

Roll No. ....

**Final New Syllabus**

Total No. of Case Study Questions – 3

**Paper - 6 C**

**International Taxation**

Total No. of Printed Pages – 24

Time Allowed – 4 Hours

Maximum Marks – 100

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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 three case study questions. The candidates are required to answer *any two* case study questions out of three.**

Answers in respect of Multiple Choice Questions are to be indicated in capital letters i.e., A or B or C or D as the case may be.

Working notes for the descriptive type questions should form part of the answer.

All questions relate to **Assessment Year 2018-19**, unless stated otherwise in the questions/case studies.

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**Case Study 1.**

Alpha Co Ltd. (ACL), having its registered office in Delhi, is engaged in multiple businesses. It has a Knowledge Process Outsourcing (KPO) service unit at Bengaluru, trading centre at Mumbai and manufacturing unit at Chennai. It has borrowed ₹ 200 crores from a leading bank in India for which 100% guarantee was given by the parent company Gama Inc. of USA. The loan total borrowings of ACL was ₹ 1,000 crores.

**Mumbai Unit**

The unit in Mumbai buys mobile handsets from Gama Inc. The handsets are branded for which royalty at ₹ 100 per handset sold is paid to Gama Inc. Similar handsets to other customers in India are also sold by Gama Inc. The

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credit period offered to Alpha Co Ltd is 2 months, whereas for the other customers, the credit period is 1 month. During the year, 15,00,000 handsets were bought for an aggregate sum of ₹ 2,400 crores from Gama Inc. The purchase could be assumed as uniform throughout the financial year 2017-18. The cost of capital may be adopted as 12% per annum. Similar handsets when supplied to other customers, the Gama Inc. would have billed ₹ 2,640 crores (excluding interest component for the delay beyond 1 month). It may be assumed that the entire purchase has been sold out by 31<sup>st</sup> March, 2018.

### **Bengaluru Unit**

The KPO unit in Bengaluru has been doing services to Gama Inc. The aggregate value of international transaction during the financial year 2017-18 is ₹ 180 crores. The unit incurred employee cost which is 50% in relation to operating expenses. The profit margin declared by the unit is 20%. (*Note:* The benchmark under Safe Harbour Rules is 21% for operating margin with employee cost ranging between 40% and 60%).

### **Kolkata Liaison Office**

The Gama Inc. has a liaison office at Kolkata (opened with the permission of RBI), where the orders are booked for supply of mobile handsets directly to customers in India. The liaison office has no connection with any other unit of ACL. The salary and administrative expenses of liaison office are met directly by Gama Inc. During the financial year 2017-18, the liaison office procured orders for 1,00,000 handsets from various customers and by that Gama Inc. made a profit at 20% amounting to ₹ 50 crores (rupee translated). Assume that the exchange fluctuation did not impact the profit of Gama Inc.

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### **Chennai Unit**

The manufacturing unit at Chennai is engaged in manufacture of automobile spare parts. It paid technical fee of ₹ 100 crores to Gama Inc. during the financial year 2017-18; tax was deducted at source and remitted in May, 2018. The unit also paid commission to overseas agents for booking export orders amounting to ₹ 25 crores for which no tax was deducted at source. It also employed persons for after-sales service in Europe and South Asia, for which salary was paid from India. The total salary payment to overseas employees was ₹ 40 crores and though the payments were made from Chennai, no tax was deducted at source. The payments of commission to the overseas agents were made outside India in foreign currency.

### **Other Information**

The assessment of the assessee, i.e. ACL, for assessment year 2017-18 is pending before the Assessing Officer who referred the matter to Transfer Pricing Officer (TPO) for determination of arm's length price (ALP) in respect of the manufacturing unit at Chennai. The TPO, however, expanded the scope of his work by calling for details in respect of all other units of ACL.

Aggrieved with the expanded scope of work carried out by the TPO, ACL wants to approach the Dispute Resolution Panel (DRP), as similar issues for the assessment years 2015-16 to 2016-17 are pending before the Appellate Tribunal. The management of ACL also wants to enter into Advance Pricing Agreement (APA) with rollback mechanism.

ACL presently proposes to commence a garment manufacturing unit at Kanpur. It wants to buy raw materials from Beta Inc, Singapore. The agreement envisages a monthly supply of goods worth ₹ 30 crores for a period of 3 years. It wants to seek advance ruling in this regard.

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**REQUIRED**

As tax auditor of the company, you are requested to answer the following:

- (a) (i) Determine the arm's length price (ALP) of the transaction of the sale of mobile handsets by Gama Inc. USA to the assessee and its impact on the assessable income for the assessment year 2018-19. **5**
- (ii) Explain the procedures to be followed by the Assessing Officer before making reference to TPO. State whether the TPO can enlarge his scope of work by calling for details of KPO unit, Bengaluru and trading activity at Mumbai when the Assessing Officer has made reference, only in respect of the manufacturing unit at Chennai **5**
- (b) (i) Discuss the impact of non-deduction of tax at source on salary paid to employees outside India and commission paid to overseas agents by the manufacturing unit at Chennai. Also, state the consequence of delayed tax deduction of tax on fees for technical services paid to Gama Inc. **3**
- (ii) Will the profit earned attributable to opening a liaison office at Kolkata by Gama Inc. be chargeable to tax in India? Will the 'Force of Attraction Rule' apply in this case? **4**
- (iii) State the rate at which tax would have been deducted at source on the royalty payment to Gama Inc.. If the royalty payment was disallowed to the extent of ₹ 20 crores; Decide whether the company can seek refund of the excess tax deducted at source on the said royalty payment. **2**
- (c) (i) What is Safe Harbour Rules? Can the assessee avail the benefit of these Rules in respect of the KPO unit? **3**
- (ii) Advise the company on the possibility of approaching Dispute Resolution Panel (DRP) and state how it must be carried out. **4**

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(d) Advise whether the company can go for APA ? Would the rollback mechanism of APA help the company to avoid appeal proceedings which are pending at present ?

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(e) Choose the most appropriate alternative for the following MCQs :

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(i) Alpha Co. Ltd. is required to carry out secondary adjustment if the primary adjustment exceeded

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(A) ₹ 50 lakhs

(B) ₹ 100 lakhs

(C) ₹ 200 lakhs

(D) ₹ 500 lakhs

(ii) Time limit available to ACL for filing modified return after advance pricing agreement (APA) is \_\_\_\_\_ (where the APA was entered into on 1-5-2018).

(A) 31-8-2018

(B) 31-7-2018

(C) 30-11-2018

(D) None of the above

(iii) The sale price of mobile handsets by Gama Inc. to ACL would have been taken as deemed ALP, if the ALP determined under section 92C by applying the most appropriate method does not exceed

(A) ₹ 2,520 crores

(B) ₹ 2,472 crores

(C) ₹ 2,424 crores

(D) Insufficient/irrelevant data.

(iv) ACL can seek advance ruling for the supplies made to Beta Inc, Singapore in relation to its tax liability when the said transaction value is \_\_\_\_\_ or more.

(A) ₹ 10 crores

(B) ₹ 50 crores

(C) ₹ 100 crores

(D) ₹ 500 crores

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- (v) The time limit for AAR to pronounce its ruling from the date of receipt of application of ACL is
- (A) 12 months
  - (B) 9 months
  - (C) 6 months
  - (D) 3 months
- (vi) The advance ruling of the AAR is binding on
- (A) The applicant i.e. ACL
  - (B) Beta Co Ltd. for whom the transaction is proposed by ACL
  - (C) CBDT
  - (D) Appellate Tribunal
- (vii) Gama Inc. availed digital advertising space from Monaco Inc. of Japan for marketing its mobile handsets in India. Gama Inc. paid in Japan, US dollar 10,000 to Monaco Inc. (Assume the Indian rupee value as 6,50,000). The amount of equalization levy payable by Gama Inc. is
- (A) @ 6% ₹ 39,000
  - (B) @ 10% ₹ 65,000
  - (C) @ 40% ₹ 2,60,000
  - (D) NIL
- (viii) The penalty payable for failure to remit equalization levy is
- (A) ₹ 100 for every day during which the failure continues.
  - (B) ₹ 1,000 for every day during which the failure continues.
  - (C) ₹ 10,000
  - (D) None of the above

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- (ix) ACL would not be liable for equalization levy if it was
- (A) situated in North Eastern States
  - (B) situated in the Union Territory of Pondicherry
  - (C) situated in Jammu & Kashmir
  - (D) a domestic company in which public are not substantially interested.
- (x) When a foreign company deputed its employees for rendering service in India, a PE would have been automatically established as per U.N. model of Tax Conventions, where the employees stay in India during the previous year is
- (A) less than 90 days
  - (B) more than 90 days
  - (C) less than 180 days
  - (D) more than 183 days

**Case Study 2.**

Mr. Ram, born in India in the year 1960, left for employment in the United States in October, 1990. His family members, viz; his wife (Smt. Sita) and two sons were then residing at Chennai. He remitted US \$ 50,000 to his wife's joint bank account in Chennai on 16<sup>th</sup> April, 2011. She invested in her name, ₹ 12 lakhs in the shares of domestic companies on 14<sup>th</sup> April, 2012 and ₹ 13 lakhs on 25<sup>th</sup> March, 2015. The consideration for purchase of shares on both the occasions was met in foreign exchange (USD) and the values, as translated in INR terms, have been furnished.

On 28.03.2018, the shares purchased in April, 2012 were sold for ₹ 14 lakhs and the shares purchased in March, 2015 were sold for ₹ 17.50 lakhs. For both purchase and sale of shares, STT of ₹ 1,200 was paid.

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| Date       | Average of Telegraphic Transfer buying rate and selling rate of 1 US Dollar in Indian rupees. |
|------------|---|
| 14.03.2012 | ₹ 60  |
| 25.03.2015 | ₹ 65  |
| 28.03.2018 | ₹ 70  |

Mr. Ram owned a vacant site at Chennai which had been acquired on 14.10.2009 for ₹ 7,40,000. It was sold on 20.03.2018 for ₹ 35 lakhs to Mr. Laxman, his younger brother (a resident at Chennai). The stamp duty valuation of the property was ₹ 40 lakhs. The entire sale proceeds of vacant site and shares were used for acquiring a residential property at Malaysia. He owns only one residential house in Mumbai and a commercial apartment at Singapore, owned since October, 2010.

**Note :** Cost inflation indices :

F.Y. 2009-10 = 148 ; F.Y. 2011-12 = 184 ; F.Y. 2012-13 = 200 ;

F.Y. 2014-15 = 240; F.Y. 2015-16 = 254; and F.Y. 2017-18 = 272.

Smt. Sita (born and brought up in India) returned to India permanently in 2006. She has assets outside India in the form of immovable property, jewellery and bank deposits in Cayman Islands. Proceedings were initiated under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 ("BM Act") in June 2017. She owns a residential house property at Chennai besides an apartment in the United States occupied by Mr. Ram. She had been moving between India and USA frequently.

Mr. Ram's first son Mr. Lava (born in India in 1985), an engineer, left India in May 2012 for permanently settling down in Australia. He acquired 50,000, 8% debentures of ₹ 100 each in a listed company in India, by remitting foreign exchange in May, 2014. He received debenture interest on

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28.03.2018 for the year. He remitted ₹ 1 lakh by way of premium on life insurance policy taken in the year 2006 with capital sum assured of ₹ 12 lakhs. He has dividend income from listed domestic companies of ₹ 25,000 for the year.

Mr. Ram's second son Mr. Kushwah (born in the year 1987 in India) is engaged in textile business at Surat. He has not filed return of income in India since assessment year 2010-11. He has a joint bank account in the United States along with Mr. Ram, with operating rights. The Assessing Officer has issued notice under section 148 for the assessment year 2010-11 onwards on 20<sup>th</sup> March, 2018.

Mr. Ram, his second son Mr. Kushwah and Mr. Ram's 4 non-resident friends, formed a company by name Birta Inc. in the United Kingdom on 01.04.2015, which is engaged in trading business. The registered office of the company is in Leicester (UK). The company has a branch in India since 01.06.2015. The company is a subsidiary company of Tatla Inc., Singapore in which the 4 non-resident friends hold 100% shareholding. The entire goods traded by Birta Inc. in the UK and in India are purchased from Tatla Inc., Singapore.

The total activity profile of Birta Inc. is given below:

| Particulars   | Financial year |         |         |
|---|----------------|---------|---------|
|   | 2015-16        | 2016-17 | 2017-18 |
| Average value of total assets in India<br>(₹ in Crores) | 180            | 220     | 300     |
| Total income of the company (₹ in<br>Crores)            | 90             | 100     | 180     |

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|  |       |       |       |
|--|-------|-------|-------|
| Total payroll expenses incurred by the company (₹ in Crores) | 180   | 200   | 200   |
| Average value of total assets of the company (₹ in Crores)   | 400   | 450   | 500   |
| Total average number of employees in India                   | 1,000 | 1,200 | 1,500 |
| Total turnover (₹ in Crores)                                 | 1,000 | 1,300 | 1,700 |
| Dividend from Indian companies (₹ in Crores)                 | 50    | 60    | 100   |
| Payroll expenses in India (₹ in Crores)                      | 100   | 105   | 110   |
| Total average number of resident employees in India          | 900   | 1,100 | 1,300 |
| Turnover in India (₹ in Crores)                              | 400   | 700   | 900   |
| Total average employees of the company for the year          | 2,000 | 2,200 | 2,200 |

**Note :** All the Board meetings of the company were held outside India during the financial year 2017-18.

Ms. Karuna Kapoor born in the USA was appointed as the CEO of Birta Inc. in India. She joined duty on 01.09.2017 at Mumbai. She was paid salary of ₹ 140 lakhs upto 31.03.2018. Tax was deducted on salary before 31.03.2018 but was remitted only on 14.08.2018.

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Ms. Karuna Kapoor was born and brought up in the USA, but her grandparents were born in Karachi before the year 1940. She has never visited in India previously.

**REQUIRED**

You are requested to answer the following issues arising from the above facts :

- |     |       |  |   |
|-----|-------|--|---|
| (a) | (i)   | Mr. Ram wants you to compute his total income and tax thereon, including capital gains tax payable by him for the assessment year 2018-19.   | 6 |
|     | (ii)  | Mr. Laxman seeks your advice as regards deduction of tax at source on the payment made to Mr. Ram and tax implication of the transaction of purchase of land from brother Mr. Ram.                       | 4 |
| (b) | (i)   | Compute the total income of Mr. Lava and advise on the possibility of availing the benefits of Chapter XII-A deductions.   | 4 |
|     | (ii)  | Mr. Kushwah wants to know whether the Assessing Officer can issue notice under section 148 for the assessment year which is beyond 6 years ? Advise him.   | 2 |
| (c) | (i)   | Apply POEM test on Birta Inc. for the assessment year 2018-19 and briefly discuss the consequences thereof.  | 5 |
|     | (ii)  | After the POEM test, discuss briefly the legal procedure to be followed by the Assessing Officer for making assessment of Birta Inc.   | 2 |
|     | (iii) | Will the Birta Inc. be liable for book profit tax under section 115JB for the assessment year 2018-19 ? State the exceptions from the applicability of book profit tax in the case of foreign companies. | 4 |
| (d) |       | Determine the residential status of Ms. Karuna Kapoor for the Assessment Year 2018-19.   | 3 |

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- (e) Choose the most appropriate alternative for the following MCQs :
- (i) When Smt. Sita has undisclosed asset located outside India, what is the time limit within which it is chargeable to tax under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 ("BM Act") ?
- (A) Within 16 years from the end of the financial year in which it was originally acquired.
- (B) Within 10 years from the end of the financial year in which it was originally acquired.
- (C) Within 6 years from the end of the financial year in which it was originally acquired.
- (D) No time limit and it would be chargeable to tax when it comes to the notice of the Assessing Officer.
- (ii) When Smt. Sita owns an undisclosed asset outside India being immovable property, its value for the purpose of assessment under the BM Act, would be
- (A) Fair market value as on 01.04.1981.
- (B) Fair market value as on 01.04.2001.
- (C) Higher of cost of acquisition or open market value on the valuation date as per valuation report from a valuer recognized by the foreign country.
- (D) Lower of cost of acquisition or open market value on the valuation date as per valuation report from a valuer recognized by the foreign country.

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- (iii) When Smt. Sita owned a property/asset outside India but has not disclosed the same for income-tax purpose, she can be prosecuted under the BM Act for
- (A) 3 months
  - (B) Not less than 6 months but which may extend to 7 years
  - (C) Not less than 3 months but which may extend to 3 years
  - (D) None of the above
- (iv) The time limit for completion of assessment of Smt. Sita under the BM Act, is \_\_\_\_\_.
- (A) 1 year from the end of the financial year i.e. 31.03.2009
  - (B) 2 years from the end of the financial year i.e. 31.03.2020.
  - (C) 1 year from the end of the impugned month i.e. 30.06.2018.
  - (D) None of the above
- (v) When Smt. Sita files appeal before the Appellate Tribunal under the BM Act, the appeal fee payable by her is
- (A) ₹ 5,000
  - (B) ₹ 10,000
  - (C) ₹ 25,000
  - (D) ₹ 50,000
- (vi) The time limit for filing appeal before the CIT (Appeals) under BM Act, is \_\_\_\_\_ from the date of service of the notice of demand.
- (A) 30 days
  - (B) 21 days
  - (C) 15 days
  - (D) 60 days

- (vii) The four tie-breaker tests to be applied to determine the residence for Smt. Sita are (a) habitual abode; (b) national; (c) permanent home; and (d) centre of vital interests. The correct sequence of tests is
- (A) (d), (c), (a), (b)
  - (B) (c), (a), (d), (b)
  - (C) (a), (c), (b), (d)
  - (D) (c), (d), (a), (b)
- (viii) In case Birta Inc. is an international group having Indian parent, the threshold limit of group revenue in order to be liable for Country by Country (CbC) reporting is ₹
- (A) 1,000 crores
  - (B) 2,000 crores
  - (C) 5,500 crores
  - (D) 5,000 crores
- (ix) Tatla Inc., Singapore is the holding company of Birta Inc., A foreign company having following income is chargeable to tax in India even in the absence of PE :
- (A) Interest
  - (B) Dividend
  - (C) Royalty
  - (D) All the above
- (x) The tax deducted on salary paid to Ms. Karuna Kapoor which was remitted in May 2018 is eligible for
- (A) 100% disallowance U/s.40(a)(i)
  - (B) 30% disallowance U/s.40(a)(ia)
  - (C) Fully allowable
  - (D) 50% disallowance U/s.40(a)(ii)



**Case Study 3.**

ABC LLP is a firm of Chartered Accountants providing services for diversified activities in the fields of Audit, Accounts and Taxation. The International Taxation division of the firm is known for having the expertise in the issues and matters relating to International Taxation and Transfer Pricing. The firm has been contacted for seeking their expert opinion on the issues and matters relating to International Taxation and on Transfer Pricing by various constituents/entities and the professional Chartered Accountants. Some of the matters/issues referred by different entities/constituents/professionals for obtaining their expert opinion are:-

**A. Matters referred by a small firm of Chartered Accountants**

The partners of the firm have sought opinion in respect of the matters of their clients for giving reply to the tax authorities relating to the show cause notice issued to tax the income earned by each of the following clients and opinion on other matters so raised by them under the provisions of the Income-tax Act, 1961:-

- (i) Techno Engineering, GMBH, a German foreign Company entered into an agreement for the execution of electrical work in India for Super Thermal Power Ltd. Separate payments were made towards drawings and designs by Super Thermal Power Ltd. to the German Company which were termed as "Engineering Fee". The German Company is not having any permanent establishment (PE) in India for doing the business and operates from Germany only.

- (ii) Engineers and Engineers Pvt. Ltd. (EEPL) of the UK; a non-resident foreign company, entered into a collaboration agreement on 25.06.2017 with TMT (India) Ltd., an Indian Company. The UK Company was issued debentures by TMT (India) Ltd. for ₹ 120 lacs on 1.7.2017 bearing interest @ 10% p.a. in consideration for providing the technical know-how to TMT (India) Ltd. by the UK Company.

TMT (India) Ltd. also paid the interest on the debentures EEPL which was due for the relevant period ended on 31.3.18.

- (iii) XYZ Ltd. is an Indian Company located in Special Economic Zone (SEZ) in which Qilla Inc., a US Company is holding 32% shares and voting power. Following transactions were effected between these two companies during the year 2017-18 :-

- (a) XYZ Ltd. sold 1,50,000 pieces of T-shirts at \$ 3 per T-shirt to Qilla Inc. The identical T-shirts were sold by XYZ Ltd. to an unrelated party namely Konny Inc. at \$ 4 per T-shirt.
- (b) XYZ Ltd. borrowed loan of \$ 5,00,000 from a foreign lender on the strength of guarantee given by Qilla Inc. and for the purpose of giving guarantee, XYZ Ltd. paid \$ 20,000 as guarantee fee to Qilla Inc. However, for the same amount of loan taken by an unrelated party, Qilla Inc. had charged guarantee fees of \$ 15,000.
- (c) XYZ Ltd. paid \$ 20,000 to Qilla Inc. for getting the details of various potential customers to improve its business outside India in global market. Qilla Inc. provided the same services and details to an unrelated party for \$ 15,000.

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(iv) During the previous year 2017-18, Mohammed Suleman (MS) was treated as resident in India and also in 'X', a foreign country, with which India had entered into Double Taxation Avoidance Agreement (DTAA). The particulars of assets and income of MS for the year ended 31.3.18 are:-

- (a) He owns immovable properties (including residential house) in both India and country 'X'.
- (b) He earned business income of ₹ 50 lacs from rubber estates in the foreign country 'X' during the financial year 2017-18. No business income was earned in India.
- (c) He sold a house property situated in foreign country 'X' which had resulted in short-term capital gain of ₹ 20 lacs during the year to him and was subject to tax in 'X' country.
- (d) He has derived rental income of ₹ 6 lacs from the property located in India which was let-out during the year.
- (e) He was also having a residential house at Lucknow besides the let out property in India which was used by him for his stay when he was visiting India.

MS had not carried out any business in India and was also not having any permanent establishment in India during the year.

Article 4 of the Double Taxation Avoidance Agreement between India and the foreign country 'X' where also MS is a resident, provides:

*"Where an individual is a resident of both the Contracting States, then he shall be deemed to be resident of the Contracting State in which he has permanent home available to him. If he has permanent home in both the Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests)".*

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**B. Matter referred by a Company**

Central India Offshore Pvt. Ltd. (CIOP) is registered under the Companies Act, 2013 and having its registered office located at Hyderabad, provided the following information :

- The company CIOP is a wholly owned subsidiary (WOS) of CCPI, a company incorporated in UK which was having two other subsidiaries in the US and Canada (collectively referred to as “overseas entities”). The two subsidiaries of US and Canada were engaged in the business of supplying gas and electricity to consumers across US and Canada.
- Overseas entities had outsourced their back office support functions such as consumers billings/ debt collections/ monthly job reporting to third party service providers (vendors) in India [Central India Offshore Pvt. Ltd. (CIOP)].
- CIOP entered into a Service Agreement with the overseas entities to provide locally based interface between the overseas entities and the vendors in India, and was required to (a) ensure that the vendors complied with the requisite quality guidelines; (b) provide management assistance, including advice on expanding the scope of potential services in India. CIOP was compensated for all such activities on cost plus a fixed mark up basis.
- CIOP and the overseas entities entered into a Secondment Agreement under which the overseas entities seconded some of their employees (assignees) with the requisite knowledge and experience to work with CIOP in India.

The key terms of the Secondment Agreement are as under:-

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1. Overseas entities would second the assignees to CIOP at their request as and when being made.
2. The assignees will integrate into CIOP's organization.
3. Rules of service of CIOP will be applicable to the assignees.
4. The assignees would work under the direct control and supervision of CIOP.
5. The overseas entities would not be responsible for any error or omission on the part of the assignees.
6. CIOP would bear the risks and rewards of the work of assignees.
7. CIOP was empowered to specify the scope and nature of the assignees' work and the requisite results to be achieved by them.
8. Assignees to retain their entitlement to participate in CCPI retirement/social security plans and other benefits in accordance with the policies of CCPI and the regulations of the Country.
9. CIOP would bear the monthly costs of employment of assignees, including their basic salary, cost of participation in retirement/social security plans, other compensation and benefits as applicable and any other costs as agreed between CIOP and the overseas entities.
10. CIOP could terminate the Secondment Agreement after a notice.

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11. Each assignee would enter into an individual agreement with CIOP which would provide for specific terms of work in India.
12. The salary of all the assignees will be disbursed overseas by the overseas entities and all such amounts to be recovered from CIOP on actual basis.

**REQUIRED**

In the backdrop of the aforesaid matters referred to ABC LLP which are being entrusted by them to you, provide your expert opinion/views in the context of provisions contained under the Income-tax Act, 1961 supported with workings to the following questions on the matters so referred by the firm of Chartered Accountants and by the Company:-

- (a) (i) Will the payment made towards drawings and designs by Super Thermal Power Ltd. to Techno Engineering be subject to tax in India, and if so, why ? 4
- (ii) What treatment shall be given to the debentures of ₹ 120 lacs issued by TMT (India) Ltd. to Engineers and Engineers Pvt. Ltd. of UK on 1.7.2017 ? Will the interest earned on such debentures be taxed in India in A.Y. 2018-19 and if so, on what amount, the tax shall be charged ? Answer to be based only on statutory provisions and ignoring the provisions of Double Taxation Avoidance Agreement (DTAA) between India and UK. 4
- (iii) Explain the relationship of the companies XYZ Ltd. and Qilla Inc. of US and the nature of various transactions entered into between them during the year 2017-18. Compute the adjustments, if required to be made to the total Income of XYZ Ltd. under transfer pricing provisions. *Take the value of one US dollar as ₹70.* 7

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(iv) Examine with reasons and provide detailed opinion as to whether the business income arising in foreign country 'X' from the rubber estate and the capital gains in respect of sale of the property situated in that foreign country can be taxed in India in the hands of MS during the A.Y. 2018-19. State further as to taxability of the income derived by him in India of the let out and other house property.

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(b) (i) Who will be considered as the employer of the employees (assignees) seconded by the overseas group entities to Central India Offshore Pvt. Ltd. (CIOP) in India and who shall be responsible for making payment of salary to these seconded employees for working with CIOP in India ? What will be the nature of payment made by CIOP for the assignees in the hands of overseas entities under the Act and whether such payments made by CIOP on cost plus mark up basis shall be subject to provisions of TDS ?

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(ii) In the context of provisions contained under the Income-tax Act, 1961, and by analyzing the terms and conditions as specified in the secondment agreement so entered into amongst the overseas entities and CIOP, examine whether there exists any permanent establishment (PE) in India of the overseas entities and if so, what will be its nature ?

4

**FLKS**

**P.T.O.**

(22)

**FLKS**

**Marks**

- (c) Choose the most appropriate alternative for the following MCQs : 10×2  
=20
- (i) Mr. A holds 40% of share holding in XYZ Ltd., and 55% in ABC Ltd. However, XYZ Ltd., and ABC Ltd., do not have any share holding in each other. Select which shall be treated as an associate enterprise or deemed associate enterprises, with reference to specified international transactions with Mr. A :
- (A) ABC Ltd. (B) XYZ Ltd.  
(C) Both ABC Ltd. and XYZ Ltd. (D) None of the above
- (ii) The excess money determined because of primary adjustments is required to be repatriated within the stipulated time and if not done so, then the same is treated as an advance subject to change of interest; where the international transaction is denominated in foreign currency, the rate of interest to be charged on such advance amount shall be at LIBOR as on 30<sup>th</sup> September of the relevant previous year plus:-
- (A) 3.25% (B) 3%  
(C) 2.75% (D) 2%
- (iii) In respect of transactions/arrangement between XYZ Ltd., and Quila Inc., if the Department wants to apply GAAR, the tax benefit arising to \_\_\_\_\_ must be seen, the threshold limit being ₹ \_\_\_\_\_
- (A) XYZ Ltd. only, 3 crore  
(B) Both XYZ Ltd. and Quila Inc., 2 crore  
(C) Quila Inc. only, 2 crore  
(D) Both XYZ Ltd. and Quila Inc, 3 crore

**FLKS**

(23)

FLKS

Marks

- (iv) XYZ Ltd., had acquired an office building in Spain on 22-4-2015 for a consideration (as stated in INR) of ₹ 360 lakhs. Of this ₹ 90 lakhs was from sources on which taxes had been properly paid. This asset comes to the knowledge of the Assessing Officer on 14-7-2017. The FMV of the house as on 1-4-2017 is ₹ 500 lakhs and as on 14-7-2017 is ₹ 600 lakhs. As per the provisions of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 [BM Act], the FMV to be adopted is the one prevailing as on
- (A) 22-4-2015 (B) 1-4-2017  
(C) 14-7-2017 (D) None of the above
- (v) Continuing the earlier problem/MCQ, the quantum of tax payable under the BM Act will be ₹
- (A) 108 lakhs (B) 81 lakhs  
(C) 112.5 lakhs (D) None of the above
- (vi) The factor/factors to be considered in taking the decision or deciding whether a country is being tax have or not is/are;
- (i) Nil rate of tax  
(ii) Lack of transparency  
(iii) Limited regulatory supervision  
(iv) Exchange of information
- (A) (i), (ii) & (iii) (B) (i), (ii) & (iv)  
(C) (ii) & (iv) (D) (i), (ii), (iii) & (iv)
- (vii) EEPL has sought to obtain an advance ruling from the Authority for Advance Ruling. Such ruling is
- (A) Applicant-specific (B) Transaction specific  
(C) Both (A) and (B) (D) Neither (A), nor (B)

FLKS

P.T.O.



- (viii) Assuming (only for this MCQ) that EEPL, for receiving trade inquiries from customers has set up a liaison office in India. Work of the liaison office is to forward the trade inquiries to them as well as to negotiate and enter into contracts on behalf of ABC LLC with customers. The existence of liaison office for the purpose of taxability of income of ABC LLC is having :
- (A) Neither existence of business connection nor of PE
  - (B) Liaison office is having independent status
  - (C) Existence of business connection
  - (D) Services of a dependent agent
- (ix) The following BEPS Action Plan seeks to neutralize the effects of hybrid mismatch arrangements :
- (A) Action Plan 2
  - (B) Action Plan 4
  - (C) Action Plan 5
  - (D) None of the above
- (x) The residential status of an individual who is treated as resident in India as well as in the foreign country with which India had entered into Double Taxation Avoidance Agreement (DTAA) is to be determined as per Article contained in the DTAA between both the Contracting States. The rule applied to judge the individual's closer personal economic relations is known as;
- (A) Tax benefit rule
  - (B) Rule of examination of vital interest
  - (C) Rule under OECD Model
  - (D) None of the above