AY 2019-20 be addressed and resolved using the roll back clause ?
- (b) What would be the significant differences for Megstar (in timing, certainty etc) between selecting MAP remedy as against the roll back clause for resolving the dispute of the earlier years ?
- 5.8 Based on the facts given above Robert and Vishnu, you are required to determine their residential status and their total income for the assessment year 2022-23. Ignore DTAA.

**FRQ**