

PAPER – 5: STRATEGIC COST MANAGEMENT AND PERFORMANCE EVALUATION

CASE STUDY

Ethical and Non- Financial Considerations

Food & Beverage



1. **Nutty Bites** produces many edible snacks that are very popular especially among children. Peanuts, Peanut oil are essential ingredients in many of its products. They are currently facing this ethical issue –

“Medical studies have indicated peanut allergic reactions are on the rise. The prevalence is more profound among children. Reactions can range from hives around the mouth to potentially life threatening reactions when exposed even to the slightest trace of peanuts. There is growing media campaign to force companies like Nutty Bites to make disclosure about the presence of peanut on its package labelling”

Nutty Bites is a mid-size company that has a growing market. Risk to peanut exposure can come not just from the presence of peanuts in its products. Some of its bought-in ingredients (raw material input) are cooked in peanut oil. There are risks of “cross-contamination” amongst products. Let us say, an equipment has been used produce cookies that has peanuts. Next, the equipment is used, without being cleaned, to produce chips that does not have peanuts as an ingredient. Some portion of the peanuts / peanut oil could contaminate that specific batch of chips produced. Since labels of chips would not mention “peanuts” as an ingredient, it poses a potential risk of causing allergic reaction to a customer unaware of this contamination.

Management of Nutty Bites has called for a meeting to discuss this issue. *“The issue need not be addressed at all. After-all Nutty Bites is doing nothing against the law”* is the opinion of many members on the board of the company.

Required

- (i) EXPLAIN why Nutty Bites should attempt to address this issue.
- (ii) STATE potential benefits that business can garner by addressing this issue.
- (iii) RECOMMEND, with reasons, the avenues available to Nutty Bites to address this ethical issue.
- (iv) EVALUATE the benefits and drawbacks of these recommended solutions.

Outsourcing**Hotel Industry**

2. **Staywell Hotels** was established 10 years ago as a budget hotel in the vicinity of Mumbai airport. It provides accommodation for cost-conscious travelers visiting the city for short stay lasting a day or two. Typically, a room would provide comfortable beds, high speed internet connection, air conditioning facility, coffee machine, fridge and free television service. Food service based on a limited menu is provided on the premises. It has few conference rooms that provide space for guests to hold business meetings. This saves them precious time otherwise wasted in travelling on congested city roads. The hotel provides free shuttle service to and from the airport at specific times during the entire day. Hotel's proximity to the airport, the free shuttle service and convenience of conducting work at the conference rooms have been marketed to attract guests to stay here. The guests also comprise of people who are in transit between airports. Also, when there are long-duration delays in flight operations due to which passengers need to be provided overnight accommodation, few airline operators host their guests here. Like all other guests, these airline operators are also interested in Staywell for its location and low-cost room rental.

Over the past decade, management of Staywell has ploughed in profits from this establishment to acquire similar properties in other major cities. They function based on business model similar to the original establishment in Mumbai. All of them are now functioning as well-established budget hotels near city airports for cost-conscious business travelers. In all, Staywell hotels have 18 properties spread over 15 cities. To keep its costs of operations within control, Staywell hotels has outsourced its cleaning and food service to specialized vendors. Cleaning service includes cleaning of kitchen crockery, bedding, laundry and housekeeping of premises. The entire set of activities related to preparation of food has been outsourced. Vendor service has been satisfactory, barring few instances where guests have complained of unhygienic rooms or non-palatable food service. However, due to high guest volume and quick turnover of guests due to short stay periods, this has never been a hindrance to business.

This business model has been profitable since its establishment. Staywell Hotels has a sizeable market share in this segment. Competition has increased in the recent past. Price wars have put pressure on profit margins in this segment. The management plans to continue to operate in this segment to maintain its market presence. At the same time, to sustain business in the long term, the management of Staywell Hotels now wants to foray into developing properties for luxury resorts. Target guest segment are vacationing tourists interested in an enjoying a laid-back time in scenic places. These guests would not mind paying premium for availing good quality service.

Required

- (i) IDENTIFY and EXPLAIN the various primary activities of Staywell in its value chain.
- (ii) IDENTIFY and EXPLAIN the stage of product life-cycle.
- (iii) EVALUATE the risks of outsourcing cleaning and food services for the luxury resort properties.

***** CASE SCENARIO*****

Ethical and Non- Financial Considerations

Clothing Industry



3. **Sprinter Sportswear** is a multi-national company with that has a market presence in 23 countries. Yet, the company does not own even a single factory. Production has been entirely outsourced to 175 factories located in places where cost of operations is low. Factories cater entirely to Sprinter's procurement demands. These factories operate independently, Sprinter plays no role in their operations. Procurement from this supplier network is the stored at distribution centers from where dispatches are made to wholesalers of sportswear and apparel.

Recent news reports from some of the Third World foreign countries have indicated that high child labor employment. Child labor although against the law in these countries is resorted in order to keep cost of operations low. Factories in these countries do not directly employ children. Instead they subcontract the work to contractors. These contractors in turn hire children illegally without the local knowledge of local law enforcement authorities. In addition, working conditions in these factories are very unhygienic and oppressive.

Sprinter initially turned a blind eye to this problem, since it only acts as a customer of these factories. Sprinter, as a company, has done nothing illegal as part of company operations. However, increased focus given to corporate social responsibility, has forced the Board members to consider taking action against such factories.

Required

- (i) DISCUSS why Sprinter sportswear should attempt to address this issue.
- (ii) SUGGEST some of the actions that the company can take to address this issue.

QUESTIONS

Performance Measurement

Fast Food Company



4. Established in the year 1999, **FF Company** is the pioneer of fast food in Southampton. It delivers a truly fresh, affordable, made to order sandwiches, burger, and other meal in a friendly and relaxed environment. The popularity of the sandwiches, burger etc. continued to grow over the decades but one thing remained the same and that was its core values and principles:

- Always provide exceptional service to valued guests;
- Provide the highest quality menu items at a price everyone can afford and enjoy; and
- Keep operating costs low and ensure to have great systems in place and never stop improving.

It provides a comfortable place for people to unwind over interesting conversations. From the beginning, as it continues to grow, it is guided by passion for delighting customers by serving fresh, delicious food right in front of customer.

The performance report* for FY 2018-19 was presented at the management committee meeting as follows:

Particulars	Budget	Actual	Variance
Sales / Production (no. of burgers)	2,00,000	1,65,000	(35,000)
Sales (£)	10,50,000	8,46,450	(2,03,550)
Less: Variable Costs (£)	6,33,000	5,37,075	95,925
Less: Fixed Costs (£)	1,57,500	1,65,000	(7,500)
Profit	2,59,500	1,44,375	(1,15,125)

* *burger segment*

The Management Accountant of FF believed that the size of the fast-food market deriving the budget number of burgers to be sold is over-estimated. He has computed the value of the sales volume contribution planning variance to be 26,062.50 adverse.

Further, the report also included customer's feedback and the majority of comments were regarding delay in service time. One of feedback was as follows:

"I ordered two burgers at 2:10 pm. After half an hour (30 minutes) of waiting I called the waiter and asked him what happened? he told me that he will check with kitchen. I got the order after 45 minutes of waiting, this cafe is not good in delivery time"

The budgeted data shown in the table is based on the assumption that total market size would be 4,00,000 units.

Required

- (i) PREPARE a reconciliation statement of budgeted profit to actual profit through marginal costing approach in as much detail as possible.
- (ii) EXPLAIN the implications of the reconciliation statement.
- (iii) Management is worried about customer's feedback. ADVISE measures to improve delivery service time.

Transfer Pricing

5. A manufacturer has two divisions, Division A and Division B. Division B produces components that are used by both Division A as well as external customers. Division A gets its entire requirement for the component from Division B.

The annual production capacity of Division B is 100,000 units. The division operates at full capacity, with no inventory at the beginning and end of the year. It sells its components to external customers at ₹4,000 per unit. Variable cost of production for the component is ₹2,750. Internally, it transfers its components to Division A factoring any opportunity cost in the form of lost sales. Total sales of Division B were ₹36 crores, of which sales to external customers was ₹20 crores.

As per company policy, demand from Division A has priority over external customers. This year, there was an additional demand from external customers for 18,000 components. However, since Division B operated at full capacity, this demand was not catered to.

Required

- (i) ANALYZE the Sales in terms of ₹ and units made by Division B to both external and internal customers.
- (ii) RECOMMEND the transfer pricing range that would promote goal congruence between Divisions A and B.
- (iii) DISCUSS the effect of changes in external demand on the transfer price for the company, assuming the current policy continues.

Cost of Quality

6. **H Automobile Group** is among top 20 business houses in India. It has been founded in the year 1930, at the height of India's movement for independence from the British, the group has an illustrious history. H's footprint stretches over a wide range of industries, spanning automobiles (two wheelers manufacturer and three wheelers manufacturer). H's headquarter is located at Hyderabad. Bike Production is one of segment of H Group. Management of H wants to analyse the following actual information for the April:

Cost Data

Customer Complaints Centre Cost	35 per hr.
Equipment Testing Cost	18 per hr.
Warranty Repair Cost	1,560 per bike
Manufacturing Rework Cost	228 per bike

Volume and Activity Data

Bikes Requiring Manufacturing Rework	3,200 bikes
Bikes Requiring Warranty Repair	2,600 bikes
Production Line Equipment Testing Time	1,600 hrs.
Customer Complaints Centre Time	2,000 hrs.

Additional Information

Due to the quality issues in the month, the bike production line experienced unproductive 'down time' which cost ₹ 7,70,000. H carried out a quality review of its existing suppliers to enhance quality levels during the month at a cost of ₹1,25,000.

Required

- PREPARE a statement showing 'Total Quality Costs'.
- ADVISE any TWO measures to reduce the non- conformance cost.

Special Order Decision**Fire Extinguisher Supplier**

7. **N2 Co.** is the manufacturer and supplier of firefighting and safety equipment for industrial use and follows the international quality standards and uses the high grade raw material. It is a

fast-growing brand that protects millions of people across the India, every single day. N2 has been offered a bid on a prospective export contract for 20,000 commercial fire extinguishers with following specification from USA buyer and the delivery terms is FOB.

“two-gallon cylinder holding 10 pounds of multi-purpose dry chemical at 380 PSI”

N2 is exporting first time. The price computation per fire extinguisher is as follows:

	₹	₹
Direct Material		
Circle Part Cost	620	
Necking Part	30	
Bottom Part	50	
Fire Extinguisher Powder	590	
Heat Process	50	
Nozzle	60	
Meter	20	
Pipe	50	
Nitrogen	30	1,500
Direct Labor (2 hrs. × ₹40)		80
Leakage Testing		50
Variable Overheads (including packing)		214
Export Clearance Charges on FOB term		36
Fixed Overhead		100
Total		1,980
Add: Markup @ 10%		198
Price		2,178
USD to INR		67
Price in USD		32.51

After quotation of USD 32.51, the buyer is negotiating the price and ready to pay only USD 28.50.

Required

ADVISE whether it is worth accepting at USD 28.50 considering other factors.

Life Cycle Costing

8. **Mould & Dies (M&D)** was established in 1980 and has enormous wealth of experience in the mould manufacturing industry and serves wide range of plastic moulds all over nation. Over the past decade, M&D has developed the reputation for quality products & services for customer focused approach. It deals in injection moulds, blow moulds, die sets, moulds base etc.

With a state-of-the-art infrastructure facility, M&D is able to meet the qualitative and quantitative demands of its clients. Its vision & mission is to provide high class manufactured products by using best quality raw materials.

M&D has developed a new product "M" which is about to be launched into the market and anticipates to sell 80,000 of these units at a sales price of ₹300 over the product's life cycle of four years. Data pertaining to product "M" are as follows:

Costs of Design and Development of Molds, Dies, and Other Tools	₹8,25,000
Manufacturing Costs	₹125 per unit
Selling Costs	₹12,500 per year + ₹100 per unit
Administration Costs	₹50,000 per year
Warranty Expenses	5 Replacement Parts per 25 units at ₹10 per part; 1 Visit per 500 units (Cost ₹500 per visit)

Required

- COMPUTE the product "M"'s 'Life Cycle Cost'.
- SUGGEST two ways to maximize "M"'s lifecycle return.

Note: Ignore time value of money

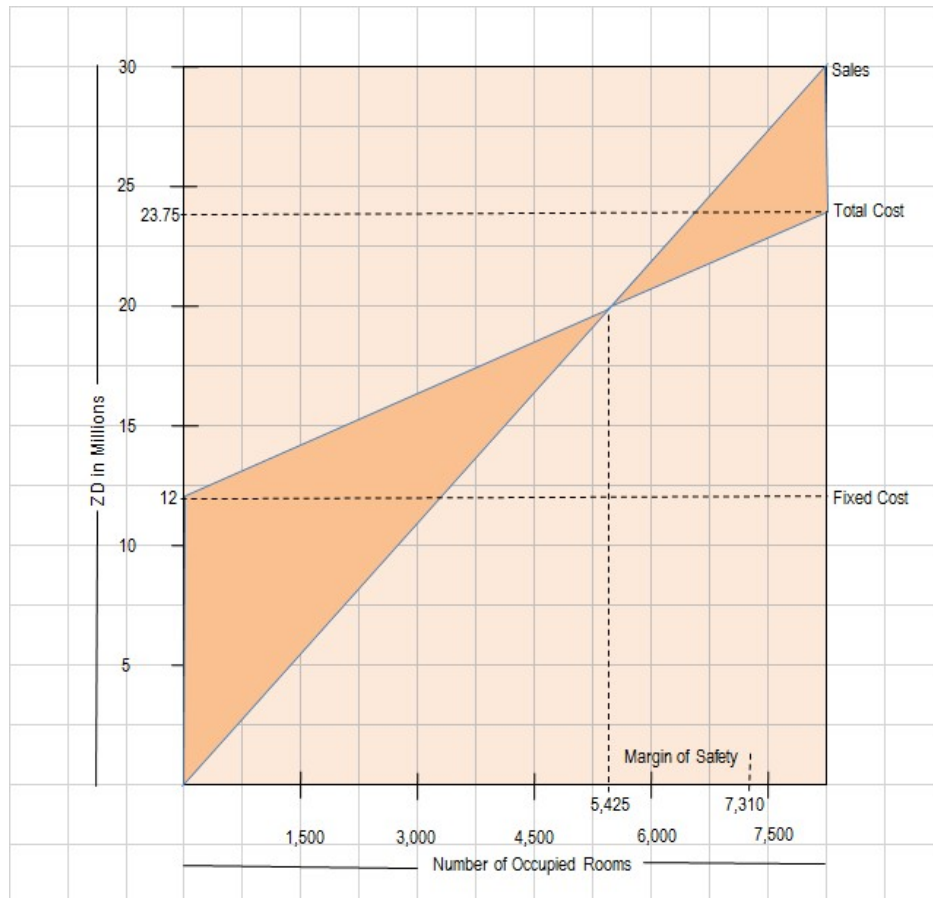
CVP Analysis

9. **Hotel Nikko**, Zeeland, an affordable leisure hotel resort is an ideal retreat to escape, unwind and enjoy peace of mind. Set amid expansive tropical greenery in the enclave of Zeeland, Hotel Nikko is designed for pleasure, where services reign supreme and Italian-style architecture of its 25 classic rooms harmonize with nature. Hotel Nikko, Zeeland is a beachfront resort that features a good choice of swim-up pool bar, gym, and variety of restaurants. A wide array of water sport activities like surfing, sailing, jet skiing etc. are available from beach operators at walking distance. The hotel is synonymous with enjoyment and value for money, with a large choice of very attractive "All Inclusive" packages.

Nikko charges guests ZD 2,700 per room per night, irrespective of single or double occupancy. The variable cost is ZD 900 per occupied room per night. The Nikko is available throughout 365 days a year and has a 75% budgeted occupancy rate. Fixed costs are budgeted at ZD 9 million and are incurred evenly during the year.

During the second quarter (Q2) of the year, usually the room occupancy rates remains substantially below the levels expected at other quarters of the year. Nikko is expecting to sell 900 occupied room nights during Q2. Management is considering strategy to improve profitability, including closing the Nikko for the duration of Q2 or adopting one possible option as follows –

There is scope to extend the Nikko by creating enough space to run a Rustic Chic, Italian Style restaurant to serve its guests. The annual revenues, costs and sales volumes for the combined operations are given in the following graph–



Note

Zeeland's home currency is the ZD.

Required

ANALYZE the profit improvement plan.

Balanced Scorecard

10. **B. Steels** is a leading manufacturer of flat and long products and have state-of the-art plants. These plants manufacture value added products covering entire steel value chain right from coal mining to manufacturing Pig Iron, Billets, HR Coils, Black Pipe/GI Pipe, Cable Tapes etc. conforming to international standards. The rock-solid foundation combined with nonstop upgradation and innovation has enabled the B. Steels to surpass its goals constantly. Its vision and values for sustainable growth is balancing economic prosperity and social equality while caring for the planet. It is preparing its balanced scorecard for the year 2018-19. It has identified the following specific objectives for the four perspectives.

▪ Improve post-sales service	▪ Improve employee morale	▪ Improve employee job satisfaction
▪ Increase gross margin	▪ Increase number of customers	▪ Increase profitability of core product line
▪ Increase plant safety	▪ Increase customer retention	

B. Steels has collected Key Performance Indicators (KPIs) to measure progress towards achieving its specific objectives. The KPIs and corresponding data collected for the year 2018-19 are as follows:

Key Performance Indicator	Goal	Actual
Average replacement time (number of days)	2	1.5
Gross margin growth percentage	15%	16%
Number of customers	15,000	15,600
Number of plant accidents	0	2
Percentage of repeat customers	83%	81%
Core product line profit as a percentage of core-product line sales	5%	4.4%
Employee turnover rate (number of employees leaving/ Average number of total employees)	2%	3%
Employees satisfaction rating (1-5, with 1 being the most satisfied)	1	1.2

For preparation of Balanced Scorecard report, the following format has been developed:

B. Steels Balanced Scorecard Report For the year ended March 31, 2019					
Perspective	Objective	KPI	Goal	Actual	Goal Achieved (Yes or No)
Financial	x	x	x	x	x
Customer	x	x	x	x	x
Internal Business Process	x	x	x	x	x
Learning and Growth	x	x	x	x	x

Required

- (i) PREPARE a balanced scorecard report using the above-mentioned format. Place objective under the appropriate perspective heading in the report. Select a KPI from the list of KPIs that would be appropriate to measure progress towards each objective.
- (ii) B. Steels desires to integrate sustainability and corporate social responsibility related KPIs in their balance scorecard to adhere vision and values. ADVISE B. Steels, using TBL framework.

SUGGESTED ANSWERS/HINTS

1. (i) Modern organizations have a moral duty of care to a *wider range of stakeholders* not just its owners / investors. In this case, it owes a duty of care to anybody who consumes its products. The presence of peanuts or peanut oil makes it a potential “health hazard” to some consumers. Food safety is a fiduciary duty that Nutty Bites owes to the society. Corporate Social Responsibility (CSR) is the duty an organization has towards a wider community.
- (ii) Addressing this ethical issue will help Nutty Bites to become a *morally responsible organization*. The long- term benefits to its business could be as follows:
 - (a) Avoid bad publicity that could potentially damage its *reputation* and *brand image*.
 - (b) Avoid potential *legal action* for tort, committing a civil wrong.
 - (c) Operating environment within the business is more ethical, giving a *sense of well-being* to its employees.
- (iii) Following could be some of the responses that Nutty Bites could take to address the issue:

- (a) A clear warning in the ingredients box that the factory uses peanuts while manufacturing some of its products. This should be included even in products that do not contain peanuts, to avoid any harm due to risk of cross-contamination. Customers who suffer this allergy, would then be aware of the potential risk of consuming products of Nutty Bites. Protection from potential lawsuits counters any loss of business for Nutty Bites.
 - (b) Segregate areas to have *separate processing lines* for products with peanuts / peanut oil and those without it. If possible, have segregated staff for the two production lines in order to avoid the risk of cross-contamination. If this is not possible, staff have to be well trained on the risks of cross-contamination. Gloves need to be provided while handling material during production of food products. This should be changed each time staff handle production changes from “peanut variety” to the “non-peanut variety”.
 - (c) Equipment should be *thoroughly cleaned* while switching production from one variety to another. *Fewer changeovers* in the production cycle, that is producing products in larger batches, reduces the number of switches during production of different varieties of food products.
 - (d) *Storage of peanut material* should be well segregated *and* monitored to avoid contamination.
 - (e) If Nutty Bites has the resources, it could *invest in pharma companies* that are finding a medical solution to this problem. The food industry could benefit from research and development of treatments to address this life-threatening allergy. A break-through would address a societal problem, while also having a positive impact for growth of Nutty Bites.
- (iv) Risk of product safety is an important issue that needs constant review. Review would be of the production process, storage, material handling as well as ingredient of purchased raw materials. The benefit of constant review is that Nutty Bites can *immediately identify danger of contamination*. For example, if a supplier of raw material changes the production of the ingredients to include peanut / peanut oil, then Nutty Bites can be immediately aware of the change due to its review process. In case of any future litigation, Nutty Bites could defend itself by proving that it had a robust review process in place.

On the other hand, constant review requires *time* and *money*, with an ever-present possibility of contamination. It is not feasible to ensure complete safety. Reviewers / quality inspectors could become negligent once the process is well established. This could lead to instances of contamination, even with a review process in place.

To conclude, Nutty Bites is morally responsible to *spread awareness* that some of its products may contain allergy causing peanuts / peanut oil. It should streamline its storage and production process to avoid risk of cross-contamination.

2. (i) The five Primary Activities of Michael Porter's Value Chain Model

Inbound Logistics

Activities related to *receiving, handling of materials* from the supplier and their *storage* until further use later in operations. In the case of Staywell Hotels, materials would include food service received from the vendor. This needs to be stored and maintained properly until the item is ordered by the guest. Similarly, the vendor delivering freshly laundered crockery, bedding and laundry would be materials that need to be stored until their use to serve the guests. These are inbound logistics for the hotel.

Operations

Activities related to *converting inputs* into production of output or service. In the case of Staywell Hotels, operations would include maintenance of hotel premises including guest rooms, conference rooms and common area. Activities related to ensuring cleanliness and safety of rooms, working order of facilities offered like TV and internet service, coffee machines, shuttle service are part of hotels operations.

Outbound Logistics

Storage and movement of the *end product* from the production line to the customer. In the case of Staywell Hotels, it includes activities such as maintaining "non-smoking" rooms as such, so that when the customer finally uses it comes across as a "non-smoking" room. Likewise, the food should be prepared in a professional manner, stored in such a way that it ensures customer satisfaction and safety. Therefore, the review of food items to remove the ones past expiry would be part of Outbound Logistics. Therefore, any activity relating to making sure that the *guests get what they have ordered for*, would be part of outbound logistics.

Marketing and Sales

The activities related to *communicating, selling, and delivering* the product or service to the customer. In the case of Staywell Hotels, advertising its properties to the cost and time conscious traveller would be a marketing activity. Free shuttle service is a promotional activity to attract guests. Any agreement with airline companies to accommodate guests would also form part of this activity.

Service

All types of service such as *after sale service, handling customer complaints, customer support, training* etc. In the case of Staywell, service is one of the most *important activities* in their value chain model. Good service ensures happy guests. Therefore, all activities from front-desk, room service, catering, repair services, shuttle service would be included here. All employees have to be trained to *handle needs of the guests* in an effective and efficient manner.

(ii) **Product Life-cycle Stage of Staywell Hotels**

"Budget Accommodation" to the cost and time conscious traveller is the *current product offering* of Staywell Hotels. Starting out with a single establishment, Staywell Hotels ploughed in profits to expand its business offering to other cities as well. The product has been *well established* in the past decade. *Competition is intense* indicating similar offering by rivals. Price wars have put pressure on profit margins. Staywell Hotels plans to continue in this segment due to its *sizeable market share*. This information indicates that Staywell Hotels is in the maturity stage of its product lifecycle. It has a well-established product, with a sizeable market share at the same time it is now facing competition. Business has hit a plateau. Hence, Staywell Hotels needs to improve its product offering to beat competition. The management's plans to foray into luxury resort business is an indication of its future plans to sustain business.

(iii) **Risks of Outsourcing Cleaning and Food Service under the Luxury Resort Model**

Staywell Hotels is a budget accommodation provider to the cost and time conscious traveller. Primary feature of this model is "*value for money*". To remain profitable the cleaning and food service has been outsourced, which enables Staywell Hotels to keep the *costs of operation low*. There have been instances of *dis-satisfaction* among guests as regards quality of cleaning and food service. However, since the turnover of guests is quick due to *high volume* and *short stay period*, it has *not negatively impacted* business.

In the luxury resort business, the target guests are travellers on leisure. The primary feature of this model would be "*good quality of service*". Maintaining cleanliness of premises and food service are *critical activities* in the operation of luxury hotels. Therefore, *customer satisfaction* on these metrics is *paramount* to sustain and grow business. With the ability to post reviews online on booking portals, any negative review (whether justified or not) can reach very easily to a large number of potential guests. This can negatively impact future business. Hence, Staywell Hotels has to ensure that the *quality of service* that it provides in terms of cleanliness and food should meet and beat the *guest's expectation*.

Outsourcing these services to *well established vendors* is advantageous since the focus can remain on improving guest experience. It may also be *cost advantageous* in many cases. However, there are a number of risks in this model. Detailed **service level agreements** need to be drawn up to ensure that the required *quality of service* is being provided. Staywell Hotels should be able to monitor the performance of these vendors. In cases of non-delivery of the required level of service, the agreement should provide for means of redressal. This could vary from compensation for any loss in business to immediate termination of service. Staywell Hotels should ensure that it can easily and economically switch service providers if required. For this it has to identify alternate vendors who can provide the same

level of service as the current ones. The other risk in outsourcing could be of instances where well performing *vendors could go bankrupt* and shut shop. In such cases, Staywell Hotel's operations could be immediately impacted since such services can no longer be availed from these vendors. Again, list of *alternate service providers* is a necessary back-up that the hotel should have.

Alternatively, since these are very critical activities to business operations, Staywell Hotels may choose to have complete control over them. This can be achieved by having *in-house departments* that cater to cleanliness and food service. *Control over factors* such as input material used, the performance of service, equipment used, training of staff and other essential activities can ensure that the *required service quality can be achieved*. Better service *enhances guest experience*. Compared to outsourcing, this might be a *costlier option*. However, since the guests are ready to pay a premium for service quality, within reasonable limits cost need not be a primary concern for Staywell Hotels for this business model.

3. (i) Work can be outsourced to locations to countries on the other side of the globe, in order to achieve *low cost advantage*. A company *may not be directly responsible* for faulty practices of its suppliers. However, modern organizations have a *moral duty* of care to a *wider range of stakeholders* who may not directly be related to the company. In this case, it owes a duty of care towards employees hired by factories within its *supply chain*. The issue it is dealing with relates to exploitation of child workers by factories, perpetrated by sub-contracting work to third party workers. While Sprinter sportswear has *not done anything illegal*, it owes *moral responsibility* towards these children. Children have a right to education, because of which child labor is illegal in most countries. Since children are employed directly on account of the work that has been outsourced, Sprinter should attempt to address this issue. Also, any negative news about how its products are made, could *impact its business*.
- (ii) Sprinter should aim to make its products responsibly. Some actions it can take are:
 - Sprinter can develop a *Code of Conduct* that details the acceptable standards of conducting business. These standards could relate to hiring practices, of which it can specify that workers should be above a particular age to be employed for manufacturing a product. Others could relate to workplace environment, safety, and environment sustainability. Sprinter should *insist that suppliers implement these Codes of Conduct* along with other complying with laws. It should insist that the supplier be open to *periodic inspection* by Sprinter to ensure compliance with standards as per its Code.
 - Sprinter can set up an *audit team* that regularly audits factories on the pre-sourcing and follow-up stages. Sprinter should do business only with those factories are complying with its standards. Any offenders to the Code of Conduct in the follow-up stages, should be appropriately be liable to *penalty or termination of contract* for serious offenses.

- Sprinter can *list on its website* location wise suppliers from whom it procures its products. It can even give information about products made by each of its suppliers, average age, worker diversity etc. This will enable watch groups to know who the suppliers are and warn the company if there are any labor issues within these factories.

4. (i) **Statement of Reconciliation - Budgeted Vs Actual Profit**

Particulars	£
Budgeted Profit	2,59,500
Less: Sales Volume Contribution - Planning Variance (Adverse)	26,062.50
Less: Sales Volume Contribution - Operational Variance (Adverse)	46,912.50
Less: Sales Price Variance (Adverse)	19,800
Less: Variable Cost Variance (Adverse)	14,850
Less: Fixed Cost Variance (Adverse)	7,500
Actual Profit	1,44,375

Workings

Basic Workings

$$\text{Budgeted Market Share (in \%)} = \frac{2,00,000 \text{ units}}{4,00,000 \text{ units}} = 50\%$$

$$\text{Budgeted Contribution} = £10,50,000 - £6,33,000 = £4,17,000$$

Average Budgeted Contribution (*per unit*)

$$= \frac{£4,17,000}{2,00,000} = £2.085$$

$$\text{Volume Contribution Planning} = \text{Budgeted Market Share \%} \times (\text{Actual Industry Sales Quantity in units} - \text{Budgeted Industry Sales Quantity in units}) \times (\text{Average Budgeted Contribution per unit})$$

$$\Rightarrow £26,062.50 \text{ (A)} = 50\% \times (\text{Actual Industry Sales Quantity in units} - 4,00,000 \text{ units}) \times £2.085$$

$$\Rightarrow \text{Actual Industry Sales Quantity} = 3,75,000 \text{ units}$$

$$\text{Actual Market Share (in \%)} = \frac{1,65,000 \text{ units}}{3,75,000 \text{ units}} = 44\%$$

$$\text{Standard Sales Price per unit} = \frac{\text{£10,50,000}}{2,00,000} = \text{£5.25}$$

$$\text{Actual Sales Price per unit} = \frac{\text{£8,46,450}}{1,65,000} = \text{£5.13}$$

$$\text{Standard Variable Cost per unit} = \frac{\text{£6,33,000}}{2,00,000} = \text{£3.165}$$

$$\text{Actual Variable Cost per unit} = \frac{\text{£5,37,075}}{1,65,000} = \text{£3.255}$$

CALCULATION OF VARIANCES

Sales Variances

$$\text{Volume Contribution Operational} = (\text{Actual Market Share \%} - \text{Budgeted Market Share \%}) \times (\text{Actual Industry Sales Quantity in units}) \times (\text{Average Budgeted Contribution per unit})$$

$$= (44\% - 50\%) \times 3,75,000 \text{ units} \times \text{£2.085}$$

$$= \text{£46,912.50 (A)}$$

$$\begin{aligned} \text{Price} &= \text{Actual Sales} - \text{Standard Sales} \\ &= \text{Actual Sales Quantity} \times (\text{Actual Price} - \text{Standard Price}) \end{aligned}$$

$$= 1,65,000 \text{ units} \times (\text{£5.13} - \text{£5.25})$$

$$= \text{£19,800 (A)}$$

Variable Cost Variances

$$\begin{aligned} \text{Cost} &= \text{Standard Cost for Production} - \text{Actual Cost} \\ &= \text{Actual Production} \times (\text{Standard Cost per unit} - \text{Actual Cost per unit}) \end{aligned}$$

$$= 1,65,000 \text{ units} \times (\text{£3.165} - \text{£3.255})$$

$$= \text{£14,850 (A)}$$

Fixed Cost Variances

$$\text{Expenditure} = \text{Budgeted Fixed Cost} - \text{Actual Fixed Cost}$$

$$= \text{£1,57,500} - \text{£1,65,000}$$

$$= \text{£7,500 (A)}$$

(ii) Implications of Reconciliation Statement

In the revised statement, the sales volume variance has been detailed by the way of two variances i.e. planning and operational variances. This kind of detailed information assists the company to check, which kind of variances are under the management control and which are not. FF has adverse volume contribution planning variance and the reason of could be the environmental / market changes, that was not anticipated at the time of budget preparation, so they are not under management control and hence, no one is responsible for this. On the other hand, the sales volume contribution operational variance was under control of the managers and they should be held responsible for the same. The reason of adverse sales volume contribution operational variance could be unsuccessful direct selling efforts/marketing efforts. FF has adverse sales price variance as well. It indicates that the burgers were sold for lower price than standard. The reason of this could be unforeseen market competitive price, tapping new market etc.

Further, revised reconciliation statement delivers little information about the variable cost and fixed cost variances. They both are adverse. Fixed cost consists of many items such as salaries, annual maintenance cost, rent and insurance etc. Often fixed cost items are not affected in short run in response to change in the level of activity, but they might change in response to other factors such as price. This may cause increase expenditure on fixed overheads. A meaningful analysis of fixed cost variance requires a line to line comparison of budgeted cost with actual cost.

In case of FF, the variable cost may be made up of large individual different items such as vegetables, gas, indirect labor, regular maintenance cost etc. Control of variable cost also requires line by line analysis for each individual item. The adverse variable cost variance simply reveals that FF incurred more on variable cost than expected. However, it is necessary to take into consideration the causes of this adverse variance which is beyond the control of the management, for instance, the unusual price hike in vegetables in case of unseasonal rainfall.

(iii) Measures to Improve Fast Food Delivery Service Time

Customers expect that their food order to be delivered quickly. From customer's feedback in the question, it is evident that FF has a problem in food delivery, due to which, customers go unsatisfied. The reason of late delivery could be non-availability of raw material on time or employees not working properly etc. The reason of employees not working properly could be job dissatisfaction which may be due to improper working conditions, low salary, or no reward for overtime etc.

In order to reduce delivery time, raw material should be made available in stock based on daily requirement. FF may follow quantitative approach to inventory problems, which lays down clear guidelines that when to re-order or alert the management in exceptional situations.

In addition, FF must also address the issues related to employee and involve them in a loop. FF could improve the employee satisfaction with proper working conditions, better pay, training, and growth opportunities.

Moreover, it is important that customers should be informed about approximate delivery time since this will reduce customer's anxiety and will proactively reduce any complaints over long waits for delivery of food. If unexpected delays occur, it is important to communicate with customers, apologies for the delay and inform them about the new approximate delivery time along with valid reason.

In addition to this, FF can also introduce pagers or install electronic board displaying ticket number or self-serve kiosk allowing customers to roam around or order in advance so that they do not have long waiting time.

5. (i) Sales Analysis of Division B

Total annual capacity and actual production of Division B is 100,000 units of components. Zero inventory implies that sales for the year was also 100,000 units of components. Sales to external customers was ₹20 crores, at ₹4,000 per unit. Therefore, units sold to external customers would be 50,000 units this year (₹20 crores sales / ₹4,000 per unit sale price).

Therefore, internal sales can be derived to be 50,000 units for the year (annual sales 100,000 units less external sales 50,000 units). For the year, value of sales made to Division A is ₹16 crore (Division B's total sales of ₹36 crore less external sales of ₹20 crores).

Had there been no extra demand, opportunity cost for Division B would have been nil. Therefore, transfer price would only be the variable cost of ₹2,750 per unit of component. However, given in the problem, that there was excess demand for 18,000 units of components from external customers, that could not be met since Division B had to give priority to internal demand. Had these sales been made Division B would have earned ₹1,250 per unit contribution (Sale price ₹4,000 per unit less variable cost ₹2,750 per unit). This lost contribution of ₹1,250 per unit is the opportunity cost per unit for Division B. Due to company's policy of giving priority to internal demand, Division B lost a profit of ₹2.25 crore during the year. (18,000 units × contribution of ₹1,250 per unit).

Therefore, internal sales comprises of two parts:

32,000 units of components transferred at variable cost of ₹2,750. This amounts to ₹8.8 crores.

18,000 units of components transferred factoring any opportunity cost = variable cost + contribution per unit = external sale price = ₹4,000 per unit. This amounts to ₹7.2 crores.

Therefore, internal sales = ₹8.8 crores + ₹7.2 crores = ₹16 crores.

Summarizing

External sales are 50,000 units amounting to ₹20 crores annual sales value. Internal sales are 50,000 units amounting to ₹16 crores annual sales value. Transfer price for 32,000 units is at variable cost of ₹2,750 per unit while for 18,000 units is at external sales price of ₹4,000 per unit.

(ii) Transfer Price Range for Divisions A and B

Division A procures its entire demand of 50,000 units from Division B. Out of this, 18,000 units at market price of ₹4,000 per unit while 32,000 units are procured at a lower rate of ₹2,750 per unit. Had Division A procured 32,000 units from the market, the additional cost of procurement would be ₹4 crores {(External price of ₹4,000 per unit less internal transfer price at variable cost of ₹2,750 per unit) × 32,000 units}. Only Division A currently enjoys this benefit of lower procurement cost. Financials of Division B show no profit from such internal transfers. This may skew the performance assessment of the divisions, if it is based primarily on financial metrics of each division. In order, promote goal congruence, some portion of this benefit can be shared with Division B.

Division B will at the minimum want to recover its variable cost of ₹2,750 per unit, while Division A will be ready to pay only up to external market price of ₹4,000 per unit. Therefore, transfer price range can be set between ₹2,750 - ₹4,000 per unit. Division A enjoys lower procurement rate while Division B financial reflect some benefit of transferring components internally to Division A.

(iii) Impact of External Demand on Transfer Price

As per the company's transfer pricing Division B gives priority to demand from Division A. The division has a production capacity of 100,000 units annually. If there is no external market for Division B's components, then transfer price for the entire internal transfer would be the variable cost of ₹2,750 per unit. This is the minimum cost that Division B would like to recover from Division A.

When there is an external market, transfer price would depend on whether Division B had to incur any opportunity in the form of lost sales. When total demand (internal and external) is within production capacity of 100,000 units, the entire demand can be met. There would be no lost sales for Division B, no opportunity cost. Therefore, transfer price for the entire internal transfer would be the variable cost of ₹2,750 per unit. This is the minimum cost that Division B would like to recover from Division A.

When there is an external market, such that total demand (internal and external) is more than production capacity of 100,000 units, due to priority given to internal transfer, some portion of the external demand might not be met. This would be lost sales for Division B, opportunity cost would be the contribution lost from such sales

at ₹1,250 per unit. This opportunity cost would be passed onto Division A. As explained in part (ii) above, transfer price range will be from ₹2,750 - ₹4,000 per unit. More lost sales for Division B would keep the average transfer price higher towards ₹4,000 per unit. Lesser lost sales for Division B would keep the average transfer price towards the lower bound of ₹2,750 per unit. Therefore, the proportion of external demand that could not be catered to, would determine the average transfer price. Higher the demand from external customers would drive up the average transfer price within the company.

6. (i) **Statement Showing 'Total Quality Costs'**

Particulars of Costs	₹
Prevention Costs	
Supplier Review	1,25,000
Appraisal Costs	
Equipment Testing (₹18 × 1,600 hrs.)	28,800
Internal Failure Costs	
Down Time	7,70,000
Manufacturing Rework (₹228 × 3,200 bikes)	7,29,600
External Failure Costs	
Customer Complaints (₹35 × 2,000 hrs.)	70,000
Warranty Repair (₹1,560 × 2,600 bikes)	40,56,000
Total Quality Costs	57,79,400

- (ii) The reporting of quality costs highlights the *cost of quality activities* at H. The total quality costs statement clearly displays the relationship between conformance costs (prevention and appraisal costs) and non-conformance costs (internal failure and external failure costs) and the drivers of a reduction in the overall spending on quality. Statement indicates that only 2.16% of the total quality cost is the cost of preventing quality problems while 0.50% is the cost of appraisal activities. Thus, prevention and appraisal costs make up only 2.66% of total quality costs. In contrast, 97.34% of quality control costs are incurred for internal and external failure costs. Following two measures can be used to reduce non-conformance cost:

Total Productive Maintenance (TPM) is a system of maintaining and improving the integrity of production and quality system through *keeping all equipment in top working condition* so as to avoid breakdowns and delays in manufacturing processes. It involves identifying machines in every division (including planning, manufacturing, maintenance) and then planning & executing a maintenance programme covering their entire useful life.

In this scenario, TPM will help in reducing internal failure cost (i.e. downtime and manufacturing rework cost), which constitutes 25.95% of total quality cost, by keeping all equipment in good working conditions so that there is no downtime or machine breakdown and ensuring that all equipment run smoothly. If machines work properly, the chances of rework will reduce, ultimately will also reduce chances of warranty repair and customer complaints (comprising 71.39% of total quality cost which is the major part of total quality cost).

Total Quality Management (TQM) aims at improving the quality of organisational output, including goods and services, through *continual improvement* of internal practices. Its objective is to eradicate waste and increase efficiency without compromising with the quality. It requires that company maintain this quality standards in all aspects of business by ensuring that things are done right the first time so that defects and waste are eliminated from operation.

It appears that H is not a TQM company at present due to *huge disparity between conformance costs and non-conformance costs*. In order to make H to be successful, all staff at H must be engaged in the improvement process and share in the continuous improvement ethos. In order to establish a reputation as a high-quality bike manufacturer H must ensure staff are focused on quality *and* attitudes changed toward the importance of conformance activities, for instance, H can conduct third party inspection of raw material at supplier's workplace leading to maintenances of quality standards.

Overall, while applying above two measures, in the H, consideration must therefore be given to the *optimum balance* between the costs of conformance and the costs of non-conformance.

7. Workings

Statement Showing Benefit from Prospective Export Contract

	₹
Direct Material	1,500
Direct Labor (2 hrs. × ₹40)	80
Leakage Testing	50
Variable Overheads (including packing)	214
Export Clearance Charges on FOB term	36
Total Relevant Cost	1,880
USD to INR	₹67
Relevant Cost	\$28.06
Price Offered by Customer	\$28.50
Benefit <i>per extinguisher</i>	\$0.44
No. of Extinguishers	20,000
Total Benefit	\$8,800

Advise

From financial perspective, it will be profitable for N2 to accept the contract because of gain of \$8,800 (₹5,89,600) along with export incentives of drawback. Besides this, following consideration should also be taken into consideration while exporting fire extinguishers:

Statutory Compliances

Before exporting to a foreign country or even agreeing to sell to a new customer in a foreign country, N2 should be aware of foreign laws that might affect the sale. Export documentation is important as it plays a significant role in regulating the flow and movement of goods in international markets. Each country has its own prescribed statutory documents to be complied by exporters and importers. Thus, N2 should consider about the documentation and inspection compliances part of new buyer. It may include third party audit, commercial invoice and packaging list requirements, certificate requirements like- no child labour certificate, inspection certificate, reach compliance certificate etc. If any compliance requirement is not met, what will be the consequences? There may be stiff penalty has to be paid owing to non-compliance or failure to accurately comply with the export obligation.

Buyer Creditworthiness

It is necessary that before shipment the exporter to carry out its own credit check on the importer to determine creditworthiness. Thus, N2 should make a proper assessment of the creditworthiness of the foreign buyer and spend sufficient time in cross checking the credit worthiness of his counterpart to avoid any kind of unforeseen situation in future. Such information can be easily availed through contracts or through ECGC. Private agencies also provide information on paid service basis. However, this risk can be covered by asking for LC payment terms or 100% advance or opting for post shipment insurance for goods being exported.

Industry Analysis

Industry analysis involves such things as assessing the competition in the industry; the interplay of supply and demand in the industry; how the industry holds up against other industries that are emerging and providing competitions; the likely future of the industry, especially in light of technological developments; how credit works in the industry; and the exact extent of the impact that external factors have on the industry.

For N2, it is worthwhile to know the current and future demand of fire extinguisher and factors influencing the growth of global fire extinguisher market. N2 can perform industry analysis through three main ways i.e. the Competitive Forces Model (also known as Porter's 5 Forces); the broad factors analysis, also known as PEST analysis; and SWOT Analysis. It may also arrange industry report from trusted sources.

Additional Terms

Ensure that all terms are clear and suit the business purpose. For instance, delivery terms should provide date of shipment or means of determining the date. In some circumstances, a late delivery penalty may be incurred where goods are not supplied by a specific delivery date. Therefore, N2 should evaluate whether shipment date is attainable or not. If the target shipment date could not be met, what will be the charges? Further, N2 must also check whether the foreign bank charges are subject to beneficiary account. If yes, then the same must be considered in the quotation.

Overall, N2 should accept the proposed contract only after due and careful consideration of above factors.

8. (i) **Statement Showing “M’s Life Cycle Cost (80,000 units)”**

Particulars	Amount (₹)
Costs of Design and Development of Molds, Dies, and Other Tools	8,25,000
Manufacturing Costs ($₹125 \times 80,000$ units)	1,00,00,000
Selling Costs ($₹100 \times 80,000$ units + $₹12,500 \times 4$)	80,50,000
Administration Costs ($₹50,000 \times 4$)	2,00,000
Warranty	
(80,000 units / 25 units $\times$ 5 parts $\times$ ₹10)	1,60,000
(80,000 units / 500 units $\times$ 1 visit $\times$ ₹500)	80,000
Total Cost	1,93,15,000

(ii) Following ways are suggested to maximize “M” lifecycle return:

R&D Costs

Often significant part of cost is incurred at the R&D phase of new product, hence M&D should carefully plan and design its new product “M” as it will determine the number of parts, production process to be used etc. M&D can apply **value engineering** here. It involves improving product quality, reducing product costs, fostering innovation, eliminating unnecessary and costly design elements, ensuring efficient investment in product, and developing implementation procedures. Value engineering is most successful when it is performed early in product development stage. A value engineering study should be performed within the first 25-30% of the design effort prior to selecting the final design alternative. Here, it is also important that R&D team should work as a part of cross functional team i.e. (participate in a group of people from different functional areas), to minimise lifecycle cost and the production cycle time in new development.

Speed up the Product Launch

In cut throat competitions, it is important for M&D to get new product 'M' launch into the market as soon as possible since this will give "M" a **long stay** in the market place *without competition* in the market. Competitor always try to launch a rival product as quickly as possible in order to gain 'competitive edge'. M&D may lose overall profitability if it delays in launching of Product 'M'. It is usually worthwhile incurring extra costs to keep the launch on schedule or to speed up the launch.

9. The Present Profit of Hotel Nikko

Total Room Days = 25 Rooms × 365 days × 75% = 6,844

Profit = Total Contribution – Fixed Cost

= 6,844 room days × (ZD 2,700 – ZD 900) - ZD 90,00,000

= ZD 33,19,200

If Nikko is Shut Down during Q2

Loss of Contribution {900 Room Days × (ZD 2,700 - ZD900)} = ZD 16,20,000

Nikko should not close its hotel during Q2. The fixed costs will still be incurred and hotel closure would result in lost contribution of ZD16,20,000. This in turn would decrease annual profits by ZD16,20,000. In addition, Nikko could lose guests at other quarters of the year, particularly their regular business customers, who may perceive the Nikko as being *non-reliable*.

Proposal of Opening an Italian Restaurant

Opening a restaurant will increase the fixed costs of the Nikko from ZD 9 million p.a. to ZD 12 million p.a. Thus, annual increment of ZD 3 million.

Average Revenue per occupied room will rise from ZD 2,700 to ZD 3,636.36... (ZD 30 Million / 8,250 rooms) because increasing guest expenditure in Italian restaurant.

The total cost predicted at a level of 8,250 occupied rooms is ZD 23.75 million which means the variable costs must be ZD 11.75 million (ZD 23.75 million – ZD 12 million fixed costs). This is a variable cost per occupied room of ZD 1,424.24... which is an increase of ZD 524.24...

Consequently, the breakeven point has gone up from 5,000 to 5,425 (as shown in the diagram) occupied rooms so the Nikko is required to sell more room nights to cover costs. However, budgeted occupancy is now 7,310 occupied room nights which is 80.11% occupancy (7,310/ 9,125). This provides a margin of safety of 1,885 occupied room nights or 25.79%. At 7,310 occupied room nights, Nikko's budgeted profit would be ZD 41,70,597 {7,310 × (ZD 3,636.36 – ZD 1,424.24) – 12 million} which is more than present budgeted profit by ZD 8,51,397. So, it is better for Nikko to go for opening an Italian Restaurant.

10. (i)

B. Steels
Balanced Scorecard Report
For the year ended March 31, 2019

Perspective	Objective	KPI	Goal	Actual	Goal Achieved (Yes or No)
Financial	Increase Gross Margin	Gross margin growth percentage	15%	16%	Yes
	Increase Profitability of Core Product Line	Core product line profit as a percentage of core product line sales	5%	4.4%	No
Customer	Increase number of customers	Number of Customers	15,000	15,600	Yes
	Increase customer retention	Percentage of repeat customers	83%	81%	No
Internal Business Process	Improve post sales service	Average replacement time (number of days)	2.0	1.5	Yes
	Increase plant safety	Number of plant accidents	0	2	No
Learning and Growth	Improve employee job satisfaction	Employees satisfaction rating (1-5, with 1 being the most satisfied)	1	1.2	No
	Improve employee morale	Employee turnover rate (Number of employees leaving/ Average number of total employees)	2%	3%	No

- (ii) “Triple Bottom Line” concept encourages companies to measure not only their *financial profits*, but also the impact that its operations have on the *society* and *environment*. Therefore, this framework measures the full cost of doing business by measuring the following bottom lines (i) Profit (ii) People and (iii) Planet.

Diminishing non-renewable resources have forced businesses to focus on *sustainable manufacturing*. This term refers to managing manufacturing processes such that they *minimize any negative impact on the environment* by conserving energy and natural resources. In many instances, improved operational efficiency not only reduces waste (thereby costs) but also improves product safety, it strengthens the *brand's reputation* and builds *public's trust* about the company. As

a long- term strategy, this improves *business viability* and provides a *competitive edge* to the company. This concept is the “**Planet Bottom Line**” within the Triple Bottom Line framework. Metrics on the following aspects may be investigated to find out the *environment impact* of business operations:

- Material consumption
- Energy consumption
- Water utilization
- Emissions, treatment of effluents and waste (include emissions affecting air, water, and land)
- Fuel consumption by tracking freight and transportation costs
- Land utilization
- Recyclability and disposal of product

“Corporate Social Responsibility” enables the company to become conscious of the impact its operations has on the society. CSR programs, through philanthropy and volunteer efforts can forge a stronger bond between *itself, its employees*, and the *wider community*. Again, this improves both the *brand image* as well as builds *public’s trust* about the company. This concept is the “**People Bottom Line**” of the Triple Bottom Line framework. Metrics on the following aspects maybe investigated to find out the *social impact* of business operations:

- Work place environment and labour relations
- Occupational health and safety, accident rates
- Human rights practices – child labour, employee work-place security policies
- Training and education
- Equal opportunity employer – diversity of workforce and opportunities available for employees’ growth
- Suppliers – local sourcing versus sourcing from external markets
- Philanthropy and volunteer programs organized
- Product safety in terms of customer health and safety
- Pricing of essential products to enable wider reach within the society
- Transparent and ethical business practices

B. Steels can study these aspects, determine the relevant metrics, and prepare periodic KPI reports that can help in measuring responsibilities towards sustainability and social impact.

PAPER 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION

SECTION – A: STATUTORY UPDATE

The direct tax laws, as amended by the Finance Act, 2018, including significant notifications/circulars issued upto 30th April, 2019 are applicable for November, 2019 examination. The relevant assessment year for November, 2019 examination is A.Y.2019-20. The significant notifications/circulars issued upto 30th April, 2019, relevant for November, 2019 examination but not covered in the September, 2018 edition of the Study Material, are given hereunder.

PART – I : DIRECT TAX LAWS

Chapter 3: Income which do not form part of Total Income

Computation of admissible deduction u/s 10AA of the Income-tax Act, 1961 [Circular No. 4/2018, Dated 14-8-2018]

As per the provisions of section 10AA(7), the profits derived from export of articles or things or services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on by the undertaking.

Further as per clause (i) to *Explanation 1* to section 10AA, "export turnover" means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee, but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India.

The issue of whether freight, telecommunication charges and insurance expenses are to be excluded from both "export turnover" and "total turnover" while working out deduction admissible under section 10AA on the ground that they are attributable to delivery of articles or things outside India has been highly contentious. Similarly, the issue whether charges for rendering services outside India are to be excluded both from "export turnover" and "total turnover" while computing deduction admissible under section 10AA on the ground that such charges are relatable towards expenses incurred in convertible foreign exchange in rendering services outside India has also been highly contentious.

The controversy has been finally settled by the Hon'ble Supreme Court vide its judgment dated 24.4.2018 in the case of Commissioner of Income Tax, Central-III Vs. M/s HCL Technologies Ltd. (CA No. 8489-8490 of 2013, NJRS Citation 2018-LL-0424-40), in relation to section 10A.

The issue had been examined by CBDT and it is clarified, in line with the above decision of the Supreme Court, that freight, telecommunication charges and insurance expenses are to be excluded both from "export turnover" and "total turnover", while working out deduction

admissible under section 10AA to the extent they are attributable to the delivery of articles or things outside India.

Similarly, expenses incurred in foreign exchange for rendering services outside India are to be excluded from both "export turnover" and "total turnover" while computing deduction admissible under section 10AA.

Note: Though this CBDT Circular is issued in relation to erstwhile section 10A, the same is also relevant in the context of section 10AA. Accordingly, the reference to section 10A in the Circular and the relevant sub-section and Explanation number thereto have been modified and given with reference to section 10AA and the corresponding sub-sections, Explanation number and clause of Explanation.

Chapter 4: Salaries

Notified limit for exemption in respect of gratuity increased, in case of employees not covered under the Payment of Gratuity Act, 1972 [Notification No. 16 /2019, dated 08.03.2019]

As per section 10(10)(iii), in case of an employee not covered under the Payment of Gratuity Act, 1972, any gratuity received by an employee on his retirement or his becoming incapacitated prior to such retirement or on termination of his employment or any gratuity received by his widow, children or dependents on his death is exempt from tax to the extent of least of the following limits:

- (i) One-half month's salary for each year of completed service
- (ii) Actual gratuity received
- (iii) Specified limit (i.e., limit notified by the Central Government)

The Central Government, having regard to the maximum amount of any gratuity payable to employees, has specified ₹ 20 lakh as the limit for the purposes of section 10(10)(iii) in relation to the employees who retire or become incapacitated prior to such retirement or die on or after 29th March, 2018 or whose employment is terminated on or after the said date. In effect, the Central Government has, vide this notification, increased the specified limit from ₹ 10 lakhs to ₹ 20 lakh with effect from 29.03.2018.

Chapter 6: Profits and gains of business or profession

Determining fair market value of inventory on the date of conversion into capital asset [Notification No. 42/2018, dated 30-08-2018]

Section 28(via) has been inserted by the Finance Act, 2018 to provide that fair market value of the inventory on the date of its conversion or treatment as capital asset, determined in the prescribed manner, would be chargeable to tax as business income.

Accordingly, the CBDT, has vide this notification, inserted Rule 11UAB to prescribe the manner of determination of fair market value (FMV) of the inventory on the date of conversion.

[Note: For detailed reading of 11UAB of the Income-tax Rules, 1962, students may visit <https://www.incometaxindia.gov.in/pages/rules/income-tax-rules-1962.aspx>

Chapter 7: Capital Gains

Notification of transactions in equity shares in respect of which the condition of chargeability to STT at the time of acquisition for claiming concessional tax treatment under section 112A shall not apply [Notification No. 60/2018, dated 01-10-2018]

The Finance Act, 2018 has withdrawn exemption under section 10(38) and has inserted new section 112A in the Income-tax Act, 1961, to provide that long-term capital gains arising from transfer of a capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust, shall be taxed at 10% of such capital gains exceeding one lakh rupees. The said section, *inter alia*, provides that the provisions of the section shall apply to the capital gains arising from a transfer of long-term capital asset, being an equity share in a company, only if securities transaction tax (STT) has been paid on acquisition and transfer of such capital asset.

However, to provide for the applicability of the concessional tax regime under section 112A to genuine cases where the STT could not have been paid, it has also been provided in section 112A(4) that the Central Government may specify, by notification, the nature of acquisitions in respect of which the requirement of payment of STT shall not apply in the case of acquisition of equity share in a company.

In view of the above, the Central Government has, vide notification No. 60/2018, dated 1st October, 2018, notified that the condition of chargeability of STT shall not apply to the acquisition of equity shares entered into

- before 1st October, 2004 or
- on or after 1st October, 2004 which are not chargeable to STT, other than the following transactions.

In effect, only in respect of the following transactions mentioned in column (2), the requirement of paying STT at the time of acquisition for availing the benefit of concessional rate of tax under section 112A would apply. It may be noted that the exceptions are listed in column (3) against the transaction. The requirement of payment of STT at the time of acquisition for availing benefit of concessional tax rate under section 112A will not apply to acquisition transactions mentioned in column (3).

(1)	(2)	(3)
	Transaction	Non-applicability of condition of chargeability of STT
(a)	Where acquisition of existing listed equity share in a company whose equity	Where acquisition of listed equity share in a company –
		(i) has been approved by the Supreme Court,

	shares are not frequently traded in a recognised stock exchange of India is made through a preferential issue		High Court, National Company Law Tribunal, Securities and Exchange Board of India or Reserve Bank of India in this behalf;
		(ii)	is by any non-resident in accordance with foreign direct investment guidelines issued by the Government of India;
		(iii)	is by an investment fund referred to in clause (a) of Explanation 1 to section 115UB or a venture capital fund referred to in section 10(23FB) or a Qualified Institutional Buyer;
		(iv)	is through preferential issue to which the provisions of chapter VII of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 does not apply.
(b)	Where transaction for acquisition of existing listed equity share in a company is not entered through a recognised stock exchange in India	Following acquisitions of listed equity share in a company made in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956:	
		(i)	acquisition through an issue of share by a company other than through preferential the issue referred to in (a);
		(ii)	acquisition by scheduled banks, reconstruction or securitisation companies or public financial institutions during their ordinary course of business;
		(iii)	acquisition by the Supreme Court, High Courts, National Company Law Tribunal, Securities and Exchange Board of India or Reserve Bank of India in this behalf;
		(iv)	acquisition under employee stock option scheme or employee stock purchase scheme framed under the Securities and Exchange Board of India (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999;
		(v)	acquisition by any non-resident in accordance with foreign direct investment guidelines of the Government of India;
		(vi)	acquisition in accordance with Securities

			and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011;
		(vi)	acquisition from the Government;
		(vii)	acquisition by an investment fund referred to in clause (a) to Explanation 1 to section 115UB or a venture capital fund referred to in section 10(23FB) or a Qualified Institutional Buyer;
		(ix)	acquisition by mode of transfer referred to in section 47 (e.g., transfer of capital asset under a gift, an irrevocable trust, transfer of capital asset between holding company and its subsidiary, transfer pursuant to amalgamation, demerger, etc.) or section 50B (slump sale) or section 45(3) (Introduction of capital asset as capital contribution in firm/ AOPs/ BOIs) or section 45(4) (Distribution of capital assets on dissolution of firm/ AOPs/ BOIs) of the Income-tax Act, if the previous owner or the transferor, as the case may be, of such shares has not acquired them by any mode referred to in (a), (b) or (c) listed in column (2) [other than the exceptions listed in column (3)]
(c)	acquisition of equity share of a company during the period beginning from the date on which the company is delisted from a recognised stock exchange and ending on the date immediately preceding the date on which the company is again listed on a recognised stock exchange in accordance with the Securities Contracts (Regulation) Act, 1956 read with Securities and Exchange Board of India Act, 1992 and the rules made thereunder;		

Chapter 8: Income from Other Sources**Notification of company for the purposes of exemption under clause (ii) of the proviso to section 56(2)(viib) [Notification No. 13/2019, dated 5-03-2019]**

Where a company, other than a company in which public are substantially interested, issues shares at a premium to a person being a resident, section 56(2)(viib) brings to tax in the hands of such company, the difference between the aggregate consideration received for such shares as exceeds the fair market value of the shares under the head “Income from Other Sources”.

However, such provision would not be attracted, *inter alia*, where the consideration for issue of such shares is received by a company from a class or classes of persons as may be notified by the Central Government in this behalf.

Earlier, the Central Government had, vide *Notification No. 45/2016, dated 14.6.2016*, notified classes of persons. In supersession of the above mentioned Notification, the Central Government has, vide this notification, notified that the provisions of section 56(2)(viib) shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the said consideration received from a person, being a resident, by a company which fulfills the conditions specified by the Ministry of Commerce and Industry in the Department for Promotion of Industry and Internal Trade and files the declaration referred to in the said notification. In effect, vide this notification, the Central Government has notified the conditions to be fulfilled by a company which issues shares rather than the class or classes of persons to whom such shares are issued.

The Ministry of Commerce and Industry in the Department for Promotion of Industry and Internal Trade has, vide Notification No. G.S.R. 127(E) dated 19.2.2019, specified in para 4 thereunder, that a startup shall be eligible for exemption under clause (ii) of the proviso to section 56(2)(viib), if it fulfills the following conditions:

- (i) It has been recognized by the Department for Promotion of Industry and Internal Trade as start up as per this notification or any earlier notification on the subject.
- (ii) Aggregate amount of paid up capital and share premium of the startup after issue or proposed issue of shares, if any, does not exceed, twenty five crore rupees.

However, in computing the aggregate amount of paid up share capital, the amount of paid up share capital and share premium of twenty five crore rupees in respect of shares issued to any of the following persons shall not be included:

- (a) a non-resident
- (b) a venture capital company or a venture capital fund

Further, consideration received by such startup for shares issued or proposed to be issued to a specified company shall also be exempt and shall not be included in computing the aggregate amount of paid up share capital and share premium of twenty five crore rupees. For this purpose, a specified company means a company whose shares are frequently traded within the meaning of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and whose net worth on the last date of financial year preceding the year in which shares are issued exceeds one hundred crore rupees or turnover for the financial year preceding the year in which shares are issued exceeds two hundred fifty crore rupees.

(iii) It has not invested in any of the following assets –

- (a) building or land appurtenant thereto, being a residential house, other than that used by the Startup for the purposes of renting or held by it as stock-in-trade, in the ordinary course of business;
- (b) land or building, or both, not being a residential house, other than that occupied by the Startup for its business or used by it for purposes of renting or held by it as stock-in trade, in the ordinary course of business;
- (c) loans and advances, other than loans or advances extended in the ordinary course of business by the Startup where the lending of money is substantial part of its business;
- (d) capital contribution made to any other entity;
- (e) shares and securities;
- (f) a motor vehicle, aircraft, yacht or any other mode of transport, the actual cost of which exceeds ten lakh rupees, other than that held by the Startup for the purpose of plying, hiring, leasing or as stock-in-trade, in the ordinary course of business;
- (g) jewellery other than that held by the Startup as stock-in-trade in the ordinary course of business;
- (h) any other asset, whether in the nature of capital asset or otherwise, of the nature specified in section 56(2)(vi)(d)(iv) to (ix) i.e., archaeological collections, drawings, paintings, sculptures, any work of art or bullion.

However, the Startup should not invest in any of the assets mentioned above for the period of seven years from the end of the latest financial year in which shares are issued at premium;

Meaning of Startup:

A company would be considered as Startup if the following conditions are satisfied:

- (i) **Period** – It would be considered as a Startup upto a period of ten years from the date of incorporation/ registration, if it is incorporated as a private limited company (as defined in the Companies Act, 2013) in India.

- (ii) **Turnover limit** - Turnover of the company for any of the financial years since incorporation/registration has not exceeded one hundred crore rupees.
- (iii) **Object and Purposes** - The company is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.

However, a private limited company shall not be considered a “Startup”, if it formed by splitting up or reconstruction of an existing business.

This notification shall be deemed to have come into effect from 19.02.2019.

Note – Accordingly, students are advised to ignore Notifications No. 45/2016 dated 14.6.2016 and the related paras in page 8.10 of Module 1 of the Study Material and instead, read this notification.

Chapter 15: Deduction, Collection and Recovery of Tax

No tax is required to be deducted at source on interest payable on “Power Finance Corporation Limited 54EC Capital Gains Bond” and “Indian Railway Finance Corporation Limited 54EC Capital Gains Bond” - Notification No. 27 & 28/2018, dated 18-06-2018

Section 193 (Interest on securities) provides that the person responsible for paying to a resident any income by way of interest on securities shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax @ 10%, being the rates in force on the amount of the interest payable.

As per clause (iib) of the proviso to section 193, no tax is required to be deducted at source from any interest payable on such debentures, issued by any institution or authority, or any public sector company, or any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank), as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Accordingly, the Central Government has, vide this notification, specified -

- (i) “Power Finance Corporation Limited 54EC Capital Gains Bond” issued by Power Finance Corporation Limited {PFCL} and
- (ii) “Indian Railway Finance Corporation Limited 54EC Capital Gains Bond” issued by Indian Railway Finance Corporation Limited {IRFCL}

The benefit of this exemption would, however, be admissible in the case of transfer of such bonds by endorsement or delivery, only if the transferee informs PFCL/IRFCL by registered post within a period of sixty days of such transfer.

No tax to be deducted at source under section 194A, in case of Senior Citizens if the aggregate amount of interest does not exceed ₹ 50,000 [Notification No. 6/2018, dated 6-12-2018]

Section 194A requires deduction of tax at source on interest other than interest on securities. However, section 194A(3) provides for exemption from this requirement where such interest credited or paid or likely to be credited or paid during the Financial Year does not exceed ₹10,000 and the payer is a banking company, co-operative society engaged in banking business or post office. In case of a senior citizen (being a resident), however, a higher threshold of ₹50,000 has been specified for non-deduction of tax at source in such cases.

Accordingly, as per the third proviso to section 194A(3), no tax is required to be deducted at source in the case of senior citizens where the amount of interest or the aggregate of the amount of interest credited or paid during the financial year by a banking company, co-operative society engaged in banking business or post office does not exceed ₹ 50,000. However, it has come to the notice of the CBDT, that, some tax deductors/banks are making tax deductions even when the amount of interest does not exceed ₹ 50,000.

Under Rule 31A(5) of the Income-tax Rules, 1962, the DGIT (Systems) is authorized to specify the procedures, formats and standards for the purposes of furnishing and verification of the statements or claim for refund and shall be responsible for the day-to-day administration in relation to furnishing and verification of the statements or claim for refund in the manner so specified.

Accordingly, the Principal Director General of Income-tax (Systems) has, in exercise of the powers delegated by the CBDT under Rule 31A(5), clarified that no tax deduction at source under section 194A shall be made in the case of senior citizens where the amount of such income or the aggregate of the amounts of such income credited or paid during the financial year does not exceed ₹ 50,000.

Housing and Urban Development Corporation Ltd. (HUDCO), New Delhi notified for the purpose of section 194A(3)(iii)(f) [Notification No. 26/2019, dated 20.03.2019]

Section 194A(3)(iii)(f) provides that no tax is required to be deducted on interest income paid or credited to such other institution, association or body or class of institutions, associations, or bodies which is notified by the Central Government. Accordingly, the Central Government has, vide this notification, notified the Housing and Urban Development Corporation Ltd.(HUDCO), New Delhi for the purpose of the said section.

Consequent to such notification, no tax need to be deducted at source from interest other than interest on securities credited or paid to HUDCO.

Chapter 17: Assessment Procedure

Time limit for making an application for allotment of PAN in respect of certain persons [Notification No. 82/2018, dated 19-11-2018]

Section 139A(1) lists out the persons, who have not allotted PAN, to apply to the Assessing Officer for allotment of PAN within such time, as may be prescribed. The time limit for making such application is prescribed in Rule 114(3).

The Finance Act, 2018 has expanded the list of persons covered under section 139A(1) to include the persons mentioned in (iv) & (v) in column (2) of the table below, who have not been allotted a PAN, to apply to the Assessing Officer for allotment of PAN. Accordingly, Rule 114(3) has been amended *vide* this notification to provide the time limit (indicated in column (3) of the table below) for such persons to apply to the Assessing Officer for allotment of PAN.

The table below contains the list of persons mentioned in section 139A(1), who have not been allotted PAN, to apply for PAN and the time limit for making such application in each such case.

(1)	(2)	(3)
	Persons required to apply for PAN	Time limit for making such application
(i)	Every person, if his total income or the total income of any other person in respect of which he is assessable under the Act during any previous year exceeds the maximum amount which is not chargeable to income-tax	on or before 31 st May of the assessment year for which such income is assessable
(ii)	Every person carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed ₹ 5 lakhs in any previous year	before the end of that financial year (previous year).
(iii)	Every person who is required to furnish a return of income under section 139(4A)	before the end of the financial year (previous year).
(iv)	Every person being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year	on or before 31 st May of the immediately following financial year
(v)	Every person who is a managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of any person referred in (iv) above or any person competent to act on behalf of such person referred in (iv) above	on or before 31 st May of the immediately following financial year in which the person referred in (iv) enters into financial transaction specified therein.

Quoting of Aadhaar Number mandatory in returns filed on or after 1.4.2019 [Circular No. 6/2019 dated 31.03.2019]

As per section 139AA(1)(ii), with effect from 01.07.2017, every person who is eligible to obtain Aadhaar number has to quote Aadhaar number in the return of income.

The Apex Court in a series of judgments has upheld the validity of section 139AA. Consequently, with effect from 01.04.2019, the CBDT clarified that it is mandatory to quote Aadhaar number while filing the return of income unless specifically exempted as per any notification issued under section 139AA(3). Thus, returns being filed either electronically or manually on or after 1.4.2019 cannot be filed without quoting the Aadhaar number.

Time limit for intimation of Aadhar Number to Prescribed Authority [Notification No. 31/2019, dated 31.03.2019]

Section 139AA(2) provides that every person who has been allotted Permanent Account Number (PAN) as on 1st July, 2017, and who is eligible to obtain Aadhar Number, shall intimate his Aadhar Number to prescribed authority on or before a date as may be notified by the Central Government.

Accordingly, the Central Government has, vide this notification, notified that every person who has been allotted permanent account number as on 1st July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to the Principal DGIT (Systems) or Principal Director of Income-tax (Systems) by 30th September, 2019.

This notification would, however, not be applicable to those persons or such class of persons or any State or part of any State who/which are/is specifically excluded under section 139AA(3).

Chapter 18: Appeals and Revision

Revision of monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court - Circular No. 3/2018, Dated 11-7-2018 and F. No. 279/Misc. 142/2007-ITJ (Pt), Dated 20-8-2018

Circular No. 21/2015 dated 10.12.2015 specified monetary limits and other conditions for filing departmental appeals (in Income-tax matters) before Income Tax Appellate Tribunal, High Courts and SLPs/ appeals before Supreme Court.

In supersession of the above Circular, it has been decided by the CBDT that departmental appeals may be filed on merits before Income Tax Appellate Tribunal and High Courts and SLPs/ appeals before Supreme Court keeping in view the monetary limits and conditions specified below.

Henceforth, appeals/ SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:

S. No.	Appeals/SLPs in Income-tax matters	Monetary Limit (₹)
1.	Before Appellate Tribunal	20,00,000

2.	Before High Court	50,00,000
3.	Before Supreme Court	1,00,00,000

It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case.

For further details regarding the meaning of 'tax effect' in different situations and methodology to be followed in such cases, the detailed circular may be referred.

Cases where adverse judgments should be contested on merits even if tax effect is less than the specified monetary limits

Adverse judgments relating to the issues enumerated hereunder should be **contested on merits** notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 thereof or there is no tax effect:

- (a) Where the Constitutional validity of the provisions of an Act or Rule is under challenge, or
- (b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or
- (c) Where Revenue Audit objection in the case has been accepted by the Department, or
- (d) Where addition relates to undisclosed foreign income/undisclosed foreign assets (including financial assets)/undisclosed foreign bank account.
- (e) Where addition is based on information received from external sources in the nature of law enforcement agencies such as CBI/ED/DRI/SFIO/Directorate General of GST Intelligence (DGGI).
- (f) Cases where prosecution has been filed by the Department and is pending in the Court.

Chapter 22: Liability in Special Cases

Clarification regarding liability and status of Official Assignees under the Income-tax Act, 1961 [Circular No. 4/2019, dated 28-01-2019]

Under provisions of the Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920, where an order of Insolvency is passed against a debtor by the concerned Court, property of the debtor gets vested with the Court appointed Official Assignee. The Official Assignee then realizes property of the insolvent and allocates it amongst the creditors of the insolvent. Consequentially, Official Assignee has the responsibility to handle income-tax matters of the estate assigned to him.

In this regard, a clarification has been sought regarding applicability of section 160(1)(iii) which applies on a 'Representative Assessee' in the case of an Official Assignee. Further, clarity regarding status of the Official Assignee's i.e. their fallibility in the appropriate category of 'persons', as defined in section 2(31), has also been sought.

As per provisions of section 160(1)(iii), a 'Representative Assessee' amongst other situations specified therein, becomes liable in respect of any income which the Assignee receives or is entitled to receive while managing the property for benefit of any person. As per the two insolvency Acts, Official Assignee manages the property of the debtor for the benefit of the creditors. Further, the Insolvency Act, 1909, in unambiguous terms, provides that an insolvent ceases to have an ownership interest in the estate once an order of adjudication is made under section 17 of the Insolvency Act.

Thus, it is clarified by the CBDT that since Official Assignee does not receive the income or manage the property on behalf of the debtor, they cannot be considered as a 'Representative Assessee' of the debtor under the Act while computing the tax-liability arising from the estate of the debtor.

As property of the insolvent is vested with the Official Assignee as per specific provisions of the Act/Law regulating functioning of the Official Assignee's, they have to be treated as a 'juristic entity' for purposes of the Income-tax Act. Hence, it is clarified by the CBDT that for purpose of discharge of tax-liability under the Act, the status of Official Assignees is that of an 'artificial juridical person' as prescribed in section 2(31)(vii), not being one of the 'persons' falling in section 2(31)(i) to (vi).

Therefore, Official Assignee is required to file income-tax return electronically in the ITR Form applicable to 'artificial juridical person' separately for each of the estate of the insolvent and the income shall be taxed as per the rates applicable in a particular year to an 'artificial juridical person'.

In view of the above position, Official Assignees would have to obtain a separate PAN for each of the estate of the insolvent.

PART - II: INTERNATIONAL TAXATION

Chapter 1: Non-resident Taxation

Notification of exceptions, modifications and adaptations under Section 115JH for applicability of the provisions of the Income-tax Act on a foreign company said to be resident in India on account of PoEM [Notification No. 29/2018, dated 22-06-2018]

With effect from 1.4.2017, Chapter XII-BC consisting of Section 115JH has been inserted by the Finance Act, 2016 to provide that where a foreign company is said to be resident in India in any previous year on account of Place of Effective Management (PoEM) and such foreign company has not been resident in India in any of the previous years preceding the said previous year, then, notwithstanding anything contained in this Act and subject to the conditions as may be notified by the Central Government in this behalf, the provisions of this Act relating to the computation of total income, treatment of unabsorbed depreciation, set off or carry forward and set off of losses, collection and recovery and special provisions relating to avoidance of tax shall apply with such exceptions, modifications and adaptations as may be specified in that notification for the said previous year.

Accordingly, the Central Government has, vide this Notification, specified the exceptions, modifications and adaptations subject to which, the provisions of the Act relating to computation of income, treatment of unabsorbed depreciation, set-off or carry forward and set off of losses, special provision relating to avoidance of tax and the collection and recovery of taxes shall apply in a case where a foreign company is said to be resident in India in any previous year on account of its POEM being in India and the such foreign company has not been resident in India before the said previous year.

Particulars	Provisions
Determination of opening WDV	<u>If the foreign company is assessed to tax in the foreign jurisdiction</u> Where depreciation is required to be taken into account for the purpose of computation of its taxable income, the WDV of the depreciable asset as per the tax record in the foreign country on the 1st day of the previous year shall be adopted as the opening WDV for the said previous year. <u>Where WDV is not available as per tax records</u>, the WDV shall be calculated assuming that the asset was installed, utilised and the depreciation was actually allowed as per the provisions of the laws of that foreign jurisdiction. The WDV so arrived at as on the 1st day of the previous year shall be adopted to be the opening WDV for the said previous year. <u>If the foreign company is not assessed to tax in the foreign jurisdiction</u> WDV of the depreciable asset as appearing in the books of account as on the 1st day of the previous year maintained in accordance with the laws of that foreign jurisdiction shall be adopted as the opening WDV for the said previous year.
Brought forward loss and unabsorbed depreciation	<u>If the foreign company is assessed to tax in the foreign jurisdiction</u> Brought forward loss and unabsorbed depreciation as per the tax record shall be determined year wise on the 1st day of the said previous year. <u>If the foreign company is not assessed to tax in the foreign jurisdiction</u> Brought forward loss and unabsorbed depreciation as per the books of account prepared in accordance with the laws of that country shall be determined year wise on the 1st day of the said previous year.

	<u>Other provisions</u> Such brought forward loss and unabsorbed depreciation shall be deemed as loss and unabsorbed depreciation brought forward as on the 1st day of the said previous year and shall be allowed to be set off and carried forward in accordance with the provisions of the Act for the remaining period calculated from the year in which they occurred for the first time taking that year as the first year. However, the losses and unabsorbed depreciation of the foreign company shall be allowed to be set off only against such income of the foreign company which has become chargeable to tax in India on account of it becoming resident in India due to application of POEM. In cases where the brought forward loss and unabsorbed depreciation originally adopted in India are revised or modified in the foreign jurisdiction due to any action of the tax or legal authority, the amount of the loss and unabsorbed depreciation shall be revised or modified for the purposes of set off and carry forward in India.
Period of profit and loss account and balance sheet in cases where accounting year of foreign company does not end on 31st March	The foreign company is required to prepare profit and loss account and balance sheet for the period starting from the date on which the accounting year immediately following said accounting year begins, upto 31st March of the year immediately preceding the period beginning with 1st April and ending on 31st March during which the foreign company has become resident. The foreign company is also required to prepare profit and loss account and balance sheet for succeeding periods of twelve months, beginning from 1st April and ending on 31st March, till the year the foreign company remains resident in India on account of its POEM. Examples: Example 1: If the accounting year of the foreign company is a calendar year and the company becomes resident in India during P.Y. 2018-19 for the first time due to its POEM being in India, then, the company is required to prepare profit and loss account and balance sheet for the period 1st January, 2018 to 31st March, 2018. It is also required to prepare profit and loss account and balance sheet for the period 1st April, 2018 to 31st March, 2019. For the purpose of carry forward of loss and unabsorbed depreciation in this case, since the period 1st January, 2018 to

	31st March, 2018 is less than 6 months, it is to be included in the accounting year immediately preceding the accounting year in which the foreign company is held to be resident in India for the first time. Accordingly, the profit and loss and balance sheet of the 15 month period from 1 January, 2017 to 31st March, 2018 is to be prepared. Example 2: If the accounting year of the foreign company is from 1st July to 30th June and the company becomes resident in India during P.Y. 2018-19 for the first time due to its POEM being in India, then, the company is required to prepare profit and loss account and balance sheet for the period 1st July, 2017 to 31st March, 2018. It is also required to prepare profit and loss account and balance sheet for the period 1st April, 2018 to 31st March, 2019. For the purpose of carry forward of loss and unabsorbed depreciation in this case, since the period is more than 6 months, it is to be treated as a separate accounting year. The loss and unabsorbed depreciation as per tax record or books of account, as the case may be, of the foreign company shall, be allocated on proportionate basis.
Applicability of provisions of Chapter XVII-B (TDS provisions)	Where more than one provision of Chapter XVII-B of the Act applies to the foreign company as resident as well as foreign company, the provision applicable to the foreign company alone shall apply. Compliance to those provisions of Chapter XVII-B of the Act as are applicable to the foreign company prior to its becoming Indian resident shall be considered sufficient compliance to the provisions of said Chapter. The provisions of section 195(2) relating to application to Assessing Officer to determine the appropriate proportion of sum chargeable to tax shall apply in such manner so as to include payment to the foreign company.
Availability of deduction under section 90 or 91 (Foreign tax credit)	The foreign company shall be entitled to relief or deduction of taxes paid in accordance with the provisions of section 90 or section 91 of the Act. Where income on which foreign tax has been paid or deducted, is offered to tax in more than one year, credit of foreign tax shall be allowed across those years in the same proportion in which the income is offered to tax or assessed to tax in India in respect of the income to which it relates and shall be in accordance with the provisions of

	rule 128 of the Income-tax Rules, 1962.
Non-applicability of the notification	The above exceptions, modifications and adaptations shall not apply in respect of such income of the foreign company which otherwise would have been chargeable to tax in India, even if the foreign company had not become Indian resident.
Applicability of the notification where foreign company becomes resident in the subsequent previous year also	In a case where the foreign company is said to be resident in India during a previous year, immediately succeeding a previous year during which it is said to be resident in India; the exceptions, modifications and adaptations shall apply to the said previous year subject to the condition that the WDV, the brought forward loss and the unabsorbed depreciation to be adopted on the 1st day of the previous year shall be those which have been arrived at on the last day of the preceding previous year in accordance with the provisions of this notification.
No effect on other transactions	Any transaction of the foreign company with any other person or entity under the Act shall not be altered only on the ground that the foreign company has become Indian resident.
Applicability of other provisions relating to foreign company	Subject to the above exceptions, modifications and adaptations specifically provided vide this notification, the foreign company shall continue to be treated as a foreign company even if it is said to be resident in India and all the provisions of the Act shall apply accordingly. Consequently, the provisions specifically applicable to - (i) a foreign company, shall continue to apply to it; (ii) non-resident persons, shall not apply to it; and (iii) the provisions specifically applicable to resident, shall apply to it.
Applicability of tax rate on foreign company	In case of conflict between the provision applicable to the foreign company as resident and the provision applicable to it as foreign company, the later shall generally prevail. Therefore, the rate of tax in case of foreign company i.e., 40% shall remain the same, i.e., rate of income-tax applicable to the foreign company even though residency status of the foreign company changes from non-resident to resident on the basis of POEM.
Applicability of notification	This notification shall be deemed to have come into force from 1st April, 2017.

Meaning of foreign jurisdiction	The place of incorporation of the foreign company.
Applicability of rule 115 of the Income-tax Rules, 1962.	The rate of exchange for conversion into rupees of value expressed in foreign currency, wherever applicable, shall be in accordance with provision of rule 115 of the Income-tax Rules, 1962.

Exemption to interest income on specified off-shore Rupee Denominated Bonds [Press Release, dated 17-09-2018]

Interest payable by an Indian company or a business trust to a non-resident, including a foreign company, in respect of rupee denominated bond issued outside India before 1.7.2020 is liable for concessional rate of tax of 5%. Consequently, section 194LC provides for the deduction of tax at a lower rate of 5% on the said interest payment.

Consequent to review of the state of economy on 14.9.2018 by the Prime Minister, the Finance Minister has announced a multi-pronged strategy to contain the Current Account Deficit (CAD) and augment the foreign exchange inflow. In this background, low cost foreign borrowings through off-shore rupee denominated bond have been further incentivised to increase the foreign exchange inflow.

Accordingly, it has been decided that interest payable by an Indian company or a business trust to a non-resident, including a foreign company, in respect of rupee denominated bond issued outside India during the period from 17.9.2018 to 31.3.2019 shall be exempt from tax, and consequently, no tax shall be deducted on the payment of interest in respect of the said bond under section 194LC.

Conditions under section 115JG(1) in respect of conversion of Indian branch of foreign bank into Indian subsidiary company and specification of holding period of a capital asset which becomes the property of the Indian subsidiary company in consequence of such conversion notified [Notification No. 85 & 86/2018, dated 6-12-2018]

Chapter XII-BB comprises of section 115JG which contains "Special provisions relating to conversion of Indian branch of a foreign bank into a subsidiary Indian company". Section 115JG *inter-alia* provides that, in case the conversion of an Indian Branch of foreign bank into a subsidiary Indian company in accordance with the scheme framed by Reserve Bank of India and fulfilling the conditions notified by the Central Government, the capital gains arising from such conversion shall not be chargeable to tax and the provisions of the Income-tax Act, 1961 relating to unabsorbed depreciation, set off or carry forward and set off of losses, tax credit in respect of tax paid on deemed income relating to certain company and the computation of income in case of foreign company and Indian subsidiary company would apply with such modification, exception and adaptation as may be specified in the notification.

Accordingly, the Central Government has, *vide* notification no. 85/2018, specified the conditions to be fulfilled –

(1) For Capital Gains exemption:

Where a foreign company is engaged in the business of banking through its Indian branch and converts such Indian branch into its Indian subsidiary company in accordance with the scheme framed by RBI, the capital gains arising from such conversion would not be chargeable to tax, if -

- (a) the Indian branch amalgamates with the Indian subsidiary company in accordance with the scheme of amalgamation approved by the shareholders of the foreign company and the Indian subsidiary company and sanctioned by the RBI¹
- (b) all the assets and liabilities of the Indian branch immediately before conversion would become the assets and liabilities of the Indian subsidiary company;
- (c) the asset and liabilities of the Indian branch are transferred to the Indian subsidiary company at values appearing in the books of account of the Indian branch immediately before its conversion.

Note - Any change in the value of assets consequent to their revaluation would not be considered while determining the value of the assets.

- (d) the foreign bank or its nominee shall hold the whole of the share capital of the Indian subsidiary company during the period beginning from the date of conversion and ending on the last day of the previous year in which the conversion took place and continue to hold the shares of Indian subsidiary company carrying not less than 51% of the voting power for a period of five years immediately succeeding the said previous year;
- (e) the foreign company does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the Indian subsidiary company.

(2) Application of the provisions of the Income-tax Act, 1961 with modifications/exceptions

The provisions of the Income-tax Act, 1961 relating to unabsorbed depreciation, set off or carry forward and set off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income in case of foreign company and Indian subsidiary company shall apply with following modifications, exceptions and adaptation –

¹ under paragraph 20(h) of the Framework for setting up of wholly owned subsidiaries by foreign banks in India issued by the Reserve Bank of India *vide* Press release number 2013-2014/936 dated 6th day of November, 2013

	Purpose	Modification/exception/adaptation
(a)	Allowance of depreciation under section 32	The aggregate deduction, in respect of depreciation on buildings, machinery, plant or furniture, being tangible assets, or know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets, allowable to the Indian branch and the Indian subsidiary company shall not exceed in any previous year the deduction calculated at the prescribed rates as if the conversion had not taken place. Such deduction would be apportioned between the Indian branch and the Indian subsidiary company in the ratio of the number of days for which the assets were used by them;
(b)	Set-off and c/f of loss and depreciation	The accumulated loss and the unabsorbed depreciation of the Indian branch would be deemed to be the loss or allowance for depreciation of the Indian subsidiary company for the previous year in which conversion was effected; and provisions of the Income-tax Act, 1961, relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.
(c)	Determination of actual cost u/s 43(1)	The actual cost of the block of assets in the case of the Indian subsidiary company shall be the written down value of the block of assets as in the case of the Indian branch on the date of its conversion into the Indian subsidiary company The actual cost of any capital asset on which deduction has been allowed or is allowable under section 35AD, shall be treated as 'nil' in the case of the Indian subsidiary company if the capital asset became the property of the Indian subsidiary company as a result of conversion of the Indian branch
(d)	Cost of acquisition of other capital assets	Where the capital asset other than those referred to in (c) above became the property of the Indian subsidiary company as a result of conversion of the Indian branch, the cost of acquisition of the asset for the purposes of computation of capital gains shall be deemed to be the cost for which the Indian branch acquired it or, as the case may be, the cost for which previous owner has acquired it.
(e)	Tax credit	The tax credit of the Indian branch shall be deemed to be the tax credit of the Indian subsidiary company for the purpose of the previous year in which conversion was effected; and the provisions of section 115JAA of the Income-tax Act, 1961 shall apply accordingly.
(f)	Amortisation of VRS Expenditure	The provisions of 35DDA of the Act shall be, as far as may be, apply to the Indian subsidiary company, as they would have applied to the Indian branch, if the conversion had not taken place

(g)	Deemed credit balance in provision for bad and doubtful debts	The credit balance in the provision for bad and doubtful debts account made under section 36(1)(via) of the Indian branch on the date of conversion shall be deemed to be the credit balance of the Indian subsidiary company and the provisions of section 36 of the Income-tax Act, 1961, shall apply accordingly
(h)	Non-applicability of section 56(2)(x)	The provisions of section 56(2)(x) shall not apply to the transaction of receipt of shares in the Indian subsidiary company by the foreign company or its nominee in consequence of the conversion of the Indian branch into the Indian subsidiary company.

Meaning of certain terms (given in bold in the above table):

Term	Meaning
Accumulated loss	So much of the loss of the Indian branch before its conversion into Indian subsidiary company under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such Indian branch would have been entitled to carry forward and set off under the provisions of section 72, if the conversion had not taken place.
Unabsorbed depreciation	So much of the allowance for depreciation of the Indian branch before its conversion into Indian subsidiary company, which remains to be allowed and which would have been allowed to the Indian branch under the provisions of the Act, if the conversion had not taken place.
Previous owner	In relation to any capital asset owned by the Indian subsidiary company means the last previous owner of the capital asset who acquired it by a mode of acquisition other than those referred in section 49(1)(i)/(ii)/(iii)/(iv) or section 115JG(1).
Tax credit	So much of the tax credit of the Indian branch before conversion into Indian subsidiary company which such Indian branch would have been entitled to carry forward and set off under the provisions of section 115JAA of the Act, if the conversion had not taken place.
Date of conversion	The date, which the Reserve Bank of India appoints for the vesting of undertaking of the Indian branch in Indian subsidiary company ²

² under paragraph 20(i) of the Framework for setting up of wholly owned subsidiaries by foreign banks in India issued by the Reserve Bank of India vide press release number 2013-2014/936 dated 6th day of November, 2013.

Further, the CBDT has, vide Notification No. 86/2018, inserted sub-rule (4) in rule 8AA providing for method of determination of period of holding of capital assets in certain cases. This sub-rule provides that, in the case of a capital asset which became the property of the Indian subsidiary company in consequence to conversion of a branch of a foreign company referred to in section 115JG(1), the period for which the asset was held by the said branch of the foreign company and by the previous owner, if any, who has acquired the capital asset by a mode of acquisition referred to in clause (i)/(ii)/(iii)/(iv) of section 49(1) or section 115JG(1) shall be included.

Chapter 3: Transfer Pricing & Other Anti-avoidance Measures

Time limit for furnishing of report by constituent entity of an international group, resident in India specified [Notification No. 88/2018 dated 18-12-2018, Circular No. 9/2018 dated 26-12-2018 and Circular No. 7/2019 dated 08-04-2019]

I. Requirement of furnishing of report by constituent entity of an international group, resident in India [Section 286(4)]

As per section 286(4), a constituent entity of an international group, resident in India, other than the parent company or the alternate reporting entity, is required to furnish a report in respect of the international group for a reporting accounting year **within the prescribed period**, if the parent entity is resident of a country or territory–

- (i) where the parent entity is not obligated to file the report of the nature referred to in section 286(2).
- (ii) with which India does not have an agreement providing for exchange of the report of the nature referred to in section 286(2)
- (iii) there has been a systemic failure of the country or territory and the said failure has been intimated by the prescribed authority to such constituent entity.

II. Time limit for furnishing of report by constituent entity [Notification No. 88/2018 dated 18-12-2018 -Rule 10DB(4)]

The CBDT has, accordingly, amended Rule 10DB(4) vide Notification no. 88/2018 to provide that the constituent entity is required to furnish the report under section 286(4) within twelve months from the end of the reporting accounting year. However, in case the parent entity of the constituent entity is resident of a country or territory, where, there has been a systemic failure of the country or territory and the said failure has been intimated to such constituent entity, the period for submission of the report would be six months from the end of the month in which said systemic failure has been intimated.

III. Relaxation in time limit for report to be furnished under section 286(4) in respect of reporting accounting years ending upto 28.2.2018 [Circular No. 9/2018 dated 26-12-2018]

Representations from the stakeholders were received by the CBDT in the matter, wherein it has been stated, *inter alia*, that the constituent entity of an international group, which is resident in India, having parent entity resident in jurisdictions with which India does not have an agreement providing for exchange of the report of the nature referred to in section 286(2) and where the reporting accounting year is calendar year based, i.e., ending on December 31 of the year, would need to furnish the report under section 286(4) in India by 31.12.2018. It has also been represented that read with the amendment to section 286 and the substituted rule 10DB(4), the constituent entity in such case for reporting accounting year ending on 31.3.2017 would have been required to furnish the CbCR by 31.3.2018 which is not plausible.

In order to remove the genuine hardship caused as above in furnishing of the report under section 286(4) read with Rule 10DB(4) and as a one-time measure, the CBDT has, in exercise of powers conferred under section 119 extended the period for furnishing of said report by the constituent entities referred to in (i) and (ii) of I. above in respect of reporting accounting years ending upto 28.2.2018 to 31.3.2019.

IV Relaxation in time limit for constituent entities, whose parent entities are resident in USA [Circular No. 7/2019 dated 08-04-2019]

The agreement for providing for exchange of the report of the nature referred to in section 286(2) has been entered into by India and the USA on March 27, 2019. However, the agreement and the exchange mechanism would come into effect only after both the countries notify each other about the completion of all internal procedures for exchange which is underway.

Since filing of the report by the constituent entity referred to in section 286(4) [(i) and (ii) of I. above] in India gets triggered on completion of twelve months from the last date of the reporting accounting year and Circular 9/2018 has extended the period for furnishing of the report till March 31, 2019 in respect of reporting accounting years ending upto February 28, 2018, due to non-notification of the agreement and resultantly non-activation of the exchange mechanism between India and the USA, said report has to be filed by such constituent entities, whose parent entities are resident in USA and whose reporting accounting years ended after February 28, 2018.

In view of the above, in order to remove the genuine hardship faced by the constituent entities referred to in (i) and (ii) of I. above, whose parent entities are resident in USA, in furnishing of the report under section 286(4) read with rule 10DB(4), the CBDT has extended the period for furnishing of said report by such constituent entities, in respect of reporting accounting years ending upto April 29, 2018, to April 30, 2019.

SECTION – B: QUESTIONS AND ANSWERS**OBJECTIVE TYPE QUESTIONS**

From the options (a), (b), (c) and (d) given in each question, choose the most appropriate option.

- (i) X Ltd. is engaged in the business of letting out of properties. As per the memorandum of association of X Ltd., letting out of properties is its main objective. The total income of X Ltd. comprises only of rental income from the business of letting out of properties. Y Ltd. is engaged in the construction and sale of properties, which is also its main objective as per its memorandum of association. Incidentally, it lets out some properties which are held as stock-in-trade and earns rental income therefrom. Which of the following statements are correct?
- (a) Rental income from letting out of properties by X Ltd. and Y Ltd. is taxable under the head “Income from house property”
 - (b) Rental income from letting out of properties by X Ltd. and Y Ltd. is taxable under the head “Profits and gains of business or profession”
 - (c) Rental income from letting out of properties by X Ltd. is taxable under the head “Income from house property” and by Y Ltd is taxable under the head “Profits and gains of business or profession”
 - (d) Rental income from letting out of properties by Y Ltd. is taxable under the head “Income from house property” and X Ltd is taxable under the head “Profits and gains of business or profession”
- (ii) PQ Ltd. is a company having two units – Unit P carries on specified business of setting up and operating warehousing facility for storage of agricultural produce and Unit Q carries on specified business of setting up and operating warehousing facility for storage of edible oil. Unit P commenced operations on 1.4.2017 and claimed deduction of ₹ 120 lakhs incurred in April, 2017 on purchase of two buildings for ₹ 70 lakhs and ₹ 50 lakhs (for operating warehousing facility for storage of agricultural produce) under section 35AD for A.Y.2018-19. However, in March, 2019, Unit P transferred its building costing ₹ 70 lakhs to Unit Q. What are the tax implications of such transfer in the hands of PQ Ltd.?
- (i) ₹ 70 lakhs would be deemed as business income in the hands of PQ Ltd. for A.Y.2019-20
 - (ii) ₹ 63 lakhs would be deemed as business income in the hands of PQ Ltd. for A.Y.2019-20
 - (iii) Actual cost of building for computing depreciation for P.Y.2018-19 would be ₹ 70 lakhs

- (iv) Actual cost of building for computing depreciation for P.Y.2018-19 would be ₹ 63 lakhs

Which of the above statements are correct?

- (a) (i) and (iii) above
 - (b) (i) and (iv) above
 - (c) (ii) and (iii) above
 - (d) (ii) and (iv) above.
- (iii) XYZ Ltd. engaged in the business of manufacture of steel, claimed deduction under section 80-IB on the profits and gains of business which included transport subsidy, interest subsidy and power subsidy received from the Government and duty drawback receipts. XYZ Ltd. contended that all the above receipts are profits derived from the business of the industrial undertaking and are hence, eligible for deduction under section 80-IB. Is the contention of XYZ Ltd. correct?
- (a) Yes; transport subsidy, interest subsidy, power subsidy and duty drawback are profits derived from the business of the industrial undertaking and hence, eligible for deduction under section 80-IB.
 - (b) No; none of the above receipts can be treated as profits "derived" from the business of the industrial undertaking and hence, deduction under section 80-IB cannot be claimed in respect of any such receipt.
 - (c) No; transport subsidy, interest subsidy and power subsidy received from Government are profits derived from the business of the industrial undertaking and hence, eligible for deduction under section 80-IB. However, duty drawbacks belong to the category of ancillary profits and hence, deduction under section 80-IB cannot be claimed in respect of such receipt.
 - (d) No; transport subsidy, interest subsidy and power subsidy received from Government are ancillary profits and hence, deduction under section 80-IB cannot be claimed in respect of such receipts. However, duty drawbacks are profits derived from the business of the industrial undertaking and hence, deduction under section 80-IB can be claimed in respect of such receipt.
- (iv) A REIT has distributed ₹ 2 crore to its unitholders, which comprises of -
- (i) Rental income from real estate property directly held by it ₹ 80 lakhs
 - (ii) Interest income from special purpose vehicle ₹ 50 lakhs
 - (iii) Dividend income from special purpose vehicle ₹ 40 lakhs
 - (iv) Capital gains on disposal of assets ₹ 30 lakhs

In this case, the special purpose vehicle is an Indian company, in which REIT holds 100% of shares. Which of the following statements relating to taxability of the above income are correct?

- (1) All the above income are taxable in the hands of REIT. The said income are exempt in the hands of unit holders.
- (2) Only income referred to in (i) and (ii) are taxable in the hands of REIT. Income referred to in (iii) and (iv) are taxable in the hands of unit holders.
- (3) Only income referred to in (i) and (ii) are taxable in the hands of REIT. Income referred to in (iv) is taxable in the hands of unit holders. Income referred to in (iii) is exempt both in the hands of REIT and unit holders.
- (4) Only income referred to in (iv) is taxable in the hands of REIT. Income referred to in (i) and (ii) is taxable in the hands of unit holders. Income referred to in (iii) is exempt both in the hands of REIT and unit holders.
- (5) Tax is deductible by REIT from income referred to in (i) and (ii).
- (6) Tax is deductible by REIT from income referred to in (iii) and (iv).
- (7) Tax is deductible by REIT only from income referred to in (iv)
- (8) No tax is deductible by REIT since the entire income is taxable in its hands.

The correct option is –

- (a) (1) and (8) above
 - (b) (2) and (6) above
 - (c) (3) and (7) above
 - (d) (4) and (5) above
- (v) During the P.Y.2018-19, HelpAid Charitable Trust registered under section 12AA received donations of ₹ 80 lakhs, out of which ₹ 10 lakhs were corpus donations and ₹ 20 lakhs were anonymous donations. The trust applied ₹ 40 lakhs towards its objects during the P.Y.2018-19. The tax liability of the trust for A.Y.2019-20 is –
- (a) ₹ 6,24,000
 - (b) ₹ 5,92,800
 - (c) ₹ 5,30,920
 - (d) ₹ 5,97,220
- (vi) In the course of search operations under section 132 in May, 2019, Mr. Hari makes a declaration under section 132(4) on the earning of income in respect of P.Y.2018-19 not disclosed in the books of account. Mr. Hari explains the manner in which income was derived and pays the tax, together with interest in respect of such income. However, he

does not disclose such income in his return of income filed on 31.7.2019. Is penalty leviable in this case, and if so what is the quantum of penalty?

- (a) No penalty is leviable since Mr. Hari has made a declaration under section 132(4)
 - (b) Penalty@10% is leviable
 - (c) Penalty@30% is leviable
 - (d) Penalty@60% is leviable.
- (vii) A Ltd. filed its return of income for A.Y.2019-20 on 30th September, 2019. The return is selected for regular assessment under section 143(3). The time limit for service of notice under section 143(2) in this case is -
- (a) 31.3.2020
 - (b) 30.6.2020
 - (c) 30.9.2020
 - (d) 31.3.2021
- (viii) Shipcargo Inc., a company based in Netherlands operating its ships to and fro Cochin port, collected freight of ₹ 85 lakhs, demurrage of ₹ 5 lakhs and handling charges of ₹ 2 lakhs in respect of goods shipped at Cochin port. It incurred expenses of ₹ 35 lakhs during the year for operating its fleet. In respect of goods shipped at Rotterdam, Netherlands, it received ₹ 50 lakhs in India. Its tax liability (rounded off) for the A.Y.2019-20 is -
- (a) ₹ 4,21,200
 - (b) ₹ 4,43,040
 - (c) ₹ 3,12,000
 - (d) ₹ 1,77,840
- (ix) Mr. Ganesh, a citizen of India, is employed in the Indian embassy in the USA. He is a non-resident for A.Y.2019-20. He received salary and allowances in the USA from the Government of India for the year ended 31.3.2019 for services rendered by him in the USA. In addition, he was allowed perquisites by the Government. Which of the following statements are correct?
- (a) Salary, allowances and perquisites received outside India are not taxable in the hands of Mr. Ganesh, since he is a non-resident.
 - (b) Salary, allowances and perquisites received outside India by Mr. Ganesh is taxable in India since they are deemed to accrue or arise in India.
 - (c) Salary received by Mr. Ganesh is taxable in India but allowances and perquisites are exempt.

- (d) Salary received by Mr. Ganesh is exempt but allowances and perquisites are taxable.
- (x) Mr. Rajesh, a resident Indian, is an employee of M/s. ABC Ltd., Bangalore. In addition to the salary income from M/s. ABC Ltd., he also earns interest from fixed deposits. M/s. PQR Inc., a foreign company not having permanent establishment in India, rendered online advertisement services to Mr. Rajesh, for which Mr. Rajesh made a payment of ₹ 2 lakhs in the F.Y.2018-19. Which of the statements is correct?
- (a) The transaction is subject to equalisation levy since payment exceeding ₹ 1 lakh has been made for online advertisement services by a resident to a non-resident not having permanent establishment in India.
- (b) Equalisation levy@6% has to be deducted from the consideration of ₹ 2 lakhs payable to M/s. PQR Inc.
- (c) Both (a) and (b)
- (d) The transaction is not subject to equalisation levy

DESCRIPTIVE QUESTIONS

1. PQR Ltd. is a company in which the whole of its share capital was held by LMN Ltd. Both PQR Ltd. and LMN Ltd. are Indian companies. PQR Ltd. had made investment in shares of Berkley Ltd. in 1992 for ₹ 7,00,000 which it sold to LMN Ltd. on April 1, 2010 for a consideration of ₹ 42,00,000.
- The fair market value of these shares of Berkley Ltd., as on April 1, 2001 is ₹ 32,00,000. LMN Ltd. disinvested 7% of the shares held by it in PQR Ltd., in November 2018 by sale to public. It sold the shares in Berkley Ltd. acquired by it from PQR Ltd. in February, 2019 for a sum of ₹ 95,00,000.
- Examine the capital gains tax effect of these transactions in the hands of PQR Ltd. and LMN Ltd. in the relevant assessment years, presuming that the shares of Berkley Ltd. are unlisted shares.
- The cost inflation index for the F.Y.2010-11 is 167 and F.Y.2018-19 is 280.
2. Ms. Janani reports to you that her gross receipt from interior decoration profession carried on by her during the year ended 31-03-2019 is ₹ 47,80,000. Her net income as per income and expenditure account is ₹ 25,00,000 before adjustment of depreciation of ₹ 1,50,000. She did not pay any amount by way of advance tax during the financial year 2018-19. She has two residential house properties, of which one is self-occupied for residence and another is let out for the monthly rent of ₹ 15,000 during the financial year 2018-19.
- Is Janani eligible to opt for presumptive tax provisions, if any, under the Income-tax Act, 1961? If so, is it beneficial for her to opt for such provisions? Advise, assuming that she approached you for consulting on this matter in April, 2019.

3. Calculate the capital gains/loss on transfer of listed equity shares (STT paid both at the time of acquisition and transfer of shares) for the A.Y.2019-20, in the following cases:
- (i) Mr. Ravi purchased 500 shares in Tapti Ltd. on 15.11.2016 at a cost of ₹ 1,200 per share. The Fair Market Value (FMV) of the share as on 31.1.2018 is ₹ 2,300. Ravi sold all the shares of Tapti Ltd. on 15.5.2018 for ₹ 3,000.
 - (ii) Mr. Giri purchased 700 shares in Narmada Ltd. on 3.12.2016 at a cost of ₹ 3,100 per share. The Fair Market Value (FMV) of the share as on 31.1.2018 is ₹ 4,500. Mr. Giri sold all the shares of Narmada Ltd. on 24.4.2018 for ₹ 4,200.
 - (iii) Mr. Mani purchased 300 shares in Cauvery Ltd. on 12.1.2017 at a cost of ₹ 2,500 per share. The Fair Market Value (FMV) of the share as on 31.1.2018 is ₹ 1,800. Mr. Mani sold all the shares of Cauvery Ltd. on 15.7.2018 for ₹ 3,200.
 - (iv) Mr. Sathy purchased 600 shares in Mahanadi Ltd. on 25.1.2017 at a cost of ₹ 1,900 per share. The Fair Market Value (FMV) of the share as on 31.1.2018 is ₹ 2,400. Mr. Sathy sold all the shares of Mahanadi Ltd. on 31.1.2019 for ₹ 1,700.
4. PQR Ltd. is engaged in the manufacture of multi-layer tubes and other speciality packaging and plastic products. It came out with an initial public issue of shares during the year 2017-18 and deposited the share application money received in banks till the allotment of shares was completed. The company earned interest of ₹ 75 lakhs on such deposits, which it set off against the public issue expenses, while computing total income for A.Y.2018-19. Accordingly, the company paid the tax on total income, after adjusting tax deducted at source and advance tax paid, and filed its return of income in September, 2018. On scrutiny, the Assessing Officer contended that interest of ₹ 75 lakhs is not eligible for set-off against public issue expenses but is taxable under the head 'Income from Other Sources'. Examine the correctness of contention of the Assessing Officer.
5. ABC Ltd. has approached the Supreme Court under a special leave petition. There has been a delay of 439 days in filing the appeal under section 260A for which reason ABC Ltd. requested for a condonation of delay under section 14 of Limitation Act, 1963. The company submitted that the delay was on account of pursuing an alternate remedy of filing a miscellaneous application before the Income-tax Appellate Tribunal (ITAT) under section 254(2).
- From the above facts, examine whether delay in filing appeal under section 260A can be condoned under section 14 of Limitation Act, 1963 where the stated reason for delay is the pursuance of an alternate remedy by way of filing an application before the ITAT under section 254(2) for rectification of mistake apparent on record.
6. (a) HelpAll charitable trust, having its main object as relief of poor, earned agricultural income of ₹ 2.80 lakh, dividend income of ₹ 1.10 lakh and income of ₹ 1.30 lakh from mutual funds specified under section 10(23D) during the P.Y.2018-19.

The trust claims exemption under section 10(1), 10(34) and 10(35) in respect of its agricultural income, dividend income and income from mutual funds, respectively, without complying with the conditions laid down under section 11. Examine the correctness or otherwise of the claim of the trust.

- (b) HistoSpace charitable trust, having its main object as preservation of monuments of historic interest, purchased computers for ₹ 12 lakh in March, 2018 for the purposes of the trust and claimed the same as application of income in the P.Y.2017-18. It also claims depreciation @ 40% on such computers for P.Y.2018-19, while computing income for the purpose of application for that year. Examine the correctness or otherwise of the claim of the trust.
7. Sigma Ltd., incorporated on 1.4.2017, is a technology enabled eligible start-up engaged in innovation of processes. The company filed its return of income for A.Y.2019-20 after claiming deduction of ₹ 18 lakhs under section 80-IAC. The return was selected for scrutiny. In the assessment, a sum of ₹ 7 lakhs, being 30% of ₹ 21 lakhs, towards payment of fees for professional services was disallowed for non-deduction of tax at source by invoking section 40(a)(ia). The Assessing Officer, however, limited the deduction under section 80-IAC to the original amount claimed by Sigma Ltd. Sigma Ltd. contended that it was eligible for a higher deduction of ₹ 25 lakhs under section 80-IAC consequent to disallowance under section 40(a)(ia). Examine the correctness of contention of Sigma Ltd.
8. Satpura Ltd. is an Indian company in which 52% of shares are held by Vindhyas Ltd. Satpura Ltd. declared a dividend amounting to ₹ 60 lakhs to its shareholders for the financial year 2017-18 in its Annual General Meeting held on 29th May, 2018. Dividend distribution tax was paid by Satpura Ltd. on 5th June, 2018. Vindhyas Ltd. declared an interim dividend amounting to ₹ 48 lakhs on 2nd December, 2018.
- Compute the amount of tax on dividend payable by Vindhyas Ltd., an Indian company.
- Would your answer change if Vindhyas Ltd. held 48% of shares of Satpura Ltd? Examine.
9. The following are the details pertaining to M/s. Aravali, a partnership firm, for the year ended 31-3-2019:
- (i) Gross total income of ₹ 600 lakhs, which includes a profit of ₹ 550 lakhs from an undertaking engaged in an irrigation project.
 - (ii) The profits of the undertaking are eligible for deduction under section 80-IA. This is the third year and the deduction available is ₹ 510 lakhs.
 - (iii) The firm has undertaken “specified domestic transactions” referred to in section 92BA during the said year and has to obtain a report from an accountant under section 92E and furnish such report.

Since M/s. Aravali wishes to seek opinion of tax consultants in relation to certain issues before filing its return of income, it is planning to file its return of income only in the month of March, 2020. Advise M/s. Aravali the right course of action. You may ignore interest under section 234A, 234B, 234C and 234F while making your computations in support of your advice.

10. Godavari Ltd., an Indian Company engaged in manufacture and sale of electrical appliances in India and abroad, started adoption of Ind AS with effect from 1st April, 2017. The following particulars are furnished for the year ended 31st March, 2019:-

- (a) The book profit after adjustment of all items specified in section 115JB(2) amounted to ₹ 87.34 lakhs (except the adjustment for brought forward losses/ unabsorbed depreciation), for the year ended 31.3.2019.
- (b) Brought forward losses as per books are as under : (₹ In lakhs)

Financial Year	Business loss	Depreciation
2016-17	8.20	7.60
2017-18	7.30	9.50

- (c) The particulars of "Other Comprehensive Income" for the year ended 31.03.2019:

(₹ In lakhs)

Other Comprehensive Income (OCI) that will not be re-classified to profit and loss:		Debit	Credit
(i)	Deferred costs of hedging	3.80	
(ii)	Changes in fair values of equity instruments	8.00	
(iii)	Revaluation surplus for assets		8.20
(iv)	Deferred gains on cash flow hedges		6.70
(v)	Re-measurement of post-employment benefit obligations		5.20
(vi)	Share of other comprehensive income of other associates		2.80
Other Comprehensive Income (OCI) that may be re-classified to profit and loss:		Debit	Credit
(i)	Deferred gains on cash flow hedges		8.20
(ii)	Comprehensive income from discontinued operations		5.30
(iii)	Exchange Differences of foreign exchange operations	1.80	
(iv)	Deferred costs of hedging	0.80	

- (d) The transition amount as on convergence date (01-04-2017) stood at ₹ 48 lakhs (credit balance) including capital reserve of ₹ 6 lakhs and adjustment of ₹ 5 lakhs relating to translation difference in a foreign operation.
- (e) The National Company Law Tribunal (NCLT), Mumbai Bench has admitted an application under section 7 of Insolvency and Bankruptcy Code, 2016 (IBC) made by financial creditor against the company for initiation of Corporate Insolvency Resolution Process on 30th March, 2019.

You are required to compute the MAT liability for the assessment year 2019-20, applying the provisions relating to Ind AS compliant companies. Assuming that the income tax under normal provisions of Income-tax Act, 1961 for the assessment year 2019-20 works out to ₹ 13.20 lakhs, compute the tax credit, if any, to be carried forward by the company including the period up to which it will be available to be carried forward.

11. M/s. Uranus LLP filed its return of income for the A.Y. 2016-17 on 23-07-2016. The assessment u/s 143(3) was completed on 27th April, 2017. The Assessing Officer made two additions to the income of the LLP, namely, ₹ 12 lakhs towards unexplained investment u/s 69 and ₹ 4 lakhs u/s 40(b) due to excess interest paid to partners.

The LLP, being aggrieved, contested the addition of ₹ 12 lakhs under section 69 and filed an appeal before the Commissioner (Appeals). The appeal was decided on 12th February, 2019 against the LLP.

In March, 2019, the LLP approaches you to know whether it should apply for revision to Principal Commissioner u/s 264 or for rectification u/s 154 to the Assessing Officer as regards disallowance u/s 40(b). You are required to advise the LLP, keeping in mind the relevant provisions of income-tax law.

12. M/s. Pluto LLP filed its return of income for A.Y.2019-20, declaring total income of ₹ 25 lakhs, on 2nd October, 2019. On processing of return, the total income determined under section 143(1)(a) was ₹ 30 lakhs, after disallowing claim for deduction under section 10AA on account of late furnishing of return of income. Thereafter, on scrutiny, the Assessing Officer made some additions under section 40(a)(ia) and section 43B and passed an assessment order under section 143(3) assessing total income of ₹ 40 lakhs. Later on, the Assessing Officer noticed that certain income had escaped assessment and issued notice for reassessment under section 148. The total income reassessed under section 147 was ₹ 45 lakhs.

Considering that none of the additions or disallowances made in the assessment or re-assessment as above qualifies under section 270A(6), compute the amount of penalty to be levied under section 270A of the Income-tax Act, 1961 at the time of assessment under section 143(3) and at the time of reassessment under section 147 (Assume under-reporting of income is not on account of misreporting).

13. Neptune Inc, a notified Foreign Institutional Investor (FII), derived the following incomes for the financial year 2018-19:-

- (1) Interest received on investment in Rupee Denominated Bonds of ABC Ltd., an Indian company (investment was made in the F.Y.2017-18) - ₹ 8,50,000
- (2) Dividend from listed shares of Indian companies – ₹ 6,20,000
- (3) Interest on securities – ₹ 17,32,000 (Expenses of ₹ 26,000 has been incurred to earn such income)

(4) **Income from sale of securities and shares:**

(i) **Bonds of Jupiter Ltd.**

[Date of purchase 5 May 2015; Date of sale 7 March 2019]

Sale proceeds : ₹ 47,00,000

Cost of purchase : ₹ 32,00,000

Cost Inflation Index: F.Y.2015-16:254; F.Y.2018-19:280

(ii) **Listed Shares of Earth Ltd.**

[Date of purchase – 2 May, 2018; Date of sale – 9 February, 2019]

Sale Consideration ₹ 12,40,000

Purchase cost ₹ 7,80,000

[STT paid both at the time of purchase and sale]

(iii) **Unlisted equity shares of Mars Ltd.**

[Date of purchase – 1 July, 2018; Date of sale – 7 March, 2019]

Sale Consideration ₹ 8,40,000

Purchase cost ₹ 3,72,000

Compute the total income and tax liability of the FII, Neptune Inc., for the A.Y. 2019-20, assuming that no other income is derived by Neptune Inc. during the F.Y.2018-19.

14. Examine the following transactions and discuss whether the transfer price declared by the following assessee, who have exercised a valid option for application of safe harbour rules, can be accepted by Income-tax authorities –

- (i) Mercury Ltd., an Indian company, provided data processing services to Venus Inc., which is a specified foreign company in relation to Mercury Ltd. The aggregate value of such international transactions entered into in the P.Y.2018-19 is ₹ 105 crores. It declared an operating profit margin of ₹ 16 crores. Its operating expenses were ₹ 80 crores.
- (ii) Jupiter Ltd., an Indian company, provides contract R & D services relating to software development to Saturn Inc., a US company which guarantees 12% of the borrowings of Jupiter Ltd. The value of such international transactions entered into in the P.Y.2018-19 is ₹ 190 crores. It declared an operating profit margin of ₹ 40 crores against an operating expenses of ₹ 175 crores.

In case it is not binding on the income-tax authorities to accept the transfer price declared by Mercury Ltd. or Jupiter Ltd., what is the primary adjustment, if any, to be made by either company in the A.Y.2019-20?

15. Mr. Gopal, aged 50 years, is a resident individual having income from the following sources:
- (i) Income from a sole-proprietary business in Pune ₹ 75 lakhs.
 - (ii) Share of profit from a partnership firm in Mumbai ₹ 25 lakhs.
 - (iii) Agricultural Income (gross) from tea gardens in Country G, a foreign country with which India has no DTAA, CGD 45000. Withholding Tax on the above income CGD 9,000
 - (iv) Brought forward business loss of F.Y.2015-16 in Country G was CGD 5,000 which is not permitted to be set off against other income as per the laws of that country.
 - (v) Mr. Gopal has deposited ₹ 1,50,000 in public provident fund and paid medical insurance premium of ₹ 28,000 by account payee cheque to insure the health of himself and his wife.

Compute total income and tax liability of Mr. Gopal for the A.Y. 2019-20, assuming that 1 CGD = ₹ 70.

16. Explain the meaning of “fees for technical services” and “professional services” under the relevant articles of the UN Model Convention, 2017. Does the Contracting State in which such income arises have the right to tax such income, and if so, what are the conditions/limitations for such taxability? Discuss.
17. Which action plan of BEPS requires introduction of Limitation of Benefits clause in a tax treaty? Has India introduced Limitation of Benefits clause in its tax treaties in line with the BEPS Action Plan? Discuss.

MOST APPROPRIATE OPTION – OBJECTIVE TYPE QUESTIONS

- (i) (d)
- (ii) (d)
- (iii) (c)
- (iv) (d)
- (v) (c)
- (vi) (d)
- (vii) (c)
- (viii) (b)
- (ix) (c)
- (x) (d)

SUGGESTED ANSWERS/HINTS – DESCRIPTIVE QUESTIONS**1. (i) Sale of shares of Berkley Ltd. by PQR Ltd. to LMN Ltd. on 1.4.2010**

Since LMN Ltd. is an Indian company which holds 100% of shares of PQR Ltd., the transfer of capital asset, namely, shares of Berkley Ltd., by PQR Ltd. to LMN Ltd. would not be treated as a transfer for attracting capital gains tax liability as per section 47(v).

Hence, no capital gains tax would have been attracted on such transfer in the hands of PQR Ltd.

(ii) Disinvestment by LMN Ltd., of 7% shares held in PQR Ltd. in November, 2018

As per section 47A(1), where a holding company ceases to hold 100% of shares of the subsidiary company before the expiry of a period of eight years from the date of transfer of capital asset, the amount of capital gains not charged to tax at the time of transfer would be deemed to be income chargeable under the head "Capital gains" of the previous year in which such transfer took place.

However, in this case, the above deeming provision would not apply because the eight year period from the date of transfer expires on 31.3.2018 and the disinvestment by LMN Ltd. of 7% shares held in PQR Ltd. was only in November, 2018.

(iii) Sale of shares of Berkley Ltd. by LMN Ltd. in February 2019

This transaction would attract capital gains tax in the hands of LMN Ltd. for the A.Y.2019-20. The capital gains would be long-term, since the period of holding is more than 24 months.

The cost of acquisition to PQR Ltd. in the year 1992 (i.e., ₹ 7,00,000) or the fair market value as on 1.4.2001 (₹ 32,00,000), whichever is higher, would be deemed as the cost of acquisition in the hands of LMN Ltd.

Computation of capital gains in the hands of LMN Ltd.

Particulars	₹
Sale consideration	95,00,000
Less: Indexed cost of acquisition [₹ 32,00,000 x 280/100]	<u>89,60,000</u>
Long-term capital gains	<u>5,40,000</u>
Tax on long-term capital gains@20.8% (₹ 5,40,000 x 20.8%)	1,12,320

2. Since gross receipts of ₹ 47,80,000 of Ms. Janani from interior decoration profession carried on by her is less than ₹ 50,00,000, she can opt for presumptive tax provisions under section 44ADA.

In such a case, her income from interior decoration profession would be ₹ 23,90,000, being 50% of ₹ 47,80,000. Since all deductions allowable under sections 30 to 38 are deemed to

have been given full effect to, no deduction in respect of depreciation would be allowable from the income computed on presumptive basis under section 44ADA.

I. Where Ms. Janani declares income from profession on presumptive basis u/s 44ADA

Computation of total income of Ms. Janani		
Particulars	₹	₹
<u>Income from house property</u>		
Self-occupied property	Nil	
<u>Let-out Property:</u>		
Annual Value [₹ 15,000 x 12] ³	1,80,000	
Less: Deduction u/s 24 [30% of ₹ 1,80,000]	<u>54,000</u>	
		1,26,000
<u>Profits and gains from business or profession</u>		
Income from interior decoration profession [50% of ₹ 47,80,000]		<u>23,90,000</u>
Total Income		<u>25,16,000</u>
Computation of tax liability of Ms. Janani		
Particulars		₹
Tax on total income = [30% of ₹ 15,16,000 (₹ 25,16,000 – ₹10,00,000) + ₹ 1,12,500]		5,67,300
Add: Health and education cess@4%		<u>22,692</u>
Total tax liability		5,89,992
Add: Interest under section 234B [1% of ₹ 5,89,900 ⁴]		5,899
Interest under section 234C [1% of ₹ 5,89,900, since the advance tax liability has to be paid in one instalment on or before 15.3.2019]		<u>5,899</u>
Total tax and interest liability		<u>6,01,790</u>
Ms. Janani can, however, declare lower profits than the presumptive profits of ₹ 23,90,000, if she maintains books of accounts under section 44AA and gets the same audited under section 44AB. In such case, she can file return on or before 30.9.2019.		

³ Rent received is taken as Annual Value in the absence of information relating to fair rent, municipal value and standard rent.

⁴ Rounded off as per Rule 119A

II Where Ms. Janani declares income from profession as per books of account

Computation of total income of Ms. Janani

Particulars	₹	₹
Income from house property		
Self-occupied property	Nil	
Let-out property:		
Annual Value [₹ 15,000 x 12]	1,80,000	
Less: Deduction u/s 24 [30% of ₹ 1,80,000]	<u>54,000</u>	1,26,000
Profits and gains from business or profession		
Income from interior decoration profession [₹ 25,00,000 – ₹ 1,50,000]		<u>23,50,000</u>
Total Income		<u>24,76,000</u>
Computation of tax liability:		
Tax on total income = [30% of ₹ 14,76,000 (₹ 24,76,000 – ₹ 10,00,000) + ₹ 1,12,500]		5,55,300
Add: Health and education cess@4%		<u>22,212</u>
Total tax liability		5,77,512
Add: Interest under section 234B [1% of ₹ 5,77,500]		5,775
Interest under section 234C [See Working Note below]		<u>29,164</u>
Total tax and interest liability		<u>6,12,451</u>
Total tax and interest liability (rounded off)		6,12,450

Although the income from profession computed as per books of account is lower than the income from profession computed on presumptive basis under section 44ADA, however, the cumulative tax and interest liability would be higher by ₹ 10,660 (i.e., ₹ 6,12,450 - ₹ 6,01,790) in case of the former. Therefore, Ms. Janani should opt to declare income on presumptive basis under section 44ADA, in which case, she has to file her return of income on or before 31st July, 2019.

Working Note: Computation of interest under section 234C

Date	Advance tax payable till date	Short-fall	Rate of interest [1% per month]	Interest
		(₹)		(₹)
15.06.2018	15%	86,625	3% [1% x 3]	2,599
15.09.2018	45%	2,59,875	3% [1% x 3]	7,796

15.12.2018	75%	4,33,125	3% [1% x 3]	12,994
15.03.2019	100%	5,77,500	1%	<u>5,775</u>
				29,164

Note – The above solution has been worked out by considering that Ms. Janani pays the advance tax required to be paid in April, 2019 itself, after consulting the tax advisor in the month of April, 2019.

3. For the purpose of computation of long-term capital gains chargeable to tax under section 112A, the cost of acquisition in relation to the long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust acquired before 1st February, 2018 shall be the higher of
- cost of acquisition of such asset, i.e., actual cost; and
 - lower of
 - the fair market value of such asset; and
 - the full value of consideration received or accruing as a result of the transfer of the capital asset.

In the four independent cases given in the question, the shares are long-term capital asset, since they are held for a period of more than 12 months preceding the date of its transfer. Accordingly, long-term capital gain/loss on transfer of STT paid listed equity shares would be determined as follows:

- In the case of Mr. Ravi, the cost of acquisition of equity share of Tapti Ltd. would be ₹ 2,300, being higher of actual cost i.e., ₹ 1,200 and ₹ 2,300 (being the lower of FMV of ₹ 2,300 as on 31.1.2018 and actual sale consideration of ₹ 3,000). Thus, the long-term capital gain would be ₹ 3,50,000 i.e., (₹ 3,000 – ₹ 2,300) x 500 shares.
- In the case of Mr. Giri, the cost of acquisition of equity shares of Narmada Ltd. would be ₹ 4,200, being higher of actual cost i.e., ₹ 3,100 and ₹ 4,200 (being the lower of FMV of ₹ 4,500 as on 31.1.2018 and actual sale consideration of ₹ 4,200). Thus, the long-term capital gains would be Nil (₹ 4,200 – ₹ 4,200) x 700 shares.
- In the case of Mr. Mani, the cost of acquisition of equity shares of Cauvery Ltd. would be ₹ 2,500, being higher of actual cost i.e., ₹ 2,500 and ₹ 1,800 (being the lower of FMV of ₹ 1,800 as on 31.1.2018 and actual sale consideration of ₹ 3,200). Accordingly, the long-term capital gains would be ₹ 2,10,000 i.e., [(₹ 3,200 – ₹ 2,500) x 300].
- In the case of Mr. Sathy, the cost of acquisition of equity shares of Mahanadi Ltd. would be ₹ 1,900, being higher of actual cost i.e., ₹ 1,900 and ₹ 1,700 (being the lower of FMV of ₹ 2,400 as on 31.1.2018 and actual sale consideration of ₹ 1,700). The long-term capital loss would be ₹ 1,20,000 (₹ 1,700 – ₹ 1,900) x 600 shares.

4. The issue under consideration is whether the interest income from share application money is taxable under the head 'Income from Other Sources', or can the same be set-off against public issue expenses.

This issue came up before the Supreme Court in *CIT v. Sree Rama Multi Tech Ltd.* [2018] 403 ITR 426. The Supreme Court observed that the assessee-company was statutorily required to keep share application money in a separate account till the allotment of shares was completed. Part of the share application money would normally have to be returned to unsuccessful applicants, and therefore, the entire share application money would not ultimately be appropriated by the company. The interest earned was inextricably linked with the requirement of raising share capital.

The Supreme Court further observed that any surplus money deposited in the bank for the purpose of earning interest is liable to be taxed as "Income from Other Sources"; however, in this case, the share application money was deposited with the bank not to make additional income by earning interest but to comply with the statute. The interest accrued on such deposit is merely incidental. Moreover, the issue of shares relates to capital structure of the company and hence, expenses incurred in connection with the issue of shares are to be capitalized. Accordingly, the Supreme Court held that the accrued interest on deposit of share application money is eligible to be set-off against public issue expenses.

Applying the rationale of the Supreme Court ruling to the case on hand, the contention of the Assessing Officer that interest income is taxable under the head "Income from Other Sources" is **not** correct.

5. The issue under consideration is whether delay in filing appeal under section 260A can be condoned under section 14 of the Limitation Act, 1963, where the stated reason for delay is the pursuance of an alternate remedy by way of filing an application before the ITAT under section 254(2) for rectification of mistake apparent on record.

This issue came up before the Supreme Court in *Spinacom India (P.) Ltd. v. CIT* [2018] 258 Taxman 128. The Supreme Court rejected the question of invoking section 14 of the Limitation Act 1963 which allows condonation of delay on demonstration of sufficient cause. The Apex Court did not accept the submission that the application before the ITAT under section 254(2) was an alternate remedy to filing of the application under section 260A. The former is an application for rectifying a 'mistake apparent from the record' which is much narrower in scope than the latter. Under section 260A, an order of the ITAT can be challenged on substantial questions of law. The Court stated that the appellant had the option of filing an appeal under section 260A while also mentioning in the Memorandum of Appeal that its application under section 254(2) was pending before the ITAT. The Supreme Court, therefore, held that the time period for filing an appeal

under section 260A does not get suspended on account of the pendency of an application before the ITAT under section 254(2).

Accordingly, applying the rationale of the above Supreme Court ruling to the facts of this case, the delay in filing appeal under section 260A due to pursuance of an alternate remedy by way of filing an application before the ITAT under section 254(2) cannot be condoned.

6. (a) Section 11(7) provides that where a trust has been granted registration under section 12AA and the registration is in force for a previous year, then, such trust cannot claim any exemption under any provision of section 10 [other than exemption of agricultural income under section 10(1) and exemption available under section 10(23C)].

Therefore, a charitable trust cannot claim exemption under section 10(35) in respect of income from mutual funds and exemption under section 10(34) in respect of dividends, since it has voluntarily opted for the special dispensation under sections 11 to 13, and consequently has to be governed by the provisions of these sections. Accordingly, it has to apply 85% of such income for charitable purposes to claim exemption under section 11. However, it can claim exemption under section 10(1) in respect of agricultural income, since section 11(7) provides an exception in respect of such income.

Therefore, the claim of HelpAll charitable trust, as regards exemption under section 10(34) and section 10(35), is **not** correct.

- (b) Section 11(6) provides that income for the purposes of application shall be determined without allowing any deduction for depreciation or otherwise in respect of any asset, the cost of acquisition of which has been claimed as an application of income under section 11 in the same or any other previous year.

Accordingly, in this case, since the cost of computers (i.e., ₹ 12 lakh) has been claimed and allowed as application of income under section 11 while computing the income of the trust for the P.Y.2017-18, depreciation on computers will not be allowed for the purpose of determining income for the purposes of application in the P.Y.2018-19.

Therefore, the depreciation claim made by HistoSpace charitable trust is not correct.

7. The issue under consideration in this case is whether the increase in gross total income on account of disallowance of expenditure under section 40(a)(ia) can be considered for the purpose of deduction under section 80-IAC.

The Bombay High Court, in *CIT v. Sunil Vishwambharnath Tiwari* (2016) 388 ITR 630, observed that if, on account of non-deduction of tax at source by a company, expenses have been disallowed under section 40(a)(ia) which goes to increase the income

chargeable under the head 'Profits and gains of business or profession', such enhanced income becomes eligible for deduction, as profit-linked deduction under Chapter VI-A is with reference to an assessee's gross total income.

The High Court held that the company is entitled to claim profit-linked deduction under Chapter VI-A in respect of the enhanced gross total income as a consequence of disallowance of expenditure under section 40(a)(ia).

Further, the CBDT has, in its Circular No.37/2016 dated 2.11.2016, mentioned that the courts have generally held that if the expenditure disallowed is related to the business activity against which the Chapter VI-A deduction has been claimed, the deduction needs to be allowed on the enhanced profits. Thus, the settled position is that the disallowances made under, *inter alia*, section 40(a)(ia), relating to the business activity against which the Chapter VI-A deduction has been claimed, result in enhancement of the profits of the eligible business, and that deduction under Chapter VI-A is admissible on the profits so enhanced by the disallowance.

Accordingly, applying the rationale of the Bombay High Court ruling and the CBDT Circular in this regard to the facts of this case, Sigma Ltd. would be entitled to claim deduction under section 80-IAC in respect of the enhanced profits of ₹ 25 lakhs, consequent to disallowance under section 40(a)(ia). The contention of Sigma Ltd. is, therefore, correct.

8. As per section 115-O, dividend distribution tax at the rate of 17.472% (i.e., 15% plus surcharge @12% and health and education cess@4%) is leviable on dividend declared, distributed or paid by a domestic company. As per section 115-O(1A), a holding company receiving dividend from its domestic subsidiary company can reduce the same from dividend declared, distributed or paid by it for the purpose of payment of dividend distribution tax. The dividend from its domestic subsidiary company should be received in the same financial year in which the holding company declares, distributes or pays the dividend. Further, the dividend shall not be considered for reduction more than once.

The conditions to be fulfilled for this purpose are as follows:

- (1) The domestic subsidiary company should have paid the dividend distribution tax which is payable on such dividend;
- (2) The recipient holding company should be a domestic company;

For this purpose, a holding company is a company which holds more than 50% of the nominal value of equity shares of another company.

Section 115-O(1B) provides that for the purposes of determining the tax on distributed profits payable in accordance with section 115-O, any amount by way of dividends referred to in section 115-O(1), as reduced by the amount referred to in section 115-O(1A) [referred to as net distributed profits], shall be increased to such amount as would,

after reduction of the tax on such increased amount at the rate specified in section 115-O(1), be equal to the net distributed profits.

(i) Where Vindhya Ltd. holds 52% of shares of Satpura Ltd.

In this case, Vindhya Ltd. is the holding company of Satpura Ltd. It receives dividend during the year from its subsidiary company, Satpura Ltd., which has paid the DDT as payable on such dividend. Accordingly, dividend distributed by the holding company, Vindhya Ltd., in the same year to the extent of dividend received from the subsidiary, Satpura Ltd., shall not be subject to DDT under section 115-O. Therefore, Vindhya Ltd. can reduce the amount of dividend received from Satpura Ltd. from the dividend distributed by it for computation of dividend distribution tax payable.

On the basis of the aforesaid provisions, dividend distribution tax payable by Vindhya Limited shall be computed as follows:

Particulars	₹ in lakh
Dividend distributed by Vindhya Ltd.	48.00
Less: Dividend received from subsidiary Satpura Ltd. (52% of ₹ 60 lakhs)	<u>31.20</u>
Net distributed profits	16.80
Add: Increase for the purpose of grossing up of dividend $16.80 \times \frac{15}{85}$	<u>2.96</u>
Gross dividend	<u>19.76</u>
Additional income-tax payable by Vindhya Ltd. u/s 115-O [15% of ₹ 19.76 lakh]	2.96
Add: Surcharge@12%	<u>0.36</u>
	3.32
Add: Health and education cess@4%	<u>0.13</u>
	<u>3.45</u>

Therefore, dividend distribution tax payable by Vindhya Ltd. shall be 17.472% of ₹ 19.76 lakhs (grossed up amount) i.e. ₹ 3.45 lakhs.

(ii) Where Vindhya Ltd. holds 48% of shares of Satpura Ltd.

In this case, since Vindhya Ltd. is not the holding company of Satpura Ltd., it cannot reduce the dividend received from Satpura Ltd. from dividend distributed by it, for computing dividend distribution tax payable.

Particulars	₹ in lakh
Dividend distributed by Vindhya Ltd.	48.00

Add: Increase for the purpose of grossing up of dividend $48 \times 15/85$	8.47
Gross dividend	56.47
Additional income-tax payable by Vindhya Ltd. u/s 115-O [15% of ₹ 56.47 lakh]	8.47
Add: Surcharge@12%	1.02
	9.49
Add: Health and education cess@4%	0.38
	9.87

9. As per section 80AC, while computing the total income of an assessee of a previous year (**P.Y. 2018-19, in this case**) relevant to any assessment year (**A.Y. 2019-20, in this case**), any deduction is admissible, *inter alia*, under section 80-IA, such deduction shall not be allowed unless it furnishes a return of income for such assessment year on or before the due date specified in section 139(1).

Since the partnership firm, M/s. Aravali, has undertaken specified domestic transactions and has to file transfer pricing report under section 92E for A.Y.2019-20, its due date of filing return of income for A.Y.2019-20 would be 30th November, 2019 as per section 139(1). Therefore, the difference in tax liability where return is filed on or before 30th November, 2019 and where return is filed in March, 2020 has to be computed to understand the impact of late filing of return on the tax liability of the firm.

Computation of total income and tax liability of M/s. Aravali for A.Y.2019-20

I. Where the firm files its return of income on 30th November 2019:

Particulars	₹ in lakhs
Gross Total Income	600.00
Less: Deduction under section 80-IA	510.00
Total Income	90.00
Tax liability@30%	27.00
Add: Health and education cess@4%	1.08
Regular income-tax payable	28.08
Computation of Alternate Minimum Tax payable [Section 115JC]	
Total Income	90.00
Add: Deduction under section 80-IA	510.00
Adjusted Total Income	600.00
Alternate Minimum Tax (AMT) @ 18.5% on ₹ 600 lakhs	111.00
Add: Surcharge@12% (Since adjusted total income > ₹ 1 crore)	13.32

	124.32
Add: Health and education cess@4%	<u>4.97</u>
Total tax payable (AMT)	<u>129.29</u>

Since the regular income-tax payable by the firm is less than the alternate minimum tax payable, the adjusted total income shall be deemed to be the total income of the firm for P.Y.2018-19 and it shall be liable to pay income-tax on such total income@18.5% [Section 115JC(1)]. Therefore, the tax payable for the A.Y.2019-20 would be ₹ 129.29 lakhs.

Tax credit for Alternate Minimum Tax [Section 115JD]	₹ in lakhs
Total tax payable for A.Y.2019-20 (Alternate Minimum Tax)	129.29
Less: Regular income-tax payable	<u>28.08</u>
To be carried forward for set-off against regular income-tax payable (upto a maximum of fifteen assessment years).	<u>101.21</u>

II. Where the firm files its return of income in March, 2020:

Where the firm files its return in March, 2020, it would be a belated return under section 139(4). Consequently, as per section 80AC, deduction under section 80-IA would not be available. In such circumstances, the gross total income of ₹ 600 lakhs would be the total income of the firm.

Particulars	₹ in lakhs
Income-tax@30% of ₹ 600 lakhs	180.000
Add: Surcharge@12% (since total income exceeds ₹ 100 lakhs)	<u>21.600</u>
Income-tax (plus surcharge)	201.600
Add: Health and education cess@4%	<u>8.064</u>
Total tax liability	<u>209.664</u>

Right course of action to minimize tax liability

The right course of action to minimize tax liability would be to file the return of income under section 139(1) on or before the due date 30.11.2019 and claim deduction under section 80-IA. In such a case, the firm can claim deduction of ₹ 510 lakhs under section 80-IA. Thereafter, consequent to the clarifications obtained, if any change is required, it can file a revised return under section 139(5) within 31.3.2020 (i.e., within the end of A.Y.2019-20) which would replace the original return filed under section 139(1). A revised return filed under section 139(5) would replace the original return filed under section 139(1).

If the firm files the return of income under section 139(1) on or before 30.11.2019, its tax liability would stand reduced to ₹ 129.29 lakhs, as against ₹ 209.664 lakhs to be paid if

return is furnished after due date. Further, it would also be eligible for tax credit for alternate minimum tax under section 115JD to the extent of ₹ 101.21 lakhs. Therefore, the firm is advised to file its return of income on or before 30.11.2019.

10. Computation of MAT liability of Godavari Ltd. under section 115JB for A.Y.2019-20

Particulars	₹	₹
Book profit after adjustment of items under section 115JB(2) [except brought forward business loss and unabsorbed depreciation]		87,34,000
Less: Brought forward business loss [₹ 8,20,000 + ₹ 7,30,000]	15,50,000	
Unabsorbed depreciation [₹ 7,60,000 + ₹ 9,50,000]	<u>17,10,000</u>	
[Since Godavari Ltd. is a company against which an application for corporate insolvency resolution process has been admitted by NCLT under section 7 of the Insolvency and Bankruptcy Code, 2016, the amount of total loss brought forward (including unabsorbed depreciation) is allowed to be reduced from the book profit for the purposes of levy of MAT under section 115JB].		32,60,000
Book profit computed in accordance with Explanation 1 to section 115JB(2)		<u>54,74,000</u>
Add: Items credited to OCI that will not be reclassified to profit or loss:		
Deferred gains on cash flow hedges	6,70,000	
Share of Other Comprehensive Income of Other Associates	2,80,000	
Re-measurement of post-employment benefit obligations	5,20,000	
Revaluation surplus for assets ₹ 8,20,000 [Book profit not to be increased by revaluation surplus for assets as per proviso to section 115JB(2A)]	<u>Nil</u>	
		<u>14,70,000</u>
		69,44,000
Less: Items debited to OCI that will not be reclassified to profit or loss:		
Deferred costs of hedging	3,80,000	
Changes in fair values of equity instruments ₹ 8,00,000 [Book profit not to be decreased by changes in fair values of equity instruments as per proviso to section 115JB(2A)]	<u>Nil</u>	
		<u>3,80,000</u>
		65,64,000

Add: One-fifth of Transition amount [Credit Balance]		
Transition amount	48,00,000	
Less: Amounts to be excluded from above		
Capital Reserve	6,00,000	
Translation difference in foreign operations	<u>5,00,000</u>	
	<u>37,00,000</u>	
One-fifth of ₹ 37,00,000		<u>7,40,000</u>
Book Profit for levy of MAT		<u>73,04,000</u>
MAT on book profit under section 115JB = 18.5% of ₹ 73,04,000		13,51,240
Add: Health and education cess@4%		<u>54,050</u>
MAT liability for A.Y.2019-20		<u>14,05,290</u>

Computation of tax credit to be carried forward

Particulars	₹
MAT liability for A.Y.2019-20 (rounded off)	14,05,290
Income-tax computed as per the normal provisions of the Act for A.Y.2019-20	13,20,000
Since the income-tax liability computed as per the regular provisions of the Income-tax Act, 1961 is less than the MAT payable, the book profit would be deemed to be the total income and tax is leviable @18.5%. The total tax liability (rounded off) is ₹ 14,05,290.	
Computation of tax credit to be carried forward	
Tax payable for A.Y.2019-20 on deemed total income	14,05,290
Less: Income-tax payable as per the normal provisions of the Act	<u>13,20,000</u>
Tax credit in respect of tax paid on deemed income	<u>85,290</u>
[Can be carried forward for 15 Assessment Years i.e., upto A.Y.2034-35]	

11. Section 264(4)(c) provides that the Principal Commissioner or Commissioner has no power to revise any order which has been made the subject matter of an appeal to the Commissioner (Appeals), even if the relief claimed in the petition is different from the relief claimed in appeal. The concept of total merger would apply in the case of section 264. It was so held by the Supreme Court in the case of *Hindustan Aeronautics Ltd v. CIT (2000) 243 ITR 898*.

Section 154(1A) provides that where any matter had been considered and decided in any proceeding by way of appeal or revision relating to an order, Assessing Officer may amend the order for rectification of mistake apparent from the record, in relation to a

matter other than the matter which has been considered and decided. The concept of partial merger would apply in the case of section 154.

In the present case, since the order passed by the Assessing Officer in respect of the addition of unexplained investment of ₹ 12 lakhs became the subject matter of an appeal to the Commissioner (Appeals), the assessee, M/s. Uranus LLP, cannot apply for revision under section 264 even if the subject matter of revision i.e., addition of ₹ 4 lakhs under section 40(b) is different from the subject matter of appeal.

However, M/s. Uranus LLP can apply to the Assessing Officer for rectification of the order in respect of addition of ₹ 4 lakh under section 40(b), if the mistake is apparent from the record, as this matter has not been considered and decided in any proceeding by way of appeal or revision.

In the view of above, the assessee, M/s. Uranus LLP should seek rectification under section 154.

12. M/s. Pluto LLP is deemed to have under-reported its income since:

- (1) its income assessed under 143(3) exceeds its income determined in a return processed under section 143(1)(a); and
- (2) the income reassessed under section 147 exceeds the income assessed under section 143(3).

Therefore, penalty is leviable under section 270A for under-reporting of income.

Computation of penalty leviable under section 270A

Particulars	₹	₹
<u>Assessment under section 143(3)</u>		
<u>Under-reported income:</u>		
Total income assessed under section 143(3)	40,00,000	
(-) Total income determined u/s 143(1)(a)	30,00,000	
	10,00,000	
Tax payable on under-reported income:		
Tax on under-reported income of ₹ 10 lakhs <i>plus</i> tax on total income of ₹ 30 lakhs determined u/s 143(1)(a) [30% of ₹ 40 lakh + HEC@4%]	12,48,000	
Less: Tax on total income determined u/s 143(1)(a) [30% of ₹ 30 lakh + HEC@4%]	9,36,000	
	3,12,000	
Penalty leviable@50% of tax payable		1,56,000

Reassessment under section 147		
Under-reported income:		
Total income reassessed under section 147	45,00,000	
(-) Total income assessed under section 143(3)	40,00,000	
	5,00,000	
Tax payable on under-reported income:		
Tax on under-reported income of ₹ 5 lakhs <i>plus</i> tax on total income of ₹ 40 lakhs assessed u/s 143(3) [30% of ₹ 45 lakh + HEC@4%]	14,04,000	
Less: Tax on total income assessed u/s 143(3) [30% of ₹ 40 lakh + HEC@4%]	12,48,000	
	1,56,000	
Penalty leviable@50% of tax payable		78,000

13. **Computation of total income of Neptune Inc., a notified FII, for A.Y.2019-20**

Particulars	₹	₹
Interest on Rupee Denominated Bonds	8,50,000	
Dividend income of ₹ 6,20,000 [Exempt under section 10(34)]	Nil	
Interest on securities [No deduction is allowable in respect of expenses incurred in respect thereof]	17,32,000	25,82,000
Long-term capital gains on sale of bonds of Jupiter Ltd.		
Sale consideration	47,00,000	
Less: Cost of acquisition	<u>32,00,000</u>	
[Benefit of indexation is not allowable]		15,00,000
Short-term capital gains on sale of STT paid equity shares of Earth Ltd.		
Sale consideration	12,40,000	
Less: Cost of acquisition	<u>7,80,000</u>	
		4,60,000
Short-term capital gains on sale on unlisted equity shares of Mars Ltd.		
Sale consideration	8,40,000	
Less: Cost of acquisition	<u>3,72,000</u>	
		4,68,000
Total Income		50,10,000

Computation of tax liability of Neptune Inc. for A.Y.2019-20

Particulars	₹
Tax@5% on interest of ₹ 8,50,000 received from an Indian company on investment in rupee denominated bonds = 5% x ₹ 8,50,000	42,500
Tax@20% on interest on securities of ₹ 17,32,000 = 20% x ₹ 17,32,000	3,46,400
Tax@10% on long-term capital gains on sale of bonds of Jupiter Ltd. = 10% x ₹ 15,00,000	1,50,000
Tax@15% on short-term capital gains on sale of listed equity shares of Earth Ltd., in respect of which STT has been paid = 15% of ₹ 4,60,000	69,000
Tax@30% on short-term capital gains on sale of unlisted equity shares of Mars Ltd. = 30% of ₹ 4,68,000	<u>1,40,400</u>
	7,48,300
Add: HEC@4%	<u>29,932</u>
Tax Liability	<u>7,78,232</u>
Tax Liability (rounded off)	<u>7,78,230</u>

14. (i) Venus Inc. is a specified foreign company in relation to Mercury Ltd. Therefore, the condition of Mercury Ltd. holding shares carrying not less than 26% of the voting power in Venus Inc. is satisfied. Hence, Venus Inc. and Mercury Ltd. are deemed to be associated enterprises as per section 92A(2). Therefore, provision of data processing services by Mercury Ltd., an Indian company, to Venus Inc., a foreign company, is an international transaction between associated enterprises, and consequently, the provisions of transfer pricing are attracted in this case.

Data processing services with the use of information technology falls within the definition of "information technology enabled services", and is hence, an eligible international transaction. Since Mercury Ltd. is providing data processing services to a non-resident associated enterprise and has exercised a valid option for safe harbour rules, it is an eligible assessee.

Since the aggregate value of transactions entered into in the P.Y.2018-19 exceeds ₹ 100 crore but does not exceed ₹ 200 crore, Mercury Ltd. should have declared an operating profit margin of not less than 18% in relation to operating expense, to be covered within the scope of safe harbour rules. In this case, since Mercury Ltd. has declared an operating profit margin of 20% $\left(\text{i.e. } \frac{16}{80} \times 100 \right)$, the same is in

accordance with the circumstance mentioned in Rule 10TD. Hence, the income-tax authorities shall accept the transfer price declared by Mercury Ltd. in respect of such international transaction.

Therefore, Mercury Ltd. need not make any primary adjustment.

- (ii) Saturn Inc., a foreign company, guarantees 12% of the total borrowings of Jupiter Ltd., an Indian company. Since Saturn Inc. guarantees not less than 10% of the total borrowings of Jupiter Ltd., Saturn Inc. and Jupiter Ltd. are deemed to be associated enterprises as per section 90A(2). Therefore, provision of contract R & D services relating to software development by Jupiter Ltd., an Indian company, to Saturn Inc., a foreign company, is an international transaction between associated enterprises, and consequently, the provisions of transfer pricing are attracted in this case.

Provision of contract R& D services in relation to software development is an eligible international transaction. Since Jupiter Ltd. is providing such services to a non-resident associated enterprise and has exercised a valid option for safe harbour rules, it is an eligible assessee.

Since the value of the international transaction does not exceed ₹ 200 crore, Jupiter Ltd. should have declared an operating profit margin of not less than 24% in relation to operating expense, to be covered within the scope of safe harbour rules. In this case, since Jupiter Ltd. has declared an operating profit margin of $22.86\% \left(\text{i.e. } \frac{40}{175} \times 100 \right)$, the same is not in accordance with the circumstance mentioned in Rule 10TD. Hence, it is not binding on the income-tax authorities to accept the transfer price declared by Jupiter Ltd.

Jupiter Ltd. has to, therefore, make a primary adjustment of ₹ 2 crores [i.e., ₹ 42 crores, being 24% of ₹ 175 crores – ₹ 40 crores] in the A.Y. 2019-20.

15. Computation of total income and tax liability of Mr. Gopal for A.Y. 2019-20

Particulars	₹	₹
Profits and gains from business and profession		
Income from sole proprietary concern in India	75,00,000	
Share of profit from a partnership firm in India of ₹ 25 lakhs, is exempt	Nil	
Business profit	75,00,000	
Less: Business Loss ⁵ in Country G (CGD 5000 x ₹ 70/CGD)	3,50,000	
		71,50,000

⁵ Since the eight year has not expired from the assessment year in which such business loss was incurred, such business loss can be set-off against current year business income.

Income from Other Sources		
Agricultural income from tea gardens in Country G, is taxable in India (CGD 45000 x ₹ 70/CGD)		<u>31,50,000</u>
Gross Total Income		1,03,00,000
Less: Deductions under Chapter VI-A		
Under section 80C [deposit in PPF]	1,50,000	
Under section 80D	<u>25,000</u>	
[Medi-claim premium paid ₹ 28,000, restricted to		<u>1,75,000</u>
Total Income		1,01,25,000
Tax on total income		
Tax on ₹ 1,01,25,000 [(30% x ₹ 91,25,000) plus ₹ 1,12,500]		28,50,000
Add: Surcharge@15%, since total income exceeds ₹ 1 crore		<u>4,27,500</u>
		32,77,500
Less: Marginal Relief (See Working Note below)		<u>58,750</u>
		32,18,750
Add: HEC@4%		<u>1,28,750</u>
		33,47,500
Average rate of tax in India	33.06%	
[i.e., ₹ 33,47,500/₹ 1,01,25,000 x 100]		
Average rate of tax in Country G	20%	
[i.e., CGD 9000/CGD 45000]		
Doubly taxed income [₹ 31,50,000 – ₹ 3,50,000]	28,00,000	
Rebate under section 91 on ₹ 28,00,000 @20% (lower of average Indian tax rate and rate of tax in Country G)		<u>5,60,000</u>
Tax payable in India [₹ 33,47,500 – ₹ 5,60,000]		27,87,500

Note: Since Mr. Gopal is resident in India for the P.Y.2018-19, his global income would be subject to tax in India. He is eligible for deduction under section 91 since the following conditions are fulfilled:-

- He is a resident in India during the relevant previous year.
- Agricultural income accrues or arises to him outside India during that previous year.

- (c) Such agricultural income is not deemed to accrue or arise in India during the previous year.
- (d) The income in question i.e., agricultural income, has been subjected to income-tax in Country G in his hands and he has paid tax on such income in Country G.
- (e) There is no agreement under section 90 for the relief or avoidance of double taxation between India and Country G, where the income has accrued or arisen.

Working Note : Computation of Marginal Relief

(A) Tax payable including surcharge on total income of ₹ 1,01,25,000		
₹ 2,50,000 – ₹ 5,00,000@5%	₹ 12,500	
₹ 5,00,000 – ₹ 10,00,000@20%	₹ 1,00,000	
₹ 10,00,000 – ₹ 1,01,25,000@30%	₹ 27,37,500	
Total	₹ 28,50,000	
Add: Surcharge @ 15%	₹ 4,27,500	₹ 32,77,500
(B) Tax payable on total income of ₹ 1 crore [(₹ 12,500 plus ₹ 1,00,000 plus ₹ 27,00,000) plus surcharge@10%]		₹ 30,93,750
(C) Excess tax payable (A)-(B)		₹ 1,83,750
(D) Marginal Relief (₹ 1,83,750 – ₹ 1,25,000, being the amount of income in excess of ₹ 1,00,00,000)		₹ 58,750

16. Meaning of Fees for technical services and professional services under the UN Model Convention, 2017

Fees for technical services

Article 12A of the UN Model Convention pertains to Fees for technical services (FTS). FTS is defined as payments for managerial, technical or consultancy services but excludes payment to an employee, payment for teaching in an educational institution or for teaching by an educational institution, payments by an individual for services for personal use.

Professional services

Article 14 of the UN Model Convention pertains to Independent Personal Services. As per this article, "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Right of Source State to tax FTS and income for professional services under the UN Model Convention, 2017

Fees for technical Services (FTS)

Article 12A(1) provides that the FTS may be taxed in the Residence State but does not provide that the FTS is exclusively taxable in the Residence State. Article 12A(2) establishes the right of the country in which FTS arises to tax in accordance with its domestic law, subject to the limitation on the maximum rate of tax, if the beneficial owner is a resident of the other Contracting State. The maximum rate of tax is to be established through bilateral negotiations.

Income for Professional Services

As per article 14, income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State (i.e., Residence State) except in the following circumstances, when such income may also be taxed in the other Contracting State (i.e., Source State):

- (a) If he has a fixed base regularly available to him in the Source State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in the Source State; or
- (b) If his stay in the Source State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in the Source State may be taxed in that State.

17. BEPS Action Plan 6 – Preventing Treaty Abuse requires introduction of Limitation of Benefits (LOB) clause or Principal Purpose Test (PPT) rule or both to protect against treaty shopping. Treaty shopping is a practice by which a resident of a third country takes advantage of beneficial treaty provisions between two countries by establishing a shell or conduit company in one of the two countries, where tax incidence is low.

Given the risk to revenues posed by treaty shopping, countries have committed to ensure a minimum level of protection against treaty shopping (the minimum standard). That commitment will require countries to include in their tax treaties an express statement that their common intention is to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance, including through treaty shopping arrangements.

Accordingly, on 10th May, 2016, India and Mauritius has signed a protocol amending the India-Mauritius tax treaty at Mauritius. In the said treaty, for the first time, it has been provided that gains from the alienation of shares acquired on or after 1.4.2017 in a company which is a resident of India may be taxed in India. The tax rate on such capital gains arising during the period from 1.4.2017-31.3.2019 should, however, not exceed 50% of the tax rate applicable on such capital gains in India. A Limitation of Benefit (LOB) Clause has been introduced which provides that a resident of a Contracting State shall not be entitled to the benefits of 50% of the tax rate applicable in transition period if its affairs are arranged with the primary purpose of taking advantage of concessional rate of tax. Further, a shell or a conduit company claiming to be a resident of a Contracting State shall not be entitled to this benefit. A shell or conduit company has been defined as any legal entity falling within the meaning of resident with negligible or nil business operations or with no real and continuous business activities carried out in that Contracting State.

PAPER –8 : INDIRECT TAX LAWS

QUESTIONS

- (1) All questions should be answered on the basis of the position of GST law as amended up to 30.04.2019 and customs law as amended by the Finance Act, 2018 and notifications and circulars issued till 30.04.2019.
- (2) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

1. State whether following statements are true or false w.r.t. provisions relating to Advance Ruling.
- (i) Questions on which the advance ruling can be sought under this Act, include rate of tax applicable to a particular supply and place of supply.
 - (ii) Rectification of advance ruling is not possible once the Authority for Advance Ruling has passed the orders.
 - (iii) The Authority for Advance Ruling shall pronounce its ruling within 90 days from the date of receipt of application.
 - (iv) Authority for Advance Ruling may accept application even if the question raised in the application is already pending or decided in any proceedings under any of the provisions of the CGST Act, 2017 qua the applicant.
 - (v) Authority for Advance Ruling may, by order, declare such advance ruling void *ab-initio* if it finds out that such ruling is obtained by suppression of material facts, fraud or misrepresentation of facts.
- Choose from following options:
- (a) False, False, True, False, True
 - (b) False, True, True, False, True
 - (c) True, True, False, False, True
 - (d) False, False, False, False, True
2. M/s. Lex Corp. (P) Ltd. is a registered manufacturer of fruit juices. It purchases plastic bottles and cardboard and sends the same for affixing stickers on plastic bottles and manufacturing boxes from cardboard to a registered job worker, M/s. Hammer Industries (P) Ltd. These raw materials are sent directly from the place of business of supplier to the premises of job worker. M/s. Lex Corp. (P) Ltd. booked input tax credit on purchase of such items. The following transactions took place in this regard:

Value of goods sent to job worker	Input tax paid on such goods	Date of purchase of goods by M/s Lex Corp. (P) Ltd.	Date of receipt of goods by M/s Hammer Industries (P) Ltd.	Date of goods received back from M/s Hammer Industries (P) Ltd.
₹ 50,000	₹ 6,000	10-07-2017	15-07-2017	12-07-2018
₹ 2,00,000	₹ 24,000	25-09-2017	27-09-2017	13-10-2018
₹ 8,00,000	₹ 96,000	22-12-2017	25-12-2017	16-08-2019
₹ 10,00,000	₹ 1,20,000	21-01-2018	25-01-2018	23-01-2019
₹ 3,50,000	₹ 42,000	24-02-2018	26-02-2018	28-02-2019

Determine the total amount to be added to the output tax liability of M/s. Lex Corp. (P) Ltd. in case of violation of section 143 of the CGST Act, 2017. Ignore the different point of times when the amount is added to the output tax liability.

- ₹ 2,88,000/- + Interest @ 18%
 - ₹ 2,88,000/- + Interest @ 24%
 - 1,62,000/- + Interest @ 24%
 - 1,62,000/- + Interest @ 18%
3. Mr. Rahul Roy, proprietor of M/s. Royal Shoe & Company is running a business of manufacturing shoes with the brand name of 'JUNOON'. The manufacturing unit is located in Delhi and registered under GST. However, due to low profitability in the business, he has decided to transfer his business to his friend Mr. Dilip Tijori. Mr. Dilip Tijori is already running the business of manufacturing shoes under a proprietorship firm named M/s Hawai Shoes & Company which is located in Mumbai and registered under GST.
- Mr. Rahul Roy has approached you to help him with the issue of transfer of unutilized input tax credit in electronic credit ledger of M/s. Royal Shoe & Company to M/s Hawai Shoes & Company.
- Advise Mr. Rahul Roy with the correct option in accordance with the provisions of the CGST Act, 2017:
- M/s. Royal Shoe & Company cannot transfer unutilised input tax credit in its electronic credit ledger to M/s Hawai Shoes & Company, as the proprietors are different.

- (b) M/s. Royal Shoe & Company can transfer unutilized input tax credit in its electronic credit ledger to M/s Hawai Shoes & Company and it can further be utilized in setting off GST liability for succeeding period.
 - (c) M/s. Royal Shoe & Company can transfer unutilized input tax credit in its electronic credit ledger to M/s Hawai Shoes & Company and it can be further utilized in setting off GST liability for a period upto the month of September following the year in which ITC was transferred.
 - (d) M/s. Royal Shoe & Company cannot transfer unutilized input tax credit in its electronic credit ledger to M/s Hawai Shoes & Company but can claim refund of such unutilized input tax credit.
4. An appeal to the High Court can be filed under the CGST Act, 2017 in the following cases:
- (i) By a person aggrieved against the order passed by the State bench or Area bench of the Appellate Tribunal.
 - (ii) By a person aggrieved against the order passed by the National bench or Regional bench of the Appellate Tribunal.
 - (iii) For matter involving substantial question of law.
 - (iv) All of the above.
- Choose the correct option from the following:
- (a) (i) and (ii)
 - (b) (i) and (iii)
 - (c) (ii) and (iii)
 - (d) (iv)
5. Ms. Reena Banerji is engaged in retail business of selling mobile phones in the State of West Bengal. She has effected supplies to the customers in the State of Uttar Pradesh and Haryana. Her total turnover during the financial year ending 31st March, 20XX is ₹ 18,00,000. Owing to low profit margins in the business, she has decided to shut down the business in April 20XX.
- The proper officer has collected evidences of the inter-State sale of mobile phones effected by Ms. Reena Banerjee during the FY ending 31st March 20XX. Now, the proper officer wants to make the assessment as she was liable for registration but did not get herself registered.
- You are required to assist the proper officer by determining which assessment can be done in this case under the CGST Act, 2017?
- (a) Self-assessment
 - (b) Provisional Assessment

- (c) Assessment of un-registered persons
 - (d) Special assessment
6. Fury Ltd. has received an order for supply of services amounting to \$ 5,00,000/- from a US based client. Fury Ltd. is unable to supply the entire services from India and asks Neik Inc., Mexico (who is not an establishment of Fury Ltd.) to supply a part of the services, i.e. 40% of the total contract value to the US client. Fury Ltd. raised the invoice for entire value of \$ 5,00,000 but the US client paid \$ 3,00,000 to Fury Ltd. and \$ 2,00,000 directly to Neik Inc., Mexico which is approved by a special order of RBI. Fury Ltd. also paid IGST @ 18% on the services imported from Neik Inc. Mexico. Assuming all the conditions of section 2(6) of the IGST Act, 2017 are fulfilled, determine the value of export of services:
- (a) \$ 3,00,000
 - (b) \$ 5,00,000
 - (c) \$ 3,90,000
 - (d) \$ 5,90,000
7. Mr. Khiladi Kumar, is the Managing Director of Khiladi Equipments (P) Ltd. The Company has offices and factories in Mumbai and is registered under GST. Mr. Khiladi Kumar, has decided to send food grains and other relief materials worth ₹ 50,00,000/- and ₹ 20,00,000 respectively through railway and airways to the cyclone hit victims in Kerala in the month of November, 20XX. The Company has contacted Super Airlines and Indian Railways to transport the materials from Mumbai to Kerala and price for the same has been determined as ₹10,00,000/- by air and ₹50,000/- by railways, excluding taxes. Mr. Khiladi Kumar, seeks your help to determine what amount of GST is to be paid to Super Airlines and Indian Railways if applicable GST rate is 18%.
- (a) Super Airlines: ₹ 1,80,000/-; Indian Railways: NIL
 - (b) Super Airlines: ₹ 1,80,000/-; Indian Railways: ₹ 9,000
 - (c) Super Airlines: Nil; Indian Railways: ₹ 9,000/-
 - (d) Super Airlines: Nil; Indian Railways: Nil
8. For the purposes of rule 7 (Deductive Value) of the Customs (Determination of Value of Imported Goods) Rules, 2007, determine the unit price in greatest aggregate quantity:
- A Ltd. makes two sales. In the first sale, 500 units are sold at a price of ₹ 95. In the second sale, 400 units are sold at a price of ₹ 100.
- (a) 95
 - (b) 100
 - (c) Average of 95 and 100 i.e. $(95+100)/2 = 97.5$
 - (d) Insufficient data

9. Which of the following combinations is correct?

Situation	Consequence
1. Goods pilfered	1. Abatement of duty
2. Goods lost or destroyed	2. No liability pay customs duty
3. Goods damaged or deteriorated	3. Remission of duty

- (a) 1 and 1, 2 and 2, 3 and 3
- (b) 1 and 3, 2 and 1, 3 and 2
- (c) 1 and 2, 2 and 3, 3 and 1
- (d) 1 and 2, 2 and 1, 3 and 3
10. Which of the following statements are not correct in relation to drawback provisions under sections 74 and 75 of the Customs Act, 1962?
- (i) While drawback under section 74 is payable when duty paid goods are re-exported, drawback under section 75 is payable when imported materials are used in the manufacture of export goods
- (ii) While the rates for drawback under section 74 are fixed, a manufacturer may seek a special rate for drawback under section 75.
- (iii) In case drawback is not paid to the applicant within one month of application, the interest has to be paid to the applicant in both the cases.
- (iv) Drawback is not allowed in cases where market price of goods is less than the amount of drawback claimed.
- (a) All of above
- (b) None of above
- (c) (ii) and (iv)
- (d) (ii) and (iii)
11. "Chanakya Academy" is registered under GST in the State of Uttar Pradesh. The Academy runs the following educational institutions:
- (i) 'Keshav Institute of Technology' (KIT), a private engineering college in Ghaziabad. KIT also runs distance learning post graduate engineering programmes. Exams for such programmes are conducted in select cities at centres appointed by the KIT. All the engineering courses including the distance learning post graduate engineering programme run by KIT are recognised by the law [The All India Council for Technical Education (AICTE)].
- (ii) 'Little Millennium', a pre-school in Lucknow.

- (iii) 'Bright Minds', a coaching institute in Kanpur. The Institute provides coaching for Institute of Banking Personnel Selection (IBPS) Probationary Officers Exam.
- (iv) 'Spring Model' a higher secondary school affiliated to CBSE Board.

The Academy provides the following details relating to the expenses incurred by the various institutions run by it during the period April 20XX to September 20XX:

Table 1

S. No.	Particulars	KIT	Little Millennium	Bright Minds	Spring Model
		(₹)	(₹)	(₹)	(₹)
(i)	Printing services for printing the question papers (paper and content are provided by the Institutions)	2,50,000		1,50,000	2,00,000
(ii)	Paper procured for printing the question papers	4,30,000		2,58,000	3,44,000
(iii)	Honorarium to paper setters and examiners (not on the rolls of the Institution)	5,00,000			
(iv)	Rent for exam centres taken on rent like schools etc., for conducting examination	8,00,000		1,00,000	
(v)	Subscription for online educational journals [Little Millennium has taken the subscription for online periodicals on child development and experiential learning]	4,00,000	80,000	2,20,000	2,40,000
(vi)	Hire charges for buses used to transport students and faculty from their residence to the institutions and back	4,80,000	5,50,000	1,30,000	7,50,000
(vii)	Catering services for running a canteen in the campus for students (Catering services for KIT include a sum of ₹ 60,000 for catering at a student event)	3,20,000	2,60,000	1,80,000	5,00,000

	organised in a banquet hall outside the campus)				
(viii)	Security and housekeeping services for the institution(s) (Security and housekeeping services for Spring Model include a sum of ₹ 80,000 payable for security and housekeeping at the student event organised in a banquet hall outside the campus)	6,00,000	4,00,000	3,75,000	4,65,000

The academy further provides the following details relating to the receipts of the various institutions run by it during the period April 20XX to September 20XX:

Table 2

S. No.	Particulars	KIT	Little Millennium	Bright Minds	Spring Model
		(₹)	(₹)	(₹)	(₹)
(i)	Tuition fee	35,00,000	15,00,000	20,00,000	25,00,000
(ii)	Transport fee charged from students	5,00,000	6,00,000	1,30,000	8,50,000

With the help of the above details –

- (i) determine the amount of GST payable, if any, on goods and services received during April 20XX- September 20XX by the various educational institutions run by the 'Chanakya Academy';
- (ii) compute net GST liability of the 'Chanakya Academy' payable from the Electronic Cash Ledger, for the period April 20XX to September 20XX.

All the amounts given above are exclusive of taxes, wherever applicable.

Notes:

- (i) Rate of GST on goods is 12%, catering service is 5% and on other services is 18%.
 - (ii) Wherever relevant, all the conditions necessary for availing the ITC have been complied with.
12. (a) Allfit Laboratories Ltd. is a registered supplier of bulk drugs in Delhi paying tax under regular scheme. It manufactures bulk drugs and supplies the same in the domestic and overseas market. The bulk drugs are supplied within Delhi and in the overseas market directly from the company's warehouse located in South Delhi. For supplies in other States of India, the company has appointed consignment

agents in each such State. However, supplies in Gurgaon (Haryana) and Noida (U.P.) are effected directly from South Delhi warehouse. The drugs are supplied to the consignment agents from the South Delhi warehouse.

Allfit Laboratories Ltd. also provides drug development services to drug manufacturers located in India, including testing of their new drugs in its laboratory located in Delhi.

The company has furnished the following information for the month of January, 20XX:

Particulars	₹
Advance received towards drug development services to be provided to Orochem Ltd., a drug manufacturer, located in Delhi [Drug development services have been provided in February, 20XX and invoice is issued on 28.02.20XX]	5,00,000
Advance received for bulk drugs to be supplied to Novick Pharmaceuticals, a wholesale dealer of drugs in Gurgaon, Haryana [Invoice for the goods is issued at the time of delivery of the drugs in March, 20XX]	6,00,000
Supply of bulk drugs to wholesale dealers of drugs in Delhi	60,00,000
Bulk drugs supplied to Anchor Pharmaceuticals Inc., USA under bond [Consideration received in convertible foreign exchange]	90,00,000
Drug development services provided to Unipharma Ltd., a drug manufacturer, located in Delhi	6,00,000

You are required to determine the GST liability [CGST & SGST or IGST, as the case may be] of Allfit Laboratories Ltd. for the month of January, 20XX with the help of the following additional information furnished by it for the said period:

1. Consignments of bulk drugs were sent to Cardinal Pharma Pvt. Ltd. and Rochester Medicos – agents of Allfit Laboratories Ltd. in Punjab and Haryana respectively. Cardinal Pharma Pvt. Ltd. and Rochester Medicos supplied these drugs under their invoices to the Medical Stores located in their respective States for ₹ 60,00,000 and ₹ 50,00,000 respectively.
2. Bulk drugs have been supplied to Ronn Medicos - a wholesale dealer of bulk drugs in Gurgaon, Haryana for consideration of ₹ 15,00,000. Allfit Laboratories Ltd. owns 72% shares of Ronn Medicos Pvt. Ltd. Open market value of the bulk drugs supplied to Ronn Medicos Pvt. Ltd. is ₹ 30,00,000. Further, Ronn Medicos Pvt. Ltd. is not eligible for full input tax credit.

Note:

- (i) All the given amounts are exclusive of GST, wherever applicable.
- (ii) Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Bulk drugs	2.5%	2.5%	5%
Drug development services	9%	9%	18%

You are required to make suitable assumptions, wherever necessary.

13. Prada Forex Private Limited, registered in Delhi, is a money changer. It has undertaken the following purchase and sale of foreign currency:
 - (i) 1,000 US \$ are purchased from Nandi Enterprises at the rate of ₹ 68 per US \$. RBI reference rate for US \$ on that day is ₹ 68.60.
 - (ii) 2,000 US \$ are sold to Menavati at the rate of ₹ 67.50 per US\$. RBI reference rate for US \$ for that day is not available.

Determine the value of supply in each of the above cases in terms of:

- (A) rule 32(2)(a) of the CGST Rules, 2017
 - (B) rule 32(2)(b) of the CGST Rules, 2017.
14. (i) Mr. Z, a supplier registered in Hyderabad (Telangana), procures goods from China and directly supplies the same to a customer in US. With reference to the provisions of GST law, examine whether the said activity of supply of goods by Mr. Z to customer in US is taxable under GST. If yes, determine the place of supply of the same.
 - (ii) Priyank of Pune, Maharashtra enters into an agreement to sell goods to Bisht of Bareilly, Uttar Pradesh. While the goods were being packed in Pune godown of Priyank, Bisht got an order from Sahil of Shimoga, Karnataka for the said goods. Bisht agreed to supply the said goods to Sahil and asked Priyank to deliver the goods to Sahil at Shimoga.

You are required to determine the place of supply(ies) in the above situation.

15. Discuss the liability to pay tax in case of an amalgamation/merger, under section 87 of the CGST Act, 2017.
16. Examine whether the suppliers are eligible for composition scheme in the following independent cases. Is there any other option available for concessional tax payment with any of these suppliers, wherever composition scheme cannot be availed?
 - (a) M/s Devlok, a registered dealer, is dealing in intra-State trading of electronic appliances in Jaipur (Rajasthan). It has turnover of ₹ 130 lakh in the preceding

financial year. In the current financial year, it has also started providing repairing services of electronic appliances.

- (b) M/s Narayan & Sons, a registered dealer, is running a “Khana Khazana” Restaurant near City Palace in Jaipur. It has turnover of ₹ 140 lakh in the preceding financial year. In the current financial year, it has also started dealing in intra-State trading of beverages in Jaipur (Rajasthan).
- (c) M/s Indra & bro, a registered dealer, is providing restaurant services in Uttarakhand. It has turnover of ₹ 70 lakh in the preceding financial year. It has started providing intra-State interior designing services in the current financial year and discontinued rendering restaurant services.
- (d) M/s Him Naresh, a registered dealer, is exclusively providing intra-state architect services in Uttarakhand. It has turnover of ₹ 40 lakh in the preceding financial year.
17. LMN Pvt. Ltd., Coimbatore exclusively manufactures and sells product ‘X’ which is exempt from GST vide notifications issued under relevant GST legislations. The company sells ‘X’ only within Tamil Nadu. The turnover of the company in the previous year was ₹ 45 lakh. The company expects the sales to grow by 30% in the current year. The company purchased additional machinery for manufacturing ‘X’ on 01.07.20XX. The purchase price of the capital goods was ₹ 30 lakh exclusive of GST @ 18%.
- However, effective from 01.11.20XX, exemption available on ‘X’ was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30.09.20XX was ₹ 45 lakh.
- (a) Examine the above scenario and advise LMN Pvt Ltd. whether it needs to get registered under GST.
- (b) If the answer to the above question is in affirmative, advise LMN Pvt. Ltd. whether it can avail input tax credit on the additional machinery purchased exclusively for manufacturing “X”?
18. Mahadev Enterprises, a sole proprietorship firm, opened a shopping complex dealing in supply of goods at multiple locations, i.e. in Himachal Pradesh, Uttarakhand and Tripura in the month of June.

It has furnished the following details relating to the sale made at such multiple locations for the month of June:-

Particulars	Himachal Pradesh	Uttarakhand	Tripura
	(₹)*	(₹)*	(₹)*
Intra- State sale of taxable goods	22,50,000	-	7,00,000
Intra-State sale of exempted goods	-	-	6,00,000
Interest received from banks on the	-	-	60,000

fixed deposits			
Intra-State sale of non-taxable goods	-	21,00,000	40,000

* excluding GST

With the help of the above mentioned information, answer the following questions giving reasons:-

- (1) Determine whether Mahadev Enterprises is liable to be registered under GST law and what is the threshold limit of taking registration in this case.
 - (2) Explain with reasons whether your answer in (1) will change in the following independent cases:
 - (a) If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh;
 - (b) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh;
 - (c) If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh and has also effected inter - State supplies of taxable goods amounting to ₹ 4,00,000.
19. "Diligent Force" a professional training institute gets its training material of "Aptitude Quotient" printed from "Durga printing House" a printing press. The content of the material is provided by the Diligent Force who owns the usage rights of the same while the physical inputs including paper used for printing belong to the Durga Printing House. Ascertain whether supply of training material by the Durga Printing House constitutes supply of goods or supply of services.
20. In an order dated 20.08.20XX issued to GH (P) Ltd., the Joint Commissioner of CGST has confirmed a CGST demand of ₹ 280 crore. The company is disputing the entire demand of CGST and wants to know how much pre-deposit it has to make under the CGST Act, 2017 for filing an appeal before the Appellate Authority against the order of the Joint Commissioner.
- Assuming that the Appellate Authority also confirms the order of the Joint Commissioner and the company wants to file an appeal before the Appellate Tribunal against the order of the Appellate Authority, how much pre-deposit it has to make under the CGST Act, 2017 for filing the said appeal?
21. With reference to the provisions of section 17 of the CGST Act, 2017, examine the availability of input tax credit under the CGST Act, 2017 in the following independent cases:-
- (i) MBF Ltd., an automobile company, has availed works contract service for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently.

- (ii) Shah & Constructions procured cement, paint, iron rods and services of architects and interior designers for construction of a commercial complex for one of its clients.
- (iii) ABC Ltd. availed maintenance & repair services from “Jaggi Motors” for a truck used for transporting its finished goods.
22. Compute export duty from the following data:
- (i) FOB price of goods: US \$ 50,000.
- (ii) Shipping bill presented electronically on 26.04.20XX.
- (iii) Proper officer passed order permitting clearance and loading of goods for export (Let Export Order) on 06.05.20XX.
- (iv) Rate of exchange and rate of export duty are as under:
- | | Rate of Exchange | Rate of Export Duty |
|---------------|------------------|---------------------|
| On 26.04.20XX | 1 US \$ = ₹ 70 | 10% |
| On 06.05.20XX | 1 US \$ = ₹ 73 | 8% |
- (v) Rate of exchange is notified for export by Central Board of Indirect taxes and Customs.
23. Answer the following questions with reference to the provisions of Duty Credit Scrips under Export from India Schemes under FTP 2015-2020.
- (i) Neha provides services eligible for SEIS Scheme. She wants to sell SEIS scrips earned by her. Can she do so?
- (ii) Can a manufacturer, instead of importing the inputs, source the same indigenously without payment of GST?
- (iii) An exporter was issued duty credit scrip dated 15.07.20XX. What is the period within which he must utilize the scrip?
- (iv) An exporter exported leather footwears through courier using e-commerce of value of ₹ 24,000. Can he apply for duty credit scrips under Merchandise Exports from India Scheme (MEIS)?
24. With reference to section 9A(1A) of the Customs Tariff Act, 1975, mention the ways that constitute circumvention of antidumping duty imposed on an article which may warrant action by the Central Government.
25. With reference to the Customs & Central Excise Duties Drawback Rules, 2017, briefly state whether an exporter who has already filed a duty draw back claim under All Industry Rates, can file an application for fixation on special brand rate.

SUGGESTED ANSWERS

1. (a)
2. (d)
3. (b)
4. (b)
5. (c)
6. (b)
7. (a)
8. (a)
9. (c)
10. (b)
11. (i) *Notification No. 12/2017 CT(R) dated 28.06.2017 (hereinafter referred to as exemption notification)* which exempts various services from GST leviable thereon exempts select **services** provided to an educational institution.
Here, the “educational institution” means an institution providing services by way of,-
 - (i) pre-school education and education up to higher secondary school or equivalent;
 - (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
 - (iii) education as a part of an approved vocational education course;The select services which are exempt when provided to an educational institution are-
 - (i) transportation of students, faculty and staff;
 - (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
 - (iii) security or cleaning or house-keeping services performed in such educational institution;
 - (iv) services relating to admission to, or conduct of examination by, such institution;
 - (v) supply of online educational journals or periodicals

However, the services mentioned in points (i), (ii) and (iii) are exempt only when the same are provided to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

Also, the supply of online educational journals or periodicals are not exempt from GST when provided to-

- (i) pre-school education and education up to higher secondary school or equivalent; or
- (ii) education as a part of an approved vocational education course.

In the given case, all the engineering courses including the distance learning post graduate engineering programme run by KIT are recognised by the law [The All India Council for Technical Education (AICTE)]. Therefore, since KIT imparts education as a part of a curriculum for obtaining a qualification recognised by the Indian law, the same is an educational institution in terms of the exemption notification.

Similarly, Little Millennium and Spring Model, being a pre-school and a higher secondary school respectively are also educational institutions in terms of the exemption notification.

However, Bright Minds, being a coaching centre, training candidates to secure a banking job, is not an educational institution in terms of the exemption notification. Hence, none of the select services (mentioned above) will be exempt when provided to Bright Minds.

In the light of the foregoing provisions, the amount of GST payable on goods and services received by these educational institutions during April 20XX- September 20XX is computed as under:

Particulars	KIT	Little Millennium	Bright Minds	Spring Model
	(₹)	(₹)	(₹)	(₹)
Printing services for printing the question papers (paper and content are provided by the Institutions)	Exempt [Services provided to educational institution in relation to conduct of examination]		27,000 [1,50,000 x 18%]	Exempt
Paper procured for printing the question papers – [Supply of	51,600 [4,30,000 x		30,960 [2,58,000 x	41,280 [3,44,000 x

select services to educational institutions is exempt and not supply of goods to such educational institutions]	12%]		12%]	12%]
Honorarium to paper setters and examiners (not on the rolls of the educational institution)	Exempt [Services provided to educational institution in relation to conduct of examination]			
Rent for exam centres taken on rent like schools etc., for conducting examination	Exempt [Services provided to educational institution in relation to conduct of examination]		18,000 [1,00,000 x 18%]	
Subscription for online educational journals [Little Millennium has taken the subscription for online periodicals on child development and experiential learning]	Exempt	14,400 [80,000 x 18%]	39,600 [2,20,000 x 18%]	4,320 [2,40,000 x 18%]
Hire charges for buses used to transport students and faculty from their residence to the institutions and back	86,400 [4,80,000 x 18%]	Exempt	23,400 [1,30,000 x 18%]	Exempt
Catering services for running a canteen in the campus for students	16,000 [3,20,000 x 5%]	Exempt	9,000 [1,80,000 x 5%]	Exempt

Catering service provided to pre-school and the higher secondary school is exempt irrespective of whether the same is provided within or outside the premises of the pre-school and the higher secondary school				
Security and housekeeping services for the institution(s) Security and housekeeping service provided to pre-school and the higher secondary school for the student event organised in a banquet hall will be taxable as only the security and housekeeping service provided within the premises of the pre-school and the higher secondary school are exempt.	1,08,000 [6,00,000 x 18%]	Exempt	67,500 [3,75,000 x 18%]	14,400 [80,000 x 18%]
Total GST payable on goods and services received by the educational institutions	2,62,000	14,400	2,15,460	60,000

- (ii) (1) Sl. No. 66 of *Notification No. 12/2017 CT(R) dated 28.06.2017* also exempts services provided by an educational institution to its students, faculty and staff. All the educational institutions run by the Chanakya Academy except Bright Minds are educational institutions in terms of the exemption notification (as explained under point (i) above). Therefore, the education services and the transport services provided by KIT, Little Millennium, and Spring Model to its

students will be exempt from GST under Sl. No. 66 of the exemption notification. Thus, only the educational services provided by Bright Minds will be liable to GST @ 18%.

- (2) No input tax credit (ITC) will be availed on inputs and input services used in providing exempt education services, i.e. education services by KIT, Little Millennium, and Spring Model. Only Bright Minds will be entitled to avail ITC on inputs and input services used in providing taxable education services. However, ITC on outdoor catering services will be blocked in terms of section 17(5)(b)(i) of the CGST Act, 2017.
- (3) Since there are no common inputs and input services being used for providing taxable and exempt services, the need for reversal of ITC attributable to exempt supplies will not arise.

In the light of the foregoing provisions, the net GST liability of Chanakya Academy, which will comprise of only the tax liability of Bright Minds, is computed as under:

Particulars	Bright Minds
	(₹)
Tuition fee	20,00,000
Transport fee charged from students	<u>1,30,000</u>
Value of output supply taxable @ 18%	21,30,000
GST liability @ 18%	3,83,400
Less: ITC [Total tax payable by Bright Minds on the service received by it as computed in point (i) above less the tax payable on catering charges (₹ 2,15,460 - ₹ 9,000)]	<u>2,06,460</u>
Net GST payable from Electronic Cash Ledger	1,76,940

12. Computation of GST Liability of Allfit Laboratories Ltd. for the month of January, 20XX

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Advance received for drug development services supplied to Orochem Ltd., a drug manufacturer, located in Delhi [Note - 1]	45,000 [5,00,000 × 9%]	45,000 [5,00,000 × 9%]	
Advance received for bulk drugs to be supplied to Novick Pharmaceuticals, a wholesale			Nil

dealer of drugs in Gurgaon, Haryana [Note - 2]			
Supply of bulk drugs to wholesale dealers of drugs in Delhi [Note - 3]	1,50,000 [60,00,000 × 2.5%]	1,50,000 [60,00,000 × 2.5%]	
Bulk drugs supplied to Anchor Pharmaceuticals Inc., USA [Note - 4]			Nil
Supply of drug development services to Unipharma Ltd., a drug manufacturer, located in Delhi [Note - 5]	54,000 [6,00,000 × 9%]	54,000 [6,00,000 × 9%]	
Supply of bulk drugs to consignment agents - Cardinal Pharma Pvt. Ltd. and Rochester Medicos of Punjab and Haryana [Note - 6]			4,95,000 [99,00,000 × 5%]
Supply of bulk drugs to Ronn Medicos of Gurgaon, Haryana [Note - 7]			1,50,000 [30,00,000 × 5%]
Total GST liability	2,49,000	2,49,000	6,45,000

Notes:

1. Being an intra-State supply of services, supply of drug development services to Orochem Ltd. of Delhi is subject to CGST and SGST @ 9% each. Further, in terms of section 13(2) of the CGST Act, the time of supply of services is the earlier of the date of invoice or date of receipt of payment, if the invoice is issued within 30 days of the supply of service. In the given case, invoice is issued within 30 days of the supply of service. Therefore, time of supply of services will be date of receipt of advance and hence, GST is payable on the advance received in January, 20XX.
2. Being an inter-State supply of goods, supply of bulk drugs to Novick Pharmaceuticals of Gurgaon, Haryana is subject to IGST @ 5%. Further, in terms of section 12(2) of the CGST Act, the time of supply of goods is the earlier of the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment.

However, *Notification No. 66/2017 CT dated 15.11.2017* specifies that time of supply of goods for the purpose of payment of tax is the date of issue of invoice/last date of issue of invoice.

Thus, GST is not payable at the time of receipt of advance against supply of goods. The time of supply of the advance received for bulk drugs to be supplied to Novick Pharmaceuticals is the time of issue of invoice, which is in March, 20XX. Thus, said advance will be taxed in March, 20XX and not in January, 20XX.

3. Being an intra-State supply of goods, supply of bulk drugs to wholesale dealers of drugs in Delhi is subject to CGST and SGST @ 2.5 % each.
4. Section 2(5) of the IGST Act defines export of goods as taking goods out of India to a place outside India. In view of the said definition, supply of the bulk drugs to Anchor Pharmaceuticals Inc. of USA under bond is export of goods.

Export of goods is a zero-rated supply [Section 16(1) of the IGST Act]. A zero-rated supply under bond is made without payment of integrated tax [Section 16(3)(a) of IGST Act].

5. Being an intra-State supply of services, supply of drug development services to Unipharma Ltd. of Delhi is subject to CGST and SGST @ 9% each.
6. Value of supply of goods made through an agent is determined as per rule 29 of the CGST Rules. Accordingly, the value of supply of goods between the principal and his agent is the open market value of the goods being supplied, or at the option of the supplier, is 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer, where the goods are intended for further supply by the said recipient.

In the given case, since open market value is not available, value of bulk drugs supplied to consignment agents - Cardinal Pharma Pvt. Ltd. and Rochester Medicos – will be ₹ 99,00,000 [90% of (₹ 60,00,000 + ₹ 50,00,000)]. Further, being an inter-State supply of goods, supply of bulk drugs to the consignment agents is subject to IGST @ 5%.

7. If any person directly or indirectly controls another person, such persons are deemed as related persons. [Clause (a)(v) of explanation to section 15 of the CGST Act]. In the given case, since Allfit Laboratories Ltd. owns 72% shares of Ronn Medicos, both are related persons.

Value of supply of goods between related persons (other than through an agent) is determined as per rule 28 of the CGST Rules. Accordingly, the value of supply of goods between related persons is the open market value of such goods and not the invoice value. Furthermore, since Ronn Medicos is not eligible for full input tax credit, value declared in the invoice cannot be deemed to be the open market value of the goods. Thus, open market value of the bulk drugs supplied to Ronn Medicos, i.e. ₹ 30,00,000 is the value of supply of such goods. Further, being an inter-State supply of goods, supply of bulk drugs to Ronn Medicos is subject to IGST @ 5%.

13. Rule 32(2) of the CGST Rules, 2017 prescribes the provisions for determining the value of supply of services in relation to the purchase or sale of foreign currency, including money changing.

(A) Determination of value under rule 32(2)(a) of the CGST Rules, 2017

- (i) Rule 32(2)(a) of the CGST Rules, 2017 provides that the value of supply of services for a currency, when exchanged from, or to, Indian Rupees, shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency. Thus, value of supply is:

$$= (\text{RBI reference for US \$} - \text{Buying rate of US \$}) \times \text{Total number of units of US \$ bought}$$

$$= (\text{₹ } 68.6 - \text{₹ } 68) \times 1,000$$

$$= \text{₹ } 600$$

- (ii) First proviso to rule 32(2)(a) of the CGST Act, 2017 lays down that when the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money. Thus, value of supply is:

$$= 1\% \text{ of the gross amount of Indian Rupees received}$$

$$= 1\% \text{ of } (\text{₹ } 67.50 \times 2,000)$$

$$= \text{₹ } 1,350$$

(B) Determination of value under rule 32(2)(b) of the CGST Rules, 2017

Rule 32(2)(b) provides that value in relation to the supply of foreign currency, including money changing shall be deemed to be –

S. No.	Currency exchanged	Value of supply
1.	Upto ₹ 1,00,000	1% of the gross amount of currency exchanged OR ₹ 250 whichever is higher
2.	Exceeding ₹ 1,00,000 and upto ₹ 10,00,000	₹ 1,000 + 0.50% of the (gross amount of currency exchanged - ₹ 1,00,000)
3.	Exceeding ₹ 10,00,000	₹ 5,500 + 0.1% of the (gross amount of currency exchanged - ₹ 10,00,000) OR ₹ 60,000 whichever is lower

Thus, the value of supply in the given cases would be computed as under:

- (i) Gross amount of currency exchanged = ₹ 68 × 1,000 = ₹ 68,000. Since the gross amount of currency exchanged is less than ₹ 1,00,000, value of supply is 1% of the gross amount of currency exchanged [1% of ₹ 68,000] or ₹ 250, whichever is higher.

= ₹ 680

- (ii) Gross amount of currency exchanged = ₹ 67.50 × 2,000 = ₹ 1,35,000. Since the gross amount of currency exchanged exceeds ₹ 1,00,000 but is less than ₹ 10,00,000, value of supply is ₹ 1,000 + 0.50% of (₹ 1,35,000 - ₹ 1,00,000).

= ₹ 1,175

14. (i) Schedule III to the CGST Act specifies transactions/ activities which shall be neither treated as supply of goods nor supply of services. A new activity has been added in the said Schedule III vide the CGST (Amendment) Act, 2018 namely, supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India. Thus, it seeks to exclude from the tax net such transactions which involve movement of goods, caused by a registered person, from one non-taxable territory to another non-taxable territory.

Therefore, in view of the above-mentioned provisions, the said activity is not a supply. Hence, it is not leviable to GST since "supply" is the taxable event for chargeability of GST. Therefore, since the transaction is not leviable to GST, the question of place of supply does not arise in the given case.

- (ii) The supply between Priyank (Pune) and Bisht (Bareilly) is a **bill to ship to supply** where the goods are delivered by the supplier [Priyank] to a recipient [Sahil (Shimoga)] or any other person on the direction of a third person [Bisht]. The place of supply in case of domestic bill to ship to supply of goods is determined in terms of section 10(1)(b) of IGST Act, 2017.

As per section 10(1)(b) of IGST Act, 2017, where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.

Thus, in the given case, it is deemed that the Bisht has received the goods and the place of supply of such goods is the principal place of business of Bisht. Accordingly, the place of supply between Priyank (Pune) and Bisht (Bareilly) will be Bareilly, Uttar Pradesh.

This situation involves another supply between Bisht (Bareilly) and Sahil (Shimoga). The place of supply in this case will be determined in terms of section 10(1)(a) of IGST Act, 2017.

Section 10(1)(a) of IGST Act, 2017 stipulates that where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Thus, the place of supply in second case is the location of the goods at the time when the movement of goods terminates for delivery to the recipient (Sahil), i.e. Shimoga, Karnataka.

15. Section 87 of the CGST Act, 2017 stipulates that when two or more companies are amalgamated/merged in pursuance of an order of court/Tribunal/otherwise and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied/received any goods and/or services to/from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.

For the purposes of the CGST Act, 2017, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order. The registration certificates of the said companies shall be cancelled with effect from the date of the said order.

16. As per section 10 of the CGST Act, 2017, the following registered persons, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore, may opt to pay tax under composition levy.

- (a) Manufacturer,
- (b) Persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II (restaurant services), and
- (c) Any other supplier eligible for composition levy.

Thus, essentially, the composition scheme can be availed in respect of goods and only one service namely, restaurant service. However, the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such marginal services can be supplied for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher.

Further, the registered person should not be engaged in making any inter-State outward supplies of goods.

Furthermore, an option of availing benefit of concessional payment of tax has been provided to a registered person whose aggregate turnover in the preceding financial year is upto ₹ 50 lakh and who is not eligible to pay tax under composition scheme. Said person can pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] on first supplies of goods and/or services up to an aggregate turnover of ₹ 50 lakh made on/after 1st April in

any financial year (FY), subject to specified conditions vide *Notification No. 2/2019 CT (R) dated 07.03.2019 as amended*. One of such condition is that the registered person should not be engaged in making any inter-state outward taxable supplies.

In view of the above-mentioned provisions, the answer to the given independent cases is as under:-

- (a) The turnover limit for composition scheme in case of Jaipur (Rajasthan) is ₹1.5 crore. Thus, M/s Devlok can opt for composition scheme as its aggregate turnover is less than ₹1.5 crore. Further, since the registered person opting for composition scheme can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher, in the current financial year, M/s Devlok can supply repair services up to a value of ₹13 lakh [10% of ₹130 lakh or ₹5 lakh, whichever is higher] in the current financial year.
- (b) In the given case:-
- (i) the turnover in the preceding year is less than the eligible turnover limit, i.e. ₹ 1.5 crore.
 - (ii) the supplier is engaged in providing restaurant service which is an eligible supply under composition scheme.
 - (iii) the supplier wants to engage in trading of goods which is also an eligible supply under composition scheme.

Thus, M/s Narayan & Sons is eligible for composition scheme.

- (c) The turnover limit for composition scheme in case of Uttarakhand is ₹ 75 lakh. Further, a registered person who is exclusively engaged in supplying services other than restaurant services are not eligible for composition scheme. Thus, M/s Indra & bro cannot opt for composition scheme.

Further, the benefit of concessional tax payment under *Notification No. 2/2019 CT (R) dated 07.03.2019* is available in case of a registered person whose aggregate turnover in the preceding financial year does not exceed ₹ 50 lakh.

Thus, in view of the above- mentioned provisions, M/s Indra & bro cannot avail the benefit of concessional tax payment as its aggregate turnover in the preceding financial year is more than ₹ 50 lakh.

- (d) An exclusive service provider can opt for the composition scheme only if he is engaged in supply of restaurant services. The composition scheme permits supply of marginal services for a specified value, but only when the same are supplied along with goods and/or restaurant service.

Since M/s Him Naresh is exclusively engaged in supply of services other than restaurant services, it is not eligible for composition scheme even though its

turnover in the preceding year is less than ₹ 75 lakh, the eligible turnover limit for Uttarakhand.

However, since M/s Him Naresh is not eligible to opt for composition scheme, its aggregate turnover in the preceding financial year does not exceed ₹ 50 lakh and it is exclusively engaged in supply of services other than restaurant services, M/s Him Naresh is entitled to avail benefit of concessional payment of tax under *Notification No. 2/2019 CT (R) dated 07.03.2019*.

17. (a) Section 22(1) of the CGST Act, 2017 read with *Notification No. 10/2019 CT dated 07.03.2019 inter alia* provides that every supplier who is **engaged in intra-State exclusive supply of goods** is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods only when aggregate turnover in a financial year exceeds ₹ 40,00,000.

However, the above provisions are not applicable to few specified States, *i.e.* States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.

Further, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration in terms of section 23(1)(a) of CGST Act, 2017.

In the given case, the turnover of the company for the half year ended on 30.09.20XX is ₹ 45 lakh which is more than the applicable threshold limit of ₹ 40 lakh. Therefore, as per above mentioned provisions, the company should be liable to registration. However, since LMN Pvt. Ltd. supplied exempted goods till 31.10.20XX, it was not required to be registered till that day, though voluntary registration was allowed under section 25(3) of the CGST Act, 2017.

However, the position will change from 01.11.20XX as the supply of goods become taxable from that day and the turnover of company is above ₹ 40 lakh. It is important to note here that in terms of section 2(6) of the CGST Act, 2017, the aggregate turnover limit of ₹ 40 lakh includes exempt turnover also.

Therefore, turnover of 'X' will be considered for determining the limit of ₹ 40 lakh even though the same was exempt from GST. Therefore, the company needs to register within 30 days from 01.11.20XX (the date on which it becomes liable to registration) in terms of section 25(1) of the CGST Act, 2017.

- (b) Section 18(1)(a) of the CGST Act, 2017 provides that a person who has applied for registration within 30 days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

Thus, LMN Pvt. Ltd. cannot avail credit for additional machinery purchased exclusively for manufacturing X as input tax credit of only inputs is allowed when a person gets registered for the first time.

18. As per section 22 of the CGST Act, 2017 read with *Notification No. 10/2019 CT dated 07.03.2019*, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

- (i) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) ₹ 20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- (iii) ₹ 40 lakh for rest of India.

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

- (i) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (ii) ₹ 20 lakh for the rest of India.

As per section 2(6) of the CGST Act, 2017, aggregate turnover includes the aggregate value of:

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) exports of goods and/or services and
- (iv) all inter-State supplies of persons having the same PAN.

The above is computed on all India basis.

In the light of the afore-mentioned provisions, the aggregate turnover of Mahadev Enterprises is computed as under:

Computation of State-wise aggregate turnover of Mahadev Enterprises

Particulars	Himachal Pradesh	Uttarakhand	Tripura
	(₹)*	(₹)*	(₹)*
Intra- State sale of taxable goods	22,50,000	-	7,00,000
Intra-State sale of exempted goods	-	-	6,00,000
Interest received from banks on the fixed deposits [Note-1]	-	-	60,000
Intra-State sale of non-taxable goods [Note-2]	-	21,00,000	40,000

Aggregate Turnover	22,50,000	21,00,000	14,00,000
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Notes:

1. Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) is exempt vide *Notification No. 12/2017 CT (R) dated 28.06.2017*. Since aggregate turnover includes exempt supply, interest received from banks on the fixed deposits, being exempt supply, is included in the aggregate turnover.
2. As per section 2(47) of the CGST Act, 2017, exempt supply includes non-taxable supply. Thus, intra -State supply of non-taxable goods in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, included in the aggregate turnover.

In the given case, Mahadev Enterprises is engaged in exclusive intra-State supply of goods from Himachal Pradesh and Uttarakhand and in supply of both goods and exempted services from Tripura, the threshold limit for registration will be ₹ 40 lakh, ₹ 20 lakh and ₹ 10 lakh respectively.

Further, since Mahadev Enterprises also makes taxable supply of goods from one of the specified Special Category States (i.e. Tripura), the threshold limit for registration will be reduced to ₹ 10 lakh.

- (1) Thus, in view of the above-mentioned provisions, Mahadev Enterprises is liable to be registered under GST law with the aggregate turnover amounting to ₹ 57,50,000 (computed on all India basis). The applicable threshold limit of registration in this case is ₹ 10 lakh.
 - (2) (a) If Mahadev Enterprises is dealing in supply of goods only from Himachal Pradesh, the applicable threshold limit of registration would be ₹ 40 lakh. Thus, Mahadev Enterprises will not be liable for registration as its aggregate turnover would be ₹ 22,50,000.
 - (b) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh then higher threshold limit of ₹ 40 lakh will not be applicable as the same applies only in case of exclusive supply of goods. Therefore, in this case, the applicable threshold limit will be ₹ 20 lakh and hence, Mahadev Enterprises will be liable to registration.
 - (c) In case of inter-State supplies of taxable goods, section 24 of the CGST Act, 2017 requires compulsory registration irrespective of the quantum of aggregate turnover. Thus, Mahadev Enterprises will be liable to registration.
- 19** *Circular No. 11/11/2017 GST dated 20.10.2017* has clarified that supply of books printed with contents supplied by the recipient of such printed goods, is composite supply and

the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Principal supply has been defined in section 2(90) of the CGST Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

In the case of printing of books where content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore, such supplies would constitute supply of service.

Thus, in view of the above-mentioned provisions, the supply of training material by the Durga Printing House would constitute supply of services.

20. Section 107(6) of the CGST Act, 2017 provides that no appeal shall be filed with the Appellate Authority unless the applicant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him and a sum equal to 10% of the remaining amount of tax in dispute arising from the said order subject to a maximum of ₹ 25 crore. Thus, the amount of pre-deposit for filing an appeal with Appellate Authority cannot exceed ₹ 25 crore.

Thus, in the given case, the amount of pre-deposit for filing an appeal with the Appellate Authority against the order of Joint Commissioner, where entire amount of tax is in dispute, is:

- (i) ₹ 28 crore [10% of the amount of tax in dispute, viz. ₹ 280 crore]

or

- (ii) ₹ 25 crore,

whichever is less.

= ₹ 25 crore.

Further, section 112(8) of the CGST Act, 2017 provides that no appeal shall be filed with the Appellate Tribunal unless the applicant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him and a sum equal to 20% of the remaining amount of tax in dispute, in addition to the amount paid as pre-deposit while filing appeal to the Appellate Authority, arising from the said order subject to a maximum of ₹ 50 crores.

Thus, in the given case, the amount of pre-deposit for filing an appeal with the Appellate Tribunal against the order of the Appellate Authority, where entire amount of tax is in dispute, is:

- (i) ₹ 56 crores [20% of the amount of tax in dispute, viz. ₹ 280 crores]

or

- (ii) ₹ 50 crores,
whichever is less.
= ₹ 50 crores.

21. (i) Section 17(5)(c) of the CGST Act, 2017 blocks input tax credit in respect of works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service.

Further, the term “plant and machinery” means apparatus, equipment and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods and/or services **and includes such foundation or structural support** but excludes land, building or other civil structures, telecommunication towers, and pipelines laid outside the factory premises.

Thus, in view of the above-mentioned provisions, ITC is available in respect of works contract service availed by MBF Ltd. as the same is used for construction of plant and machinery which is not blocked under section 17(5)(c) of the CGST Act, 2017.

- (ii) Section 17(5)(d) of the CGST Act, 2017 blocks ITC on goods and/or services received by a taxable person for construction of an immovable property (other than plant and machinery) **on his own account** even though such goods and/or services are used in the course or furtherance of business. Thus, ITC on goods and/or services used in the construction of an immovable property is blocked only in those cases where the taxable person constructs the immovable property for his own use even if the immovable property being constructed is used in the course or furtherance of his business.

In the given case, taxable person has used the goods and services for construction of immovable property for some other person and not on its own account. Hence, ITC in this case will be allowed.

- (iii) As per section 17(5) of the CGST Act, 2017, ITC is allowed on repair and maintenance services relating to motor vehicles, which are eligible for input tax credit. Further, as per section 17(5)(a) ITC is allowed on motor vehicles which are used for transportation of goods.

Thus, ITC on maintenance & repair services availed from “Jaggi Motors” for a truck used for transporting its finished goods is allowed to ABC Ltd.

22. **Computation of export duty**

Particulars	Amount (US \$)
FOB price of goods [Note 1]	50,000
	Amount (₹)
Value in Indian currency (US \$ 50,000 x ₹ 70) [Note 2]	35,00,000
Export duty @ 8% [Note 3]	2,80,000

Notes:

1. As per section 14(1) of the Customs Act, 1962, assessable value of the export goods is the transaction value of such goods which is the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation.
 2. As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange notified by the CBIC on the date of presentation of shipping bill of export.
 3. As per section 16(1)(a) of the Customs Act, 1962, in case of goods entered for export, the rate of duty prevalent on the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation, is considered.
23. (i) **Yes.** The duty credit scrips and goods imported or domestically procured against them are freely transferable.
- (ii) **No.** Utilization of duty credit scrip is not permitted for payment of GST for procurement from domestic sources.
- (iii) The duty credit scrip will be valid for 18 months from date of issue.
- (iv) **Yes.** Exports of leather footwears through courier using e-commerce of FOB value of ₹ 5,00,000 per consignment are eligible for MEIS.
24. As per section 9A(1A) of the Customs Tariff Act, 1975, following are the ways that would constitute circumvention (avoiding levy of duty by unscrupulous means) of antidumping duty imposed on an article that may warrant action by the Central Government:
- (i) altering the description or name or composition of the article subject to such anti-dumping duty,
 - (ii) import of such article in an unassembled or disassembled form,
 - (iii) changing the country of its origin or export, or
 - (iv) any other manner, whereby the anti-dumping duty so imposed is rendered ineffective.

In such cases, investigation can be carried out by Central Government and then anti-dumping can be imposed on such articles.

25. Rule 7 of the Customs and Central Excise Duties Drawback Rules, 2017 provides that application for Special Brand Rate cannot be made where a claim for drawback under rule 3 or rule 4 has been made.

In other words, where the exporter has already filed a duty drawback claim under All Industry Rates (AIR) Schedule, he cannot request for fixation of Special Brand Rate of drawback. Thus, the exporter should determine prior to export of goods, whether to claim drawback under AIR or Special Brand Rate.

Note: GST law has been subject to frequent changes since its inception. Although many clarifications have been issued by way of FAQs or otherwise, many issues continue to arise on account of varying interpretations on several of its provisions. Therefore, alternate answers may be possible for the above questions depending upon the view taken.