REVISION TEST PAPERS

FINAL (NEW) COURSE

GROUP – II

NOVEMBER, 2018

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REVISION TEST PAPER, NOVEMBER, 2018 – OBJECTIVE & APPROACH

(Students are advised to go through the following paragraphs carefully to derive maximum benefit out of this RTP)

I Objective of Revision Test Paper

Revision Test Papers are one among the many educational inputs provided by the Board of Studies (BOS) to its students. Popularly referred to as RTP by the students, it is one of the very old publications of the BOS whose significance and relevance from the examination perspective has stood the test of time.

RTPs provide glimpses of not only the desirable ways in which examination questions are to be answered but also of the professional quality and standard of the answers expected of students in the examination. Further, aspirants can assess their level of preparation for the examination by answering various questions given in the RTP and can also update themselves with the latest developments in the various subjects relevant from the examination point of view.

The primary objectives of the RTP are:

- To help students get an insight of their preparedness for the forthcoming examination;
- To provide an opportunity for a student to find all the latest developments relevant for the forthcoming examination at one place;
- To supplement earlier studies;
- To enhance the confidence level of the students adequately; and
- To leverage the preparation of the students by giving guidance on how to approach the examinations.

RTPs contain the following:

(i) Planning and preparing for examination

(ii) Subject-wise guidance – An overview

(iii) Updates applicable for a particular exam in the relevant subjects

(iv) Topic-wise questions and detailed answers thereof in respect of each paper

(v) Relevant announcement applicable for the particular examination

Students must bear in mind that the RTP contains a variety of questions based on different sections of the syllabi and thus a comprehensive study of the entire syllabus is a pre-requisite before answering the questions of the RTP. In other words, in order to derive maximum benefit out of the RTPs, it is advised that before proceeding to solve the questions given in the RTP, students ought to have thoroughly read the Study Materials.

It is important to remember that there can be large number of other complex questions which are not covered in the RTP. In fact, questions contained herein are only illustrative in nature.

The topics on which the questions are set herein have been carefully selected and meticulous attention has been paid in framing different types of questions. Detailed answers are provided to enable the students to do a self-assessment and have a focused approach for effective preparation.

Students are welcome to send their suggestions for fine tuning the RTP to the Director, Board of Studies, The Institute of Chartered Accountants of India, A-29, Sector-62, Noida 201 309 (Uttar Pradesh). RTP is also available on the Institute's website *www.icai.org* under the BOS knowledge portal in students section for downloading.

II. Planning and preparing for examination

Ideally, when the RTP reaches your hand, you must have finished reading the relevant Study Materials of all the subjects. Make sure that you have read the Study Materials thoroughly as they cover the syllabus comprehensively. Get a good grasp of the concepts/ provisions discussed therein. Solve each and every question/illustration given therein to understand the application of the concepts and provisions.

After reading the Study Materials thoroughly, you should go through the Updates provided in the RTP and then proceed to solve the questions given in the RTP on your own. RTP is in an effective tool to revise and refresh the concepts and provisions discussed in the Study Material. RTPs are provided to you to help you assess your level of preparation. Hence you must solve the questions given therein on your own and thereafter compare your answers with the answers given therein.

Examination tips

How well a student fares in the examination depends upon the level and depth of his preparation. However, there are certain important points which can help a student better his performance in the examination. These useful tips are given below:

- Reach the examination hall well in time.
- As soon as you get the question paper, read it carefully and thoroughly. You are given separate 15 minutes for reading the question paper.
- Plan your time so that appropriate time is awarded for each question. Keep sometime for checking the answers as well.
- First impression is the last impression. The question which you can answer in the best manner should be attempted first.

- Always attempt to do all questions. Therefore, it is important that you must finish each question within allocated time.
- Read the question carefully more than once before starting the answer to understand very clearly as to what is required.
- Answer all parts of a question one after the other; do not answer different parts of the same question at different places.
- Write in a neat and legible hand-writing.
- Always be concise and write to the point and do not try to fill pages unnecessarily.
- There must be logical expression of the answer.
- In case a question is not clear, you may state your assumptions and then answer the question.
- Check your answers carefully and underline important points before leaving the examination hall.

III. Subject-wise Guidance – An Overview

PAPER - 5: STRATEGIC COST MANAGEMENT AND PERFORMANCE EVALUATION

The Revision Test paper on Strategic Cost Management and Performance Evaluation covers Case Studies/ Questions on the following topics:

S. No.	Topic	About the Problem	Verbs used	Industry
		Case Study		
1.	**Standard Costing**	Case Study on 'Control' through 'Standard Costing' *and* 'Critical Success Factors (CSFs).	Evaluate, Recommend, Advise	Manufacturer, Retailer, and (installer of cassette type split AC)
2.	**Budgetary Control**	Case Study on 'Limitations of Traditional Budgeting Control' and 'Beyond Budgeting'.	Explain, Discuss	Hotel Chain
3.	**Performance Measurement in Not for Profit Sector**	Case Study on 'Value for Money Concept'.	Identify, Recommend	Local Government

Questions				
4.	**Performance Measurement Through Fitzgerald and Moon Model**	Question on Performance Measurement through *dimensions of* 'Fitzgerald and Moon Model'.	Explain, Analysis, Advise	Educational Institute (partially funded by the government)
5.	**ROI**	Question on 'Sub-Optimal Decision Making' and 'Lack of Goal Congruence'.	Compute, Discuss	Major Supplier of Metals
6.	**Transfer Pricing**	Question on 'Behavioural Consequences' based on performance measurement through 'ROI'.	Calculate, Analysis, Advise	Optical Products Manufacturer including Lenses and Surveillance Cameras)
7.	**Environmental Management Accounting**	Question on 'Product wise Profitability'.	Calculate, Analysis, Recommend	Fertilizer Company
8.	**Just in Time**	Question based on 'Current Purchasing Policy' vs. 'JIT Procurement System'.	Calculate, Recommend	Manufacturer
9.	**Decision Making**	Question on 'Relevant Cost Concept'.	Analysis	Airlines
10.	**Profitability Analysis**	Question on 'Customer Profitability Analysis'.	Compute, Analysis	Retailer

PAPER 7: DIRECT TAX LAWS AND INTERNATIONAL TAXATION

The syllabus of this paper is divided into two parts, namely, Part I: Direct Tax Laws (70 Marks) and Part II: International Taxation (30 Marks).

The provisions of direct tax laws, as amended by the Finance Act, 2017, and significant notifications, circulars and other legislative amendments upto 30.4.2018 are relevant for November, 2018 Examination. The relevant assessment year for November, 2018 examination is A.Y.2018-19.

The August 2017 edition of the Study Material, comprising of four modules (three modules on Part I: Direct Tax Laws and one module on Part II: International Taxation), is applicable for November, 2018 Examination.

You have to read the Study Material thoroughly to attain conceptual clarity. Tables, diagrams and flow charts have been extensively used to facilitate easy understanding of concepts. The amendments made by the Finance Act, 2017 and latest notifications and circulars have been given in *italics*/***bold italics***. Examples and Illustrations given in the Study Material would help you understand the application of concepts. Thereafter, work out the exercise questions at the end of each chapter to hone your problem solving skills. Compare your answers with the answers given to test your level of understanding. Read the case laws given at the end of each chapter under "Significant Select Cases".

Thereafter, solve the questions given in this RTP independently and compare the same with the answers given to assess your level of preparedness for the examination.

Before you work out the questions in Section B of the RTP, do read the Statutory Update given in Section A. The Judicial Update would be webhosted at the BoS Knowledge Portal on the Institute's website www.icai.org.

PAPER – 8: INDIRECT TAX LAWS

For Paper 8: Indirect Tax Laws, the following are applicable for November, 2018 examination:

(i) The provisions of CGST Act, 2017 and IGST Act, 2017, including significant circulars and notifications issued and other legislative amendments made upto 30th April, 2018.

(ii) The provisions of the Customs Act, 1962, as amended by the Finance Act, 2017, including significant notifications and circulars issued and other legislative amendments made up to 30th April, 2018.

Further, a list of topic-wise exclusions from the syllabus has been specified by way of **"Study Guidelines for November 2018 Examination"**. The same is given as part of "Applicability of Standards/Guidance Notes/Legislative Amendments etc. for November, 2018 Examination" appended at the end of this Revision Test Paper.

The subject of Indirect Tax Laws at the Final level is divided into two parts, namely, Part I: Goods and Services Tax for 75 marks and Part II: Customs & Foreign Trade Policy (FTP) for 25 marks.

Students may note that August 2017 Edition of the Study Material is applicable for Final (New Course) Paper 8: Indirect Tax Laws. The Study Material has been divided into four modules for ease of handling by students. The first three modules are on GST and the fourth module is on customs and FTP.

The subject matter of Part I: Goods and Services Tax of this Study Material is based on the provisions of the Central Goods and Services Tax Act, 2017 and Integrated Goods and Services Act, 2017 as amended upto 15.09.2017.

The content discussed in Part II: Customs & FTP is based on the customs law as amended by the Finance Act, 2017 and significant notifications and circulars issued till 30.04.2017 and the latest amendments are given in ***bold and italics*** therein.

You have to read the Study Material thoroughly to attain conceptual clarity. Tables, diagrams and flow charts have been extensively used to facilitate easy understanding of concepts. Examples and Illustrations given in the Study Material would help you understand the application of concepts. Thereafter, work out the questions at the end of each chapter to hone your problem solving skills. Compare your answers with the answers given to test your knowledge. Read the case laws given at the end of each chapter under "Significant Select Cases" in module on customs laws.

Thereafter, solve the questions given in this RTP independently and compare the same with the answers given to assess your level of preparedness for the examination.

It may be noted that the Statutory Update comprising of the significant legislative developments by way of notifications/circulars issued from 16.09.2017 to 30.04.2018 for Goods and Services Tax and from 01.05.2017 to 30.04.2018 for Customs, will be web-hosted at the BoS Knowledge Portal on the ICAI's website www.icai.org.

PAPER – 5: STRATEGIC COST MANAGEMENT AND PERFORMANCE EVALUATION

×××CASE STUDY×××

Control Through Standard Costing System

1. 'HAL' is a manufacturer, retailer, and installer of Cassette Type Split AC for industrial buyers. It started business in 2001 and its market segment has been low to medium level groups. Until recently, its business model has been based on selling high volumes of a standard AC, brand name 'Summer', with a very limited degree of customer choice, at low profit margins. 'HAL''s current control system is focused exclusively on the efficiency of its manufacturing process and it reports monthly on the following variances: material price, material usage and manufacturing labour efficiency. 'HAL' uses standard costing for its manufacturing operations. In 2018, 'HAL' employs 20 teams, each of which is required to install one of its 'Summer' AC per day for 350 days a year. The average revenue per 'Summer' AC installed is ₹ 36,000. 'HAL' would like to maintain this side of its business at the current level. The 'Summer' installation teams are paid a basic wage which is supplemented by a bonus for every AC they install over the yearly target of 350. The teams make their own arrangements for each installation and some teams work seven days a week, and up to 12 hours a day, to increase their earnings. 'HAL' usually receives one minor complaint each time a 'Summer' AC is installed and a major complaint for 10% of the 'Summer' AC installations.

   In 2016, 'HAL' had launched a new AC, brand name 'Summer-Cool'. This AC is aimed at high level corporates and it offers a very large degree of choice for the customer and the use of the highest standards of materials, appliances, and installation. 'HAL' would like to grow this side of its business. A 'Summer-Cool' AC retails for a minimum of ₹ 1,00,000 to a maximum of ₹ 5,00,000. The retail price includes installation. In 2017 the average revenue for each 'Summer-Cool' AC installed was ₹ 3,00,000. Currently, 'HAL' has 7 teams of 'Summer-Cool' AC installers and they can install up to 240 AC a year per team. These teams are paid salaries without a bonus element. 'HAL' has never received a complaint about a 'Summer-Cool' AC installation. 'HAL''s business is generated from repeat orders, recommendations, and local press advertising. It employs three sales executives who earn an annual salary of ₹ 3,00,000 each. It offers a six-month money back guarantee and this has to be fulfilled for 1% of its installations. 'HAL' has always been in profits but was shocked to see that in its results in 2017 it only earned 0.2% net profit on its turnover.

   Required

   (i) EVALUATE the appropriateness of 'HAL''s current control system.

   (ii) RECOMMEND four Critical Success Factors (CSFs) which could assist 'HAL' in achieving future success.

(iii) ADVISE 'HAL' about the changes it could implement in its standard costing and reporting system to achieve improved control.

Beyond Budgeting

2. Magical Stay is a hotel chain that has properties in popular tourist destinations. Each hotel is at least a 50 rooms establishment that has standard, elite and luxury size suites. Currently, the chain has 9 properties spread across World. Magical Stay has its corporate headquarters in Singapore, from where the senior management operate. Operations management executives are based out of each specific property that they cater to. Magical Stay is a public listed company, with majority of its shareholders being institutional investors like mutual funds, banks and insurance companies. Since these investors had a high stake in the company, they had representatives of the board of directors to govern strategic decisions. One of the strategic goals of the company for 2018, was to earn a profit of ₹1,500 million and keep increasing this target by 10% each year. Due to recessionary conditions, business has been volatile. Consequently, senior management is under pressure to meet the targets.

   In order to have a defined plan for operations, Magical Stay prepares an annual budget for each of the properties as well as one master budget that consolidates at a company level. There is a separate financial and business analysis team that is in charge of this exercise. Key assumptions and future expected trends are discussed at with the operations management of each property. After incorporating the corporate headquarters numbers, the consolidated budget is presented to the senior management for approval. In order to have a uniform policy across locations, key metrics like room rent per day, material procurement for kitchen and rooms, employee hiring, capital investments at each property, advertising and promotional activities are handled directly by the corporate headquarters.

   The management at each location is responsible to ensure smooth operations of the hotel chain by implementing these policies. The manager of each hotel property is given a target in terms of revenue to be generated, room occupancy and profit to be achieved. Therefore, the management at each location is also under pressure to perform and meet the target set by the senior management. In the past, if the target had not been met for couple of years, the senior management had closed down the hotel and exited the property. At the same time, best performers are given more liberal budgets to operate on. Hence, competition between various locations has always been fierce. There are constant negotiations for been given a "reasonable / practical target" that has to be achieved.

   Monthly meetings are scheduled with the corporate office to explain variance of results from the budget. The recent monthly results have shown that 7 of the 9 properties have consistently not been able to meet the targets in the past six months. The situation is confounded because the tourism industry has been affected greatly by recessionary trends in the global economy. Therefore, the footfalls at the regular tourist places, where the hotel has properties, have reduced considerably. In some places occupancy during peak season has only been 60%. Therefore, operations are bleak and uncertain. At these meetings, the operations management argue that due to this dynamic scenario, the budgeted targets set become obscure since they are not based on the current circumstances.

The corporate office has met with the operations management at each of these properties in order to understand the situation better. Discussions have taken place about how the business can be improved. Few of the suggestions to improve performance are:

(1) When the hotel is not fully booked, especially during off-season, give manager at each property the authority to rent out rooms at an attractive discount. These opportunities have to encased quickly, therefore the decision about the rate would be better handled by the personnel at the hotel. A guideline on the discount policy can be worked out with the corporate office. This will ensure that room occupancy rates increase, while earning reasonable return.

(2) Allow for procurement of kitchen supplies locally, rather than buying it only from specified authorized vendors. Not only will this be cheaper, it also allows for moderate flexibility with the kitchen menu that can cater to customer demands based on current availability of supplies. Prior approvals can be taken by the management from the quality control department to ensure that customer satisfaction does not suffer.

(3) A monthly reward and recognition program for employees, based on their service record for the month. Recommendations can be from fellow employees or the location manager.

(4) Allow the location management autonomy, with a reasonable budget to cater to purchasing equipment. In order to address certain urgent requirements or repairs, quick response from the operations management is needed. The current process of getting approval the corporate office is cumbersome since it takes a longer time. Autonomy can help address these issues quickly without much damage done to customer satisfaction. Funding can be quickly procured from banks if required.

Based on these discussions, the senior management has decided to decentralize all of the above decisions. As a pilot project, they have decided against preparing a line-wise detailed budget (sales budgets, operations cost budgets, advertising etc.) for each location. Instead the operations management will be given clear targets at each of the locations regarding the key profitability ratios, liquidity ratios and leverage ratios, as also guidelines on market share, quality and customer satisfaction. These benchmarks have been finalized based on industry research of peer group companies. However, the managers have the autonomy to achieve the expected target based on their individual business scenarios at each location. The focus is therefore not on achieving budget numbers that have been finalized. Instead management gets growth targets to achieve.

One year after implementing this decision, it was found that company was able to meet the shareholders' expectations, have a robust growth and an energetic employee morale.

Required

(i) DISCUSS the traditional budgeting process had a negative impact on Magical Stay's operations.

(ii) EXPLAIN the philosophy behind "growth based targets" instead of "budget based targets".

Performance Measurement in Not for Profit Sector

3. The town of Silver Sands is located along the coast of the Caribbean Sea. Known for its beautiful coastline and pleasant weather, the town attracts a lot of tourists from all around the world. The town has two beaches that are maintained by the local government and can be used by the general public. In order to preserve the natural ecosystem, other beaches on the coastline are not accessible to the general public. Tourism is the main source of livelihood for its residents. Consequently, cleanliness of beaches is of paramount importance in order to sustain and develop this industry.

The local government has recently employed a contractor to clean up the beaches using beach cleaning machines. The contractor has been selected through a competitive tendering / bidding process. The contractor uses sand cleaning machines that are pulled by tractors. Sand is scooped onto a conveyor or screening belt. It is either raked through (combed using prongs) or sifted through (filtered), in order to separate the waste from the sand. The cleaned sand is left behind on the beach while the waste is removed. Majority of the litter comprises of plastic waste (bags, bottles etc.) while some portion also includes sea weed, glass, aluminum cans, paper, timber, and cardboard. A detailed log is kept by the contractor about the stretch of beach that has been cleaned, time taken for the clean-up, number of tractors used etc. This log is also checked and signed by a local government official. This record is used to process payments at the end of the month.

In addition to contracting with the vendor to clean machines, the local government has also placed bins at various locations on the beach for the public to dispose their waste. The town's municipality workers clean these bins every morning. Again, detailed logs of the man power and other resources employed is kept by the responsible department. In addition, the government has opened a mobile messaging system, whereby the public can message the government department if they find litter anywhere in the beach. Depending on whether it is from overflowing bins or buried debris in the sand, the municipality workers or the contractor will take action to clear it within 24 hours. A detailed log of these operations is also maintained. Patrons can also suggest measures for improving cleanliness on the beaches.

Due to its importance to the economy, the local government has allotted substantial budget for these operations. At the same time, it is essential to know if this is sufficient for the purpose of keeping the beaches clean. Therefore, the government wants to assess whether the town is getting “good value for money” from this expenditure. The “value for money” concept can be looked at from three perspectives: (i) economy, (ii) efficiency and (iii) effectiveness. The Internal Audit (IA) department that has been requested to undertake this study, has requested for guidelines on whether the audit should focus on economy and efficiency of the beach cleaning operations or on effectiveness of the same. Economy and efficiency audit assess whether the same level of service can be procured at lower cost or resources while effectiveness audit assess whether better service can be procured at same cost.

Depending on the outcome of the audits, if required, policy decisions like requesting for additional funding from the state government, alternate policy measures like levying penalty for littering etc. can be taken.

Required

Prepare a letter addressed to the IA department.

(i) RECOMMEND guidelines to assess *economy and efficiency* of beach cleaning operations.

(ii) RECOMMEND guidelines to assess *effectiveness* of beach cleaning operations.

(iii) IDENTIFY challenges involved in assessment of *effectiveness*?

(iv) RECOMMEND general guidelines, how the audit team may conclude the audit based on the combined outcomes of economy, efficiency, and effectiveness?

×××QUESTIONS×××

Performance Measurement Through Fitzgerald and Moon Model

4. Learning Horizons is an educational institute that conducts courses for students in accounting, law and economics. The institute is partially funded by the government. The institute aims to provide quality education to students of all backgrounds. The institute admits students who can fund their education privately as well as those who get sponsorship from the government. Knowledgebase is another educational institute in the same city providing courses similar to Learning Horizons. It is entirely private funded college where students arrange to pay for their own fees. It can be taken as a peer institution for comparison purposes.

   Information about their operations for the year ended March 31, 2018 are as follows:

   (1) Both Learning Horizons and Knowledgebase offer their courses that last the entire year. All of them are regular classroom lectures conducted through the week.

   (2) Budget and actual fee rate structure for the year are the same. Information about the fees for each course are as follows:

Budget and Actual Fees in ₹

	Learning Horizons		Knowledgebase
Course Type	**Privately Funded**	**Government Funded**	**Privately Funded**
Accounting	1,20,000	75,000	1,00,000
Law	1,20,000	90,000	1,50,000
Economics	80,000	60,000	1,00,000

(3) Salary details for lecturers and administrative staff are as follows:

Salaries in ₹

	Learning Horizons		Knowledgebase
Staff Type	**Budget**	**Actuals**	**Actuals**
Lecturers	5,00,000	5,50,000	6,00,000
Administrative staff	3,00,000	3,00,000	4,00,000

(4) Budgeted costs for the year based on 8,500 students per annum for Learning Horizons are as below:

Costs	Amount ₹	Variable Cost %	Fixed Cost %
Tuition Material	40,00,00,000	100%	---
Catering	10,00,00,000	75%	25%
Cleaning	1,00,00,000	25%	75%
Other operating costs*	5,00,00,000	25%	75%
Depreciation	1,00,00,000	---	100%

** includes cost of freelance staff*

(5) Actual costs (other than salary costs) incurred during the year:

Costs	Learning Horizon	Knowledgebase
Tuition Material	42,00,00,000	40,00,00,000
Catering	10,00,00,000	13,00,00,000
Cleaning	1,00,00,000	1,50,00,000
Other Operating Costs*	6,00,00,000	5,00,00,000
Depreciation	1,00,00,000	1,50,00,000

** includes cost of freelance staff*

(6) Keeping in line with latest technological developments, the management of Knowledgebase is introducing on-line tuition support by its lecturing staff. Learning

Horizons on the other hand offers distance learning course. A general feedback from prospective students has revealed that some students would like weekend courses since during the week they focus on their regular jobs. Also, some students have requested for intermediate qualification, in the event that they discontinue the course halfway due to inability to complete the course or for other personal reasons.

(7) Both Learning Horizon and Knowledgebase have a policy to have a lecture staff of 50 throughout the year. When there is a shortfall in teaching staff available, instead of recruiting a fulltime lecturer, Knowledgebase substitutes the requirement with freelance staff for lectures. The cost of freelance staff is much lower than regular staff.

(8) Appendix with further details:

Sundry Statistics

For the year ended 31st March 2018

Particulars	**Learning Horizons**		**Knowledgebase**
	Budget	**Actuals**	**Actuals**
Number of students:			
Accounting	4,000	3,800	4,100
Law	2,500	2,550	2,500
Economics	2,000	1,500	1,200
Total students	8,500	7,850	7,800
Student mix (%) for each course:			
Privately funded	80%	70%	100%
Government funded	20%	30%	0%
Number of enquiries received:			
Accounting	4,500	4,500	4,600
Law	2,800	2,700	3,050
Economics	2,200	1,600	1,225
Total enquiries	9,500	8,800	8,875
Number of lecturers employed during the year	50	50	50
Number of lecturers recruited during the year:			
Accounting	2	4	1

Law	1	3	-
Economics	1	3	-
Total recruitment	4	10	1
Number of administrative staff	12	12	9
Pass Rate:			
Accounting	95%	99%	93%
Law	95%	98%	90%
Economics	95%	95%	95%
Overall Pass rates for the courses	95%	97%	93%
Days in a year when freelance lecturers were used	-	-	30
Number of new courses under development	-	-	6

You are the management accountant of Learning Horizons. The results for the year are to be reviewed next week by the management. To assess performance, you want to prepare the report as per the Fitzgerald and Moon model.

Required

(i) Using the "Results" dimension of performance as per the Fitzgerald Moon model prepare a variance ANALYSIS of Learning Horizons actual and budgeted financial performance. Also, based on the information given in the problem, collate the actual financial figures for Knowledgebase, use it as a basis to prepare ANALYSIS of competitiveness of Learning Horizons and Knowledgebase.

(ii) Using the "Determinants" dimension of performance as per the Fitzgerald Moon model EXPLAIN

(a) Quality of service

(b) Flexibility

(c) Resource utilization

(d) Innovation

(iii) Course fees set by the government for various subjects cannot be increased beyond an average of ₹ 75,000 per student. If the costs are maintained within this budget, the government can provide more sponsorship or grants in future. ADVISE a method that the management of Learning Horizons can use to resolve this.

ROI Leading to Sub-Optimal Decision Making and Lack of Goal Congruence

5. BYD Alloy Ltd. first opened its door in 1990 for business and now it is a major supplier of metals supporting over a dozen different industries and employs experts to support each industry. These include Wood & Panel Products Manufacturing, Hearth Products, Site Furnishings, Commercial and Residential Construction etc. It has grown through devotion to its customers, dedication to customer service and commitment to quality products. The company has two divisions: Division 'Y' and Division 'D'. Each division work as an investment centre separately. Salary of each divisional manager is ₹ 720,000 per annum with the addition of an annual performance related bonus based on divisional return on investment (ROI). A minimum ROI of 12% p.a. is expected to be achieved by each divisional manager. If a manager only achieves the 12% target, he will not be rewarded a bonus. However, for every whole 1% point above 12% which the division achieves for the year, a bonus equal to 3% of annual salary will be paid subject to a maximum bonus of 20% of annual salary. The figures belonging to the year ended 31 March 2018 are given below:

	Division 'Y' ('000)	**Division 'D' ('000)**
Revenue	29,000	17,400
Profit	5,290	3,940
Less: Head Office Cost	(2,530)	(1,368)
Net Profit	2,760	2,572
Non- Current Assets	19,520	29,960
Cash, Inventory, and Trade Receivable	4,960	6,520
Trade Payable	5,920	2,800
Manager Responsible	HAI	FAI

During the financial year 2017-18, FAI manager of Division 'D' invested ₹ 13.6 million in new equipment including an advanced cutting machine, which will increase productivity by 10% per annum. HAI, manager of Division 'Y', has made no investment during the year, even its computer system needs updation. Division 'Y''s manager has already delayed payments of its suppliers due to limited cash & bank balance although the cash balance at Division 'Y' is still better than that of Division 'D'.

Required

(i) For each division, COMPUTE, ROI for the year ending 31 March 2018. Justify the figures used in your calculation.

(ii) COMPUTE bonus of each manager for the year ended 31 March 2018.

(iii) DISCUSS whether ROI provides justifiable basis for computing the bonuses of managers and the problems arising from its use at BYD for the year ended 31 March 2018.

Transfer Pricing

6. Great Vision manufactures a wide range of optical products including lenses and surveillance cameras. Division 'A' manufactures the lenses while Division 'B' manufactures surveillance cameras. The lenses that Division 'A' manufactures is of standard quality that has a number of applications. Due to huge demand in the market for its products Division 'A' is operating at full capacity. It sells its lenses in the open market for ₹ 140 per lens, the variable cost of production for each lens is ₹ 110, while the total cost of production is ₹ 125 per lens.

The total production cost of a camera by Division 'B' is ₹400 each. Currently Division 'B' procures lens from foreign vendors, the cost per lens would be ₹ 170 each. The management of Great vision has proposed that to take advantage of in-house production capabilities and consequently the procurement cost of the lens would reduce. It is proposed that Division 'B' should buy an average of 5,000 lenses each month from Division 'A' at ₹ 120 per lens. The estimate cost of a surveillance camera is as below:

Other components purchased from external vendors	₹ 150
Cost of lens purchased from Division 'A'	₹ 120
Other variable costs	₹ 30
Fixed overheads	₹ 50
Total cost of a camera	₹ 350

Each surveillance camera is sold for ₹ 410. The margin for each camera is low since competition in the market is high. Any increase in the price of a camera would reduce the market share. Therefore, Division 'B' cannot pay Division 'A' beyond ₹ 120 per lens procured.

Great vision's management uses Return on investments (ROI) as a scale to measure the divisional performance and marginal costing approach for decision making.

Required

(i) ANALYZE the behavioral consequences of each division when Division 'A' supplies lenses to Division 'B' at ₹ 120 per lens? Substantiate your answer based on the information given in the problem.

(ii) ANALYZE if it would be beneficial to the company as a whole for Division 'A' to supply the lenses to Division 'B' at ₹ 120 per lens.

(iii) Do you feel that the divisional managers should accept the inter-divisional transfers in principle? If yes, CALCULATE the range of transfer price?

(iv) ADVISE alternate transfer pricing models that the chief executive of the company can consider in order to change the attitude of the divisional heads if they are against the transfer pricing policy.

(v) CALCULATE the range of transfer price, if Division 'A' has excess capacity and can accommodate the internal requirement of 5,000 lens per month within the current operations.

Environmental Management Accounting

7. A fertilizer company produces Grade A and Grade B fertilizers. One kilogram of Grade A fertilizer sells for ₹ 280 per kilogram and one kilogram of Grade B fertilizer sells for ₹ 400 per kilogram.

The products pass through three cost centers CC1, CC2 and CC3 during the manufacturing process. Total direct material cost per kilogram of fertilizer produced is ₹ 300 and direct labor cost per kilogram of fertilizer produced is ₹ 200. Allocation between the cost centres is given below:

Particulars	**CC1**	**CC2**	**CC3**	**Total**
Cost of Direct Material (per kg of fertilizer produced)	₹ 90	₹ 120	₹ 90	₹ 300
Cost of Direct Labour (per kg of fertilizer produced)	₹ 60	₹ 80	₹ 60	₹ 200
Cost Allocation to Grade A	30%	50%	30%	
Cost Allocation to Grade B	70%	50%	70%	

All of expenses (considered to be overheads) per kilogram of fertilizer produced is ₹ 150. This is allocated equally between Grade A and Grade B fertilizer. Pricing decisions for the fertilizers is made based on the above cost allocation.

The management accountant of the company has recently come across the concept of environmental management accounting. Pricing of products should also factor in the environmental cost generated by each product. An analysis of the overhead expenses revealed that the total cost of ₹ 150 per kilogram of fertilizer produced, includes incinerator costs of ₹ 90 per kilogram of fertilizer produced. The incinerator is used to dispose the solid waste produced during the manufacturing process. Below is the cost center and product wise information of solid waste produced:

Waste produced (in tonnes per annum)	**CC1**	**CC2**	**CC3**	**Total**
Grade A	2	3	1	6
Grade B	2	2	5	9

Based in the impact that each product has on the environment, the management would like to revise the cost allocation to products based taking into account the incinerator cost that each product generates. The remaining overhead expenses of ₹ 60 per kilogram of fertilizer produced can be allocated equally.

Required

(i) CALCULATE product wise profitability based on the original cost allocation. RECALCULATE the product wise profitability based on activity based costing methodology (environmental management accounting).

(ii) ANALYZE difference in product profitability as per both the methods.

(iii) RECOMMEND key takeaways for the company to undertake the above analysis of overhead costs and pricing as per environmental management accounting.

Just in Time

8. A manufacturer is considering implementing Just in time inventory system for some of its raw material purchases. As per the current inventory policy, raw materials required for 1 month's production and finished goods equivalent to the level of 1 week's production are kept in stock. This is done to ensure that the company can cater to sudden spurt in consumers' demand. However, the carrying cost of inventory has been increasing recently. Hence, the consideration to move to a more robust just in time purchasing system that can reduce the inventory carrying cost. Details relevant to raw material inventory are given below:

   - Average inventory of raw material held by the company throughout the year is ₹ 1 crore. Procurement of raw material for the year is ₹ 12 crore. By moving to just in time procurement system, the company aims at eliminating holding this stock completely in its warehouse. Instead, suppliers of these materials are ready to provide the goods as per its production requirements on an immediate basis. Suppliers will now be responsible for quality check of raw material such that the raw material can be used in the assembly line as soon as it is delivered at the company's factory shop floor.
   - Increased quality check service done by the suppliers as well as to compensate them for the risk of holding the inventory to provide just in time service, the company is willing to pay a higher price to procure raw material. Therefore, procurement cost will increase by 30%, total procurement cost will be ₹ 15.6 crore per year. Consequently, quality check and material handling cost for the company would reduce by ₹ 1 crore per year. Similarly, insurance cost on raw material inventory of ₹ 20 lakh per year need not be incurred any longer.
   - Raw material is stored in a warehouse that costs the company rent of ₹ 3 crore per annum. On changing to Just in time procurement, this warehouse space would no longer be required.
   - Production is 150,000 per year. The company plans to maintain its finished goods inventory equivalent to 1 week's production. Despite this, in order to have a

complete cost benefit analysis, the management is also factoring the possibility of production stoppages due to unavailability of raw material from the suppliers. This could happen due to of delay in delivery or non-conformance of goods to the standard required. Labor works in one 8 hour shift per day and will remain idle if there is no material to work on. Due to stoppage of production for the above reason, it is possible to have stockout of 3,000 units in a year. Stockout represents lost sales opportunity due to unavailability of finished goods, the customer walks away without purchasing any product from the company. Therefore, in order to reduce this opportunity cost and to make up for the lost production hours, labor can work overtime that would cost the company ₹ 10 lakh per annum. This is the maximum capacity in terms of hours that the labor can work. With this overtime, stockout can reduce to 2,000 units.

- Currently, sale price is ₹ 5,000 per unit, variable production cost is ₹ 2,000 per unit while variable selling, general and administration (SG&A) cost is ₹ 750 per unit. Raw material procurement cost is currently ₹ 800 per unit, that will increase by 30% to ₹ 1,040 per unit under Just in time inventory system.
- On an average, the long-term return on investment for the company is 15% per annum.

Required

(i) CALCULATE the benefit or loss if the company decides to move from current system to Just in Time procurement system.

(ii) RECOMMEND factors that the management needs to consider before implementing the just in time procurement system.

Relevant Cost Concept

9. Golden Pacific Airlines Ltd. operates its services under the brand ‘Golden Pacific’. The ‘Golden Pacific’ route network spans prominent business metropolis as well as key leisure destinations across the Indian subcontinent. ‘Golden Pacific’, a low-fare carrier launched with the objective of commoditizing air travel, offers airline seats at marginal premium to train fares across India.

Profits of the ‘Golden Pacific’ have been decreasing for several years. In an effort to improve the company’s performance, consideration is being given to dropping several flights that appear to be unprofitable.

Income statement for one such flight from ‘New Delhi’ to ‘Leh’ (GP - 022) is given below (per flight):

	₹	₹
Ticket Revenue (175 seats x 60% Occupancy x ₹ 7,000 ticket price)		7,35,000

Less: Variable Expenses (₹1,400 per person)		1,47,000
Contribution Margin		5,88,000
Less: Flight Expenses:		
Salaries, Flight Crew	1,70,000	
Salaries, Flight Assistants	31,500	
Baggage Loading and Flight Preparation	63,000	
Overnight Costs for Flight Crew and Assistants at destination	12,600	
Fuel for Aircraft	2,38,000	
Depreciation on Aircraft	49,000*	
Liability Insurance	1,47,000	
Flight Promotion	28,000	
Hanger Parking Fee for Aircraft at destination	7,000	7,46,100
Net Gain / (Loss)		(1,58,100)

** Based on obsolescence*

The following additional information is available about flight GP-022.

1. Members of the flight crew are paid fixed annual salaries, whereas the flight assistants are paid by the flight.
2. The baggage loading and flight preparation expense is an allocation of ground crew's salaries and depreciation of ground equipment.
3. One third of the liability insurance is a special charge assessed against flight GP-022 because in the opinion of insurance company, the destination of the flight is in a "high-risk" area.
4. The hanger parking fee is a standard fee charged for aircraft at all airports.
5. If flight GP-022 is dropped, 'Golden Pacific' Airlines has no authorization at present to replace it with another flight.

Required

Using the data available, prepare an ANALYSIS showing what impact dropping flight GP-022 would have on the airline's profit.

Customer Profitability Analysis

10. ANCA Limited has decided to analyse the profitability of its four retail customers. It buys product 'Bio-aqua' at ₹ 218 per case and sells to them at list price less discount. The data pertaining to four customers are :

Particulars	Customer			
	A	B	C	D
No. of cases sold	7,580	38,350	78,520	15,560
List selling price	₹ 250	₹ 250	₹ 250	₹ 250
Actual selling price	₹ 245	₹ 236	₹ 228	₹ 232
No. of sale visits	6	12	16	10
No. of purchase orders	12	18	35	24
No. of delivery Kilometres	280	350	450	400

It's four activities and cost drivers are:

Activity	Cost Driver Rate
Sale visits	₹ 750 per sale unit
Order taking	₹ 800 per purchase order
Deliveries	₹ 10.50 Per delivery km travelled
Product handling cost	₹ 2.50 Per case sold

Required

(i) COMPUTE the customer level operating income.

(ii) ANALYZE the profitability for each customer.

SUGGESTED ANSWERS/HINTS

1. (i) **HAL's Control System** HAL's current control system is *'focused exclusively' on the manufacturing process* and its efficiency even though HAL is also a retailer and installer of industrial ACs. It is suitable for HAL's control system to monitor manufacturing efficiency with the help of the three variances: material usage, material price and manufacturing labour efficiency. No reasons have been given for focusing on these three variances and *there may be other variances* which can provide useful control information that are not currently computed for example, labour rate and material yield. Although HAL uses standard costing, it is *unclear whether it calculates product costs*. A lack of product costs computation may be the reason that it was shocked about its 2017 profit margin. Standard costing could be in criticism for misdirecting management's attention. Thus, in the case of a 'Summer-Cool' AC where the highest standards of materials are used, it is pertinent that the quality of the finished product is not compromised. Therefore, it might be proper to accept an *unfavorable material price variance* to maintain the product's

standards. *Variance analysis should not be done in isolation but a holistic view needs to be taken* about HAL's operations and the current control system may not lead to this. HAL is not currently controlling and monitoring aspects which are important for competitive success. *HAL's Critical Success Factors have not been identified yet*. There is *monthly reporting of variances* but in addition to this, there should also be *follow-up actions* for outcome resulting from these reports. However, a month is not inevitably the relevant reporting period for all aspects of HAL's business. If there is a production problem leading to excessive materials wastages, a month is too long time to wait before remedial action are taken. Therefore, real-time or coexistent reporting may be more relevant for manufacturing operations. A major deficiency of HAL's control systems is that they do not extend to retailing and installation activities. The 'Summer' installation teams are incentivized to complete ACs which could be good for their productivity. However, there is a high level of complaints associated with their work. As there is *no evident means of monitoring the installation team's work*, the reasons of the complaints cannot be identified.

(ii) **Critical Success Factors (CSF)** are elements tied to the strategy of business and they represent objectives that business is trying to achieve, as a corporation, as a department or as a business unit. Critical success factors may vary over time and may include items like employee attitudes, manufacturing flexibility etc. There are a range of CSF's which could be appropriate for HAL. They include:

CSF: Installations Quality There are different quality expectations for the two ACs and there have been different levels of quality achieved, can be seen in the historic pattern of complaints. This strongly implies that the quality of installation should be tracked as a separate CSF for each AC. This CSF is important for HAL due to cost implications of rectifications and guarantee claims. It is also important to consider that because of the effect that poor quality will have on HAL's future business.

CSF: Customer Satisfaction Like quality, this CSF will need to be monitored separately for each AC. Customer satisfaction encompass the complete life of a transaction beginning with the initial enquiry about a purchase and continuing after installation for the life of the AC. Customer satisfaction will have an influence on HAL's future business which is dependent, in part, on repeat orders and recommendations. This CSF will also show the market's view of HAL's brand.

CSF: Brand Performance HAL has two distinct brands. They are directed at different market segments and have different associated attributes. 'Summer' ACs offer limited choice to the customer and retail, on average, for ₹ 36,000. HAL would like to maintain this business at its present level (7,000 ACs a year minimum) ₹ 252 million revenue. HAL needs to ascertain where this brand is situated in its life-cycle and what marketing activities may be required to support it. The 'Summer-Cool' brand is aimed at a different market segment and HAL would like to grow this aspect of its business which produces revenue of ₹ 504 million. The success of both brands is important for the continual success of HAL and this CSF indicate a complete view of performance.

CSF: Manufacturing Excellence HAL manufactures all the ACs which it sells and installs. Manufacturing must be a substantial part of HAL's total costs and a significant contributor to profitability. Currently, HAL monitors some limited aspects of manufacturing through its control system. However, there are many other aspects which have not been reported upon, for example- innovation, labour abseentism, manufacturing flexibility and investment in technology. This CSF is much broader than the current control system. It also assists in searching for competitiveness.

(iii) **Standard Costing and Reporting System** HAL may be required to abandon or modify its standard costing and reporting system. The rationale behind this is that the current control system might lead to an inappropriate emphasis being placed on certain aspects of performance. It is noteworthy that the installations for 'Summer' AC is causing a substantial level of complaints whereas there has never been a complaint made about a 'Summer Cool' AC. It could be that the different remuneration arrangements for the ACs' installation teams have led to this and as the complaint level is an important aspect of the CSF i.e. Customer Satisfaction, HAL may *need to modify its remuneration arrangements*. It should also reckon whether it would be benefited from a broader range of variance reporting, for example, it may find reporting useful to report on labour rates and material yield. For all CSFs, HAL will need to determine the appropriate reporting intervals. Although it is useful to synchronize this with the accounting reporting cycle, CSFs and KPIs do not necessarily coexist with accounting period ends. *Some KPI's may require to be reported in real-time*, for example, material wastage, others may be of a longer duration like Customer Satisfaction. There is a strong argument for disassociation of the CSFs reporting from the financial reporting cycles.

2. **(i)** Magical Stay is operating in a business scenario that is highly competitive and dynamic. Focus of the traditional budget was driven towards achievement of the company's strategic goal, which was profit target of ₹ 1,500 million for the year 2018. Accordingly, the senior management followed a top-down approach to budgeting. Most important policy decisions like room rent per day, material procurement, employee hiring, capital investments at each property, advertising and promotional activities are handled directly by the corporate headquarters. Management in charge of operations at each location only implement it. In a changing business scenario, this budgeting methodology has the following shortcomings:

(a) Budgets based on these policies *may not be flexible* enough in a fast-changing business environment. Although it is based on assumptions and expectations of the management has made about the business growth, in a dynamic scenario, it is very difficult to predict the future accurately. Therefore, targets or benchmarks set by the traditional budgets may become outdated quickly.

(b) These budgets were *based on business functions* like sales, advertising, operations etc. While a strategy for these functions is important, they are *based on internal benchmarks and assumptions* made by the management. However, for the company to be flexible in a changing environment, the focus should also be on external factors.

(c) The management aims to make a yearly profit that is 10% more than the previous year's profit. If previous year profit alone is the benchmark for growth, certain decisions may be shelved because they may decrease current year's profits below target. However, had these decisions been implemented they may have generated value in the long term and ultimately may have been better for earning profits in future years. For example, certain capital expenditures that may need to be undertaken quickly in order to improve customer satisfaction, may not be incurred at all simply because there is no budget for it.

(d) Operations management did not have much autonomy since *policies were controlled at the corporate headquarters*. At the same time, they were responsible for achieving the targets set out as per the budget. Responsibility without authority creates a negative working environment. Consequently, it might be difficult to retain talented personnel.

(e) In order to meet budget targets, managers may try to negotiate for lower sales targets to achieve, more budget allocations to meet costs etc. This does not foster positive business growth. *Managers are more intent in meeting targets rather than focusing on business growth*. It leads to lower sales than can otherwise be achieved and leads to protection of costs rather than working towards lowering operational costs.

It can be concluded that the traditional budgeting process was more inward looking. Focus is on achieving budget target rather than implementing strategies that can create more value to the company.

(ii) Following feedback from operations managers, the management given them targets based on growth instead those based on the budget alone. This is the philosophy of **"beyond budgeting"**. Below are features of this philosophy that has enabled Magical Stay to achieve better results:

(a) It is a more *decentralized and participative way* of operating a business. Rather than being made responsible for business decisions, which were not in their control, the employees delegated responsibility, combined with the necessary authority to execute decisions.

(b) Operations management and the personnel at each location are capable of quickly adapting to changing market scenarios. Likewise, since they interact with the customers directly, it enables them to make quicker decisions to ensure customer satisfaction or identify opportunities to generate more revenue.

(c) Targets are based on performance of peer group companies. *Benchmarks based on peer group performance* will be unbiased and reflects the current business scenario better. Due to this, customer's needs and satisfaction automatically gets priority. It is the customers who ultimately drive business growth. Therefore, rather than having an inward-looking outlook, *focus is shifted to the external market conditions*. Due to autonomy, managers at various locations need not compete with each other for budget allocation. This channelizes the operational focus to meet challenges from outside competitors rather than having detrimental competition within the organization. At the same time, the targets for the company are also based on guidelines from the corporate office. Therefore, there is congregation of goals with the shareholders' expectations.

(d) Employee morale is also boosted due to the *monthly reward and recognition system*. It fosters healthy competition among employees.

Since the focus is on growth, beyond budgeting can be a way of achieving better results in challenging business environment.

3. Date 30- July -2018

Dear Sirs,

Re: The economy, efficiency and effectiveness of beach cleaning activities

(i) Economy and efficiency audit of an operation focuses on the consumption of resources and the output achieved. *Economy* assesses the financial aspects of the activity i.e. are the objectives of the activity being achieved at reasonable cost? *Efficiency* assesses the volume of input consumed to derive the desired output i.e. are the resources and funds being consumed to get maximum output?

To look at **Economy of Operations**, cleaning expenses need to be bifurcated into payments made to the contractor and the expenses of emptying waste from bins. Any further subcategories of these expenses, like labour, material, disposal van expenses etc. also need to be collated from the accounting or cost records. These then have to be compared to the budgets that were approved by the government of Silver Sands. The competitive tendering process can be reviewed to ensure that the contractor getting the order is offering the required quality of service at the lowest price. If the quality of cleaning has been achieved, by staying within budget, the operation is economical. However, if the actuals exceed the budget, the government has to compare them with cost of similar cleaning activities carried by neighbouring towns. On comparison, if Silver Sands operations are expensive compared to other towns, it indicates that not only are the operations uneconomical they may not be efficient either.

Efficiency of Operations can be determined by checking the log records maintained for beach cleaning by the contractor and municipality workers. These would have detailed of activities carried out and the resources utilized for each of them. For each of these services (beach cleaning and emptying out bins), the cost drivers can be identified and certain metrics can be developed for analysis. For example, the cost of running the tractors can be divided by the total number of tractors operated to get the cost of operations per tractor or alternatively, by the kilometres of beach cleaned to arrive at a tractor-kilometre rate. While analysing these activities, certain operational considerations have to be given. For example, certain stretches of the beaches may take more time or resources to clean due to issues like rocks or soft sand. Therefore, if resources for operations disproportionate for certain parts of the beaches, the cost of maintaining those stretches need to be worked out. Data to get this information will depend on the extent of detailed maintained in the logs. This information has to be tracked over some period of time in order to understand trends in operations and related expenses.

The data collected from the mobile messaging system should also be investigated. How often and in what stretches of the beach are complaints frequent or maximum? Reasons for these lapses need to be taken from the contractor (for beach cleaning operation) and the concerned department (for emptying bins) in order to find out whether resources are being employed properly.

On this basis, deviations and exceptions should be investigated. The local government can then decide if there can be alternate sites along the coastline that may be more economical and efficient to operate.

(ii) An audit about **Effectiveness of Operations** would focus how the actual cleanliness of beaches compares with the desired level as laid out in the policy initiative. To assess whether performance has been met, clear guidelines and metrics have to be defined during policy implementation.

To begin with, it should be clear as to what constitutes litter. From an operational angle, it would be difficult to clean out every bit of paper lying on the beach. However, it is possible to pick up every soft drink aluminum can. Hence, the government authorities must be clear on what constitutes litter? Which are the refuse that must be cleared within exception (example food refuse, animal droppings, glass bottles, tin cans, trash bins etc.) and tolerance level for certain other types of litter (e.g. Paper, seaweed etc.) that may get left behind even after cleaning. Quantity of waste collected would be the indicator to make the above assessment.

Certain other parameters like safety standards can also be defined. Safety problems could be cuts from sharp objects like glass, incidents of vector borne diseases in the area or health problems from polluted sea water. Assessment has to be made whether these standards have been met.

For this, the primary source of information about cleanliness would be feedback from the beach patrons. These could be in the form of complaints received directly or those through the mobile messaging system would provide data to work out the metrics. This would be an indicator of "customer satisfaction". Other inputs could also be the suggestions given by the patrons about ways to improve cleanliness on the beach.

Observation by making surprise visits to inspect the beaches immediately after the cleaning operations would also provide sufficient evidence about the effectiveness of operations.

(iii) **Challenges Involved** in assessment of effectiveness would be:

(a) *Defining standards* about what constitutes litter and acceptable level of cleanliness? These are subjective guidelines, the perception of which may differ from person to person.

(b) Beach patrons also play an important role in making this initiative effective. There has to be a conscious civic sense of duty not to litter, failing which this initiative will most likely be ineffective. Therefore, while measuring performance for effectiveness, *collection of more litter does not necessarily indicate effective operations*. More litter requires more cleaning and more resources, therefore is actually not a positive indicator of effectiveness. On the contrary, in the long run, lesser litter collected to maintain desired level of cleanliness would be a good indicator of effectiveness.

(iv) The outcome of the audits can indicate achievement any or none of the three parameters of economy, efficiency and effectiveness of the beach cleaning operation. To form an ***integrated conclusion*** based on the different outcomes of individual audits, the audit team may consider the following guidelines:

(a) Has the objective of the cleaning operation been achieved as per the guidelines in the relevant policy? i.e. have the operations been effective?

(b) If the answer to (a) is yes, are the expenses within budget. If so, then the operations are economical and efficient. Given that the operations have been effective at the same time economy and efficiency have been achieved, the team can conclude that the cleaning operations policy has been a success.

A cost-over run can also be justified if the operations have been effective. In that case, the audit team has to conclude whether all expenses incurred are indeed justified and that the resources have been put to the best possible use. If not, can the operations be made more economical or efficient?

(c) If the answer to (a) is no, the operation has not been effective, then is the difference from the target marginal or huge? If the operations have not been entirely effective, but only by a marginal gap say 95% success, then analysis of expenses can be made similar to the point (b) mentioned above. However, if the operations have been ineffective to a larger extent, then the cleaning drive initiative has been ineffective. The government has to look at alternate solutions of tackling the problem. These could include imposing heavy penalty for littering, requesting for more funding from the state government to employ better resources etc.

Therefore, it can be seen that achievement of one objective does not automatically lead to achievement of other objectives. A holistic approach would be needed to draw conclusions about the performance of the cleaning operations.

Should you have any further queries, please do not hesitate to ask.

Yours Faithfully

Management Accountant

4. (i) **Analysis of the "Results"** dimension of performance as per the Fitzgerald and Moon model

Financial Performance of Learning Horizons and Knowledgebase

The original budget had been prepared for 8,500 students, while actual enrollments are 7,850 students. At the very onset, reasons for lower enrollments have to be found and analyzed. For comparison of actual and budget, the budget of Learning Horizons has to be flexed to scale. Hence the budget needs to be scaled down to 7,850 for preparing a variance analysis.

	Learning Horizons				Knowledgebase	
	Budget		Actual		Actual	
Particulars	Number	Amount ₹	Number	Amount ₹	Number	Amount ₹
Revenue						
(a) Private Funded						
Accounting	2,955	35,46,00,000	2,660	31,92,00,000	4,100	41,00,00,000
Law	1,847	22,16,40,000	1,785	21,42,00,000	2,500	37,50,00,000
Economics	1,478	11,82,40,000	1,050	8,40,00,000	1,200	12,00,00,000
subtotal (a)	6,280	69,44,80,000	5,495	61,74,00,000	7,800	90,50,00,000
(b) Government Funded						
Accounting	739	5,54,25,000	1,140	8,55,00,000	---	---
Law	462	4,15,80,000	765	6,88,50,000	---	---

Economics	369	2,21,40,000	450	2,70,00,000	---	---
Subtotal (b)	1,570	11,91,45,000	2,355	18,13,50,000	---	---
Total Revenue (a)+(b)	7,850	81,36,25,000	7,850	79,87,50,000	7,800	90,50,00,000
Expenditure						
Salaries						
Lecturers	50	2,50,00,000	50	2,75,00,000	50	3,00,00,000
Administrative staff	12	36,00,000	12	36,00,000	9	36,00,000
subtotal of salaries	62	2,86,00,000	62	3,11,00,000	59	3,36,00,000
Tuition Material		36,94,11,765		42,00,00,000		40,00,00,000
Catering		9,42,64,706		10,00,00,000		13,00,00,000
Cleaning		98,08,824		1,00,00,000		1,50,00,000
Other Operating Costs		4,90,44,118		6,00,00,000		5,00,00,000
Depreciation		1,00,00,000		1,00,00,000		1,50,00,000
Total Expenditure		56,11,29,413		63,11,00,000		64,36,00,000
Net Profit		25,24,95,587		16,76,50,000		26,14,00,000

☞

(1) Original revenue budget is for 8,500 students. Actual enrollments are 7,850 students. For comparison, the budgeted revenue has also been adjusted to 7,850 students. The mix between private and government funded students is 80:20 as per the budget. The adjusted student strength is allocated between the courses based on the original budget student strength.

For example, out of the total strength of 7,850 students, based on the budget ratio, 80% are taken to be privately funded. This works out to 6,280 students. The strength for flexible budget for accounting course will be = (6,280 × 4,000/8,500) = 2,955 students. Likewise, the strength for flexible budget for other courses is calculated in a similar manner.

(2) The budgeted expenses are for 8,500 students. Actual students are 7,850. For comparison, variable costs in the budget have been adjusted for 7,850 students. Fixed costs remain the same. For example, tuition material has a budget of ₹ 40 crore for 8,500 students. This is 100% variable, therefore adjusted budget for 7,850 students would be ₹ 40 crore /8,500 × 7,850 students. The total budgeted cost for 7,850 students is therefore 37 crore.

Semi-variable costs in the budget, are separated as fixed portion and variable portion for the purpose of recalculation. For example, catering cost is ₹ 10 crore for 8,500 students, of which ₹ 2.5 crore is fixed. The balance ₹ 7.5 crore is for 8,500 students are is variable. The budgeted cost per student is therefore ₹ 8,823. For 7,850 students, the variable cost works out to ₹ 6.93 crore. Adding the fixed cost, the total budget for catering for 7,850 students is ₹ 9.43 crore.

Likewise, the budgeted cost for cleaning and other operating expenses is calculated in a similar manner.

Analysis of Actual Financial Performance with respect to Budget

(a) Originally the student strength was expected to be 8,500 in comparison to an actual number of 7,850. The reason for this shortfall in enrollment should be analyzed by looking into non-financial performance measures.

(b) On the revenue side, actual revenue of ₹ 80 crore is marginally lower than the adjusted budget of ₹ 81.4 crore. Since the budget and actual course fee rates are the same, the reason for this difference is on account of the mix between the private and government funded students. Actual enrollments had a greater ratio of government funded students, for which the fees are lower. As per the flexed budget, government funded students were expected to be 1,570 versus an actual of 2,355, higher by 50%. Reasons for the change in student mix from a budget of 80:20 to actual mix of 70:30 has to be analyzed.

(c) On the expenditure side, actual costs of ₹ 63 crore is 12% more than the corresponding budget of ₹ 56 crore. The increase for salaries over budget is because a higher market rate that has to be paid for a lecturer. Given that Knowledgebase also pays a higher rate, the budget may need to be amended to reflect a more realistic salary rate. The other major variance is on account of the tuition materials procured for the students. While the budget for 7,850 students is only ₹ 37 crore, the actual expenditure is ₹ 42 crore. Reasons for this large variation has to be analyzed. Reasons could reflect the quality of education imparted. If in reality better quality study materials costs more, the management has to decide whether they would be willing to incur this additional cost. This might have a further impact on the fees charged to privately funded students and the management may also want to ask for increase in the government sponsored fee rate.

(d) Overspend is noticed in other operating costs as well, actual cost is ₹ 6 crore versus ₹ 4.9 crore budget. As mentioned in the problem, 75% of this cost is fixed in nature, amounting to ₹ 3.75 crore (75% of ₹ 5 crore original budget). This portion of the cost should remain the same irrespective of variation in student enrollments. The remaining portion of the budget ₹ 1.15 crore is variable. The actual spend is ₹ 6 crore, of which ideally ₹ 3.75 crore would be fixed. If there is any variation in fixed cost, it should be looked into. If justified, future budgets need to be adjusted to reflect the higher cost. The remaining variable portion should also be analyzed to understand the reason for the higher spend.

(e) Overall, the impact of lower revenue and higher cost, has resulted in a shortfall of ₹ 8.48 crore (34% shortfall) as compared to the adjusted budget for 7,850 students. Action should be taken by further studying other parameters like competitor's performance and other non-financial factors like quality of education, pass rate, innovation.

Competitive Performance of Learning Horizons and Knowledgebase

The average revenue and cost per student for Learning Horizons and Knowledgebase are as below:

Average Revenue and Cost *per student*

Particulars	Learning Horizons		Knowledgebase
	Budget	Actual	Actual
Total revenue (₹)	81,36,25,000	79,87,50,000	90,50,00,000
Number of students	7,850	7,850	7,800
Revenue per student (₹)	1,03,646	1,01,752	1,16,026
Total cost (₹)	56,11,29,413	63,11,00,000	64,36,00,000
Number of students	7,850	7,850	7,800
Cost per student (₹)	71,481	80,395	82,513

The cost per student at Learning Horizons is marginally lower than Knowledgebase. However, the revenue per student at Knowledgebase is much higher. Analyzing the components further:

(a) *Student Mix:* Knowledgebase has higher revenue by more than 10 crore, almost 13.3% higher compared to Learning Horizons. Reasons could be on account a higher fee rate structure at Knowledgebase as compared to Learning Horizons, where part of the fee structure is government funded at a lower rate.

(b) *Course Rate:* Learning Horizons charges ₹ 1,20,000 per year for its *accountancy course* which is higher compared to Knowledgebase's rate of ₹ 100,000 per year. This might be a reason for a higher enrollment at Knowledgebase of 4,100 students compared to Learning Horizons enrollment of 3,800 for the same course. The management has to verify if this higher rate is sustainable.

(c) *Course Rate:* Learning Horizons charges ₹ 120,000 for its *law course* compared to ₹ 150,000 at Knowledgebase. However, despite being lower, the enrollment for the course is almost the same. The management has to look at non-financial parameters related to quality, in order to improve enrollments for this course.

(d) *Course Rate:* Learning Horizons charges ₹ 80,000 for its *economics course* compared to ₹ 100,000 at Knowledgebase. Consequently, it is able to have higher enrollment for its economics course.

(e) Compared to Learning Horizons, Knowledgebase is incurring ₹ 2 crore lesser on *tuition materials*. As pointed out earlier, Learning Horizons must try to find out reasons for its higher cost and try to economize on this expense, if required.

(f) Knowledgebase has been using *freelance staff* for 30 days in a year to keep its expenses lower. Therefore, although it has a higher pay scale for its lecturers, it uses a lower cost resource to meet its teaching staff requirements. Compared to 1 new recruitment by Knowledgebase, Learning horizons has 10 new recruitments during the year. Knowledgebase has substituted any shortfall in teaching staff by hiring freelancers during the year. At the same time, non-financial aspects like quality of education need to be assessed while using the service of freelancers.

(g) The other indicator of competitive performance, the *take up rate*, the rate of conversion of enquiries from prospective students into enrollments for the course. Reference to the budget here is the original budget prepared for 8,500 students, which represents the capacity that Learning Horizons wants to achieve.

Particulars	**Learning Horizons**		**Knowledge.**
	Budget	**Actual**	**Actual**
Accounting - number of students	4,000	3,800	4,100
Number of enquiries	4,500	4,500	4,600
Take up rate	**89%**	**84%**	**89%**
Law - number of students	2,500	2,550	2,500
Number of enquiries	2,800	2,700	3,050
Take up rate	**89%**	**94%**	**82%**
Economics - number of students	2,000	1,500	1,200
Number of enquiries	2,200	1,600	1,225
Take up rate	**91%**	**94%**	**98%**

Overall - number of students	8,500	7,850	7,800
Number of enquiries	9,500	8,800	8,875
Take up rate	**89%**	**89%**	**88%**

The take up rate is lower for accounting course at Learning Horizons as compared to Knowledgebase. As explained in point (b), this may be attributed to the higher rate that Learning Horizons charges privately funded students. The higher rate should be justifiable.

The take up rate for law is higher compared to Knowledgebase. As explained in point (c) this could be due to the lower fee rate. Higher enrollment could indicate the popularity of the course. At the same time the comparative pass rate may have to be looked into to judge the quality of the course.

The take up rate for economics is marginally lower than Knowledgebase. However, overall enrollment for this course is much higher compared to Knowledgebase, possibly to the substantially lower rate offered for the course. The management could look at better publicity to improve the take up rate.

(ii) **Analysis of the "Determinants"** dimension of performance as per the Fitzgerald and Moon model

Quality of Service

The pass rate for each course indicates the quality of course offered. Summarizing from the problem:

Pass rate

	Learning Horizons		Knowledgebase
	Budget	**Actual**	**Actual**
Accounting	95%	99%	93%
Law	95%	98%	90%
Economics	95%	95%	95%
Overall Pass rates for the courses	95%	97%	93%

The targeted pass rate of 95% has been met in all courses, thereby it indicates that a satisfactory level of education is being imparted. In comparison with Knowledgebase the pass rate for all courses is higher, which is a good indicator. This could be a reason to justify the use of full time staff instead of substituting it with freelancer staff.

In the case of accountancy, the management can use the higher pass rate to justify the higher course rate, which may lead to better enrollments for the course. In the case of law, it has the potential of becoming a very popular course, lower course fee with higher pass rate. This can be used to improve enrollments. In the case of economics, the pass rates are at par. The management may use the lower course fee to attract students else may find other ways to make the course more attractive to have higher enrollments.

Feedback from current students and the institute's alumni also provide value information about the quality of the courses and opportunities to improve.

Flexibility

The management of Learning Horizons has to consider the feedback from current and prospective students in order to bring in flexibility to their services. While long distance learning offers some flexibility, the management has to look at alternate channels of delivery like online lecture support by faculty similar to the model that Knowledgebase has developed. Also, offering weekend courses could help improve enrollments. Providing the option to get an intermediate degree gives flexibility to students who are not able to cope up with the course. While this cannot be a main objective of the institute, it still can maintain its motto of imparting quality education for students of all backgrounds.

Resource Utilization

The main resource of an educational institute is its staff. Management of Learning Horizon has to look at the teacher student ratio and compare it to benchmarks of peer institutes. Learning Horizons is having a higher recruitment of 10 lecturers for the year as compared to a budget of 4 recruitments for the year. Reasons for the same need to be looked into. One reason could be a higher turnover ratio among lecturers due to lower salary paid in comparison to the market rate. In comparison, Knowledgebase has a more stable staff, having a recruitment of only 1 lecturer during the entire year. This might be due to the use of freelance teaching staff. Learning Horizon can explore options of using freelance teaching staff to meet its teaching needs, without compromising quality of education.

Innovation

From the information provided, Learning Horizons has a better quality of service in terms of pass rates. However, Knowledgebase planning to offer 6 new courses in the future. Learning Horizons has to explore options to improve on its current course offerings in order to maintain its market share.

(iii) There is a limit to fees sponsored by the government. Currently, government funded revenue is ₹ 18 crore, almost 23% of the total revenue of 80 crore. Average actual cost per student, referring to the table above, is ₹ 80,395. Since, the government is unwilling to spend more than ₹ 75,000 per student, the management could look at target costing methods to resolve this issue. This reduction of ₹ 5,395 per student can be achieved by identifying opportunities to economize on costs. If feasible, the cost per student can be calculated for each of the courses, to identify where these economies can be achieved. This drive should encompass the administration and support services too. Thus, using target costing approach, the cost can be reduced below ₹ 75,000 to make government funded education profitable, within reasonable limits.

5. (i) ROI

Division 'Y'

Controllable Profit = ₹ 5,290K

Net Assets = ₹ 19,520k + ₹ 4,960K – ₹ 5,920K = ₹ 18,560K

ROI = 28.5%

Division 'D'

Controllable profit = ₹ 3,940K

Net Assets = ₹ 29,960K + ₹ 6,520K – ₹ 2,800K = ₹ 33,680K

ROI = 11.7%

In computation of ROI of both division, *controllable profit* has been taken into consideration. The reason behind this is that the Head Office costs are not controllable and responsibility accounting considers that managers should only be held responsible for costs over which they have control. The assets figures being used also depend on the same principal. Figures of current assets and the current liabilities have been taken into consideration as they are such items over which managers have complete control.

(ii) Bonus

Bonus to be paid for *each percentage point* = ₹ 7,20,000 × 3% = ₹ 21,600

Maximum Bonus = ₹ 7,20,000 × 20% = ₹ 1,44,000

Division 'Y'

ROI = 28.5% (16 whole percentage points above minimum ROI)

16 × ₹ 21,600 = ₹3,45,600

Therefore, manager will be paid the bonus of ₹ 1,44,000 (max.)

Division 'D'

ROI = 11.7% (Zero, percentage point above minimum)

Therefore Bonus = NIL

(iii) Discussion

FAI will not receive any bonus since he has not earned any point above minimum percentage. This is due to the large asset base on which the ROI figure has been computed. Total assets of Division 'D' are almost double the total assets of Division

'Y'. The major reason behind this is that Division 'D' invested ₹ 13.6 million in new equipment during the year. If this investment were not made, net assets would have been only ₹ 20.08 million and the ROI for Division 'D' would have been 19.62% resulting in payment of a bonus ₹1,44,000 (7 × ₹ 21, 600 = ₹ 1,51,200; subject to maximum of ₹ 1,44,000) rather than the nothing. FAI is being penalized for making decisions which are in the best interests of his division. It is very surprising that he decided to invest where he knew that he would receive lesser bonus subsequently. He acted in the best interests of the BYD altogether. On the other hand, HAI has taken benefit from the fact that he has not invested anything even though it was needed for computer system updation. This is an example of sub-optimal decision making.

Further, Division 'Y''s trade payables are over double those of Division 'D'. In part, one would expect this due to higher sales (almost 66% more than Division 'D') and low cash levels at Division 'Y'. Higher trade payable leads to reduction in net assets figures. The fact that BYD is rewarding HAI with bonus, even though relationships with suppliers may be badly affected, is again a case of sub-optimal decision making.

If the profit margin (excluding head office cost) as percentage of sales is calculated, it comes to 18.24% for Division 'Y' and 22.64% for Division 'D'. Therefore it can be seen that Division 'D' is performing better if capital employed is ignored. ROI is simply making the division 'D''s performance worse.

FAI might feel extremely disappointed by getting nothing and in the future, he may opt to postpone the investment to increase the bonus. Non- investing in new technology and equipment will mean that the BYD will not be kept updated with industry changes and its overall future competitiveness will be affected.

Briefly, the use of ROI is resulting in sub-optimal decision making and a lack of goal congruence i.e. what is good for the managers is not good for the company and vice versa. Fortunately, Division 'D''s manager still seems to be acting for the benefit of the BYD but the other manager is not. The fact that one manager is receiving a much bigger bonus than the other is not justifiable here and may result in conflict in long run. This is disappointing for the company especially in the situation when the divisions need to work in unison.

6. (i) Analysis of Behavioral Consequences

Division 'A' has huge demand for its lenses enabling it to operate at full capacity. External sales yield a contribution of ₹ 30 per lens sold (selling price of ₹ 140 *less* variable cost of ₹ 110 per lens). Likewise, each sale yields a profit ₹ 15 per lens (selling price of ₹ 140 *less* cost of production ₹ 125 per lens). This yields an ROI of 12% (profit of ₹ 15 per lens over a cost investment of ₹ 125 per lens).

If Division 'A' sells lens to Division 'B' at ₹ 120 per lens, it contribution reduces to ₹ 10 per lens (transfer price ₹120 *less* variable cost ₹ 110) while overall it shows a loss of ₹ 5 per lens (transfer price ₹ 120 *less* total cost of production is ₹ 125 per lens). The loss of ₹ 5 per lens is on account of (i) only partial recovery of fixed cost of production and (ii) opportunity cost in the form of loss of profit from external sales. This would therefore result in lower divisional profit for Division 'A'.

Consequently, the manager of Division 'A' would not accept the transfer price of ₹ 120 per lens. Lower profitability due to internal sales may demotivate the division. Due to the benefits of internal procurement, the management of Great vision may want to increase the capacity of Division 'A' or infuse more investment to expand its operations. However, due to inability to recover fixed costs in its entirety from internal sales the ROI of the division is impacted, therefore divisional performance would be perceived to be lower. Therefore, it may oppose decisions as this would lead to higher fixed costs. At an overall level, such opposition may be detrimental to the company, leading to sub optimization of resources.

The current total cost of production for Division 'B' is ₹ 400 per camera. Each sale yields a profit of ₹ 10 per camera (Selling price ₹ 410 *less* total cost of production ₹ 400 per camera). Therefore, the current ROI is 2.50% (profit of ₹ 10 over cost investment of ₹ 400 per camera). If the lens is procured from Division 'A' at ₹ 120 per lens, Division 'B' can get a benefit of ₹ 50 per camera due to lower procurement cost. If lenses are procured from Division 'A', referring to the cost estimate given in the problem, Division 'B' can earn a contribution of ₹ 110 per lens sold (sale price of ₹ 410 per camera less variable cost of ₹ 300 per camera) and a profit of ₹ 60 per camera (sale price of ₹ 410 per camera *less* total cost of production of ₹ 350 per camera). Therefore, ROI improves to 17.14% (profit of ₹ 60 over cost investment of ₹ 350 per camera). By procuring the lenses internally, the profit of the division improves substantially. Consequently, the manager of Division 'B' would accept the transfer price of ₹ 120 per camera.

(ii) Analysis of Overall Benefit to the Company (from internal transfer)

While calculating the benefit to the company, the fixed cost of each division is ignored. It is also given in the problem, that only marginal cost (variable cost) is considered for decision making.

As explained above, each external sale yields a contribution of ₹ 30 to Division 'A'. The lost contribution each month from diversion of external sales of Division 'A' towards internal transfer to Division 'B' = 5,000 units × ₹ 30 per lens = ₹ 150,000 per month. This is an opportunity cost to the company.

The current procurement price for Division 'B' is ₹ 170 per lens. The same lens can be manufactured at ₹ 110 (variable cost) by Division 'A'. Therefore, cost of production reduces by ₹ 60 for the company. Savings in procurement cost = 5,000 units × ₹ 60 per lens = ₹ 300,000 per month. This is a savings to the company.

Therefore, the net benefit to the company at an overall level = ₹ 150,000 per month.

(iii) Range of Transfer Price

As explained above, the company gets a net benefit of ₹ 150,000 per month by procuring the lenses internally. Therefore, the divisional managers should accept the transfer pricing model. At the same time, neither division should be at a loss due to this arrangement. When the transfer price is ₹ 120 per lens, Division 'A' bears the loss, which will impact assessment of the division's performance. Therefore, an acceptable range for transfer price should be worked out. This can be done as below:

When the supplying division operates at full capacity, the range for transfer pricing would be-

(a) Minimum transfer price = marginal cost p.u. + opportunity cost p.u.

Since the supplying division is operating at full capacity, it has no incentive to sell the goods to the purchasing division at a price lower than the market price. If the internal order is accepted, capacity is diverted towards this sale. Hence the supplying division would additionally charge the lost contribution from external sales that had to be curtailed. By doing so, the division will be indifferent whether the sale is an external or internal one.

(b) Maximum transfer price = Lower of net marginal revenue and the external buy-in price.

Therefore, the minimum transfer price (which would be set by Division 'A', the supplier) = marginal cost per lens + opportunity cost per lens = ₹ 110 + ₹ 30 per lens = ₹ 140 per lens. In other words, the minimum transfer price would be the external sale price of each lens.

The maximum transfer price (which would be determined by Division 'B', the procurer) = lower of net marginal revenue and the external buy-in price.

Net marginal revenue would be the revenue per one additional sale. Net marginal revenue per camera = marginal revenue – marginal cost (i.e. variable cost excluding the cost of the lens) to Division 'B' = ₹ 410 - ₹ (150+30) = ₹ 410 - ₹ 180 = ₹ 230 per camera. This is the maximum price that Division 'B' can pay for the lens, without incurring any loss. As mentioned before, fixed cost is ignored for this analysis.

The current external procurement price is ₹ 170 per lens.

Therefore, the maximum price that Division 'B' would be willing to pay = lower of net marginal revenue (₹ 230 per camera) or external procurement cost

(₹ 170 per lens). Therefore, Division 'B' would pay a maximum price, equivalent to the current external price of ₹ 170 per lens. It will not pay Division 'A', price more than the external market price for a lens.

Therefore, the acceptable range for transfer price would range from a minimum of ₹ 140 per lens and maximum of ₹ 170 per lens. The managers may be given autonomy to negotiate a mutually acceptable transfer price between this range.

(iv) Advise on Alternative to Current Transfer Pricing System

Other alternative transfer pricing models that can be considered are:

Dual Pricing

The supplying division, Division 'A', records transfer price by including a normal profit margin thereby showing reasonable revenue. At the current market price per lens, transfer price for Division A would be ₹ 140 per lens. The purchasing division, Division 'B', records transfer price at marginal cost thereby recording purchases at minimum cost. As per the current production cost, the transfer price for Division 'B' would the variable cost incurred by Division 'A' to manufacture one lens, that is ₹ 110 per lens. This allows for better evaluation of each division's performance. It also improves co-operation between divisions, promoting goal congruence and reduction of sub-optimization of resources.

Drawbacks of dual pricing include:

(a) It can complicate the records, thereby may result in errors in the company's overall records.

(b) Profits shown by the divisions are artificial and need to be used only for internal evaluations.

Two Part Pricing System

Here, transfer price = marginal cost of production + a lump-sum charge (two part to pricing). While marginal cost ensures recovery of additional cost of production related to the goods transferred, lump-sum charge enables the recovery of some portion of the fixed cost of the supplying division. Therefore, while the supplying division can show better profitability, the purchasing division can purchase the goods a lower rate compared to the market price.

The proposed transfer price of ₹ 120, is a two-part price that enables Division 'A' to recover the marginal cost of production of a lens as well as portion of the fixed cost. However, as explained in part (i) above, this price is insufficient to provide a reasonable return to Division 'A'. Therefore, the management of Great vision along with the divisional managers have to negotiate a price that is reasonable to Division 'A' while not exceeding the current procurement price of ₹ 170 per lens for Division

'B'. As explained in part (iii) of the solution, in the given case, the range of ₹ 140 to ₹ 170 per lens, would help resolve this conflict.

(v) Range of Transfer Price where Division 'A' has excess capacity

When the supplying division has excess capacity, the range for transfer pricing would be

(a) Minimum transfer price (determined by Division 'A') = marginal cost per lens = ₹ 110 per lens. This ensures that the Division 'A' is able to recoup at least its additional outlay of ₹ 110 per lens incurred on account of the transfer. Fixed cost is a sunk cost hence ignored. Since capacity can be utilized further, it would be optimum for Division 'A' to charge only the marginal cost for internal transfer. Division 'B' gets the advantage getting the goods at a lower cost than market price.

(b) Maximum transfer price (determined by Division 'B') = Lower of net marginal revenue and the external buy-in price. As explained in part (iii) above, this would be lower of net marginal revenue of ₹ 210 per camera or external buy-in price of ₹ 170 per lens, Therefore, the maximum transfer price would be ₹ 170, the external market price beyond which Division 'B' will be unwilling a higher price to Division 'A'.

Hence, when Division 'A' has excess capacity, the minimum transfer price would be ₹ 110 per lens while the maximum transfer price would be ₹ 170 per lens.

7. (i) Product Wise Profitability as per Original Allocation Methodology

(Figures in ₹ per kilogram of fertilizer produced)

Particulars	Grade A	Grade B	Total
Selling price	280	400	680
Direct Material (Refer Table 1)	114	186	300
Direct Labour (Refer Table 1)	76	124	200
Overheads (allocated equally)	75	75	150
Total Expenses	265	385	650
Profit	15	15	30
Profitability	5.36%	3.75%	×

Table 1 Allocation of Direct Materials and Labour as per Cost Centre and Product

Particulars	CC1			CC2			CC3			Total for the company		
	A	B	CC Total	A	B	CC Total	A	B	CC Total	Gr. A	Gr. B	Grand Total
Direct Material	27	63	90	60	60	120	27	63	90	114	186	300
Direct Labour	18	42	60	40	40	80	18	42	60	76	124	200

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Product Wise Profitability (activity based costing using environmental management accounting) requires the following ***steps***:

1. Overhead expenses of ₹ 150 per kilogram of fertilizer produced be first bifurcated into incinerator costs and other overhead costs.
2. Incinerator costs of ₹ 90 per kilogram of fertilizer needs to be allocated first to the cost centres. This is done based on the waste generated at each cost centre. The individual cost allocated to each cost centre is again allocated to products based on the waste generated at each cost centre by each product. Refer part a of table 2 for detailed calculations.
3. As mentioned in the problem, other overhead costs are allocated to each product at each cost centre level equally. Refer part b of table 2 for detailed calculations.
4. The above allocations to each product at a cost centre level is then summed up to get the product wise overhead cost allocation. Refer part c of table 2 for detailed calculations.

Accordingly, the **Revised Product Profitability** would be as follows:

(Figures in ₹ per kilogram of fertilizer produced)

Particulars	**Grade A**	**Grade B**	**Total**
Selling Price	280	400	680
Less: Direct Material (refer table 1)	114	186	300
Less: Direct Labour (refer table 1)	76	124	200
Less: Overheads (refer table 2)	66	84	150
Profit	24	6	30
Profitability	8.57%	1.50%	×

Table 2 Allocation of Overhead Expenses to each Cost Centre and Product

(Figures in ₹ per kilogram of fertilizer produced)

Product Waste Produced (in tonnes per annum)	**CC1**	**CC2**	**CC3**	**Total**
Grade A	2	3	1	6
Grade B	2	2	5	9
Total Waste (in tonnes)	4	5	6	15
Incinerator Cost Allocated to Cost Centres *(based on waste generated)*	24	30	36	90
Other Overhead Expenses	20	20	20	60
Total Cost Centre Wise Overhead Cost	44	50	56	150
Part A: Allocation of Incinerator Cost from Cost Centre to each product *(based on waste produced at each cost centre by each product)*				
Product	**CC1**	**CC2**	**CC3**	**Total**
Grade A	12	18	6	36
Grade B	12	12	30	54
Total Incinerator Cost	24	30	36	90
Part B: Allocation of Other Overhead Cost from Cost Centre to each product				
Product	**CC1**	**CC2**	**CC3**	**Total**
Grade A	10	10	10	30
Grade B	10	10	10	30
Total Other Overhead Cost	20	20	20	60
Part C: Total Overhead Cost (Cost Centre and Product Wise i.e. part a + b)				
Product	**CC1**	**CC2**	**CC3**	**Total**
Grade A	22	28	16	66
Grade B	22	22	40	84
Total Overhead Cost	44	50	56	150

Summarizing Product Profitability as per both methods:

Product	**(Profit in ₹ per kg of fertilizer produced)**		**Profit %**	
	Original Method	**ABC (as per EMA) Method**	**Original Method**	**ABC (as per EMA) Method**
Grade A	15	24	5.36%	8.57%
Grade B	15	6	3.75%	1.50%

(ii) As summarized above, originally the profit generated from Grade A and Grade B products, was ₹ 15 per kilogram. Grade A was the more profitable product giving return of 5.36% compared to Grade B's return of 3.75%. This has been calculated by allocating overheads equally to Grade A and B.

During the year, 15 tons of waste is produced during the manufacturing process. Grade B fertilizer produces more waste that accounts for 60% of the waste. Therefore, Grade B should bear higher amount of the incinerator cost compared to Grade A. Allocation based on this premise, dramatically changes the profitability of the products. As calculated above, Grade A fertilizer, due to lower incinerator cost allocation, generates a profit of ₹ 24 per kilogram of fertilizer. Grade B's profits accordingly are lower, since the product generates more waste and has to bear a larger share of clean-up expenses. Profitability of Grade A increases to 8.57% while Grade B falls dramatically to 1.50%.

(iii) The company can draw a number of conclusions from this analysis of overhead costs as per environmental management accounting. This analysis has helped the company reach the conclusion that Grade B fertilizer produces more waste. The company could adopt either of the following approaches:

(a) To maintain the same level of profitability, the company can increase the price of Grade B by another ₹ 9 per kilogram. This is a 2.25% increase in the sale price of Grade B fertilizer. Depending on the market for this grade of fertilizer, the company has to decide whether to increase the price of the product. While a price increase may be possible if the company has a strong market hold, it might be difficult if competition in the market is high. or

(b) The other approach, a more sustainable approach that is the aim of environmental management accounting, would be to reduce the waste produced in the manufacturing process. This analysis, has quantified the waste generated in the process. Better manufacturing techniques, could save the company incinerator costs, that would yield better profits for the company.

8. (i) Implementing Just in time procurement system will benefit the company by **₹11,27,000** per year as explained below:

Therefore,

Particulars	**Current Purchasing Policy (₹)**	**JIT Procurement System (₹)**
Raw material procurement cost per year	12,00,00,000	15,60,00,000
Quality check and material handling cost (*No longer required in JIT)*	1,00,00,000	---

Insurance Cost on raw material inventory *(No longer required in JIT)*	20,00,000	---
Warehouse rental for storing raw material *(No longer required in JIT)*	3,00,00,000	---
Overtime Charges under JIT to reduce Stockouts (note 1)	---	10,00,000
Stockout Cost (note 2)	---	40,20,000
Total Relevant Cost	16,20,00,000	160,020,000

Therefore, moving to just in time procurement system results in savings of ₹ 980,000 per year for the company. If reinvested, long term return on investment for the company at 15% would yield a return of ₹ 147,000 per year. Therefore, total benefit for the company would be ₹ 11,27,000 per year.

Note 1: Should overtime cost be incurred to reduce Stockouts?

Contribution per unit = Sale price - Variable production cost - Variable selling, distribution cost per unit; Variable production cost under the just in time system = ₹ 2,000+ ₹ (1,040-800) = ₹ 2,240 per unit; Contribution per unit = ₹ 5,000 - ₹ 2,240- ₹ 750 per unit = ₹ 2,010 per unit.

Overtime cost can reduce stockouts from 3,000 units to 2,000 units that is customers' demand of 1,000 units more can be met.

Contribution earned from selling these 1,000 units = 1,000 × ₹ 2,010 per unit = ₹ 20,10,000.

Therefore, the contribution earned of ₹ 20,10,000 is more than the related overtime cost of ₹ 10,00,000. Therefore, it is profitable to incur the overtime cost.

Note 2: Stockout Costs

Out of the total shortfall of 3,000 units, by spending on overtime 1,000 units of demand can be met. Therefore, actual stockout units is only 2,000 units. As explained above, contribution per unit is ₹ 2,010 per unit. Therefore, stockout cost = 2,000 units × ₹ 2,010 per unit = ₹ 40,20,000

(ii) The company plans to eliminate its raw material inventory altogether. Raw material will be delivered as per production schedule directly at the factory shop floor, from whence production will begin. The management should therefore carefully consider the following points:

(a) The entire production process has to be detailed and integrated sequentially. This is essential to know because it should be known in advance when in the sub-assembly process is each raw material is required and in what quantity.

(b) Since production is dependent on delivery and quality of raw material, heavy reliance is being placed on suppliers. They should be able to guarantee timely delivery of raw material of the appropriate quality. The company is paying a premium of 30% of original cost, that is ₹ 240 per unit (₹ 1,040 - ₹ 800 per unit) in order to ensure the same. Each unit gives a contribution of ₹ 2,010 per unit, which is 40.2% of the sale price per unit. Lost sales opportunities due to unavailability of raw material or non-conformance of the material can result in substantial losses to the company. While, portion of this has been factored while doing the cost benefit analysis of implementing Just-in-time systems, it needs careful consideration and monitoring even after implementation. Therefore, to hedge its loss, the management and suppliers should agree on penalties or costs the supplier should incur should there be any delay or non-conformance in quality of materials beyond certain thresholds.

(c) Accurate prediction of sales trends is important to determine the production schedule and finished goods planning.

(d) Continuous monitoring of the system even after implementation is essential to ensure smooth operations. Management commitment and leadership support is essential for its successful implementation and working.

9. As per the statement given in the problem, Flight GP-022 incurs a net (loss) of ₹ 158,100. This is the net result of revenue less costs. Revenue is entirely variable depending upon passenger occupancy. Costs are both variable and fixed nature. To analyze the impact of dropping flight GP-022, we need to *re-compute* net gain/ (loss) that Golden Pacific earns when it operates the flight **based on relevant costing principles**.

Net Gain/ (Loss)

= Revenue earned from flight operations *less* Variable costs of operation

Revenue earned is the ticket revenue earned from flight operations of GP-022, this is entirely variable. Variable costs of flight operations are those expenses that would be incurred only when the flight is operated. These include variable expenses per passenger, salaries flight assistants, overnight costs for flight crew and assistants, fuel for aircraft, a third portion of flight insurance that is specifically related to this flight sector and flight promotion expense. These are expenses that will not be incurred if the flight is not operated. Hence, relevant for decision making.

Other expenses like salaries of flight crew and hanger parking fees for aircraft are fixed expenses that will be incurred even if the flight does not operate. Loading and flight preparation expense is an allocated cost that will continue to be incurred even if flight GP-022 does not operate. Depreciation of aircraft and liability insurance expense ($2/3^{rd}$ portion not related to a specific flight sector) are sunk costs. These expenses have already been incurred and hence are irrelevant to decision making. Therefore, these fixed, allocated and sunk expenses are ignored while analyzing the decision whether to continue operating flight GP-022.

Flight GP-022

Statement Showing Net Gain/ (Loss)

	₹	₹
Contribution Margin *if the flight is continued*		5,88,000
Less: Flight Costs		
Flight Promotion	28,000	
Fuel for Aircraft	2,38,000	
Liability Insurance (1/3 × ₹1,47,000)	49,000	
Salaries, Flight Assistants	31,500	
Overnight Costs for Flight Crew and Assistants	12,600	3,59,100
	Net Gain/ (Loss)	2,28,900

If Golden Pacific Airlines Ltd. discontinues flight GP-022, profits will reduce by ₹ 2,28,900. The statement showing loss in operations of ₹ 158,100 is misleading for decision making purpose because it accounts for costs that are fixed and irrelevant. However, since flight GP-022 yields a net gain of ₹ 2,28,900, flight operations should continue.

10. (i) Customer's Profitability Statement

Particulars	**Customer- A**	**Customer- B**	**Customer- C**	**Customer- D**
Sales (cases)	**7,580**	**38,350**	**78,520**	**15,560**
	(₹)	(₹)	(₹)	(₹)
List Price *per case*	250	250	250	250
Less: Discount	**5** (₹250 × 2%)	**14** (₹250 × 5.6%)	**22** (₹250 × 8.8%)	**18** (₹250 × 7.2%)
Actual Selling Price (Net of Discounts) *per case*	245	236	228	232
Less: Variable Cost *per unit*	218	218	218	218
Contribution *per unit*	27	18	10	14
Total	2,04,660	6,90,300	7,85,200	2,17,840

Contribution	(₹27 × 7,580 units)	(₹18 × 38,350 units)	(₹10 × 78,520 units)	(₹14 × 15,560 units)
Less: Additional Overheads				
Visit Cost	4,500 (6 × ₹750)	9,000 (12 × ₹750)	12,000 (16 × ₹750)	7,500 (10 × ₹750)
Order Processing Cost	9,600 (12 × ₹800)	14,400 (18 × ₹800)	28,000 (35 × ₹800)	19,200 (24 × ₹800)
Delivery Cost	2,940 (280 × ₹10.50)	3,675 (350 × ₹10.50)	4,725 (450 × ₹10.50)	4,200 (400 × ₹10.50)
Product Handling Cost	18,950 (7,580 × ₹2.50)	95,875 (38,350 × ₹2.50)	1,96,300 (78,520 × ₹2.50)	38,900 (15,560 × ₹2.50)
Profit *per customer*	1,68,670 (11.81% of total)	5,67,350 (39.72% of total)	5,44,175 (38.10% of total)	1,48,040 (10.37% of total)
Profit *per customer per case*	**22.25**	14.79	6.93	9.51

(ii) Going by volume of cases sold, customer C is the biggest customer accounting for 56% of total sales volume, followed by customer B (27%), customer D (11%) and customer A (6%). However, in terms of profit per customer, Customer B is the most profitable accounting for 39.72% of the cumulative customer profits of ₹ 14,28,235. Customer C contributes to 38.10% of the same. Comparing customers B and C, customer B is more profitable despite accounting for sales volume that is less than half of customer B (customer C's 56% of sale volume versus customer B's 27%). The primary reason for this is because the discount given to customer C (8.8%) is higher than that given to customer B (5.6%). The difference is terms of sale could be due to the fact that customer C is the biggest customer and hence is able to negotiate for a higher discount. Consequently, for each case sold, customer C gets an additional discount of ₹ 8 as compared to customer B. This is reflected in the contribution generated per case. Sale of one case to customer C generates ₹ 10 contribution versus sale of one case to customer B generates ₹ 18 contribution. This has a huge impact on profitability. In terms of profit generated per case sold, customer C has the lowest contribution at ₹ 6.93 per case. The company may review whether this difference in terms of sale to each of its customers is justified. If the discount to customer C at 8.8% was initially extended to promote sales, negotiations can be made to reduce this to mutually acceptable rates. However, care must be taken not to lose customer C to competitors.

Customer D is the least profitable accounting for just 10.37% of the total customer profits. In terms of sale volume, the customer ranks third providing 11% volume. However, the customer is not profitable because of the following reasons:

(a) A *discount rate* of 7.2% is provided to the customer. Each case sold after a discount of ₹ 18 per case, generates a contribution per case of only ₹ 14 per case. This is much lower compared to the contribution per case of customer A (₹ 27 per case) and customer B (₹ 18 per case). This discount policy may need to be reviewed. One scenario where such a high discount may be justified would be where customer D supplies the products that it manufactures at a discounted rate to a sister concern of the company. Therefore, at a parent company / overall level, the higher discount rate for a low volume customer D may be justified.

(b) For a customer that provides 11% of volume, the *number of site visits* during the year were 10. Customer C giving 56% of volume had only 16 visits and customer B giving 27% of volume had only 12 visits. This indicates that customer D, although a smaller customer, requires more visits than regular customers. Therefore, site visit costs are higher for this customer. The reason for a higher handholding by the company for this customer has to be analyzed. For example, one possible reason could be that customer D requires the cases customized to its production requirement. This may require more site visits by the company's personnel. To resolve this, due to the extra work involved, the company may wish to charge a higher sale price for the cases customized for customer D. In another other scenario, it may choose to charge the customer a fixed rate for each site visit.

(c) For a customer that provides 11% of volume, the *number of orders* placed in a year are 24. Customer C giving 56% of volume placed 35 orders in a year and customer B giving 27% of volume placed 18 orders in a year. This indicates that customer D, although a small customer, places orders more frequently than other larger customers. Therefore, order processing costs are higher for customer D. The company may revise *ordering schedule* for this customer or find out the reason for higher proportion of purchase orders, in order to pass on some of the cost to the customer. For example, let us say, customer D has an agreement with the company to provide cases "just in time" resulting in more frequent orders as compared to other customers. Therefore, the company is providing flexibility in procurement to customer D. For this convenience, it may pass on some of the ordering cost to customer D by way of a higher selling price or a lower discount.

(d) Again, given the volume, the *number of deliveries* to customer D (400) is at a higher proportion compared to the larger customers C (450) and B (350). The company may revise *delivery schedule* for this customer or find out the reason for higher proportion of deliveries, in order to pass on some of the cost to the customer. For example, let us say, customer D has an agreement with the company to provide cases "just in time" resulting in more frequent deliveries as compared to other customers. Therefore, the company is providing flexibility in procurement to customer D. For this convenience, it may pass on some of the delivery cost to customer D by way of a higher selling price or a lower discount.

Customer A is the smallest customer providing only 6% of total sale volume. However, with a contribution per case at ₹ 27 per case and a profit per case at ₹ 22.25 per case, it is the most profitable of all customers. The primary reason for this is the discount of 2% offered is much lower than other customers. Each case sold to customer A yields a contribution of ₹ 27 as compared to a contribution of ₹ 10 from customer C, the biggest customer. Possible reason for a lower discount maybe customer A, being a smaller player, may have lesser bargaining power compared to other customers. If the company wishes to have a longer business relationship with customer A, it may wish to provide more favorable discount terms to this party. However, since customers B and C are much larger customers, any benefit passed onto customer A should not impact the company adversely in the long run. For example, in order get more orders from customer A, the company gives a 10% discount to the party. Consequently, the profitability of customer A will decrease. Let us say customer A places huge orders due to which there are capacity constraints within the company. Sales to customers B and C, the current larger customers, may be impacted. This could affect the company adversely in terms of lost sales to customers B and C and loss of business relationships with these parties. Therefore, careful consideration should be given before extending discounts to improve sales from customer A.

As regards *product handling cost*, each customer is currently charged ₹ 2.5 per case sold. The company, if feasible, apply Activity Based Costing technique to find out if this can be allocated based on the cost driver for each customer. Let us say, packing cost before shipment is part of product handling cost. If customer B requires special packing to ship the goods, then customer B needs to be allocated a higher packaging cost as compared to the others. This cost can be recouped from customer B through a higher selling price.

PAPER – 6A to 6F [ELECTIVE PAPERS]

PAPER – 6 A : RISK MANAGEMENT

PAPER – 6 B : FINANCIAL SERVICES AND CAPITAL MARKET

PAPER – 6 C : INTERNATIONAL TAXATION

PAPER – 6 D : ECONOMIC LAWS

PAPER – 6 E : GLOBAL FINANCIAL REPORTING STANDARDS

PAPER – 6 F : MULTIDISCIPLINARY CASE STUDY

These papers are open book and case study based. Case Studies on all the above elective subjects have been webhosted at the BoS Knowledge Portal.

PAPER 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION

SECTION – A: STATUTORY UPDATE

The direct tax laws, as amended by the Finance Act, 2017, including significant notifications/ circulars issued upto 30th April, 2018 are applicable for November, 2018 examination. The relevant assessment year for November, 2018 examination is A.Y.2018-19. The significant notifications/circulars issued upto 30th April, 2018, relevant for November, 2018 examination but not covered in the August 2017 edition of the Study Material, are given hereunder.

PART – I : DIRECT TAX LAWS

CHAPTER 1: BASIC CONCEPTS

Clarification regarding attaining prescribed age of 60 years/80 years on 31st March itself, in case of senior/very senior citizens whose date of birth falls on 1st April [Circular No. 28/2016, dated 27.07.2016]

An individual who is resident in India and of the age of 60 years or more (senior citizen) and 80 years or more (very senior citizen) is eligible for a higher basic exemption limit of ₹ 3,00,000 and ₹ 5,00,000, respectively.

The contentious issue is regarding the attainment of the aforesaid qualifying ages for availing higher basic exemption limit in cases of the persons whose date of birth falls on 1st April of calendar year. In other words, the broader question under consideration is whether a person born on 1st April of a particular year can be said to have completed a particular age on 31st March, on the preceding day of his/her birthday, or on 1st April itself of that year.

The Supreme Court had an occasion to consider a similar issue in the case of *Prabhu Dayal Sesma vs. State of Rajasthan &, another 1986, AIR, 1948* wherein it has dealt with on the general rules to be followed for calculating the age of the person. The Apex Court observed that while counting the age of the person, whole of the day should be reckoned and it starts from 12 o'clock in the midnight and he attains the specified age on the day preceding, the anniversary of his birthday. In the absence of any express provision, it is well settled that any specified age in law is to be computed as having been attained on the day preceding the anniversary of the birthday.

The CBDT has, vide this Circular, clarified that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday. In particular, the question of attainment of age of eligibility for being considered a senior/very senior citizen would be decided on the basis of above criteria.

Therefore, a resident individual whose 60th birthday falls on 1st April, 2018, would be treated as having attained the age of 60 years in the P.Y.2017-18, and would be eligible for higher basic exemption limit of ₹ 3 lakh in computing his tax liability for A.Y.2018-19. Likewise, a resident individual whose 80th birthday falls on 1st April, 2018, would be treated as having attained the age of 80 years in the P.Y.2017-18, and would be eligible for higher basic exemption limit of ₹ 5 lakh in computing his tax liability for A.Y.2018-19.

CHAPTER 2: RESIDENCE AND SCOPE OF TOTAL INCOME

Clarification regarding liability to income-tax in India of a non-resident seafarer receiving remuneration in NRE (Non-Resident External) account maintained with an Indian Bank [Circular No.13/2017, dated 11.04.2017 and Circular No.17/2017, dated 26.04.2017]

Income by way of salary, received by non-resident seafarers, for services rendered outside India on-board foreign ships, is being subjected to tax in India for the reason that the salary has been received by the seafarer into the NRE bank account maintained in India by the seafarer. On receiving representations in this regard, the CBDT examined the matter and noted that section 5(2)(a) of the Income-tax Act, 1961 provides that only such income of a non-resident shall be subjected to tax in India that is either received or is deemed to be received in India.

Accordingly, the CBDT has, vide this circular, clarified that that salary accrued to a non-resident seafarer for services rendered outside India on a foreign going ship (with Indian flag or foreign flag) shall not be included in the total income merely because the said salary has been credited in the NRE account maintained with an Indian bank by the seafarer.

Notification of Eligible Investment funds in respect of which certain conditions specified under section 9A(3) would not apply [Notification No. 77/2017, dated 03.08.2017]

Section 9A provides for special taxation regime to facilitate location of fund managers of off-shore funds in India. Under this regime, in case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund, subject to fulfilment of certain conditions.

Eligible investment fund means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils, *inter alia,* the following conditions, namely -

(e) the fund should have a minimum of twenty-five members who are, directly or indirectly, not connected persons;

(f) any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding ten per cent;

(g) the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty per cent.

The above conditions, however, would not apply in case of an investment fund set up by the Government or the Central Bank of a foreign State or a sovereign fund, or such other fund as the Central Government may subject to conditions, if any, by notification, specify in this behalf.

Accordingly, the Central Government has, vide this notification, specified that these conditions would not apply to an investment fund set up by a Category-I or Category-II Foreign Portfolio Investor registered under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, made under the Securities and Exchange Board of India Act, 1992.

Clarification related to guidelines for establishing 'Place of Effective Management' (PoEM) in India [Circular No. 25/2017, dated 23.10.2017]

The concept of 'Place of Effective Management' (PoEM) for deciding residential status of a company, other than an Indian company, was introduced in the Income-tax Act, 1961 which has become effective from 1.4.2017, i.e., Assessment Year 2017-18 onwards.

The guiding principles for determination of PoEM of a company were issued on 24.01.2017 vide Circular No 06/2017. Further, vide Circular No 08/2017 dated 23.02.2017, it has been clarified that the PoEM provisions shall not apply to a company having turnover or gross receipts of Rs 50 crore or less in a financial year.

Thereafter, stakeholders had expressed concerns that as per the extant guidelines, PoEM may be triggered in cases of certain multinational companies with regional headquarter structure merely on the ground that certain employees having multi-country responsibility or oversight over the operations in other countries of the region are working from India, and consequently, their income from operations outside India may be taxed in India.

In this regard, it may be mentioned that Para 7 of the guidelines provides that the place of effective management in case of a company engaged in active business outside India (ABOI) shall be presumed to be outside India if the majority meetings of the board of directors (BoD) of the company are held outside India.

However, Para 7.1 of the guidelines provides that if on the basis of facts and circumstances, it is established that the Board of directors of the company are standing aside and not exercising their powers of management and such powers are being exercised by either the holding company or any other person(s) resident in India, then, the PoEM shall be considered to be in India.

It has also been provided that for this purpose, merely because the BoD follows general and objective principles of global policy of the group laid down by the parent entity which may be in the field of Pay roll functions, Accounting, Human resource (HR) functions, IT infrastructure and network platforms, Supply chain functions, Routine banking operational procedures, and not being specific to any entity or group of entities per se; would not constitute a case of BoD of companies standing aside.

In view of the above, it is clarified that so long as the Regional Headquarter operates for subsidiaries/ group companies in a region within the general and objective principles of global policy of the group laid down by the parent entity in the field of Pay roll functions, Accounting, HR functions, IT infrastructure and network platforms, Supply chain functions, Routine banking operational procedures, and not being specific to any entity or group of entities per se; it would, in itself, not constitute a case of BoD of companies standing aside and such activities of Regional Headquarter in India alone will not be a basis for establishment of PoEM for such subsidiaries/ group companies.

It is further mentioned in the said Circular that the provisions of General Anti-Avoidance Rule contained in Chapter X-A of the Income-tax Act, 1961 may get triggered in such cases where the above clarification is found to be used for abusive/ aggressive tax planning.

Clarification on applicability of section 9(1)(i) relating to indirect transfer in case of redemption of share or interest outside India [Circular No. 28/2017, dated 7-11-2017]

Section 9(1)(i) provides that all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India or through the transfer of a capital asset situate in India, shall be deemed to accrue or arise in India.

Explanation 5 to section 9(1)(i), clarifies that an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

Concerns were raised by investment funds, including private equity funds and venture capital funds that on account of the extant indirect transfer provisions in the Act, non-resident investment funds investing in India, which are set up as multi-tier investment structures, suffer multiple taxation of the same income at the time of subsequent redemption or buyback.

However, in respect of investments in Category I and II FPIs by non-residents, which are already exempted from indirect transfer provisions through insertion of second proviso to *Explanation 5* to section 9(1)(i) by the Finance Act, 2017 with effect from 1.4.2015, such multiple taxation will not take place. In other cases, such taxability arises firstly at the level of the fund in India on its short-term capital gain/business income and then at every upper level of investment in the fund chain on subsequent redemption or buyback. The CBDT has received representations to exclude investors above the level of the direct investor who is already chargeable to tax in India on such income from the ambit of indirect transfer provisions of the Act.

In order to address this concern, the CBDT has, vide this Circular, clarified that the provisions of section 9(1)(i) read with *Explanation 5*, shall not apply in respect of income accruing or arising to a non-resident on account of redemption or buyback of its share or interest held indirectly (i.e. through upstream entities registered or incorporated outside India) in the specified funds (namely, investment funds, venture capital company and venture capital funds) if such income accrues or arises from or in consequence of transfer of shares or securities held in India by the specified funds and such income is chargeable to tax in India.

However, the above benefit shall be applicable only in those cases where the proceeds of redemption or buyback arising to the non-resident do not exceed the pro-rata share of the non-resident in the total consideration realized by the specified funds from the said transfer of shares or securities in India. It is further clarified that a non-resident investing directly in the specified funds shall continue to be taxed as per the extant provisions of the Act.

CHAPTER 6: PROFITS AND GAINS OF BUSINESS OR PROFESSION

Lease rent from letting out buildings/developed space along with other amenities in an Industrial Park /SEZ - to be treated as business income [Circular No. 16/2017, dated 25.04.2017]

The issue whether income arising from letting out of premises/developed space along with other amenities in an Industrial Park/SEZ is to be charged under head 'Profits and Gains of Business' or under the head 'Income from House Property' has been subject matter of litigation in recent years. Assessees claim the letting out as business activity, the income arising from which to be charged to tax under the head 'Profits and Gains of Business', whereas the Assessing Officers hold it to be chargeable under the head 'Income from House Property'.

The CBDT has considered the matter. Income from the Industrial Parks/SEZ established under various schemes framed and notified under section 80-IA(4)(iii) is liable to be treated as income from business provided the conditions prescribed under the schemes are met.

In the case of *Velankani Information Systems Pvt Ltd* (NJRS Citation [2013-LL-0402-44]), the Karnataka High Court observed that any other interpretation would defeat the object of section 80-IA and Government schemes for development of Industrial Parks in the country. SLPs filed in this case by the Department have been dismissed by the Supreme Court.

In a subsequent judgment dated 30.04.2014 in ITA No. 76 & 78/2012 in the case of *CIT v. Information Technology Park Ltd.* (NJRS Citation [2014-LL-0430-141], the Karnataka High Court has reaffirmed its earlier views. It has held that, since the assessee-company was engaged in the business of developing, operating and maintaining an Industrial Park and providing infrastructure facilities to different companies as its business, the lease rent received by the assessee from letting out buildings along with other amenities in a software technology park would be chargeable to tax under the head "Profits and gains of business or profession" and not under the head "Income from house property". The judgment has been accepted by the CBDT.

In view of the above, it is now a settled position that in the case of an undertaking which develops, develops and operates or maintains and operates an industrial park/SEZ notified in accordance with the scheme framed and notified by the Government, the income from letting out of premises/developed space along with other facilities in an industrial park/SEZ is to be charged to tax under the head 'Profits and Gains of Business'.

Applicability of income-tax provisions under section 40A(3), section 269ST and Rule 114B to cash sale of agricultural produce by cultivators/agriculturists to traders [Circular No. 27/2017, dated 3-11-2017]

The provisions of section 40A(3) provide for the disallowance of expenditure exceeding ₹ 10,000 made otherwise than by an account payee cheque/draft or use of electronic clearing system through a bank account. However, Rule 6DD carves out certain exceptions from application of the provisions of section 40A(3) in some specific cases and circumstances, which *inter alia*, include payments made for purchase of agricultural produce to the cultivators of such produce. Therefore, no disallowance under section 40A(3) can be made if the trader makes cash purchases of agricultural produce from the cultivator.

Further, section 269ST, subject to certain exceptions, prohibits receipt of ₹ 2 lakh or more, otherwise than by an account payee cheque/draft or by use of electronic clearing system through a bank account from a person in a day or in respect of a single transaction or in respect of transactions relating to an event or occasion from a person. Therefore, any cash sale of an amount of ₹ 2 lakh or more by a cultivator of agricultural produce is prohibited under section 269ST.

Furthermore, the provisions relating to quoting of PAN or furnishing of Form No. 60 under Rule 114B do not apply to the sale transaction of ₹ 2 lakh or less.

In view of the above, it is clarified by the CBDT that cash sale of the agricultural produce by its cultivator to the trader for an amount less than ₹ 2 lakh will **not** -

(a) result in any disallowance of expenditure under section 40A(3) in the case of trader.

(b) attract prohibition under section 269ST in the case of the cultivator; and

(c) require the cultivator to quote his PAN/ or furnish Form No. 60.

CHAPTER 7: CAPITAL GAINS

Long-term specified asset notified for the purpose of claiming exemption under section 54EC [Notification No. 47/2017, dated 08.06.2017 and Notification No. 79/2017, dated 08.08.2017]

Section 54EC provides exemption from chargeability of capital gain from the transfer of a long-term capital assets where the assessee has invested the whole or any part of the capital gain in a long-term specified asset. As per clause (ba) of *Explanation* to section 54EC “long term specified asset” means any bond redeemable after three years and issued on or after 01.04.07 by the National Highways Authority of India (NHAI) or by the Rural Electrification Corporation Limited (RECL) or any other bond notified by the Central Government in this behalf.

Accordingly, the Central Government has, vide these notifications, notified any bond redeemable after three years and issued by the **Power Finance Corporation Limited** on or after 15.06.17 or by the **Indian Railway Finance Corporation Limited** on or after 08.08.17 as ‘long-term specified asset’.

CHAPTER 8: INCOME FROM OTHER SOURCES

Clarification regarding trade advance not to be treated as deemed dividend under section 2(22)(e) – [Circular No. 19/2017, dated 12.06.2017]

Section 2(22)(e) provides that "dividend" includes any payment by a company in which public are not substantially interested, of any sum by way of **advance or loan** to a shareholder who is the beneficial owner of shares holding not less than 10% of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits.

The CBDT observed that some Courts in the recent past have held that trade advances in the nature of commercial transactions would not fall within the ambit of the provisions of section 2(22)(e) and such views have attained finality.

Some illustrations/examples of trade advances/commercial transactions held to be **not** covered under section 2(22)(e) are as follows:

(i) Advances were made by a company to a sister concern and adjusted against the dues for job work done by the sister concern. It was held that amounts advanced for business transactions do not to fall within the definition of deemed dividend under section 2(22)(e) *[CIT vs. Creative Dyeing & Printing Pvt. Ltd. [NJRS] 2009-LL-0922-2, ITA No. 250 of 2009, Delhi High Court].*

(ii) Advance was made by a company to its shareholder to install plant and machinery at the shareholder's premises to enable him to do job work for the company so that the company could fulfil an export order. It was held that as the assessee proved business expediency, the advance was not covered by section 2(22)(e) [*CIT vs Amrik Singh, [NJRS] 2015-LL-0429-5, ITA No. 347 of 2013, P & H High Court]*

(iii) A floating security deposit was given by a company to its sister concern against the use of electricity generators belonging to the sister concern. The company utilised gas available to it from GAIL to generate electricity and supplied it to the sister concern at concessional rates. It was held that the security deposit made by the company to its sister concern was a business transaction arising in the normal course of business between two concerns and the transaction did not attract section 2(22)(e) *[CIT, Agra vs Atul Engineering Udyog, [NJRS] 2014-LL-0926-121, ITA No. 223 of 2011, Allahabad High Court]*

In view of the above, the CBDT has, vide this circular, clarified that it is a settled position that trade advances, which are in the nature of commercial transactions, would not fall within the ambit of the word 'advance' in section 2(22)(e) and therefore, the same would not to be treated as deemed dividend.

CHAPTER 11: DEDUCTIONS FROM GROSS TOTAL INCOME

Admissibility of deduction under Chapter VI-A on the profits enhanced due to disallowance of expenditure related to business activity [Circular No.37/2016, Dated 02.11.2016]

Chapter VI-A of the Income-tax Act, 1961, provides for deductions in respect of certain incomes. In computing the profits and gains of a business activity, the Assessing Officer may make certain disallowances, such as disallowances pertaining to sections 32, 40(a)(ia), 40A(3), 43B etc., of the Act. At times, disallowance out of specific expenditure claimed may also be made. The effect of such disallowances is an increase in the profits.

The issue is whether such higher profits would also result in claim for a higher profit-linked deduction under Chapter VI-A.

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. Some illustrative cases upholding this view are as follows:

(i) If an expenditure incurred by assessee for the purpose of developing a housing project was not allowable on account of non-deduction of TDS under law, such disallowance would ultimately increase assessee's profits from business of developing housing project. The ultimate profits of assessee after adjusting disallowance under section 40(a)(ia) would qualify for deduction under section 80-IB.

(ii) If deduction under section 40A(3) is not allowed, the same would have to be added to the profits of the undertaking on which the assessee would be entitled for deduction under section 80-IB.

In view of the aforesaid judgements, the CBDT has accepted the settled position that the disallowances made under sections 32, 40(a)(ia), 40A(3), 43B, etc. and other specific disallowances, related 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.

Transport, Power and Interest subsidies received by an Industrial Undertaking - Eligibility for deduction under sections 80-IB, 80-IC etc., [Circular No. 39/2016, dated 29.11.2016]

The issue of whether revenue receipts such as transport, power and interest subsidies received by an Industrial Undertaking/eligible business are part of profits and gains of business derived from its business activities within the meaning of sections 80-IB/80-IC of the Income-tax Act, 1961 and, thus, eligible for claim of corresponding deduction under Chapter VI-A of the Act has been a contentious one. Such receipts are often treated as 'Income from other sources' by the Assessing Officers.

The Hon'ble Supreme Court in its judgment dated 9.3.2016 in the case of *Meghalaya Steels Ltd* and other cases has held that the subsidies of transport, power and interest given by the

Government to the Industrial Undertaking are receipts which have been reimbursed for elements of cost relating to manufacture/sale of the products. Thus, there is a direct nexus between profit and gains of the industrial undertaking/business and reimbursement of such business subsidies. Accordingly, such subsidies are part of profits and gains of business derived from the Industrial Undertaking and are not to be included under the head 'Income from other sources'. Therefore, deduction is admissible under section 80-1B/80-IC of the Act on such revenue receipts derived from the Industrial Undertaking.

In view of the above, the CBDT has clarified that revenue subsidies received from the Government towards reimbursement of cost of production/manufacture or for sale of the manufactured goods are part of profits and gains of business derived from the Industrial Undertaking/eligible business, and are thus, admissible for applicable deduction under Chapter VI-A of the Income-tax Act, 1961.

Contributory Health Service Scheme notified for the purpose of section 80D [Notification No. 9 /2018 dated 16-2-2018]

Under section 80D, a deduction to the extent of ₹ 25,000 (₹ 30,000, in case of resident senior citizens) is allowed in respect of premium paid to effect or keep in force an insurance on the health of self, spouse and dependent children or any contribution made to the Central Government Health Scheme or such other health scheme as may be notified by the Central Government.

Accordingly, the Central Government has, vide this notification, notified the Contributory Health Service Scheme of the Department of Atomic Energy, contribution to which would qualify for deduction under section 80D.

CHAPTER 12: ASSESSMENT OF VARIOUS ENTITIES

Relaxation in the provisions relating to levy of Minimum Alternate Tax (MAT) in case of companies against whom an application for corporate insolvency resolution process has been admitted under the Insolvency and Bankruptcy Code, 2016 [Press Release, dated 6-1-2018]

The existing provisions of section 115JB, *inter alia*, provide, that, for the purposes of levy of Minimum Alternate Tax (MAT) in case of a company, the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account shall be reduced from the book profit.

In this regard, the CBDT has received representations from various stakeholders that the companies against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016, are facing hardship due to restriction in allowance of brought forward loss for computation of book profit under section 115JB.

With a view to minimize the genuine hardship faced by such companies, with effect from Assessment Year 2018-19 (i.e. Financial Year 2017-18), in case of a company, against whom an application for corporate insolvency resolution process has been admitted by the

Adjudicating Authority under section 7 or section 9 or section 10 of the IBC, the amount of total loss brought forward (including unabsorbed depreciation) shall be allowed to be reduced from the book profit for the purposes of levy of MAT under section 115JB.

CHAPTER 15: DEDUCTION, COLLECTION AND RECOVERY OF TAX

Deduction of tax at source on interest income accrued to minor child, where both the parents have deceased [Notification No. 05/2017, dated 29.05.2017]

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

The Principal Director General of Income-tax (Systems) has, in exercise of the powers delegated by the CBDT under Rule 31A(5), specified that in case of minors where both the parents have deceased, TDS on the interest income accrued to the minor is required to be deducted and reported against PAN of the minor child unless a declaration is filed under Rule 37BA(2) that credit for tax deducted has to be given to another person.

Deduction of tax at source on interest on deposits made under Capital Gains Accounts Scheme, 1988 where depositor has deceased - Notification No. 08/2017, dated 13.09.2017

The Principal Director General of Income-tax (Systems) has, in exercise of the powers delegated by the CBDT under Rule 31A(5), vide this notification, specified that in case of deposits under the Capital Gains Accounts Scheme, 1988 where the depositor has deceased:

(i) TDS on the interest income accrued for and upto the period of death of the depositor is required to be deducted and reported against PAN of the depositor, and

(ii) TDS on the interest income accrued for the period after death of the depositor is required to be deducted and reported against PAN of the legal heir,

unless a declaration is filed under Rule 37BA(2) that credit for tax deducted has to be given to another person.

Guidelines for waiver of interest charged under section 201(1A) of the Income-tax Act, 1961 – [Circular No. 11/2017, dated 24.03.2017]

In exercise of the powers conferred under section 119(2)(a), the CBDT has directed that the Chief Commissioner of Income-tax and Director General of Income-tax may reduce or waive interest charged under section 201(1A)(i) in the classes of cases specified below for the period and to the extent the Chief Commissioner of Income-tax/Director General of Income-tax may deem fit. However, no reduction or waiver of such interest shall be ordered unless the principal demand under sections 200A, 201(1) or 234E, as the case may be, stands fully paid or satisfactory arrangements for payment of the principal demand under these sections have been made. The Chief Commissioner of Income-tax or Director General of Income-tax may also impose any other condition as deemed fit for the said reduction or waiver of interest.

The class of cases in which the reduction or waiver of interest under section 201(1A)(i) can be considered, are as follows:

(i) Where during the course of proceedings for search and seizure under section 132, or otherwise, the books of account and other documents necessary for making deduction under Chapter XVIIB of the Act were seized and the assessee was not able to, within the time specified, deduct tax at source from any sum credited to any account (whether called "suspense account" or by any other name) in his books of account.

(ii) Where any sum paid or payable was not liable for deduction of tax at source in the case of a deductor on the basis of any order passed by the jurisdictional High Court, and as a result, he did not deduct tax at source in relation to such sum, and subsequently, in consequence of any retrospective amendment of law or a decision of the Supreme Court of India or a decision of a Larger Bench of the jurisdictional High Court (which was not challenged before the Supreme Court and has become final) in any proceedings, as the case may be, tax was held to be deductible or the tax deducted by the deductor during such financial year was found to be less than the tax deductible on such sums paid or payable.

(iii) Where the default under section 201 relates to non-deduction or a lower deduction of tax under section 195 in respect of a payment made to a non-resident (including a foreign company) being a resident of a country or specified territory outside India with whom India has entered into an agreement referred to in section 90 or 90A of the Act, and where —

    (a) a dispute regarding the tax payable in India in respect of the said payment had been referred to the Competent Authority in India mentioned in Rule 44H of the Income-tax Rules, 1962 under the said agreement under section 90 or 90A of the Act;

    (b) such reference had been received by the Competent Authority in India within a period of two years of the date on which the notice of demand determining the tax payable was received by the person in default under section 201;

    (c) the dispute has been settled by way of a resolution arrived at under the Mutual Agreement Procedure (MAP) provided in the said agreement; and

    (d) the person in default under section 201 has given his acceptance to the resolution and has withdrawn his appeal(s) pending on the issue, within the meaning of Rule 44H(4) of the Income-tax Rules, within a period of one month of the date on which the resolution is communicated to him.

Even if the interest under section 201(1A)(i) has already been paid by the deductor, the same can be considered for waiver, subject to the conditions above and a refund may be given to the deductor, if waiver is ordered.

The Chief Commissioner of Income-tax or Director General of Income-tax examining an application for waiver of interest under this order shall pass a speaking order after providing adequate opportunity of being heard to the applicant.

The CBDT reserves the power to examine any grievance arising out of an order passed or not passed by Chief Commissioner of Income-tax or Director General of Income-tax, as the case may be, and issue suitable directions to these authorities for proper implementation of this order. However, no review of or appeal against the orders passed on merits by such authorities would be entertained by the CBDT.

No requirement to deduct tax at source under section 194-I on remittance of Passenger Service Fees (PSF) by an Airline to an Airport Operator [Circular No. 21/2017, dated 12.06.2017]

Section 194-I requires deduction of tax at source at specified percentage on any income payable to a resident by way of rent. *Explanation* to this section defines the term "rent" as any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any (a) land; or (b) building; or (c) land appurtenant to a building; or (d) machinery; (e) plant; (f) equipment (g) furniture; or (h) fitting, whether or not any or all of them are owned by the payee.

On the issue of whether payment of PSF by an airline to an Airport Operator qualifies as rent to attract TDS under section 194-I, the Bombay High Court relied on the Apex Court ruling in *Japan Airlines and Singapore Airlines* case, wherein it was observed that the primary requirement for any payment to qualify as rent is that the payment must be for the use of land and building and mere incidental/minor/insignificant use of the same while providing other facilities and service would not make it a payment for use of land and buildings so as to attract section 194-I. Accordingly, the Bombay High Court declined to admit the ground relating to applicability of the provisions of section 194-I on PSF charges holding that no substantial question of law arises.

The CBDT, accepting the view of the Bombay High Court, has clarified that the provisions of section 194-I shall **not** be applicable on payment of PSF by an airline to Airport Operator.

Clarification regarding TDS on Goods and Services Tax (GST) component comprised in payments made to residents [Circular No. 23/2017 dated 19.07.2017]

The CBDT had, vide Circular No. 1/2014 dated 13.01.2014, clarified that wherever in terms of the agreement or contract between the payer and the payee, the service tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source on the amount paid or payable without including such service tax component.

In order to harmonize the same treatment with the new system for taxation of services under the GST regime w.e.f. 01.07.2017, the CBDT has, vide this circular, clarified that wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source on the amount paid or payable without including such 'GST on services' component.

GST shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax.

Further, for the purposes of this Circular, any reference to "service tax" in an existing agreement or contract which was entered into prior to 01.07.2017 shall be treated as "GST on services" with respect to the period from 01.07.2017 onward till the expiry of such agreement or contract.

Guidance on income-tax deduction from salaries under section 192 during the financial year 2017-18 [Circular No. 29/2017, dated 05-12-2017]

This CBDT Circular contains the rates for deduction of income-tax from the payment of income chargeable under the head "Salaries" during the financial year 2017-18 and explains certain provisions of the Income-tax Act, 1961 and Income-tax Rules, 1962, including the broad scheme of TDS from Salaries, persons responsible for deducting tax at source from Salaries and their duties, computation of income under the head "Salaries" etc.

Students may read/download this circular by using the following link - https://www.incometaxindia.gov.in/communications/circular/circular29_2017.pdf

CHAPTER 17: ASSESSMENT PROCEDURE

Persons who are not required to quote Aadhar Number or Enrolment ID in application form for allotment of PAN and in return of income [Notification No. 37/2017 dated 11.05.2017]

Section 139AA requires every person who is eligible to obtain Aadhar Number to mandatorily quote Aadhar Number or Enrolment ID of Aadhar application form, on or after 1st July, 2017 in the application form for allotment of PAN and in the return of income. However, this provision shall not applicable to such person or class or classes of persons or any State or part of any State as may be notified by the Central Government.

Accordingly, the Central Government has, vide this notification effective from 01.07.2017, notified that the provisions of section 139AA relating to quoting of Aadhar Number would not apply to an individual who does not possess the Aadhar number or Enrolment ID and is:

(i) residing in the States of Assam, Jammu & Kashmir and Meghalaya;

(ii) a non-resident as per Income-tax Act, 1961;

(iii) of the age of 80 years or more at any time during the previous year;

(iv) not a citizen of India.

Income Tax Return Forms notified for Assessment Year 2018-19 [Notification No. 16/2018, dated 3-4-2018]

The CBDT has notified Income-tax Return Forms (ITR Forms) for the Assessment Year 2018-19 *vide* this Notification. The ITR Forms and its applicability have been detailed below:

ITR Form No	Applicability
1	A one page simplified ITR 1 (SAHAJ) can be filed by an individual who **is resident other than not ordinarily resident**, having income from salaries, one house property, income from other sources (interest etc.). and having total income upto ₹ 50 lakh.
2	Individuals and HUFs having not having income from business or profession shall be eligible to file ITR 2.
3	Individuals and HUFs having income under the head “Profits and gains of business or profession” have to file ITR 3.
4	ITR 4 (SUGAM) can be used by eligible assessees having presumptive income from business or profession. Thus, eligible assessees having only presumptive income under section 44AD, 44ADA or 44AE, under the head “Profits and gains of business or profession” have to file return in ITR 4. In addition, they may have salary income, income from house property and income from other sources (excluding winnings from lottery and income from race horses, income taxable under section 115BBDA and income of the nature referred to in section 115BBE). Any person having agricultural income in excess of ₹ 5,000 cannot use ITR 4. Further, a person claiming relief of foreign tax paid under section 90, 90A or 91 cannot use this form. Also, this form cannot be used by a resident having any asset (including financial interest in any entity) located outside India or signing authority in any account located outside India and by a resident having income from any source outside India.
5	ITR 5 can be used by persons other than individual, HUF, company and person filing Form ITR 7.
6	ITR 6 can be used by companies other than companies claiming exemption under section 11.
7	ITR 7 can be used by persons including companies required to furnish return under sections 139(4A) or 139(4B) or 139(4C) or 139(4D) or 139(4E) or 139(4F).

All these ITR Forms are to be filed electronically. However, where return is furnished in ITR Form-1 (SAHAJ) or ITR-4 (SUGAM), the following persons have an option to file return in paper form:

(i) an Individual of the age of 80 years or more at any time during the previous year; or

(ii) an Individual or HUF whose income does not exceed five lakh rupees and who has not claimed any refund in the Return of Income.

Amendments to the Tax Return Preparer Scheme, 2006 as notified u/s 139B [Notification No. 4/2018, dated 19-01-2018]

Section 139B provides that for the purpose of enabling any specified class or classes of persons in preparing and furnishing returns of income, the CBDT may, without prejudice to the provisions of section 139, frame a Scheme, by notification in the Official Gazette, providing that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the Scheme.

Accordingly, vide Notification No 358/2006 dated 28.11.2006, the CBDT had notified the "Tax Return Preparer Scheme, 2006". Later on, the said scheme was amended vide Notification No 84/2010 dated 22.11.2010. Vide this notification, the said scheme is further amended so as to widen the scope of the Scheme. The amended portion is given in **bold italics** in the second column below:

Particulars	Contents
Applicability of the scheme	The scheme is applicable to all eligible persons.
Eligible person	Any person being an individual or a Hindu undivided family.
Tax Return Preparer	Any individual who has been issued a "Tax Return Preparer Certificate" and a "unique identification number" under this Scheme by the Partner Organisation to carry on the profession of preparing the returns of income in accordance with the Scheme. However, the following person are not entitled to act as Tax Return Preparer: (i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings. (ii) any legal practitioner who is entitled to practice in any civil court in India. (iii) an accountant.
Educational qualification for Tax Return Preparers	***An individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate level examination conducted by the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Cost Accountants of India, shall be eligible to act as Tax Return Preparer.***
Preparation of and furnishing	An eligible person may, at his option, furnish his return of income under section 139 for any assessment year after getting it prepared

the Return of Income by the Tax Return Preparer	through a Tax Return Preparer: However, the following eligible persons (an individual or a HUF) cannot furnish a return of income for an assessment year through a Tax Return Preparer: (i) who is carrying out business or profession during the previous year and accounts of the business or profession for that previous year are required to be audited under section 44AB or under any other law for the time being in force; or (ii) who is not a resident in India during the previous year. An eligible person cannot furnish a revised return of income for any assessment year through a Tax Return Preparer unless he has furnished the original return of income for that assessment year through such or any other Tax Return Preparer. Further, a return of income which is required to be furnished in response to a notice under section 142(1)(i) or under section 148 or under section 153A cannot be prepared or furnished through a Tax Return Preparer.

CHAPTER 18: APPEALS AND REVISIONS

Notification No. SO 1696(E) [F.No.A.-50050/9/2016-Ad1C(CESTAT) Pt. I], dated 26.05.2017

Part XIV of Chapter VI to the Finance Act, 2017 contains amendments to certain Acts to provide for merger of tribunals and other authorities and conditions of service of chairpersons, members, etc. Section 184 of the Finance Act, 2017 lays down the qualifications, appointment, term and conditions of service, salary and allowances, etc., of Chairperson, Vice Chairperson and Members, etc., of the Tribunal, Appellate Tribunal and other Authorities.

Section 252A has been inserted in the Income-tax Act, 1961 to provide that the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017 would be governed by the provisions of section 184 of that Finance Act, 2017.

However, the President, Vice-President and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act i.e., section 252 and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.

Section 156 of the Finance Act, 2017 provides the provisions of Part XIV of Chapter VI of the Finance Act, 2017 shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint. Accordingly, the Central Government has, vide this notification, appointed 26.05.2017 as the date on which the provisions of the Part XIV of Chapter VI of the Finance Act, 2017 shall come into force.

CHAPTER 23: MISCELLANEOUS PROVISIONS

Clarifications in respect of section 269ST [Circular No. 22/2017, Dated 03.07.2017]

With a view to promote digital economy and create a disincentive against cash economy, new section 269ST has been inserted in the Income-tax Act, 1961 vide Finance Act, 2017. The said section *inter-alia* prohibits receipt of an amount of two lakh rupees or more by a person, in the circumstances specified therein, through modes other than by way of an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account. Penal provisions have also been introduced by way of a new section 271DA, which provides that if a person receives any amount in contravention to the provisions of section 269ST, it shall be liable to pay penalty of a sum equal to the amount of such receipt.

Subsequently, representations were received from non-banking financial companies (NBFCs) and housing finance companies (HFCs) as to whether the provisions of section 269ST shall apply to one instalment of loan repayment or the whole amount of such repayment.

Accordingly, the CBDT has, vide this circular, clarified that in respect of receipt, in the nature of repayment of loan, by NBFCs or HFCs, the receipt of one instalment of loan repayment in respect of a loan shall constitute a 'single transaction' as specified in section 269ST(b) and all the instalments paid for a loan shall not be aggregated for the purposes of determining applicability of the provisions section 269ST.

PART – II : INTERNATIONAL TAXATION

CHAPTER 2: DOUBLE TAXATION RELIEF

Procedure for filing Statement of income from a country or specified territory outside India and Foreign Tax Credit [Notification No. 9/2017, dated 19.09.2017]

An assessee, being a resident shall be allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India, in the manner and to the extent as specified in Rule 128 of the Income-tax Rules, 1962.

As per rule 128(9), the statement in Form No. 67 referred to in Rule 128(8)(i) and the certificate or the statement referred to in rule 128(8)(ii) has to be furnished on or before the due date specified for furnishing the return of income under section 139(1), in the manner specified for furnishing such return of income.

Accordingly, the Principal Director General of Income-tax (Systems), has, in exercise of the powers delegated by the CBDT, vide this notification, laid down the following procedures in this regard:

(i) Online filing of Form 67: All assessees who are required to file return of income electronically under section 139(1) as per Rule 12(3), are required to prepare and submit Form 67 online along with the return of income, if credit for the amount of any foreign tax paid by the assessee in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India.

(ii) Preparation and Submission of Form 67: Form 67 shall be available to all assessees when they login into the e-filing portal using their valid credentials. A link for filing the Form has been provided under "e-File → Prepare and Submit Online Forms (Other than ITR)". Select Form 67 and assessment year from the drop down. The completed Form 67 can be submitted by clicking on "Submit" button. Digital Signature Certificate or Electronic Verification Code is mandatory to submit Form 67.

(iii) Submission of Form 67 shall precede filing of return of income.

CHAPTER 3: TRANSFER PRICING & OTHER ANTI-AVOIDANCE MEASURES

Rules for maintaining information and documents and furnishing report in respect of international group in line with BEPS Action Plan - Country-by-Country reporting and of Master File prescribed [Notification No. 92/2017, dated 31.10.2017]

Section 286 was inserted to implement the recommendations of 2015 Final Report on Action 13, titled "Transfer Pricing Documentation and Country-by-Country (CbC) Reporting", identified under the OECD Base Erosion and Profit Shifting (BEPS) Project, to provide for a specific reporting regime in respect of CbC reporting and also the master file in the Income-tax Act, 1961.

Section 286 provides that every constituent entity resident in India, shall, if it is constituent of an international group, the parent entity of which is not resident in India, notify the prescribed income-tax authority, on or before the prescribed date, in the form and manner, as may be prescribed,

- whether, it is the alternate reporting entity of the international group or
- the details of the parent entity or the alternate reporting entity of the international group and the country or territory of which the said entities are resident.

Every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, furnish a report, in respect of the international group of which it is a constituent, on or before the due date specified under section 139(1), in the form and manner, as may be prescribed.

The proviso to section 92D requires a person, being a constituent entity of an international group, to also keep and maintain such information and document in respect of an international group as may be prescribed. Further, section 92D(4) requires such person to furnish such information and documents to the authority prescribed under section 286(1) in the prescribed manner on or before the prescribed date.

Accordingly, the CBDT has, vide this notification, prescribed the following rules for maintaining and furnishing CbC report and Master File by a constituent or parent entity of an International group:

<table>
<tr><th colspan="2">I. <u>Information and documents to be kept and maintained [Rule 10DA]</u></th></tr>
<tr><th>Rule</th><th>Particulars</th></tr>
<tr><td>10DA(1)</td><td><u>Persons required to keep and maintain the information and documents:</u>
Every person, being a constituent entity of an international group shall -
(i) if the consolidated group revenue of the international group, of which such person is a constituent entity, as reflected in the consolidated financial statement of the international group for the accounting year, exceeds ₹ 500 crore; and
(ii) the aggregate value of international transactions -
(A) during the accounting year, as per the books of accounts, exceeds ₹ 50 crore, or
(B) in respect of purchase, sale, transfer, lease or use of intangible property during the accounting year, as per the books of accounts, exceeds ₹ 10 crore.
Note – The rate of exchange for the calculation of the value in rupees of the consolidated group revenue in foreign currency shall be the telegraphic transfer buying rate (TTBR) of such currency on the last day of the accounting year. [Rule 10DA(8)]
Part A of Form No. 3CEAA (Master File), however, shall be furnished by every person, being a constituent entity of an international group, whether or not the above conditions are satisfied [Rule 10DA(3)].
Part B of Form No.3CEAA has to be furnished by a person, being a constituent entity of an international group, in those cases where the above conditions are satisfied.</td></tr>
<tr><td></td><td><u>Information and documents required to be kept and maintained:</u>
The constituent entity shall keep and maintain the following information and documents of the international group, namely:-
(a) a list of all entities of the international group along with their addresses;
(b) a chart depicting the legal status of the constituent entity and ownership structure of the entire international group;
(c) a description of the business of international group during the accounting year including,-
(I) the nature of the business or businesses;
(II) the important drivers of profits of such business or businesses;
(III) a description of the supply chain for the five largest products or services of the international group in terms of revenue and any other products including services amounting to more than five per</td></tr>
</table>

	cent. of consolidated group revenue; (IV) a list and brief description of important service arrangements made among members of the international group, other than those for research and development services; (V) a description of the capabilities of the main service providers within the international group; (VI) details about the transfer pricing policies for allocating service costs and determining prices to be paid for intra-group services; (VII) a list and description of the major geographical markets for the products and services offered by the international group; (VIII) a description of the functions performed, assets employed and risks assumed by the constituent entities of the international group that contribute at least ten per cent. of the revenues or assets or profits of such group; and (IX) a description of the important business restructuring transactions, acquisitions and divestments; (d) a description of the **overall strategy of the international group** for the development, ownership and exploitation of intangible property, including location of principal research and development facilities and their management; (e) a **list of all entities** of the international group **engaged** in **development** and management of **intangible property** along with their addresses; (f) a list of all the important intangible property or groups of intangible property owned by the international group along with the names and addresses of the group entities that legally own such intangible property; (g) a list and brief description of **important agreements** among members of the international group related to intangible property, including cost contribution arrangements, principal research service agreements and license agreements; (h) a detailed description of the **transfer pricing policies** of the international group related to research and development and intangible property; (i) a description of **important transfers of interest** in intangible property, if any, among entities of the international group, including the name and address of the selling and buying entities and the compensation paid for such transfers; (j) a detailed description of the financing arrangements of the international group, including the names and addresses of the top ten unrelated lenders; (k) a list of group entities that provide central financing functions, including their place of operation and of effective management;

	(l) a detailed description of the transfer pricing policies of the international group related to financing arrangements among group entities; (m) a copy of the annual consolidated financial statement of the international group; and (n) a list and brief description of the existing unilateral advance pricing agreements and other tax rulings in respect of the international group for allocation of income among countries.
10DA(2)	**<u>Due date for furnishing report:</u>** The report of the information shall be furnished in Form No. 3CEAA and it shall be furnished on or before the due date for furnishing the return of income specified under section 139(1).
10DA(4)/ (5)	**<u>Furnishing of report in case of more than one constituent entity:</u>** Where there are more than one constituent entities resident in India of an international group, then the report or information, as the case may be, may be furnished by that constituent entity which has been designated by the international group to furnish the said report or information, as the case may be, and the same has been intimated by the designated constituent entity in Form 3CEAB. Such intimation shall be made at least 30 days before the due date of filing the report as specified in Rule 10DA(2).
10DA(7)	**<u>Period for which such information and document to be kept or maintained:</u>** The information and documents shall be kept and maintained for a period of eight years from the end of the relevant assessment year.
II. Furnishing of Report in respect of an International Group [Rule 10DB]	
Rule	**Provision**
10DB(1)	**<u>Intimation in prescribed from:</u>** For the purposes of section 286(1), every constituent entity resident in India, shall, if its parent entity is not resident in India, intimate the DGIT (Risk Assessment) in Form No. 3CEAC, the following, namely - (a) whether it is the alternate reporting entity of the international group; or (b) the details of the parent entity or the alternate reporting entity, as the case may be, of the international group and the country or territory of which the said entities are residents.
10DB(2)	**<u>Due date for the Intimation:</u>** Every intimation shall be made **at least two months prior to the due date** for furnishing of report i.e., on or before the due date for furnishing return of income as specified under section 139(1).

10DB(3)/(4)/(5)	**<u>Entities which are required to furnish report in Form No. 3CEAD:</u>** Every parent entity or the alternate reporting entity, as the case may be, resident in India, shall, for every reporting accounting year, furnish the report to the DGIT (Risk Assessment) in Form No.3CEAD **(Country by Country Reporting)**. A constituent entity of an international group, resident in India, other than the parent entity or the alternate reporting entity, has to furnish the report in Form No.3CEAD if the parent entity is resident of a country or territory with which India does not have an agreement providing for exchange of the report or 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. If there are more than one constituent entities resident in India of an international group, other than the parent entity or the alternate reporting entity, then the report in Form No.3CEAD may be furnished by that entity which has been designated by the international group to furnish the said report and the same has been intimated to the DGIT (Risk Assessment) in Form No.3CEAE.
10DB(6)	**<u>Non-applicability of provisions of section 286</u>** The provisions of section 286 shall not apply in respect of an international group for an accounting year, if the total consolidated group revenue, as reflected in the consolidated financial statement for the accounting year preceding such accounting year **does not exceed ₹ 5,500 crore**. ***Note -*** *Where the total consolidated group revenue of the international group, as reflected in the consolidated financial statement, is in foreign currency, the rate of exchange for the calculation of the value in rupees of such total consolidated group revue shall be the telegraphic transfer buying rate (TTBR) of such currency on the last day of the accounting year preceding the accounting year. [Rule 10DB(7)]*

Explanatory Notes to the provisions of the Finance Act, 2017 [Circular No. 2/2018, Dated 15-2-2018]

Explanatory notes to the provisions of Finance Act, 2017 as assented by President on 31st March, 2017 have been given by way of this circular. This circular, thus, explains the substance of the direct tax provisions contained in the Finance Act, 2017.

This Circular is available at the Income-tax Department's website at https://www.incometaxindia.gov.in/communications/circular/circular2_2018.pdf. This Circular has also been hosted at the BoS Knowledge Portal on the Institute's website at https://resource.cdn.icai.org/48797bos32735.pdf.

Note *- The limit for gratuity notified under the Payment of Gratuity Act, 1972 has been increased from ₹ 10 lakh to ₹ 20 lakh with effect from 29.3.2018.*

SECTION – B: QUESTIONS & ANSWERS

PART – I: DIRECT TAX LAWS

QUESTIONS

1. ABC Inc., a company incorporated in London has entered into an agreement with XYZ Limited, an Indian company for rendering technical services to the latter for setting up a steel plant in Madhya Pradesh. As per the agreement, ABC Inc. rendered both off-shore services and on-shore services to XYZ Limited at fee of ₹ 75 lakhs and ₹ 90 lakhs, respectively. ABC Inc. is of the view that it is not liable to tax in India in respect of fee of ₹ 75 lakhs as it is for rendering services outside India. Discuss the correctness of the view of ABC Inc.

2. XYZ Ltd. is a company engaged in the manufacture of paints. The company incurred preliminary expenses of ₹ 42 lakhs. The cost of the project was ₹ 400 lakhs and the capital employed in the business of the company was ₹ 700 lakhs. For the purpose of claiming deduction under section 35D, the company restricted the said expenditure to ₹ 35 lakhs, i.e., 5% of ₹ 700 lakhs, being the capital employed in the business of the company. For this purpose, the company treated share premium of ₹ 100 lakhs as part of the capital employed. For the A.Y.2018-19, it claimed deduction of ₹ 7 lakhs, being $1/5^{th}$ of ₹ 35 lakhs, under section 35D. The Assessing Officer disallowed ₹ 1 lakh, being the portion relating to share premium ($1/5^{th}$ of 5% of ₹ 100 lakhs), contending that the same was not part of capital employed. Whether "premium" on subscribed share capital is "capital employed in the business of the company" under section 35D to be eligible for a deduction? Examine the correctness of contention of the Assessing Officer, with the aid of a case law.

3. Mr. Krishnan owned vast area of agricultural land in Tamil Nadu. The State Government acquired the property for development of a techno park. Mr. Krishnan was awarded compensation of ₹ 15 lakhs. Aggrieved by the amount, he initiated negotiations with the Collector, further to which compensation was fixed at ₹ 35 lakhs. Mr. Krishnan claimed exemption from capital gains under section 10(37) since the transfer of agricultural land was on account of compulsory acquisition. The Assessing Officer contended that exemption under section 10(37) would not be available in this case, as it was not a compulsory acquisition but a voluntary sale, since he had received higher compensation consequent to negotiation.

   Examine whether the claim for exemption under section 10(37) is tenable in law in this case.

4. Ms. Poorna purchased a residential flat at Pune from her friend Ms. Leena at ₹ 12 lakhs on 15th November, 2017. The value determined by the Stamp Valuation Authority for stamp duty purpose amounted to ₹ 20 lakhs. Ms. Leena had purchased the flat on 3^{rd} March, 2016 at a cost of ₹ 5 lakhs. Ms. Poorna sold the flat for ₹ 27 lakhs on 27th March, 2018.

Determine the effect of the above transactions on the assessments of Ms. Poorna and Ms. Leena for the assessment year 2018-19, assuming that the stamp duty value of the flat on 27.3.2018 is ₹ 32 lakhs.

5. PQR Manufacturing Ltd., a manufacturing company, was transporting its machines from one unit to another unit at a distance of 275 kms on 29th November, 2017 by a truck. On account of a civil disturbance, the machines were destroyed. The insurance company paid ₹ 12 lakhs for the destroyed machines. On these facts, for submitting the return of income for the previous year ending 31st March, 2018, your advice is sought as to:

   (i) Does the destruction of machines result in any transfer?

   (ii) How would the amounts received from the insurance company be treated for taxability?

   (iii) Would there be any impact on the written down value of the block of plant and machinery as at 31st March, 2018?

6. Aadarsh HUF holds 35% shares of M/s. Best Fertilizers (P.) Ltd., a closely held company. During the P.Y.2017-18, it received loans and advances from the company. Its return was scrutinized by the Assessing Officer who treated the loans and advances as deemed dividend under section 2(22)(e). As per the company's annual return, the HUF is the shareholder. However, the share certificates were issued in the name of the HUF's Karta, Mr. Aadarsh. Thus, there was some dispute as to who was the shareholder - the Karta, Mr. Aadarsh or the HUF, as share certificates were issued in the name of the former but the annual return mentioned the latter.

   Aadarsh HUF contended that as a HUF cannot be a registered or beneficial shareholder of a company, the amount of loan cannot be taxed as deemed dividend.

   Examine whether the loan given by a closely held company to a HUF is chargeable to tax as deemed dividend under section 2(22)(e).

7. ABC Ltd., engaged in development of housing projects, filed its return of income for A.Y.2018-19 after claiming deduction of ₹ 25 lakhs under section 80-IBA. The return was selected for scrutiny. In the assessment, a sum of ₹ 12.60 lakhs, being 30% of ₹ 42 lakhs, towards sub-contract payment 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-IBA to the original amount claimed by ABC Ltd. ABC Ltd. contended that it was eligible for a higher deduction of ₹ 37.60 lakhs under section 80-IBA consequent to disallowance under section 40(a)(ia). Examine the correctness of contention of ABC Ltd.

8. Mysore Co-operative Society derives income during financial year 2017-18 from the following sources:

(i)	Income from processing with the aid of power	₹ 40,000
(ii)	Income from collective disposal of labour of its members	₹ 20,000

(iii)	Interest from another co-operative society	₹ 12,000
(iv)	Income from house property (Computed)	₹ 75,000
(v)	Income from other business	₹ 72,000
(vi)	Income by way of dividend from another co-operative society	₹ 15,000

Determine the total income of Mysore Co-operative Society for the A.Y.2018-19.

9. Alpha Diagnostics is a diagnostic laboratory in Cochin and has a branch at Allepey. A survey under section 133A was conducted, consequent to which the assessee filed return of income. On the basis of certain incriminating documents and materials unearthed during the survey, a notice under section 148 was issued. Subsequently, the incomes were assessed for assessment years 2014-15 and 2015-16 under section 143(3) read with section 147.

   The assessee raised additional jurisdictional grounds before the Appellate Tribunal. The assessee contended that for the relevant assessment years, the assessment was completed under section 143(3) read with section 147. However, a notice under section 143(2) was not issued by the Assessing Officer for those years. The Tribunal held that in view of section 292BB, the assessee's participation in the reassessment proceedings would condone the omission to issue a notice.

   Discuss, with the aid of a Supreme Court case law, whether failure to issue notice under section 143(2) would vitiate the assessment notwithstanding the assessee's participation in the proceedings. Would section 292BB come to the rescue of the Revenue authority if they omit to issue notice under section 143(2)? Examine.

10. "Fashion Trends" filed its return of income as a partnership firm for the relevant assessment year admitting a total income of ₹ 150 lakhs. The firm consisted of fifteen individuals and two firms. The return of income was selected for scrutiny which led to disallowance of certain deductions to the tune of ₹ 70 lakhs. The assessee preferred an appeal. The CIT (Appeals) invoked section 251 and issued a show cause notice proposing to change the assessee's status to AOP on the reasoning that a partnership firm cannot be a partner in another firm. Discuss the correctness of the contention of the CIT (Appeals). Also, examine whether the CIT (Appeals) has the power to change the status of the assessee.

11. The statement of profit & loss of LMN Private Ltd., a resident company engaged in manufacturing, shows net profit of ₹ 77,00,000 for the financial year ended on 31st March, 2018, after debit/credit of the following items.

    A. Credited to the Statement of Profit and Loss:

       (i) Rent received from vacant land ₹ 2,05,000

       (ii) Rent received (gross) from a commercial property owned by the company ₹ 4,30,000 (Tax deducted by tenant @ 10%)

(iii) Interest received on income tax refund ₹ 42,000

(iv) Profit on sale of unused land ₹ 2,00,000.

B. Debited to the Statement of Profit and Loss:

(i) Depreciation charged to the Statement of Profit and Loss ₹ 11,75,000.

(ii) Donation of ₹ 70,000 paid to Swachh Bharat Kosh.

(iii) Contribution to Political Party amounting to ₹ 1,50,000 paid in cash.

(iv) Payment made to transporter ₹ 60,000 by account payee cheque, but no tax has been deducted at source. (Transporter is having PAN and furnished declaration that he is covered under section 44AE and not having more than 10 goods carriages at any time during the previous year).

(v) Bonus to employees ₹ 3,20,000 provided. However, payment was made on the occasion of Diwali festival on 18th October, 2018.

(vi) Provision made for income-tax ₹ 4,20,000 (including interest of ₹ 70,000 thereon)

(vii) Contribution of ₹ 1,00,000 to a University approved and notified under section 35(1)(ii)

(viii) Loss of ₹ 1,80,000 incurred by way of trading in derivatives in shares in a recognized stock exchange.

Additional information:

(1) Depreciation as per Income-tax Act, 1961 ₹ 18,00,000. However, while calculating such depreciation, rate applicable to computers has been adopted for (i) accessories like printers and scanners, and (ii) EPABX. The written down value of these items as on 01.04.2017 is given below:

(a) Printers and Scanners ₹ 3,00,000

(b) EPABX ₹ 5,00,000

(2) Additional depreciation on plant and machinery purchased for ₹ 34,00,000 on 18th November, 2017 has not been considered while calculating depreciation as per Income-tax Act, 1961 as above.

(3) Provision for audit fee ₹ 1,00,000 was made in the books for the year ended on 31st March, 2017 without deducting tax at source.

Such fee was paid to auditors in September 2017 after deducting tax at source under Section 194J and tax so deducted was deposited on 6th October, 2017.

(4) The company during the financial year 2016-17 made a provision for an outstanding bill of ₹ 90,000 for purchase of raw material. Out of such

outstanding amount, the company has paid ₹ 45,000 in cash on 20th August, 2017.

(5) During the year, the company has issued 1,00,000 equity shares of face value of ₹ 10 each at premium of ₹ 90 each. The fair market value is ₹ 60 per share at the time of issue of shares.

(6) Unused land which was sold in March, 2018 for ₹ 52,00,000 was acquired by the company in January, 2016 for ₹ 50,00,000.

(7) Cost Inflation Index – FY 2015-16: 254; FY 2017-18: 272

Compute total income of the company for the Assessment Year 2018-19 stating reasons for treatment of each item. Ignore provisions relating to Minimum Alternate Tax.

12. PQR LLP, a limited liability partnership in India is engaged in development of software and providing IT enabled services through two units, namely, Unit P and Unit Q. Unit P is setup in Special Economic Zone (SEZ) and Unit Q is set up in a Domestic Tariff Area (DTA). The LLP furnishes the following information relating to its 3rd year of operation ended on 31-3-2018:

Items	(Amount in ₹ Lacs)	
	Unit P	Unit Q
Export Turnover	1200	920
Domestic Turnover	200	460
Duty Draw Back	38	38
Profit on sale of Import Entitlement	24	Nil
Salaries paid	540	192
Other expenses	420	473
Net Profit of the year	502	753

Additional Information:

(i) **Unit P**: Expenses of ₹ 24 lacs are disallowable under section 43B and export sales proceeds received in India amounted to ₹ 1040 lacs. Export sales of ₹ 1200 lacs include freight and insurance of ₹ 200 lacs and realization of ₹ 1040 lacs includes amount of insurance and freight charges of ₹ 140 lacs.

(ii) **Unit Q**: Export sales received in India was ₹ 850 lacs. Expenses charged and are to be disallowed as per section 40A(3) are of ₹ 47 lacs.

Compute tax payable by PQR LLP for the Assessment Year 2018-19.

13. Mr. Vishwas, aged 61 years, is a resident and ordinarily resident in India for the A.Y.2018-19. He owns an apartment in Abu Dhabi, which he purchased on 1.6.2008, and he also has a bank account in the Bank of Abu Dhabi.

(a) Mr. Vishwas contends that since his total income of ₹ 2,95,000 for the P.Y.2017-18, comprising of income from house property and bank interest, is less than the basic exemption limit, he need not file his return of income for A.Y.2018-19.

(b) Mr. Vishwas also contends that the notice issued by the Assessing Officer under section 148 in September, 2017 for A.Y.2009-10 is not valid due to the following reasons –

(i) There is no escaped income relating to that year; and

(ii) The time period prescribed in section 149 for issuing notice under section 148 for A.Y.2009-10 has since lapsed.

Discuss the correctness of the above contentions of Mr. Vishwas.

14. The Assessing Officer within his jurisdiction surveyed a popular restaurant (bar cum restaurant) at 10.15 p.m. for the purpose of collecting information which may be useful for the purposes of the Income-tax Act, 1961. The restaurant is kept open for business every day between 8 a.m. and 11.30 p.m. The owner of the restaurant claims that the Assessing Officer could not enter the restaurant for survey after sunset. The Assessing Officer wanted to take away with him the books of account kept at the restaurant. Examine the validity of the claim made by the owner and the proposed action of the Assessing Officer.

15. Medicare Trust running hospitals is registered under section 12AA. From the following particulars relevant for the previous year ended 31st March, 2018, you are required to compute taxable income and tax liability of the trust for A.Y.2018-19.

(i) Income from running of hospitals ₹ 108 lakhs.

(ii) Income from medical college (gross receipts ₹ 95 lakhs) ₹ 24 lakhs

(iii) Donation received (including anonymous donation ₹ 3 lakhs) ₹ 8 lakhs.

(iv) Amount applied for the purposes of hospital ₹ 93.50 lakhs.

(v) The trust had accumulated ₹ 20 lakhs under section 11(2) in the financial year 2011-12 for a period of five years for extension of one of its hospitals. The trust has spent ₹ 15 lakhs for the said purpose till 31st March, 2017. No amount was spent in the year 2017-18.

16. Unipro Ltd., a manufacturer of automobiles, sells premium model cars, the value of which ranges from above ₹ 10 lakh to ₹ 25 lakh and small cars, value of which ranges from ₹ 5 lakh upto ₹ 10 lakh to its dealers across the country. Examine whether Unipro Ltd. is liable to collect tax at source under section 206C on sale of these cars to the different dealers across the country.

Also, examine the liability, if any, of dealers to collect tax at source on sale of these cars to the retail customers, if no part of the consideration is received in cash.

17. Examine whether transfer pricing provisions under the Income-tax Act, 1961 would be attracted in respect of the following cases -

    (i) Scientific research services provided by Lambda Sicom, an Italian company to XYZ Ltd., an Indian company. Lambda Sicom is a "specified foreign company" as defined in section 115BBD, in relation to XYZ Ltd.

    (ii) Purchase of commodities by Omega Ltd., an Indian company, from Cylo AG, a German company. Omega Ltd. is the subsidiary of Cylo AG.

    (iii) EF Ltd., an Indian company, has two units, E & F. Unit E, which commenced business two years back, is engaged in the development of a highway project, for which purpose an agreement has been entered into with the Central Government. Unit F is carrying on the business of trading in steel. Unit F transfers 20,000 metric tons of steel of the value of ₹ 32,000 per MT to Unit E for ₹ 20,000 per MT.

    (iv) Ms. Geetha, a resident Indian, is a director of Theta Ltd, an Indian company. Theta Ltd. pays salary of ₹ 40 lakhs per annum to Samyukta, who is Ms. Geetha's daughter.

    (v) Transfer of technical knowhow by Y Ltd., an Indian company, to Alcatel Lucent, a French company, which guarantees 15% of the borrowings of Y Ltd.

18. An Irish company, Phi plc., entered into a contract with an Indian company, Beta Ltd., for provision of technical know-how and made an application to the Authority for Advance Rulings for advance ruling on the rate of withholding tax on receipts from Beta Ltd. Beta Ltd. had also made an application to the Assessing Officer for determination of the rate at which tax is deductible on the said payment to Phi plc The Authority for Advance Rulings rejected the application of Phi plc on the ground that the question raised in the application is already pending before an income tax authority. Is the rejection of the application of Phi plc justified in law?

19. Mr. Ranjit, an individual resident in India aged 32 years, furnishes you the following particulars of income earned in India, Country P and Country Q for the previous year 2017-18. India has not entered into double taxation avoidance agreement with these two countries.

Particulars	₹
Income from profession carried on in India	6,20,000
Agricultural income in Country P (gross)	82,000
Dividend received from a company incorporated in Country Q (gross)	97,000
Royalty income from a literary book from Country P (gross)	5,20,000
Expenses incurred for earning royalty	30,000
Business loss in Country Q (Proprietary business)	70,000
Rent from a house situated in Country Q (gross)	3,20,000
Municipal tax in respect of the above house (not allowed as deduction in country Q)	12,000

Notes:

(1) Business loss in Country Q not eligible for set off against other incomes as per law of that country.

(2) Agricultural income is not exempt in Country P.

(3) No statutory deduction is allowable against income from house property in Country Q.

The rates of tax in Country P and Country Q are 12% and 15%, respectively.

Compute total income and tax payable by Mr. Ranjit in India for A.Y.2018-19.

20. Examine the tax consequence for Assessment Year 2018-19 in respect of fees for technical services (FTS) received by Mr. Tom Sawyer, a non-resident, from Ganga Ltd., an Indian company, in pursuance of an agreement approved by the Central Government, if -

    (a) India has no Double Tax Avoidance Agreement (DTAA) with Country A

    (b) India has a DTAA with Country A, which provides for taxation of such FTS @5%.

    (c) India has a DTAA with Country A, which provides for taxation of such FTS @15%.

    The technical services are utilised by Ganga Ltd. for its business in Calcutta. Assume that Tom Sawyer is a resident of Country A and he has no fixed place of his profession in India.

    Would your answer change if he has a fixed place of his profession in India and he renders technical services through that place? Examine, in a case where India has no DTAA with Country A.

21. Mr. Ganesh is a resident of the Contracting States, namely, Country "M" and Country "N", as per the domestic tax laws of the respective countries. Explain the manner of determining the single status of residence of Mr. Ganesh as per the UN Model Convention.

22. Explain the following terms in the context of interpretation of tax treaties:

    (a) Principle of *Contemporanea Expositio*

    (b) Teleological Interpretation

23. What is meant by Thin Capitalisation? Why is it considered as an anti avoidance measure? Which action plan of BEPS addresses Thin Capitalisation? Explain the provision incorporated in the Income-tax Act, 1961 to address Thin Capitalisation.

SUGGESTED ANSWERS/HINTS

1. The *Explanation* to section 9(1) clarifies that income by way of, *inter alia*, fees for technical services from services utilized in India would be deemed to accrue or arise in India under section 9(1)(vii) in case of a non-resident and be included in his total income, whether or not such services were rendered in India.

In this case, the technical services rendered by the foreign company, ABC Inc., were for setting up a steel plant in Madhya Pradesh. Therefore, the services were utilized in India. Consequently, as per section 9(1)(vii) read with the above *Explanation*, the fee of ₹ 1.65 crore for technical services rendered by ABC Inc (both off-shore and on-shore services) to XYZ Ltd. is deemed to accrue or arise in India and includible in the total income of ABC Inc.

Therefore, the view of ABC Inc. that it is not liable to tax in India in respect of fee of ₹ 75 lakh (as it is for rendering services outside India) is not correct.

2. The issue under consideration is whether "premium" on subscribed share capital can be treated "capital employed in the business of the company" under section 35D to be eligible for increased deduction

This issue came up before the Supreme Court in *Berger Paints India Ltd v. CIT [2017] 393 ITR 113.* The Supreme Court observed that the share premium collected by the assessee on its subscribed issued share capital could not be part of "capital employed in the business of the company" for the purpose of section 35D(3)(b). If it were the intention of the legislature to treat share premium as being "capital employed in the business of the company", it would have been explicitly mentioned. Moreover, Sl. No. IV(i) in Form MGT- 7 read with section 92 of the Companies Act, 2013[1] dealing with capital structure of the company provides the break-up of "issued share capital" and "subscribed share capital" which does not include share premium at the time of subscription. Hence, in the absence of the reference in section 35D, share premium is not a part of the capital employed. Also, section 52 of the Companies Act, 2013[2] requires a company to transfer the premium amount to be kept in a separate account called "securities premium account".

Accordingly, the amount qualifying for deduction under section 35D would be ₹ 30 lakhs, being 5% of ₹ 600 lakhs [i.e., ₹ 700 lakhs (-) share premium of ₹ 100 lakhs]. The deduction under section 35D for A.Y.2018-19 would be ₹ 6 lakhs, being 1/5th of ₹ 30 lakhs. The contention of the Assessing Officer is, therefore, correct.

3. The issue under consideration is whether receipt of higher compensation on account of negotiation would transform the character of compulsory acquisition into a voluntary sale, so as to deny exemption under section 10(37).

This issue came up before the Supreme Court in *Balakrishnan v. Union of India & Others (2017) 391 ITR 178 (SC).* The Apex Court observed that the acquisition process was initiated under the Land Acquisition Act, 1894. The assessee entered into negotiations

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[1] Corresponding to column III of the form of the annual return in Part II of Schedule V to the Companies Act, 1956 under section 159

[2] Corresponding to section 78 of the erstwhile Companies Act, 1956

only for securing the market value of the land without having to go to the Court. Merely because the compensation amount is agreed upon, the character of acquisition will not change from compulsory acquisition to a voluntary sale. The Court also drew attention to a recently enacted legislation titled, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which empowers the Collector to pass an award with the consent of the parties. Despite the provision for consent, the acquisition would continue to be compulsory.

Accordingly, the Supreme Court held that when proceedings were initiated under the Land Acquisition Act, 1894, even if the compensation is negotiated and fixed, it would continue to remain as compulsory acquisition.

Applying the rationale of the Supreme Court ruling to the case on hand, the claim of exemption from capital gains under section 10(37) in this case by Mr. Krishnan is tenable in law.

4. **Tax treatment in the hands of the seller, Ms. Leena**

Section 50C provides that where the consideration received or accruing as a result of transfer of a capital asset, being land or building or both, is less than the value adopted or assessed or assessable by an authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall be deemed to be the full value of the consideration received or accruing as a result of such transfer for computing capital gain.

In the instant case, Ms. Leena sold the residential flat at Pune to her friend Ms. Poorna for ₹ 12 lakhs, whereas the stamp duty value was ₹ 20 lakhs. Therefore, stamp duty value shall be deemed to be the full value of consideration for sale of the property. Since the period of holding does not exceed 24 months, the capital gain is short-term. Therefore, short-term capital gain arising to Ms. Leena for assessment year 2018-19 will be ₹ 15 lakhs (i.e., ₹ 20 lakhs - ₹ 5 lakhs).

Tax treatment in the hands of the buyer, Ms. Poorna

The taxability provisions under section 56(2)(x), includes within its scope, any immovable property, being land or building or both, received for inadequate consideration by an individual or HUF.

As per section 56(2)(x), where any immovable property is received for a consideration which is less than the stamp duty by an amount exceeding ₹ 50,000, the difference between the stamp duty value and the consideration shall be chargeable to tax in the hands of the recipient as income from other sources. The provisions of section 56(2)(x) would be attracted in this case, since the difference exceeds ₹ 50,000. Therefore, ₹ 8 lakhs, being the difference between the stamp duty value of the property (i.e., ₹ 20 lakhs) and the actual consideration (i.e., ₹ 12 lakhs) would be taxable in the hands of Ms. Poorna, under the head 'Income from Other Sources'.

As per section 49(4), the cost of acquisition of such property for computing capital gains would be the value which has been taken into account for section 56(2)(x). Accordingly, ₹ 20 lakhs would be taken as the cost of acquisition of the flat. Here again, the stamp duty value on the date of sale has to be considered since the same is higher than actual consideration. Therefore, on sale of the flat by Ms. Poorna, ₹ 12 lakhs (i.e. ₹ 32 lakhs – ₹ 20 lakhs) would be chargeable to tax as short-term capital gains in her hands for A.Y. 2018-19. Since this is a case covered by section 49(4) and not section 49(1), the period of holding of the previous owner, namely, Ms. Leena, will NOT be considered for determining whether the capital gain in short term or long term. Accordingly, the capital gain would be short-term, since the period of holding does not exceed 24 months.

5. As per section 45(1A), receipt of insurance compensation in the form of money or any asset is to be treated as consideration and capital gain is accordingly to be charged to tax. The two qualifying conditions prescribed are (a) the compensation should have been received because of damage or destruction of capital asset and (b) the damage or destruction is as a result of, *inter alia*, civil disturbance.

As per the facts of the case, both the conditions are satisfied and therefore, the compensation is to be treated as consideration. Applying section 45(1A), the answers to the issues are:

(i) in the case of damage or destruction as a result of civil disturbance, there is no actual transfer; but it will be treated as deemed transfer and profit and gains from receipt of insurance compensation will be chargeable to tax as capital gain;

(ii) the receipt of insurance compensation of ₹ 12 lakhs has to be treated as consideration in accordance with the provisions of section 45(1A).

(iii) in the instant case, as per the provisions of section 43(6)(c) the receipt of compensation of ₹ 12 lakhs calls for adjustment in the written down value of the block of assets. If the written down value is more than ₹ 12 lakhs, then ₹ 12 lakhs should be deducted from written down value and depreciation would be calculated accordingly. On the other hand, if the written down value is less than ₹ 12 lakh, the difference would be treated as short term capital gain.

6. When a loan is given by a closely held company, it is chargeable to tax as deemed dividend if the loan is given to:

(i) a shareholder (having 10% or more voting power in the company) or

(ii) a concern in which such shareholder is a member or partner and in which he has substantial interest (entitled to 20% of the income of such concern).

The issue under consideration in this case is whether loan to HUF by a closely held company is chargeable to tax as deemed dividend, where the share certificates were in the name of the Karta of the HUF but the annual return mentioned the HUF as a shareholder.

This issue came up before the Supreme Court in *Gopal & Sons (HUF) v. CIT (2017) 391 ITR 1*, wherein it was observed that, in either scenario, section 2(22)(e) would be attracted. If the HUF was the shareholder, as it held more than 10% voting power, the provisions of section 2(22)(e) would be covered under (i) above. If the Karta was the shareholder, the HUF would be the concern in which the Karta is a member, and hence, the case would be covered under (ii) above.

As per *Explanation 3* to section 2(22)(e), "concern" has been defined to mean a HUF, or a firm or an AOP or a BOI or a company. The Supreme Court, accordingly, held that the loan to HUF is to be assessed as deemed dividend under section 2(22)(e).

Applying the rationale of the above Supreme Court ruling to the case on hand, the loan given by Best Fertilizers (P.) Ltd. to Aakash HUF would be deemed as dividend under section 2(22)(e).

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-IBA.

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, ABC Ltd. would be entitled to claim deduction under section 80-IBA in respect of the enhanced profits of ₹ 37.60 lakhs, consequent to disallowance under section 40(a)(ia).

8. Computation of total income of Mysore Co-operative Society for A.Y.2018-19

Particulars	₹	₹
I Income from house property		75,000
II Profits and Gains of Business or Profession		
From processing with the aid of power	40,000	
From collective disposal of labour	20,000	
From other business	72,000	
		1,32,000
III Income from Other Sources		
Interest received from another co-operative society	12,000	
Dividend received from another co-operative society	15,000	
		27,000
Gross Total Income		**2,34,000**
***Less:* Deduction under section 80P**		
Interest and dividend from another co-operative society [₹ 12,000 + ₹ 15,000] - fully deductible under section 80P(2)(d)	27,000	
Income from collective disposal of labour – fully deductible under section 80P(2)(a)(vi), assuming that the stipulated conditions are fulfilled.	20,000	
Income from other business ₹ 72,000, deduction restricted to ₹ 50,000 under section 80P(2)(c)(ii)	50,000	
		97,000
Total Income		**1,37,000**

Note: *Since the gross total income exceeds ₹ 20,000, in case of a co-operative society engaged in manufacturing operations with the aid of power, income from house property is not eligible for deduction under section 80P(2)(f)*

9. The issue under consideration in this case is, whether omission to issue notice under section 143(2) is a defect not curable in spite of section 292BB

This issue came up before the Apex Court in *Asstt. CIT v. Hotel Blue Moon (2010) 321 ITR 362,* wherein it was held that without the statutory notice under section 143(2), the Assessing Officer could not assume jurisdiction. In that case, the Assessing Officer recorded his inability to generate a notice due to certain reasons. Such defect cannot be cured subsequently, since it is not procedural but one that goes to the root of the jurisdiction. Even though the assessee had participated in the proceedings, in the absence of mandatory notice, section 292BB cannot help the Revenue officers who have no jurisdiction, to begin with. Section 292BB helps Revenue in countering claims of assessees who have participated in proceedings once a due notice has been issued.

Applying the rationale of the Supreme Court ruling to the case on hand, the failure to issue notice under section 143(2) would vitiate the assessment proceedings notwithstanding the assessee's participation in the proceedings. Section 292BB would not come to the rescue of the Revenue Authority if they omit to issue notice under section 143(2).

10. The issues under consideration are:

(1) whether a firm can be a partner of another firm;

(2) whether the CIT (Appeals) has the power to change the status of assessee.

These issues came up before the Madras High Court in *Mega Trends Inc. v. CIT (2016) 388 ITR 16.* The Court observed that since a partnership firm is a relationship between persons who have agreed to share the profits of the business carried on by all or any of them acting for all, and the term "persons" can connote only natural persons. Since some of the partners are other firms, the assessment cannot be carried out as a firm, as per the Supreme Court's ruling in *Dhulichand Laxminarayan v. CIT (1956) 29 ITR 535*.

The contention of the Commissioner (Appeals) that a firm cannot be a partner of another firm is, therefore, correct.

In *Mega Trends Inc's* case, the Madras High Court further observed that, under section 251(1), the powers of the first appellate authority are co-terminous with those of the Assessing Officer and the appellate authority can do what the Assessing Officer ought to have done and also direct him to do what he had failed to do. If the Assessing Officer had erred in concluding the status of the assessee as a firm, it could not be said that the Commissioner (Appeals) had no jurisdiction to go into the issue. The appeal was in continuation of the original proceedings and unless fetters were placed upon the powers of the appellate authority by express words, the appellate authority could exercise all the powers of the original authority.

The High Court thus, held that the power to change the status of the assessee is available to the assessing authority and when it is not used by him, the appellate authority is empowered to use such power and change the status. The Court relied on a full bench decision of the Madras High Court in *State of Tamil Nadu v. Arulmurugan and Co. reported in [1982] 51 STC 381* to come to such conclusion.

Accordingly, applying the rationale of the Madras High Court ruling to the case on hand, the CIT (Appeals) has the power to change the status of the assessee.

11. **Computation of Total Income of LMN Private Ltd. for the A.Y.2018-19**

	Particulars	Amount (₹)	
I	**Income from house property**		
	[Rental income from commercial property]		
	Gross Annual Value[3]/Net Annual Value[4]	4,30,000	
	Less: Deduction under section 24(a)		
	30% of Net Annual Value	1,29,000	
			3,01,000
II	**Profits and gains of business and profession**		
	Profits from manufacturing business **[See Working Note below]**	70,88,000	
	Less: Set-off of losses from trading in derivatives in shares in a recognized stock exchange [allowed to be set-off against profits from the business of manufacturing as per section 70(1) since it is not speculative in nature **[See Note below]**	1,80,000	
			69,08,000
III	**Capital Gains**		
	Sale consideration	52,00,000	
	Less: Indexed Cost of Acquisition [₹ 50,00,000 × 272/254]	53,54,331	
	Long-term capital loss to be carried forward to A.Y.2019-20 for set-off against long-term capital gains, if any, in that year	(1,54,331)	
IV	**Income from Other Sources**		
	Rent received from vacant land	2,05,000	
	Interest received on income-tax refund	42,000	
	Excess of issue price of shares over the fair market value of shares is taxable as per section 56(2)(viib) in the case of LMN Private Ltd., not being a company in which public are substantially interested [₹ 40 (i.e., ₹ 100 – ₹ 60) × 1,00,000 shares]	40,00,000	
			42,47,000

[3] Rent received has been taken as the Gross Annual Value (GAV) in the absence of information relating to Municipal Value, Fair Rent and Standard rent.

[4] Since the question does not contain information about municipal taxes paid, the net annual value is the same as the GAV.

	Gross Total Income		**1,14,56,000**
	***Less:* Deductions under Chapter VI-A**		
	Deduction under section 80G		
	Donation to Swachh Bharat Kosh[5] [qualifies for 100% deduction – assuming that the same has not been spent in pursuance of corporate social responsibility under section 135(5) of the Companies Act, 2013]	70,000	
	Deduction under section 80GGB		
	Contribution to Political Party [Not allowable as deduction since the contribution is made in cash]	Nil	70,000
	Total Income		**1,13,86,000**

Working Note:

Computation of profits and gains from the business of manufacturing

Particulars	**Amount (₹)**	
Net profit as per statement of profit and loss		77,00,000
***Add:* Items debited but to be considered separately or to be disallowed**		
B(ii) Donation paid to Swachh Bharat Kosh, considered separately	70,000	
[not an expenditure incurred wholly and exclusively for the manufacturing business. Hence, not allowable under section 37]		
B(iii) Contribution to political party	1,50,000	
[not an expenditure incurred wholly and exclusively for the manufacturing business. Hence, not allowable u/s 37]		
B(iv) Payment to transport contractor	-	
[As per section 194C(6), no tax is required to be deducted at source since the payment is to a transport contractor not having more than 10 goods carriages at any time during the previous year and he has given a declaration to that effect along with his PAN. Hence, disallowance under section 40(a)(ia) for non-deduction		

[5] Assumed to be paid by a mode other than cash

of tax at source is not attracted. Also, since payment is made by account payee cheque, no disallowance under section 40A(3) is attracted].		
B(v) Bonus to employees [Since the payment is made after the due date of filing return of income, disallowance under section 43B is attracted]	3,20,000	
B(vi) Provision for income-tax (including interest of ₹ 70,000 thereon) [Not allowable as deduction. Disallowance under section 40(a)(ii) is attracted]	4,20,000	
B(viii) Loss from trading in derivatives in shares in a recognized stock exchange [See Note below] [Since loss from trading in derivatives in shares is not related to the business of manufacturing, the same is not incurred wholly and exclusively for this business, and hence, is not allowable as deduction under section 37 while computing profits from the business of manufacturing]	1,80,000	
		11,40,000
		88,40,000
***Add:* Cash Payment for purchase of raw material deemed as income** AI(4) [Since the provision for outstanding bill for purchase of raw material has been allowed as deduction during the P.Y.2016-17, cash payment in excess of ₹ 10,000 against such bill in the P.Y.2017-18 would be deemed as income of P.Y.2017-18 as per section 40A(3A)]		45,000
		88,85,000
***Less:* Expenditure to be allowed**		
B(i) & AI(1) Depreciation [Difference between the normal depreciation of ₹ 16.75 lakhs as per Income-tax Act, 1961 **[See Note below]** and depreciation charged to the statement of profit and loss of ₹ 11.75 lakhs].	5,00,000	

<table>
<tr><td>

Note *– [6]Printers and scanners form an integral part of the computer system and they cannot be used without the computer. Hence, they are part of the computer system, they would be eligible for depreciation at the higher rate of 40% applicable to computers including computer software. However, EPABX is not a computer and is, hence, not entitled to higher depreciation@40%[7]*

<table>
<tr><th>Particulars</th><th>₹</th></tr>
<tr><td>Depreciation computed as per Income-tax Act, 1961</td><td>18,00,000</td></tr>
<tr><td>Less: Depreciation@40% wrongly provided in respect of EPABX = 40% of ₹ 5,00,000</td><td>2,00,000</td></tr>
<tr><td></td><td>16,00,000</td></tr>
<tr><td>Add: Depreciation@15% on EPABX = 15% of ₹ 5,00,000</td><td>75,000</td></tr>
<tr><td>Correct Depreciation as per Income-tax Act, 1961</td><td>16,75,000</td></tr>
</table>

</td><td></td><td></td></tr>
<tr><td>AI(2) Additional depreciation on new plant and machinery
Since plant and machinery was purchased only on 18.11.2017, it was put to use for less than 180 days during the year. Hence additional depreciation is to be restricted to 10% (i.e., 50% of 20%) of ₹ 34 lakhs.[8]</td><td>3,40,000</td><td></td></tr>
<tr><td>AI(3) Audit Fees relating to P.Y.2016-17
[₹ 30,000, being 30% of audit fees of ₹ 1,00,000 provided for in the books of account of F.Y.2016-17 would have been disallowed due to non-deduction of tax at source. Since tax has been deducted in September, 2017 and paid on 6.10.2017, the amount of ₹ 30,000 is deductible while computing business income of P.Y.2017-18].</td><td>30,000</td><td></td></tr>
<tr><td>B(vii) Contribution to University
[Contribution to a University approved and notified</td><td>50,000</td><td></td></tr>
</table>

[6] *CIT v. BSES Yamuna Powers Ltd (2013) 358 ITR 47 (Delhi)*

[7] *Federal Bank Ltd. v. ACIT (2011) 332 ITR 319 (Kerala)*

[8] Balance additional depreciation of ₹ 3.40 lakhs can be claimed in the next year i.e., A.Y.2019-20

under section 35(1)(ii) would qualify for weighted deduction@150%. Since ₹ 1,00,000 has already been debited to the statement of profit and loss, the balance ₹ 50,000 has to be deducted while computing business income]		9,20,000
		79,65,000
***Less:* Items credited to statement of profit and loss, but not includible in business income.**		
A(i) Rent received from vacant land [Chargeable to tax under the head "Income from other sources"]	2,05,000	
A(ii) Rent received from commercial property owned by the company [Chargeable to tax under the head "Income from house property"]	4,30,000	
A(iii) Interest received on income tax refund [Chargeable to tax under the head "Income from other sources"]	42,000	
A(iv) Profit on sale of unused land [Chargeable to tax under the head "Capital Gains"]	2,00,000	
		8,77,000
Profits and gains from the business of manufacturing		**70,88,000**

Note: *As per section 43(5), an eligible transaction of trading in derivatives in shares in a recognized stock exchange is not a speculative transaction.*

In this case, the company is engaged in the business of manufacturing and hence, the loss on account of trading in derivatives is not incurred wholly and exclusively in relation to such business and hence, has to be disallowed while computing profits from the business of manufacturing. Trading in derivatives in shares is also not incidental to the business of manufacturing. Therefore, it has to be assumed that the company is also carrying on the business of trading in derivatives in shares in addition to its manufacturing business.

In this case, the loss has to be disallowed at the first instance while computing income from the business of manufacturing since it is not wholly and exclusively incurred for the said business and thereafter, loss from trading in derivatives has to be set-off against the profits from manufacturing business applying the provisions of section 70(1) permitting inter-source set-off of losses.

12. **Computation of total income of PQR LLP**

Particulars	₹ (in lacs)
Profit from Unit P [₹ 502 lakhs + ₹ 24 lakhs, being disallowance u/s 43B]	526
Profit from Unit Q [₹ 753 lacs + ₹ 47 lacs, being disallowance u/s 40A(3)]	800
	1326
Less: Deduction under section 10AA [**See Working Note below**]	348
Total Income	**978**
Tax on total income@30%	293.40
Add: Surcharge@12%, since total income > ₹1 crore	35.21
	328.61
Add: Education cess @2% & SHEC@1%	9.85
Tax liability (as per normal provisions)	338.46

Computation of Adjusted total income and Alternate Minimum tax of PQR LLP as per the provisions of section 115JC for A.Y. 2018-19

Particulars	₹ (in lakh)
Total income as per the normal provisions	978
Add: Deduction under section 10AA	348
Adjusted Total Income	1326
Tax@18.5% of Adjusted Total Income	254.31
Add: Surcharge @12% as the adjusted total income is > ₹ 1 crore	29.44
	274.75
Add: Education cess @2% & SHEC @1%	8.24
Alternate Minimum Tax as per section 115JC	**282.99**

Since the tax payable as per the normal provisions of the Act is more than the alternate minimum tax payable, the total income as per normal provisions shall be liable to tax and the tax payable for A.Y. 2018-19 shall be ₹ 338.46 lakhs.

Working Note:

Computation of deduction under section 10AA in respect of Unit P located in a SEZ

Particulars	₹ (in lacs)
Total turnover of Unit P = (₹ 1200 lacs + ₹ 200 lacs) – ₹ 200 lacs, being freight and insurance	**1200**

included therein. Since freight and insurance has been excluded from export turnover, the same has to be excluded from total turnover also [9]	
Export Turnover of Unit P	
Export sale proceeds received in India	1040
Less: Insurance and freight not includible in export turnover	140
	900
Profit "derived from" Unit P	
Net profit for the year	502
Add: Disallowance under section 43B	24
	526
Less: **Items of business income which are in the nature of ancillary profits and hence, do not constitute profit 'derived from' business for the purpose of deduction under section 10AA**	
Duty drawback 38	
Profit on sale of import entitlement 24	
	62
	464
Deduction under section 10AA	
$\text{Profit derived from Unit P} \times \dfrac{\text{Export turnover of Unit P}}{\text{Total turnover of Unit P}} \times 100\%$	
= 100% of 464 x 900/1200 =	**348**

13. (a) The first contention of Mr. Vishwas is not correct.

Section 139(1) requires every resident other than not ordinarily resident, who at any time during the previous year, holds as a beneficial owner or otherwise, any asset (including financial interest in any entity) located outside India or has signing authority in any account located outside India or is a beneficiary of any asset located outside India, to file a return of income compulsorily whether or not he has income chargeable to tax.

Mr. Vishwas has a house property in Abu Dhabi and a bank account in the Bank of Abu Dhabi. Therefore, Mr. Vishwas has to file his return of income mandatorily for the A.Y.2018-19, even though his total income of ₹ 2,95,000, comprising solely of income from house property and bank interest, is less than the basic exemption limit of ₹ 3,00,000 applicable to a senior citizen.

[9] *CIT v. Dell International Services India P. Ltd. (2012) 206 Taxman 107 (Karnataka)*

(b) **Mr. Vishwas's second contention is also not correct.**

Income chargeable to tax shall be deemed to have escaped assessment for the purpose of section 147, where a person is found to have any asset (including financial interest in any entity) located outside India. Accordingly, the Assessing Officer can serve a notice under section 148 on such assessee requiring him to furnish a return of income within the specified period, for the purpose of making an assessment, reassessment or re-computation under section 147.

Further, section 149 prescribes an extended time limit of sixteen years for issue of notice under section 148, in case income in relation to such assets located outside India has escaped assessment.

In this case, since Mr. Vishwas has a house property located outside India in the P.Y.2008-09, income is deemed to have escaped assessment for A.Y.2009-10. Notice under section 148 issued to Mr. Vishwas in September 2017 in respect of A.Y.2009-10 is valid, since the extended time limit of sixteen years from the end of the relevant assessment year has not expired.

14. The Assessing Officer can exercise his power of survey under section 133A only after obtaining the approval of the Joint Commissioner or Joint Director, as the case may be. Assuming that he has obtained such approval in this case, he is empowered under section 133A to enter any place of business of the assessee within his jurisdiction only during the hours at which such place is open for the conduct of business.

In the case given, the restaurant is open from 8.00 a.m. to 11.30 p.m. for the conduct of business. The Assessing Officer entered the restaurant at 10.15 p.m. which falls within the working hours of the restaurant. Therefore, the claim made by the owner to the effect that the Assessing Officer could not enter the restaurant after sunset is not valid.

Further, as per section 133A(3)(ia), the Assessing Officer may, impound and retain in his custody for such period as he thinks fit, any books of account or other documents inspected by him. However, he shall not impound any books of account or other documents except after recording his reasons for doing so. He shall not retain in his custody any such books of account or other documents for a period exceeding 15 days (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner or Principal Director or Director therefor, as the case may be. The proposed action of the Assessing Officer is valid provided he satisfies the stipulated conditions.

15. Computation of taxable income of Medicare Trust for A.Y. 2018-19

Particulars	**₹**	
Income from running of hospitals	1,08,00,000	
Income from medical college [exempt u/s 10(23C)(iiiad)]	Nil	

Donation other than anonymous donation of ₹ 2,00,000 taxable @30% (₹ 3,00,000, being reduced by 5% of ₹ 8,00,000 or ₹ 1,00,000, whichever is higher)[10] [₹8,00,000 – ₹2,00,000]	6,00,000	1,14,00,000
Less: 15% of income of ₹ 114 lakhs accumulated or set apart under section 11(1)(a)		17,10,000
		96,90,000
Less: Amount applied for the purposes of hospital		93,50,000
		3,40,000
Add: Amount accumulated for extension of a hospital but not spent deemed to be income under section 11(3) (₹ 20 lakhs – ₹ 15 lakhs) **(See Note 1 below)**		5,00,000
		8,40,000
Add: Anonymous donation taxable @30% under section 115BBC **(See Note 2 below)**		2,00,000
Total Income		**10,40,000**
Tax on total income		
Tax on anonymous donation of ₹ 2 lacs at 30% **(See Note 2 below)**		60,000
Tax on other income of ₹ 8,40,000 at normal rates		
Upto ₹ 2,50,000	Nil	
Over ₹ 2,50,000 up to ₹ 5,00,000 @ 5%	12,500	
Over ₹5,00,000 upto ₹8,40,000@20%	68,000	80,500
		1,40,500
Education cess @2%		2,810
Secondary and higher education cess@1%		1,405
Tax payable		**1,44,715**
Tax payable (rounded off)		**1,44,720**

[10] A view is taken that 15% of ₹ 1 lakh, representing anonymous donations exempt from applicability of 30% tax, is also eligible for retention/accumulation without conditions in line with other voluntary contributions. A contrary view may also be possible due to the language used in section 13(7).

Notes:

(1) Section 11(3) provides that if the income accumulated for certain purpose is not utilized for the said purpose within the period (not exceeding 5 years) for which it was accumulated, or in the year immediately following the expiry thereof, then the unutilised amount is deemed to be the income of the charitable institution for the previous year immediately following the expiry of the period of accumulation. In the instant case, Medicare Trust accumulated ₹ 20,00,000 in the previous year 2011-12 for extension of one of its hospitals for a period of 5 years. Period of accumulation thus expired on 31.3.2017. The assessee has spent ₹ 15,00,000 out of accumulated sum of ₹ 20,00,000 up to 31.3.2017. Therefore, the unutilised amount of ₹ 5,00,000, which is not utilized in the P.Y.2017-18 also, is deemed to be income of the previous year 2017-18 (A.Y. 2018-19).

(2) Only the anonymous donations in excess of the exemption limit specified below would be subject to tax@30% under section 115BBC.

The exemption limit is the higher of the following –

(1) 5% of the total donations received by the assessee [i.e., ₹ 40,000 (5% x ₹ 8 lakhs)]; or

(2) ₹ 1 lakh.

Therefore, in this case the exemption would be ₹ 1 lakh.

The total tax payable by such institution would be –

(1) tax@30% on the anonymous donations exceeding the exemption limit as calculated above [i.e., tax@30% on ₹ 2,00,000, being ₹ 3,00,000 – ₹ 1,00,000)]; and

(2) tax on the balance income i.e., total income as reduced by ₹ 2,00,000, being the aggregate amount of anonymous donations in excess of ₹ 1 lakh.

16. Section 206C(1F) provides for collection of tax at source@1% by the seller from the buyer, at the time of receipt of consideration for sale of motor vehicle, the value of which exceeds ₹ 10 lakhs. CBDT Circular No.22/2016 dated 8.6.2016 clarifies that this section has been inserted to cover all transactions of retail sales and accordingly, it will not apply to sale of motor vehicles by manufacturers to dealers. Hence, car manufacturers are not liable to collect tax at source under section 206C(1F).

In respect of sale of premium model cars (of value ranging above ₹ 10 lakhs and upto ₹25 lakhs) by dealers to retail customers, tax has to be collected at source@1% under section 206C(1F), even if no part of the consideration is received in cash.

As regards small cars of value ranging from ₹ 5 lakhs upto ₹ 10 lakhs, there is no requirement to collect tax at source.

17. (i) Clause (i) of *Explanation* to section 92B amplifies the scope of the term "international transaction". According to the said *Explanation*, international transaction includes, *inter alia*, provision of scientific research services. Lambda Sicom is a specified foreign company in relation to XYZ Ltd. Therefore, the condition of XYZ Ltd. holding shares carrying not less than 26% of the voting power in Lambda Sicom is satisfied, assuming that all shares carry equal voting rights. Hence, Lambda Inc. and XYZ Ltd. are deemed to be associated enterprises under section 92A(2). Since the provision of scientific research services by Lambda Sicom to XYZ Ltd. is an "international transaction" between associated enterprises, transfer pricing provisions are attracted in this case.

(ii) Purchase of tangible property falls within the scope of "international transaction". Tangible property includes commodity. Cylo AG and Omega Ltd. are associated enterprises under section 92A, since Cylo AG is a holding company of Omega Ltd. Therefore, purchase of commodities by Omega Ltd., an Indian company, from Cylo AG, a German company, is an international transaction between associated enterprises, and consequently, the provisions of transfer pricing are attracted in this case.

(iii) Unit E is eligible for deduction@100% of the profits derived from its eligible business (i.e., the business of developing an infrastructure facility, namely, a highway project in this case) under section 80-IA. However, Unit F is not engaged in any "eligible business". Since Unit F has transferred steel to Unit E at a price lower than the fair market value, it is an inter-unit transfer of goods between eligible business and other business, where the consideration for transfer does not correspond with the market value of goods. Therefore, this transaction would fall within the meaning of "specified domestic transaction" to attract transfer pricing provisions, since the aggregate value of such transactions during the year exceeds a sum of ₹ 20 crore.

(iv) In this case, salary payment has been made to a related person referred to in section 40A(2)(b) i.e., relative (i.e., daughter) of Ms. Geetha, who is a director of Theta Ltd. However, with effect from A.Y.2018-19, section 92BA has been amended to exclude such transactions from the scope of "specified domestic transaction". Consequently, transfer pricing provisions would not be attracted in this case.

(v) The scope of the term "intangible property" has been amplified to include, *inter alia*, technical knowhow, which is a technology related intangible asset. Transfer of intangible property falls within the scope of the term "international transaction". Since Alcatel Lucent, a French company, guarantees not less than 10% of the borrowings of Y Ltd., an Indian company, Alcatel Lucent and Y Ltd. are deemed to be associated enterprises under section 92A(2). Therefore, since transfer of technical knowhow by Y Ltd., an Indian company, to Alcatel Lucent, a French company, is an international transaction between associated enterprises, the provisions of transfer pricing are attracted in this case.

18. This issue came up before the AAR in, *Nuclear Power Corporation of India Ltd. In Re, [2012] 343 ITR 220*, wherein it was held that an advance ruling is not only applicant specific, but is also transaction specific. The advance ruling is on a transaction entered into or undertaken by the applicant. That is why section 245S specifies that a ruling is binding on the applicant, **the transaction** and the Principal Commissioner or Commissioner of Income-tax and those subordinate to him, and not only on the applicant.

What is barred by the first proviso to section 245R(2) of the Act in the context of clause (i) thereof is the allowing of an application under section 245R(2) of the Act where "the question raised in the application is already pending before any Income-tax authority, or Appellate Tribunal or any court". The significance of the dropping of the words, "in the applicant's case" with effect from June 1, 2000, cannot be wholly ignored.

On the basis of this view expressed by the AAR in the above case, explaining the impact of the dropping of the words "in the applicant's case" with effect from 1.6.2000, a view can be taken that the AAR can reject the application made by Phi plc before the AAR on the ground that similar issue is pending before the Assessing Officer in respect of the same transaction i.e., provision of technical know to Beta Ltd.

Note *– The issue relates to the admission or rejection of the application filed before the Advance Rulings Authority on the grounds specified in clause (i) of the first proviso to sub-section (2) of section 245R of the Income-tax Act, 1961.*

The first proviso to section 245R(2) has been substituted by the Finance Act, 2000 with effect from 1.6.2000. Clause (i) of the first proviso, prior to and post amendment, reads as follows:

Prior to 1.6.2000	***On or After 1.6.2000***
Provided that the Authority shall not allow the application ***except in the case of a resident applicant*** *where the question raised in the application is already pending* ***in the applicant's case*** *before any income-tax authority, the Appellate Tribunal or any court;*	*Provided that the Authority shall not allow the application where the question raised in the application is already pending before any income-tax authority or Appellate Tribunal or any court.*

The words "except in the case of a resident applicant" and "in the applicant's case" has been removed in clause (i) of the first proviso with effect from 1.6.2000. However, the Explanatory Memorandum to the Finance Act, 2000, explaining the impact of the substitution, reads as follows "It is proposed to substitute the proviso to provide that the Authority shall not allow the application when the question raised is already pending in the applicant's case before any income-tax authority, Appellate Tribunal or any court in regard to a non-resident applicant and resident applicant in relation to a transaction with *a non-resident". Therefore, according to the intent expressed in the Explanatory Memorandum, the AAR shall not allow the application both in the case of resident and non-resident applicant if the question raised is already* ***pending in the applicant's case*** *before any income-tax authority. Thus, as per the Explanatory Memorandum, it is possible to take a view that even post-amendment, the Authority shall not allow the application where a question is* ***pending in the applicant's case*** *before any income-tax authority. Thus, an alternative view is possible on the basis of the AAR ruling in Ericsson Telephone Corporation India AB v. CIT (1997) 224 ITR 203, which continues to hold good even after the amendment, if we consider the intent expressed in the Explanatory Memorandum.* ***Accordingly, based on this view, the AAR can allow the application made by Phi plc, even if the question raised in the application is pending before the Assessing Officer in Beta Ltd.'s case****.*

19. **Computation of total income of Mr. Ranjit for A.Y.2018-19**

Particulars	₹	₹
Income from House Property [House situated in Country Q]		
Gross Annual Value[11]	3,20,000	
Less: Municipal taxes (assumed as paid in that country)	12,000	
Net Annual Value	3,08,000	
Less: Deduction under section 24 – 30% of NAV	92,400	
		2,15,600
Profits and Gains of Business or Profession		
Income from profession carried on in India	6,20,000	
Less: Business loss in Country Q set-off[12]	70,000	
	5,50,000	
Royalty income from a literary book from Country P (after deducting expenses of ₹ 30,000)	4,90,000	10,40,000
Income from Other Sources		
Agricultural income in Country P	82,000	
Dividend received from a company in Country Q	97,000	
		1,79,000
Gross Total Income		**14,34,600**

[11] Rental Income has been taken as GAV in the absence of other information relating to fair rent, municipal value etc.

[12] As per section 70(1), inter-source set-off of income is permitted.

Less: **Deduction under Chapter VIA**		
Under section 80QQB – Royalty income of a resident from literary work[13]		3,00,000
Total Income		**11,34,600**

Computation of tax liability of Mr. Ranjit for A.Y.2018-19

Particulars	₹
Tax on total income [30% of ₹ 1,34,600 + ₹ 1,12,500]	1,52,880
Add: Education cess@2%	3,058
Secondary and higher education cess @ 1%	1,529
	1,57,466
Less: Rebate under section 91 **(See Working Note below)**	66,313
Tax Payable	**91,153**
Tax payable (rounded off)	91,150

Working Note: Calculation of Rebate under section 91	₹	₹
Average rate of tax in India [i.e., ₹ 1,57,466 / ₹ 11,34,600 x 100]	**13.88%**	
Average rate of tax in Country P	**12%**	
Doubly taxed income pertaining to Country P		
Agricultural Income	82,000	
Royalty Income [₹ 5,20,000 – ₹ 30,000 (Expenses) – ₹ 3,00,000 (deduction under section 80QQB)][14]	1,90,000	
	2,72,000	
Rebate under section 91 on ₹ 2,72,000 @12% [being the lower of average Indian tax rate (13.88%) and foreign tax rate (12%)]		32,640
Average rate of tax in Country Q	**15%**	
Doubly taxed income pertaining to Country Q		
Income from house property	2,15,600	

[13] It is assumed that the royalty earned outside India has been brought into India in convertible foreign exchange within a period of six months from the end of the previous year.

[14] Doubly taxed income includes only that part of income which is included in the assessees total income. The amount deducted under Chapter VIA is not doubly taxed and hence, no relief is allowable in respect of such amount – *CIT v. Dr. R.N. Jhanji (1990) 185 ITR 586 (Raj.).*

Dividend	97,000	
	3,12,600	
Less: Business loss set-off	70,000	
	2,42,600	
Rebate under section 91 on ₹ 2,42,600 @13.88% (being the lower of average Indian tax rate (13.88%) and foreign tax rate (15%)]		33,673
Total rebate under section 91 (Country P + Country Q)		**66,313**

Note: *Mr. Ranjit shall be allowed deduction under section 91, since the following conditions are fulfilled :-*

(a) He is a resident in India during the relevant previous year (i.e., P.Y.2017-18).

(b) The income in question accrues or arises to him outside India in foreign countries P and Q during that previous year and such income is not deemed to accrue or arise in India during the previous year.

(c) The income in question has been subjected to income-tax in the foreign countries P and Q in his hands and it is presumed that he has paid tax on such income in those countries.

(d) There is no agreement under section 90 for the relief or avoidance of double taxation between India and Countries P and Q where the income has accrued or arisen.

20. As per section 9(1)(vii)(b), income by way of fees for technical services payable by a resident is deemed to accrue or arise in India, except where the fees is payable, *inter alia,* in respect of services utilized in a business or profession carried on by such person outside India. In this case, since Ganga Ltd. utilizes the technical services for its business in Calcutta, the fees for technical services payable by Ganga Ltd. is deemed to accrue or arise in India in the hands of Mr. Tom Sawyer.

In accordance with the provisions of section 115A, where the total income of a non-corporate non-resident includes any income by way of royalty or fees for technical services other than the income referred to in section 44DA(1), received from an Indian concern in pursuance of an agreement made by him with the Indian concern and the agreement is approved by the Central Government, then, the special rate of tax at 10% of such fees for technical services is applicable. No deduction would be allowable under sections 28 to 44C and section 57 while computing such income.

Section 90(2) makes it clear that where the Central Government has entered into a DTAA with a country outside India, then, in respect of an assessee to whom such agreement applies, the provisions of the Act shall apply to the extent they are more beneficial to the assessee. Therefore, if the DTAA provides for a rate lower than 10%, then, the provisions of DTAA would apply.

(a) In this case, since India does not have a DTAA with Country A, of which Tom Sawyer is a resident, the fees for technical services (FTS) received from Ganga Ltd., an Indian company, would be taxable @10%, by virtue of section 115A.

(b) In this case, the FTS from Ganga Ltd. would be taxable @5%, being the rate specified in the DTAA, even though section 115A provides for a higher rate of tax, since the tax rates specified in the DTAA are more beneficial. However, since Tom Sawyer is a non-resident, he has to furnish a tax residency certificate from the Government of Country A for claiming such benefit. Also, he has to furnish other information, namely, his nationality, his tax identification number in Country A and his address in Country A.

(c) In this case, the FTS from Ganga Ltd. would be taxable @10% as per section 115A, even though DTAA provides for a higher rate of tax, since the provisions of the Act (i.e. section 115A in this case) are more beneficial.

If Mr. Tom Sawyer has a fixed place of profession in India, and he renders technical services through the fixed place of profession, then, by virtue of section 44DA, such income by way of fees for technical services received by Mr. Tom Sawyer from Ganga Ltd., India, would be computed under the head "Profits and gains of business or profession" in accordance with the provisions of Income-tax Act, 1961, since technical services are provided from a fixed place of profession situated in India and fees for technical services is received from an Indian concern in pursuance of an agreement with the non-resident and is effectively connected with such fixed place of profession. No deduction would, however, be allowed in respect of any expenditure or allowance which is not wholly and exclusively incurred for the fixed place of profession in India.

Mr. Tom Sawyer is required to keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA and get his accounts audited by an accountant and furnish the report of such audit in the prescribed form duly signed and verified by such accountant along with the return of income.

It may be noted that the concessional rate of tax@10% under section 115A would not apply in this case.

21. Since Mr. Ganesh is an individual resident of two Contracting States, namely, Country M and Country N, the UN Model Convention provides for a series of tie-breaker rules to determine single state of residence for him:

(i) **Permanent Home**: The first test is based on where he has a permanent home. Permanent home would mean a dwelling place available to him at all times continuously and not occasionally and includes place taken on rent for a prolonged period of time. Any place taken for a short duration of stay or for temporary purpose, may be for reasons such as short business travel, or a short holiday etc. is not regarded as a permanent home.

(ii) **Personal and economic relations**: If that test is inconclusive for the reason that he has permanent home available to him in both Contracting States, he will be considered a resident of the Contracting State where his personal and economic relations are closer, in other words, the place where lies his centre of vital interests. Thus, preference is given to family and social relations, occupation, place of business, place of administration of his properties, political, cultural and other activities of the individual.

(iii) **Habitual abode**: In the following distinct and different situations, preference is given to the Contracting State where he has an habitual abode:

- The case where he has a permanent home available to him in both Contracting States and it is not possible to determine in which one he has his centre of vital interests;
- The case where he has a permanent home available to him in neither Contracting State.

(iv) **National**: If he has habitual abode in both Contracting States or in neither of them, he shall be treated as a resident of the Contracting State of which he is a national.

(v) **Competent Authority**: If he is a national of both or neither of the Contracting States, the matter would be left to be considered by the competent authorities of the respective Contracting States.

22. (a) Principle of *Contmporanea Expositio*

A treaty's terms are normally to be interpreted on the basis of their meaning at the time the treaty was concluded. However, this is not a universal principle.

In *Abdul Razak A. Meman's* (2005) 276 ITR 306, the AAR observed that "there can be little doubt that while interpreting treaties, regard should be had to material *contemporanea expositio*. This proposition is embodied in article 32 of the Vienna Convention and is also referred to in the decision of the Hon'ble Supreme Court in *K. P. Varghese v. ITO [1981] 131 ITR 597*.

(b) Teleological Interpretation

In this approach the treaty is to be interpreted so as to facilitate the attainment of the aims and objectives of the treaty. This approach is also known as the 'objects and purpose' method.

In case of *Union of India v. Azadi Bachao Andolan 263 ITR 706*, the Supreme Court observed that "the principles adopted for interpretation of treaties are not the same as those in interpretation of statutory legislation. The interpretation of provisions of an international treaty, including one for double taxation relief, is that the treaties are entered into at a political level and have several considerations as their bases."

One instance is where the Apex Court agreed with the contention of the Appellant that "the preamble to the Indo-Mauritius DTAA recites that it is for 'encouragement of mutual trade and investment' and this aspect of the matter cannot be lost sight of while interpreting the treaty.

23. A company is typically financed or capitalized through a mixture of debt and equity. The manner in which company raises capital has a significant impact on the amount of profit it reports for tax purposes. This is due to the reason that tax legislations of countries typically allow a deduction for interest paid or payable in arriving at the profit for tax purposes while the dividend paid on equity contribution is not deductible. Therefore, the higher the level of debt in a company, and thus, the amount of interest it pays, the lower will be its taxable profit. For this reason, debt is often a more tax efficient method of finance than equity. Since in such a structure, equity financing is less, it is referred to as Thin Capitalization. Thin capitalization, thus, refers to the process of funding an entity by debt instead of equity with a view to take advantage of interest deduction benefits.

Multinational groups are often able to structure their financing arrangements to maximize these benefits. To prevent tax erosion on account of such arrangements, country's tax administrations often introduce rules that place a limit on the amount of interest that can be deducted in computing a company's profit for tax purposes. Such rules are designed to counter cross-border shifting of profit through excessive interest payments, and thus aim to protect a country's tax base. Under the initiative of the G-20 countries, the Organization for Economic Co-operation and Development (OECD) in its Base Erosion and Profit Shifting (BEPS) project had taken up the issue of base erosion and profit shifting by way of excess interest deductions by the MNEs in its Action Plan 4. The OECD has recommended several measures in its final report to address this issue. In view of the above, new section 94B has been inserted in the Income-tax Act, 1961, in line with the recommendations of OECD BEPS Action Plan 4, to provide that interest paid or payable by an entity to its non-resident associated enterprises shall be restricted to 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to non-resident associated enterprises, whichever is less.

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 30.04.2018 and customs law as amended by the Finance Act, 2017 and notifications and circulars issued till 30.04.2018.**
(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. 'All-in-One Store' is a chain of departmental store having presence in almost all metro cities across India. Both exempted as well as taxable goods are sold in such Stores. The Stores operate in rented properties. All-in-One Stores pay GST under regular scheme.

   In Mumbai, the Store operates in a rented complex, a part of which is used by the owner of the Store for personal residential purpose.

   All-in-One Store, Mumbai furnishes following details for the month of October, 20XX:

   (i) Aggregate value of various items sold in the Store:

   Taxable items – ₹ 42,00,000

   Items exempted vide a notification – ₹ 12,00,000

   Items not leviable to GST – ₹ 3,00,000

   (ii) Mumbai Store transfers to another All-in-One Store located in Goa certain taxable items for the purpose of distributing the same as free samples. The value declared in the invoice for such items is ₹ 5,00,000. Such items are sold in the Mumbai Store at ₹ 8,00,000.

   (iii) Aggregate value of various items procured for being sold in the Store:

   Taxable items – ₹ 55,00,000

   Items exempted vide a notification – ₹ 15,00,000

   Items not leviable to GST – ₹ 5,00,000

   (iv) Freight paid to goods transport agency (GTA) for inward transportation of taxable items – ₹ 1,00,000

   (v) Freight paid to GTA for inward transportation of exempted items – ₹ 80,000

   (vi) Freight paid to GTA for inward transportation of non-taxable items - ₹ 20,000

(vii) Monthly rent payable for the complex – ₹ 5,50,000 (one third of total space available is used for personal residential purpose).

(viii) Activity of packing the items and putting the label of the Store along with the sale price has been outsourced. Amount paid for packing of all the items - ₹ 2,50,000

(ix) Salary paid to the regular staff at the Store - ₹ 2,00,000

(x) GST paid on inputs used for personal purpose – ₹ 5,000

(xi) GST paid on rent a cab services availed for business purpose – ₹ 4,000.

(xii) GST paid on items given as free samples – ₹ 4,000

Given the above available facts, you are required to compute the following:

A. Input tax credit (ITC) credited to the Electronic Credit Ledger

B. Common Credit

C. ITC attributable towards exempt supplies out of common credit

D. Eligible ITC out of common credit

E. Net GST liability for the month of October, 20XX

Note:

(1) Wherever applicable, GST under reverse charge is payable @ 5% by All-in-One Stores. Rate of GST in all other cases is 18%.

(2) All the sales and purchases made by the Store are within Maharashtra. All the purchases are made from registered suppliers. All the other expenses incurred are also within the State.

(3) Wherever applicable, the amounts given are exclusive of taxes.

(4) All the necessary conditions for availing the ITC have been complied with.

2. XYZ Ltd., New Delhi, manufactures biscuits under the brand name 'Tastypicks'. Biscuits are supplied to wholesalers and distributors located across India on FOR basis from the warehouse of the company located at New Delhi. The company uses multiple modes of transport for supplying the biscuits to its customers spread across the country. The transportation cost is shown as a line item in the invoice and is billed to the customers with a mark-up of 2% on total amount of freight paid (inclusive of taxes).

Flour used for the production process is procured from vendors located in Madhya Pradesh on ex-factory basis. The company engages goods transport agencies (GTA) to transport the flour from the factories of the vendors to its factory located in New Delhi.

The company has provided the following data relating to transportation of biscuits and flour in the month of April 20XX:

- For sales within the NCR region (₹ 20,00,000), the company arranged a local mini-van belonging to an individual and paid him ₹ 54,000.
- For sales to locations in distant States (₹ 1,78,00,000), the company booked the goods by Indian Railways and paid rail freight of ₹ 3,17,000.
- For sales to locations in neighbouring States (₹ 55,00,000), the company booked the goods by road carriers (GTAs) and paid road freight of ₹ 3,73,000. Out of the total sales to neighbouring States, goods worth ₹ 10,00,000 were booked through a GTA which paid tax @ 12%. Freight of ₹ 73,000 was paid to such GTA.
- For purchase of flour from Madhya Pradesh (₹ 25,00,000), the company booked the goods by a GTA and paid road freight of ₹ 55,000.
- For purchase of butter from Punjab (₹ 15,00,000), the company booked the goods by a GTA and paid road freight of ₹ 35,000.
- For local purchase of baking powder, the company booked the goods by a GTA in a single carriage and paid road freight of ₹ 1,500.
- For transferring the biscuits (open market value - ₹ 4,00,000) to one of its sister concern in Rajasthan, the company booked the goods by a GTA and paid road freight of ₹ 40,000.

  (i) Based on the particulars given above, compute the GST payable on the amount paid for transportation by XYZ Ltd. when it avails the services of different transporters.

  (ii) Compute the GST charged on transportation cost billed by the company to its customers.

Note: - Assume the rate of GST on transportation of goods and biscuits to be 5% and 12% respectively [except where any other rate is specified in the question].

3. Rolex 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 Rajesh 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 Sriniti 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.

4. Jaskaran, a registered supplier of Delhi, has made the following supplies in the month of January, 20XX:

S. No.	Particulars	Amount* (₹)
(i)	Supply of 20,000 packages at ₹ 30 each to Sukhija Gift Shop in Punjab [Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons]	6,00,000
(ii)	10 generators hired out to Morarji Banquet Halls, Chandigarh [including cost of transporting the generators (₹ 1,000 for each generator) from Jaskaran's warehouse to the Morarji Banquet Halls]	2,50,000
(iii)	500 packages each consisting of 1 chocolate and 1 fruit juice bottle given as free gift to Delhi customers on the occasion of Diwali [Cost of each package is ₹ 12, but the open market value of such package of goods and of goods of like kind and quality is not available. Input tax credit has not been taken on the items contained in the package]	
(iv)	Catering services provided free of cost for elder brother's business inaugural function in Delhi [Cost of providing said services is ₹ 55,000, but the open market value of such services and of services of like kind and quality is not available.]	

*excluding GST

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

1. Penalty of ₹ 10,000 was collected from Sukhija Gift Shop for the payment received with a delay of 10 days.
2. The transportation of the generators from Jaskaran's warehouse to the customer's premises is arranged by Jaskaran through a Goods Transport Agency (GTA) who pays tax @ 12%.
3. Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Chocolates	9%	9%	18%
Fruit juice bottles	6%	6%	12%
Toy balloons	2.5%	2.5%	5%

Service of renting of generators	9%	9%	18%
Catering service	9%	9%	18%

5. (i) Parth of Pune, Maharashtra enters into an agreement to sell goods to Bakul of Bareilly, Uttar Pradesh. While the goods were being packed in Pune godown of Parth, Bakul got an order from Shreyas of Shimoga, Karnataka for the said goods. Bakul agreed to supply the said goods to Shreyas and asked Parth to deliver the goods to Shreyas at Shimoga.

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

   (ii) Damani Industries has recruited Super Events Pvt. Ltd., an event management company of Gujarat, for organising the grand party for the launch of its new product at Bangalore. Damani Industries is registered in Mumbai. Determine the place of supply of the services provided by Super Events Pvt. Ltd. to Damani Industries.

   Will your answer be different if the product launch party is organised at Dubai?

6. Oberoi Industries is a manufacturing company registered under GST. It manufactures two taxable products 'X' and 'Y' and one exempt product 'Z'. The turnover of 'X', 'Y' and 'Z' in the month of April, 20XX was ₹ 2,00,000, ₹ 10,00,000 and ₹ 12,00,000. Oberoi Industries is in possession of certain machines and purchases more of them. Useful life of all the machines is considered as 5 years.

   From the following particulars furnished by it, compute the amount to be credited to the electronic credit ledger of Oberoi Industries and amount of common credit attributable towards exempted supplies, if any, for the month of April, 20XX.

Particulars	GST paid (₹)
Machine 'A' purchased on 01.04.20XX for being exclusively used for non-business purposes	19,200
Machine 'B' purchased on 01.04.20XX for being exclusively used in manufacturing zero- rated supplies	38,400
Machine 'C' purchased on 01.04.20XX for being used in manufacturing all the three products – X, Y and Z	96,000
Machine 'D' purchased on April 1, 2 years before 01.04.20XX for being exclusively used in manufacturing product Z. From 01.04.20XX, such machine will also be used for manufacturing products X and Y.	1,92,000
Machine 'E' purchased on April 1, 3 years before 01.04.20XX for being exclusively used in manufacturing products X and Y. From 01.04.20XX, such machine will also be used for manufacturing product Z.	2,88,000

7. Shiva Medical Centre, a Multi-speciality hospital, is a registered supplier in Mumbai. It hires senior doctors and consultants independently, without entering into any employer-employee agreement with them. These doctors and consultants provide consultancy to the in-patients - patients who are admitted to the hospital for treatment – without there being any contract with such patients. In return, they are paid the consultancy charges by Shiva Medical Centre.

   However, the money actually charged by Shiva Medical Centre from the in-patients is higher than the consultancy charges paid to the hired doctors and consultants. The difference amount retained by the hospital, i.e. retention money, includes charges for providing ancillary services like nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure, etc.

   Further, Shiva Medical Centre has its own canteen – Annapurna Bhawan - which supplies food to the in-patients as advised by the doctor/nutritionists as also to other patients (who are not admitted) or their attendants or visitors.

   The Department took a stand that senior doctors and consultants are providing services to Shiva Medical Centre and not to the patients. Hence, their services are not the health care services and must be subject to GST. Further, GST is applicable on the retention money kept by Shiva Medical Centre as well as on the services provided by its canteen - Annapurna Bhawan alleging that such services are not the health care services.

   You are required to examine whether the stand taken by the Department is correct provided the services provided by Shiva Medical Centre are intra-State services.

8. Shubhlaxmi Foods is engaged in supplying restaurant service in Maharashtra. In the preceding financial year, it has a turnover of ₹ 90 lakh from the restaurant service and ₹ 10 lakh from the supply of farm labour in said State. Further, it has also earned a bank interest of ₹ 10 lakh from the fixed deposits.

   Shubhlaxmi Foods wishes to opt for composition scheme in the current year. You are required to advise Shubhlaxmi Foods on the same.

   Would your answer be different if Shubhlaxmi Foods is engaged in milling of paddy into rice on job work basis instead of supply of farm labour and the turnover from the said activity is ₹ 9 lakh?

9. Subharti Enterprises collected GST on the goods supplied by it from its customers on the belief that said supply is taxable. However, later it discovered that goods supplied by it are exempt from GST.

   The accountant of Subharti Enterprises advised it that the amount mistakenly collected by Subharti Enterprises representing as tax was not required to be deposited with Government. Subharti Enterprises has approached you for seeking the advice on the same. You are required to advise it elaborating the relevant provisions.

10. Answer the following questions:

    (1) Radhaswamy owns and supplies certain goods costing ₹ 30,00,000 in a conveyance hired from Manikaran Transporters. Market value of said goods is ₹ 40,00,000 and tax chargeable thereon is ₹ 4,80,000.

    The goods supplied by Radhaswamy and the conveyance [owned by Manikaran Transporters] used for carriage of such goods are confiscated since Radhaswamy has supplied said goods in contravention of the provisions of the CGST Act, 2017 with an intent to evade payment of tax.

    However, the proper officer intends to give an option to Radhaswamy and Manikaran Transporters to pay in lieu of confiscation, a fine leviable under section 130 of the CGST, Act, 2017.

    Determine the maximum amount of the fine in lieu of confiscation on:

    (a) the goods liable for confiscation.

    (b) the conveyance used for carriage of such goods.

    (2) Raghuraman is a registered supplier in Madhya Pradesh. He failed to pay the GST amounting to ₹ 7,400 for the month of January, 20XX. The proper officer imposed a penalty on Raghuraman for failure to pay tax. Raghuraman believes that it is a minor breach and in accordance with the provisions of section 126 of the CGST Act, 2017, no penalty is imposable for minor breaches of tax regulations. Examine the correctness of Raghuraman's claim.

11. Super Engineering Works, a registered supplier in Haryana, is engaged in supply of taxable goods within the State. Given below are the details of the turnover and applicable GST rates of the final products manufactured by Super Engineering Works as also the input tax credit (ITC) availed on inputs used in manufacture of each of the final products and GST rates applicable on the same, during a tax period:

Products	Turnover* (₹)	Output GST Rates	ITC availed (₹)	Input GST Rates
A	500,000	5%	54,000	18%
B	350,000	5%	54,000	18%
C	100,000	18%	10,000	18%

*excluding GST

Determine the maximum amount of refund of the unutilized input tax credit that Super Engineering Works is eligible to claim under section 54(3)(ii) of the CGST Act, 2017 provided that Product B is notified as a product, in respect of which no refund of unutilised input tax credit shall be allowed under said section.

12. Jai, a registered supplier, runs a general store in Ludhiana, Punjab. Some of the goods sold by him are exempt whereas some are taxable. You are required to advise him on the following issues:
    (i) Whether Jai is required to issue a tax invoices in all cases, even if he is selling the goods to the end consumers?
    (ii) Jai sells some exempted as well as taxable goods valuing ₹ 5,000 to a school student. Is he mandatorily required to issue two separate GST documents?
    (iii) Jai wishes to know whether it's necessary to show tax amount separately in the tax invoices issued to the customers. You are required to advise him.
13. Kulbhushan & Sons has entered into a contract to supply two consignments of certain taxable goods. However, since it is unable to determine the value of the goods to be supplied by it, it applies for payment of tax on such goods on a provisional basis along with the required documents in support of its request.

    On 12.01.20XX, the Assistant Commissioner of Central Tax issues an order allowing payment of tax on provisional basis indicating the value on the basis of which the assessment is allowed on provisional basis and the amount for which the bond is to be executed and security is to be furnished.

    Kulbhushan & Sons complies with the same and supplies both the consignments of goods on 25.01.20XX thereafter paying the tax on provisional basis in respect of both the consignments on 19.02.20XX.

    Consequent to the final assessment order passed by the Assistant Commissioner of Central Tax on 21.03.20XX, a tax of ₹ 1,80,000 becomes due on 1^{st} consignment whereas a tax of ₹ 4,20,000 becomes refundable on 2^{nd} consignment.

    Kulbhushan & Sons pays the tax due on 1^{st} consignment on 09.04.20XX and applies for the refund of the tax on 2^{nd} consignment same day. Tax was actually refunded to it on 05.06.20XX.

    Determine the interest payable and receivable, if any, by Kulbhushan & Sons in the above case.
14. With reference to section 108 of the CGST Act, 2017, elaborate whether a CGST/SGST authority can revise an order passed by his subordinates.
15. Discuss the liability to pay in case of an amalgamation/merger under section 87 of the CGST Act, 2017.
16. Unicalp Textile Industries imported a machine from Eureka Engineering Works Inc., New Jersey, for dyeing the fabric. The price of the machine was settled at US $ 25,000. The machine was shipped on 10.02.20XX. Meanwhile, Unicalp Textile Industries negotiated for a reduction in the price.

As a result, Eureka Engineering Works Inc. agreed to reduce the price by $ 4,250 and sent the revised price of $ 20,750 on 15.02.20XX. The machine arrived in India on 18.02.20XX. The Commissioner of Customs decided to take the original price of $ 25,000 as the transaction value of the goods on the ground that the price is reduced only after the goods have been shipped.

Do you agree to the stand taken by the Commissioner? Give reasons in support of your answer.

17. Abhimanyu Enterprises, India imported a machine costing US $ 17,000 from George Corp., US through a vessel in January, 2018. Determine assessable value of the machine under the Customs Act, 1962 with the help of the additional information given below:

		US $
(i)	Transport charges from the factory of George Corp. to the port for shipment	850
(ii)	Freight charges from US to India	1,700
(iii)	Handling charges paid for loading the machine in the ship	85
(iv)	Buying commission paid by Abhimanyu Enterprises	85
(v)	Exchange rate to be considered: 1$ = ₹ 60	
(vi)	Actual insurance charges paid are not ascertainable	

18. Raghupati Energy Corporation had imported certain goods and got them cleared for home consumption. Subsequently, the Department discovered that import of such goods was prohibited under the Customs Act, 1962. Consequently, the goods were confiscated under section 111 of the Customs Act, 1962 and a penalty was levied under section 112 of the said Act.

    Examine the veracity of confiscation of the goods and imposition of penalty by the Department, in the given case, with the help of a decided case law, if any.

19. Explain with reference to the Customs Act, 1962, the conditions to be fulfilled for filing application to Settlement Commission.

20. Explain the relevant dates as provided in section 26A(2) of the Customs Act, 1962 for purpose of refund of customs duty under specified circumstances, namely:

    (i) goods exported out of India

    (ii) relinquishment of title to goods

    (iii) goods destroyed or rendered commercially valueless.

SUGGESTED ANSWERS

1. A. Computation of ITC credited to Electronic Credit Ledger

As per rule 42 of the CGST Rules, 2017, the ITC in respect of inputs or input services being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies.

ITC credited to the electronic credit ledger of registered person ['C_1'] is calculated as under-

$C_1 = T - (T_1+T_2+T_3)$

Where,

T	=	Total input tax involved on inputs and input services in a tax period.
T_1	=	Input tax attributable to inputs and input services intended to be used exclusively for non-business purposes
T_2	=	Input tax attributable to inputs and input services intended to be used exclusively for effecting exempt supplies
T_3	=	Input tax in respect of inputs and input services on which credit is blocked under section 17(5) of the CGST Act, 2017

Computation of total input tax involved [T]

Particulars	**(₹)**
GST paid on taxable items [₹ 55,00,000 x 18%]	9,90,000
Items exempted vide a notification [Since exempted, no GST is paid]	Nil
Items not leviable to tax [Since non-taxable, no GST is paid]	Nil
GST paid under reverse charge on freight paid to GTA for inward transportation of taxable items - [₹ 1,00,000 x 5%]	5,000
GST paid under reverse charge on freight paid to GTA for inward transportation of exempted items - [₹ 80,000 x 5%]	4,000
GST paid under reverse charge on freight paid to GTA for inward transportation of non-taxable items - [₹ 20,000 x 5%]	1,000
GST paid on monthly rent - [₹ 5,50,000 x 18%]	99,000
GST paid on packing charges [₹ 2,50,000 x 18%]	45,000
Salary paid to staff at the Store	Nil
[Services by an employee to the employer in the course of or in relation to his employment is not a supply in terms of para 1 of the	

Schedule III to CGST Act, 2017 and hence, no GST is payable thereon].	
GST paid on inputs used for personal purpose	5,000
GST paid on rent a cab services availed for business purpose	4,000
GST paid on items given as free samples	4,000
Total input tax involved in a tax period (October, 20XX) [T]	**11,57,000**

Computation of T_1, T_2, T_3

Particulars	**(₹)**
GST paid on monthly rent attributable to personal purposes [1/3 of ₹ 99,000]	33,000
GST paid on inputs used for personal purpose	5,000
Input tax exclusively attributable to non-business purposes [T_1]	**38,000**
GST paid under reverse charge on freight paid to GTA for inward transportation of exempted items [As per section 2(47) of the CGST Act, 2017, exempt supply means, *inter alia,* supply which may be wholly exempt from tax by way of a notification issued under section 11. Hence, input service of inward transportation of exempt items is exclusively used for effecting exempt supplies.]	4,000
GST paid under reverse charge on freight paid to GTA for inward transportation of non-taxable items [Exempt supply includes non-taxable supply in terms of section 2(47) of the CGST Act, 2017. Hence, input service of inward transportation of non-taxable items is exclusively used for effecting exempt supplies.]	1,000
Input tax exclusively attributable to exempt supplies [T_2]	**5,000**
GST paid on rent a cab services availed for business purpose [ITC on rent a cab service is blocked under section 17(5)(b)(iii) of the CGST Act, 2017 as the same is not used by All-in-One Store for providing the rent a cab service or as part of a taxable composite or mixed supply. It has been assumed that the Government has not notified such service under section 17(5)(b)(iii)(A) of the CGST Act, 2017].	4,000
GST paid on items given as free samples [ITC on goods *inter alia,* disposed of by way of free samples is blocked under section 17(5)(h) of the CGST Act, 2017].	4,000
Input tax for which credit is blocked under section 17(5) of the CGST Act, 2017 [T3] **	**8,000**

**Since GST paid on inputs used for personal purposes has been considered while computing T_1, the same has not been considered again in computing T_3.

ITC credited to the electronic credit ledger

$C_1 = T - (T_1+T_2+T_3)$

= ₹ 11,57,000 – (₹ 38,000 + ₹ 5,000 + ₹ 8,000)

= ₹ 11,06,000

B. Computation of Common Credit

$C_2 = C_1 - T_4$

where C_2 = Common Credit

T_4 = Input tax credit attributable to inputs and input services intended to be used exclusively for effecting taxable supplies

Computation of T_4,

Particulars	(₹)
GST paid on taxable items	9,90,000
GST paid under reverse charge on freight paid to GTA for inward transportation of taxable items	5,000
Input tax exclusively attributable to taxable supplies [T_4]	**9,95,000**

Common Credit $C_2 = C_1 - T_4$

= ₹ 11,06,000 – ₹ 9,95,000

= ₹ 1,11,000

C. Computation of ITC attributable towards exempt supplies out of common credit

ITC attributable towards exempt supplies is denoted as 'D_1' and calculated as -

$D_1 = (E \div F) \times C_2$

where,

'E' is the aggregate value of exempt supplies during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period

Aggregate value of exempt supplies during October, 20XX

= ₹ 15,00,000 (₹ 12,00,000 + ₹ 3,00,000)

Total turnover in the State during the tax period

= ₹ 65,00,000 (₹ 42,00,000 + ₹ 12,00,000 + ₹ 3,00,000 + ₹ 8,00,000)

Note: Transfer of items to Store located in Goa is inter-State supply in terms of section 7 of the IGST Act, 2017 and hence includible in the total turnover. Such supply is to be valued as per rule 28 of the CGST Rules, 2017. However, the value declared in the invoice cannot be adopted as the value since the recipient Store at Goa is not entitled for full credit. Therefore, open market value of such goods, which is the value of such goods sold in Mumbai Store, is taken as the value of items transferred to Goa Store.

D_1 = (15,00,000 ÷ 65,00,000) x 1,11,000

= **₹ 25,615 (rounded off)**

D. <u>Computation of Eligible ITC out of common credit</u>

Eligible ITC attributed for effecting taxable supplies is denoted as 'C_3', where, -

$C_3 = C_2 - D_1$

= ₹ 1,11,000 - ₹ 25,615

= ₹ 85,385

E. <u>Computation of Net GST liability for the month of October, 20XX</u>

Particulars	**GST (₹)**
GST liability under forward charge	
Taxable items sold in the store [₹ 42,00,000 x 18%]	7,56,000
Taxable items transferred to Goa Store [₹ 8,00,000 x 18%]	1,44,000
Ineligible ITC [ITC out of common credit, attributable to exempt supplies]	25,615
Total output tax liability under forward charge	9,25,615
Less: ITC credited to the electronic ledger	11,06,000
ITC carried forward to the next month	(1,80,385)
Net GST payable [A]	Nil
GST liability under reverse charge	
Freight paid to GTA for inward transportation of taxable items - [₹ 1,00,000 x 5%]	5,000
Freight paid to GTA for inward transportation of exempted items - [₹ 80,000 x 5%]	4,000
Freight paid to GTA for inward transportation of non-taxable items - [₹ 20,000 x 5%]	1,000

Total output tax liability under reverse charge [B]	10,000
Net GST liability [A] + [B]	**10,000**
As per section 49(4) of the CGST Act, 2017 amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82) of the CGST Act, 2017. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.	

Note: While computing net GST liability, ITC credited to the electronic ledger can alternatively be computed as follows:

Particulars	**(₹)**
GST paid on taxable items [₹ 55,00,000 x 18%]	9,90,000
Items exempted vide a notification [Since exempted, no GST is paid]	Nil
Items not leviable to tax [Since non-taxable, no GST is paid]	Nil
GST paid under reverse charge on freight paid to GTA for inward transportation of taxable items - [₹ 1,00,000 x 5%]	5,000
GST paid under reverse charge on freight paid to GTA for inward transportation of exempted items - [₹ 80,000 x 5%]	Nil
[As per section 2(47) of the CGST Act, 2017, exempt supply means, *inter alia,* supply which may be wholly exempt from tax by way of a notification issued under section 11. Hence, input service of inward transportation of exempt items is exclusively used for effecting exempt supplies. Input tax exclusively attributable to exempt supplies is to be excluded]	
GST paid under reverse charge on freight paid to GTA for inward transportation of non-taxable items - [₹ 20,000 x 5%]	Nil
[Exempt supply includes non-taxable supply in terms of section 2(47) of the CGST Act, 2017. Hence, input service of inward transportation of non-taxable items is exclusively used for effecting exempt supplies. Input tax exclusively attributable to exempt supplies is to be excluded]	
GST paid on monthly rent - for business purposes	66,000
[(₹ 5,50,000 x 18%) - 1/3 of [(₹ 5,50,000 x 18%)]	
GST paid on packing charges [₹ 2,50,000 x 18%]	45,000
Salary paid to staff at the Store	Nil
[Services by an employee to the employer in the course of or in relation to his employment is not a supply in terms of para 1 of the	

Schedule III to CGST Act, 2017 and hence, no GST is payable thereon]	
GST paid on inputs used for personal purpose [ITC on goods or services or both used for personal consumption is blocked under section 17(5)(g) of the CGST Act, 2017]	Nil
GST paid on rent a cab services availed for business purpose [ITC on rent a cab service is blocked under section 17(5)(b)(iii) of the CGST Act, 2017 as the same is not used by All-in-One Store for providing the rent a cab service or as part of a taxable composite or mixed supply. It has been assumed that the Government has not notified such service under section 17(5)(b)(iii)(A) of the CGST Act, 2017]	Nil
GST paid on items given as free samples [ITC on goods *inter alia,* disposed of by way of free samples is blocked under section 17(5)(h) of the CGST Act, 2017]	Nil
Total ITC credited to the electronic ledger	**11,06,000**

2. (i) **Computation of GST payable on amount paid for transportation by XYZ Ltd. when it avails the services of different transporters**

Particulars	**Freight [₹]**	**GST payable [₹]**
Transportation of biscuits in a local mini van belonging to an individual [Only the transportation of goods by road by a GTA is liable to GST. Therefore, transportation of goods by road otherwise than by a GTA is exempt from GST – *Notification No. 12/2017 CT (R) & 9/2017 IT (R) both dated 28.06.2017.*]	54,000	Nil
Transportation of biscuits by Indian Railways	3,17,000	15,850
Transportation of biscuits by GTA [GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017 read with *Notification No. 10/2017 IT (R) dated 28.06.2017.*]	3,00,000	15,000
Transportation of biscuits by GTA @ 12% [When the GTA pays tax @ 12%, tax is payable by the GTA under forward charge and not by the recipient under reverse charge - *Notification No. 10/2017 IT (R) dated 28.06.2017.*]	73,000	8,760

Transportation of flour by GTA [Services provided by GTA by way of transport (in a goods carriage) of, *inter alia,* flour are exempt from GST vide *Notification No. 9/2017 IT (R) dated 28.06.2017.*]	55,000	Nil
Transportation of butter by GTA [Though services provided by GTA by way of transport (in a goods carriage) of, *inter alia,* milk is exempt from GST vide *Notification No. 9/2017 IT (R) dated 28.06.2017,* road transport of butter will not be exempted as butter is milk product and not milk. GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017 read with *Notification No. 10/2017 IT (R) dated 28.06.2017.*]	35,000	1,750
Transportation of baking powder by GTA [Services provided by a GTA by way of transport in a goods carriage of goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed ₹ 1,500, are exempt from GST vide *Notification No. 9/2017 IT (R) dated 28.06.2017.*]	1,500	Nil
Transportation of biscuits by GTA to sister concern [GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017 read with *Notification No. 10/2017 IT (R) dated 28.06.2017.*]	40,000	2,000
Total tax payable by XYZ Ltd. on availing services of different transporters		**43,360**

(ii) Computation of GST charged on transportation cost billed by XYZ Ltd. to its customers

Since XYZ Ltd. is supplying biscuits on FOR basis, the service of transportation of biscuits gets bundled with the supply of biscuits. Thus, the supply of biscuits and transportation service is a composite supply, chargeable to tax at the rate applicable to the principal supply (biscuits) i.e.,12% [Section 8(a) of the CGST Act, 2017 read with the definition of 'composite supply' under section 2(30) of the CGST Act, 2017 and 'principal supply' under section 2(90) of the CGST Act, 2017].

Particulars	Freight paid [₹] [A]	GST paid on freight [₹] [B]	Freight billed (with mark-up @ 2% on [A] + [B]) [₹]	GST charged @ 12% [₹]
Transportation of biscuits in a local mini van belonging to an individual	54,000	-	55,080	6,610
Transportation of biscuits by Indian Railways	3,17,000	15,850	3,39,507	40,741
Transportation of biscuits by GTA	3,00,000	15,000	3,21,300	38,556
Transportation of biscuits by GTA @ 12%	73,000	8,760	83,395	10,007
Total tax charged by XYZ Ltd. on transportation cost billed to the customers*				**95,914**

**Note: It has been assumed that there is no mark-up on transportation cost billed to sister concern (non-customer).*

3. 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 Act, 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:

= (RBI reference for US $ - Buying rate of US $) × Total number of units of US $ bought

= (₹ 68.6 - ₹ 68) × 1,000

= ₹ 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% of the gross amount of Indian Rupees received

= 1% of (₹ 67.50 × 2,000)

= ₹ 1,350

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

Third proviso to rule 32(2)(a) stipulates that a person supplying the services in relation to the purchase or sale of foreign currency, including money changing may exercise the option to ascertain the value in terms of rule 32(2)(b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

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 less than ₹ 10,00,000, value of supply is ₹ 1,000 + 0.50% of (₹ 1,35,000 - ₹ 1,00,000).

= ₹ 1,175

4. Computation of GST liability of Jaskaran for the month of January, 20XX

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Supply of 20,000 packages to Sukhija Gift Shop, Punjab [Note-1]			1,09,526 [6,08,475 × 18%]
Renting of 10 generators to Morarji Banquet Halls, Chandigarh [Note-2]			45,000 [2,50,000 × 18%]
500 packages given as free gift to the customers [Note-3]	Nil	Nil	Nil
Catering services provided free of cost for elder brother's business inaugural function in Delhi [Note-3]	5,445 [60,500 × 9%]	5,445 [60,500 × 9%]	
Total GST liability (rounded off)	**5,445**	**5,445**	**1,54,526**

Notes:

1. As per section 2(74) of the CGST Act, 2017, mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

   Supply of a package containing chocolates, fruit juice bottles and a packet of toy balloons is a mixed supply as each of these items can be supplied separately and is not dependent on any other. Further, as per section 8(b) of the CGST Act, 2017, the mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax. Thus, in the given case, supply of packages is treated as supply of chocolates [since it attracts the highest rate of tax]. Consequently, being an inter-State supply of goods, supply of packages to Sukhija Gift Shop of Punjab is subject to IGST @ 18% each.

   Further, value of supply includes interest or late fee or penalty charged for delayed payment of any consideration for any supply in terms of section 15(2)(d) of the CGST Act, 2017. Thus, penalty of ₹ 10,000 [considered as inclusive of GST] collected from Sukhija Gift Shop for the delayed payment will be included in the value of supply. The total value of supply is ₹ 6,08,475 [₹ 6,00,000 + (₹ 10,000 × 100/118)]

2. Services by way of transportation of goods by road except the services of a Goods Transportation Agency (GTA) are exempt vide *Notification No. 9/2017 IT (R) dated 28.06.2017*. Since Jaskaran is not a GTA, transportation services provided by him are exempt from GST. However, since the generators are invariably hired out along with their transportation till customer's premises, it is a case of composite supply

under section 2(30) of the CGST Act, 2017 wherein the principal supply is the renting of generator.

As per section 8(a) of the CGST Act, 2017, the composite supply is treated as the supply of the principal supply. Therefore, the service of transportation of generators will also be taxed at the rate applicable for renting of the generator (principal supply).

Consequently, being an inter-State supply of service, service of hiring out the generators to Morarji Banquet Halls of Chandigarh is subject to IGST @ 18% each.

3. As per section 7(1)(c) of the CGST Act, 2017, an activity made without consideration can be treated as supply only when it is specified in Schedule I of the CGST Act, 2017. Para 2. of Schedule I provides that supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, are to be treated as supply even if made without consideration.

   However, since the question does not provide that customers are related to Jaskaran, free gifts given to the customers cannot be considered as a supply under section 7. Consequently, no tax is leviable on the same.

   Further, the catering services provided by Jaskaran to his elder brother without consideration will be treated as supply as Jaskaran and his elder brother, being members of same family, are related persons in terms of explanation (a)(viii) to section 15 of the CGST Act, 2017 and said services have been provided in course/furtherance of business. Value of supply of services between related persons, other than through an agent is determined as per rule 28 of the CGST Rules, 2017. Accordingly, the value of supply is the open market value of such supply; if open market value is not available, the value of supply of goods or services of like kind and quality. However, if value cannot be determined under said methods, it must be worked out based on the cost of the supply plus 10% mark-up. Thus, in the given case, value of catering services provided to the elder brother of Jaskaran is ₹ 60,500 [₹ 55,000 × 110%]. Further, being an intra-State supply of services, catering services are subject to CGST and SGST @ 2.5% each.

5. As per *Notification No. 13/2017 CT(R) dated 28.06.2017*, GST is payable by the recipient on reverse charge basis on the receipt of services of transportation of goods by road from a goods transport agency (GTA) provided such GTA has not paid GST @ 12%. Since in the given case, Jaskaran has received services from a GTA who has paid GST @ 12%, reverse charge provisions will not be applicable.

5. **(i)** The supply between Parth (Pune) and Bakul (Bareilly) is a **bill to ship to supply** where the goods are delivered by the supplier [Parth] to a recipient [Shreyas (Shimoga)] or any other person on the direction of a third person [Bakul]. The place of supply in case of 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 Bakul has received the goods and the place of supply of such goods is the principal place of business of Bakul. Accordingly, the place of supply between Parth (Pune) and Bakul (Bareilly) will be Bareilly, Uttar Pradesh.

This situation involves another supply between Bakul (Bareilly) and Shreyas (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 (Shreyas) i.e., Shimoga, Karnataka.

(ii) Section 12(7)(a)(i) of IGST Act, 2017 stipulates that when service by way of organization of an event is provided to a registered person, place of supply is the location of recipient.

Since, in the given case, the product launch party at Bangalore is organized for Damani Industries (registered in Mumbai), place of supply is the location of Damani Industries i.e., Mumbai.

In case the product launch party is organised at Dubai, the answer will remain the same, i.e. the place of supply is the location of Damani Industries – Mumbai.

6.

Particulars	₹	Ineligible credit (₹)	Amount to be credited to ECrL (₹)
Machine 'A' [Since exclusively used for non-business purposes, ITC is not available under rule 43(1)(a) of CGST Rules, 2017]		19,200	
Machine 'B' [For ITC purposes, taxable supplies include zero-rated supplies under rule 43(1)(b) of CGST Rules, 2017. Hence, full ITC is available]			38,400
Machine 'C' [Commonly used for taxable and exempt supplies – Rule 43(1)(c) of the CGST Rules, 2017]	96,000		96,000
Machine 'D' [Owing to change in use from exclusively exempt to both taxable and exempt, common credit to be reduced by ITC @ 5% per quarter or part thereof in terms of proviso to rule 43(1)(c) of CGST Rules, 2017] = ₹ 1,92,000 – ₹ 76,800 (₹ 1,92,000 × 5% × 8 quarters)	1,15,200		1,15,200
Machine 'E' [Owing to change in use from exclusively taxable to both taxable and exempt, common credit to be reduced by ITC @ 5% per quarter or part thereof in terms of proviso to rule 43(1)(d) of CGST Rules, 2017] = ₹ 2,88,000 – ₹ 1,72,800 (₹ 2,88,000 × 5% × 12 quarters)	1,15,200		
Total common credit	3,26,400		
Common credit for the tax period (in the given case, a month) under rule 43(1)(e) of CGST Rules, 2017 = ₹ 3,26,400÷ 60	5,440		
Common credit attributable to exempt supplies in April, 20XX under rule 43(1)(g) of the CGST Rules, 2017			

= (Turnover of exempt supplies/Total turnover) × Common credit = (12,00,000/24,00,000) × ₹ 5,440 [Such credit, along with the applicable interest, shall be added to the output tax liability of Oberoi Industries]		**2,720**	
Amount to be credited to the electronic credit ledger of Oberoi Industries for the month of April, 20XX			**2,49,600**

7. As per *Notification No. 12/2017 CT (R) dated 28.06.2017*, services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST.

Health care services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Circular No. 32/06/2018 GST dated 12.02.2018 has clarified that in view of the above definition, it can be inferred that hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt from GST. In view of the same, GST is not applicable on the retention money kept by Shiva Medical Centre.

The circular also clarified that services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are also healthcare services exempt from GST. Hence, services provided by the senior doctors and consultants hired by Shiva Medical Centre, being healthcare services, are also exempt from GST.

The circular further explained that food supplied by the hospital canteen to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare services and is not separately taxable. Thus, it is exempt from GST. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable. In view of the same, GST is not applicable on the food supplied by Annapurna Bhawan to in-patients as advised by doctors/nutritionists while other supplies of food by it to patients (not admitted) or their attendants/visitors are taxable.

8. As per section 10(1) of the CGST Act, 2017, a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1 crore, may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates if, *inter alia,* he is not engaged in the supply of services other than restaurant services.

However, the restriction on service provider not to be engaged in any service other than restaurant service for being eligible for composition levy has been relaxed vide *Order No. 01/2017 CT dated 13.10.2017.* The said order clarifies that:

(i) if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said Act (restaurant service) and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, said person shall not be ineligible for the composition scheme under section 10 of the CGST Act, 2017 subject to the fulfilment of all other conditions specified therein.

(ii) in computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

In the given case, the two other services provided by Shubhlaxmi Foods apart from the restaurant service, viz. the services of supply of farm labour and services by way of extending deposits where the consideration is represented by way of interest, are exempt from GST vide *Notification No. 12/2017 CT (R) dated 28.06.2017*.

Thus, in view of the aforementioned order, since other services supplied by Shubhlaxmi Foods apart from restaurant service are exempt services, Shubhlaxmi Foods is not ineligible for the composition scheme.

Further, in computing his aggregate turnover in order to determine the eligibility of Shubhlaxmi Foods for composition scheme, value of supply of exempt services - supply of farm labour and bank interest shall not be taken into account. Thus, the aggregate turnover of Shubhlaxmi Foods is ₹ 90 lakh (turnover from restaurant services).

From the aforesaid discussion, it can be inferred that Shubhlaxmi Foods is eligible for composition scheme.

However, if Shubhlaxmi Foods is engaged in milling of paddy into rice instead of supply of farm labour, it will not be eligible for composition levy since as per *Order No. 01/2017 CT,* a person supplying restaurant services is eligible for composition levy only when other services provided by it are exempt services and milling of paddy into rice on job work basis is not an exempt service as clarified by *Circular No. 19/19/2017 GST dated 20.11.2017*.

9. The provisions of section 76 of the CGST Act, 2017 make it mandatory on Subharti Enterprises to pay amount collected from other person representing tax under this Act, to the Government.

Section 76 of the CGST Act, 2017 stipulates that notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or Court or in any other provisions of the CGST Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

Where any amount is required to be paid to the Government as mentioned above, and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

The proper officer shall, after considering the representation, if any, made by the person on whom show cause notice (SCN) is served, determine the amount due from such person and thereupon such person shall pay the amount so determined.

The person who has collected any amount as representing the tax, but not deposited the same with the Government shall in addition to paying the said amount determined by the proper officer shall also be liable to pay interest thereon. Interest is payable at the rate specified under section 50. Interest is payable from the date such amount was collected by him to the date such amount is paid by him to the Government.

The proper officer shall issue an order within 1 year [excluding the period of stay order] from the date of issue of the notice. The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

10. (1) (a) In case of goods liable for confiscation, the maximum amount of fine leviable in lieu of confiscation in terms of first proviso to section 130(2) of the CGST Act, 2017 is the market value of the goods confiscated, less the tax chargeable thereon.

Therefore, in the given case, maximum fine leviable:

= ₹ 40,00,000 - ₹ 4,80,000 = ₹ 35,20,000

(b) In case where conveyance used for carriage of such goods is liable for confiscation, the maximum amount of fine leviable in lieu of confiscation in terms of third proviso to section 130(2) of the CGST Act, 2017 is equal to tax payable on the goods being transported thereon.

Therefore, in the given case, maximum fine leviable = ₹ 4,80,000

(2) No, Raghuraman's claim is not tenable in law. Section 126(1) of the CGST Act, 2017 provides that no officer shall impose any penalty under CGST Act, 2017, *inter alia,* for minor breaches of tax regulations or procedural requirements. Further, explanation to section 126(1) of the CGST Act, 2017 stipulates that a breach shall be considered a 'minor breach' if the amount of tax involved is less than ₹ 5,000.

In the given case, breach made by Raghuraman is not a 'minor breach' since the amount involved is not less than ₹ 5,000. So, penalty is imposable under the CGST Act, 2017.

11. Section 54(3)(ii) of the CGST Act, 2017 allows refund of unutilized input tax credit (ITC) at the end of any tax period to a registered person where the credit has accumulated on account of inverted duty structure i.e. rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

In the given case, the rates of tax on inputs used in Products A and B (18% each) are higher than rates of tax on output supplies of Products A and B (5% each). However, Product B is notified as a product, in respect of which no refund of unutilised ITC shall be allowed under section 54(3)(ii) of the CGST Act, 2017. Therefore, only Product A is eligible for refund under section 54(3)(ii).

Further, rule 89(5) of the CGST Rules, 2017 stipulates that in the case of refund on account of inverted duty structure, refund of ITC shall be granted as per the following formula -

$$\text{Maximum Refund Amount} = \frac{\text{Turnover of inverted rated supply of goods and services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} - \text{Tax payable on such inverted rated supply of goods and services}$$

where,-

A. **"Net ITC"** means input tax credit availed on inputs during the relevant period;

B. **"Adjusted Total turnover"** means the turnover in a State or a Union territory, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period.

In accordance with the aforesaid provisions, the maximum refund amount which Super Engineering Works is eligible to claim shall be computed as follows:

Tax payable on inverted rated supply of Product A = ₹ 5,00,000 × 5% = ₹ 25,000

Net ITC = ₹ 1,18,000 (₹ 54,000 + ₹ 54,000 + ₹ 10,000) [Net ITC availed during the relevant period needs to be considered irrespective of whether the ITC pertains to inputs eligible for refund of inverted rated supply of goods or not]

Adjusted Total Turnover = ₹ 9,50,000 (₹ 5,00,000 + ₹ 3,50,000 + ₹ 1,00,000)

Turnover of inverted rated supply of Product A = ₹ 5,00,000

Maximum refund amount for Super Engineering Works is as follows:

= [(₹ 5,00,000 × ₹ 1,18,000)/ ₹ 9,50,000] - ₹ 25,000

= ₹ 37,105 (rounded off)

12. (i) No, he is not required to issue tax invoice in all cases. As per section 31(1) of the CGST Act, 2017, every registered person supplying taxable goods is required to issue a 'tax invoice'. Section 31(3)(c) of the CGST Act, 2017 stipulates that every registered person supplying exempted goods is required to issue a bill of supply instead of tax invoice.

Further, rule 46A of the CGST Rules, 2017 provides that a registered person supplying taxable as well as exempted goods or services or both to an un-registered person may issue a single 'invoice-cum-bill of supply' for all such supplies.

However, as per section 31(3)(b) of the CGST Act, 2017 read with rule 46 of the CGST Rules, 2017, a registered person may not issue a tax invoice if:

(i) value of the goods supplied < ₹ 200,

(ii) the recipient is unregistered; and

(iii) the recipient does not require such invoice.

Instead, such registered person shall issue a Consolidated Tax Invoice for such supplies at the close of each day in respect of all such supplies.

(ii) As per rule 46A of the CGST Rules, 2017, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single **"invoice-cum-bill of supply"** may be issued for all such supplies. Thus, there is no need to issue a tax invoice and a bill of supply separately to the school student in respect of supply of the taxable and exempted goods respectively.

(iii) As per section 33 of the CGST Act, 2017 read with rule 46(m) of the CGST Rules, 2017, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made. Hence, Jai has to show the tax amount separately in the tax invoices issued to customers.

13. Section 60(4) of the CGST Act, 2017 stipulates that where the tax liability as per the final assessment is higher than under provisional assessment i.e. tax becomes due consequent to order of final assessment, the registered person shall be liable to pay interest on tax payable on supply of goods but not paid on the due date, at the rate specified under section 50(1) [18% p.a.], from the first day after the due date of payment of tax in respect of the goods supplied under provisional assessment till the date of actual payment, whether such amount is paid before/after the issuance of order for final assessment.

In the given case, due date for payment of tax on goods cleared on 25.01.20XX under provisional assessment is 20.02.20XX.

In view of the provisions of section 60(4), in the given case, Kulbhushan & Sons is liable to pay following interest in respect of 1st consignment:

= ₹ 1,80,000 × 18% × 48/365

= ₹ 4,261 (rounded off)

Further, section 60(5) of the CGST Act, 2017 stipulates that where the tax liability as per the final assessment is less than in provisional assessment i.e. tax becomes refundable consequent to the order of final assessment, the registered person shall be paid interest at the rate specified under section 56 [6% p.a.] from the date immediately after the expiry of 60 days from the date of receipt of application under section 54(1) till the date of refund of such tax.

However, since in the given case, refund has been made (05.06.20XX) within 60 days from the date of receipt of application of refund (09.04.20XX), interest is not payable to Kulbhushan & Sons on tax refunded in respect of 2nd consignment.

14. Section 2(99) of the CGST Act, 2017 defines "Revisional Authority" as an authority appointed or authorised under the CGST Act for revision of decision or orders referred to in section 108 of the CGST Act, 2017.

Section 108 of the CGST Act, 2017 authorizes such "Revisional Authority" to call for and examine any order passed by his subordinates and in case he considers the order of the lower authority to be erroneous in so far as it is prejudicial to revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, can revise the order after giving opportunity of being heard to the noticee. The "revisional authority" can also stay the operation of any order passed by his subordinates pending such revision.

The "revisional authority" shall not revise any order if-

(a) the order has been subject to an appeal under section 107 or under section 112 or under section 117 or under section 118; or

(b) the period specified under section 107(2) has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised.

(c) the order has already been taken up for revision under this section at any earlier stage.

(d) the order is a revisional order.

15. Section 87 of the CGST Act, 2017 stipulates that when two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or 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 or received any goods or services or both to or 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.

Notwithstanding anything contained in the said order, 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. No, the stand taken by the Commissioner is not correct in law.

As per section 14 of the Customs Act, 1962, the transaction value of the goods is the price actually paid or payable for the goods at the time and place of importation. Further, the Supreme Court in the case *Garden Silk Mills Ltd. v. UOI 1993 (113) E.L.T. 358 (SC)* has held that importation gets complete only when the goods become part of mass of goods within the country.

Therefore, since in the instant case, the price of the goods was reduced while they were in transit, it could not be contended that the price was revised after importation took place. Hence, the goods should be valued as per the reduced price, which was the price actually paid at the time of importation.

17. Computation of assessable value of the imported machine

Particulars	US $
Cost of the machine at the factory	17,000.00
Add: Transport charges up to port	850.00
Add: Handling charges at the port	85.00
FOB	17,935.00
Add: Freight charges up to India	1,700.00
Add: Insurance charges @ 1.125% of FOB [Note 1]	201.77
CIF	19,836.77
CIF in Indian rupees @ ₹ 60/ per $	₹ 11,90,206.13
Assessable Value (rounded off)	**₹11,90,206**

Notes:

(1) Insurance charges have been included @ 1.125% of FOB value of the machine [Third proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

(2) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

18. The facts of the case are similar to the case of *Bussa Overseas & Properties P. Ltd. v C.L. Mahar, Asstt. C.C., Bombay 2004 (163) E.L.T. 304 (Bom.)* [maintained by the Supreme Court] wherein the Bombay High Court observed that once goods are cleared for home consumption, they cease to be imported goods as defined in section 2(25) of the Customs Act, 1962. The goods lose its character of imported goods on being granted clearance for home consumption and thereafter the power to confiscate can be exercised only in cases where the order of clearance is revised and cancelled.

Therefore, in the given case the **confiscation of the goods by the Department is illegal**.

The Bombay High Court further observed that section 112(a) of the Customs Act, 1962 provides that any person who in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such act, is liable to a penalty.

The High Court held that the power to impose penalty can be exercised not only when the goods are available for confiscation but when such goods are liable to confiscation. The expression 'liable to confiscation' clearly indicates that the power to impose penalty can be exercised even if the goods are not available for confiscation. Mere fact that the importers secured such clearance and disposed of the goods and thereafter goods are not available for confiscation cannot divest Customs Authorities of the powers to levy penalty under section 112 of the Act.

Thus, **penalty levied by the Department in the given case is tenable in law**.

19. According to section 127B of the Customs Act 1962, the following conditions are to be fulfilled for filing an application for settlement of cases:

(i) the applicant has filed a bill of entry, or a shipping bill, or a bill of export, or made a baggage declaration, or a label or declaration accompanying the goods imported or exported through post or courier, as the case may be, and in relation to such document or documents, a show cause notice has been issued to him by the proper officer.

(ii) the additional duty accepted is more than ₹ 3 lakhs.

(iii) the applicant has paid the additional amount of customs duty accepted by him alongwith interest due under section 28AA.

(iv) the case is not pending with Tribunal or any Court.

(v) the application does not relate to goods to which section 123 applies or to goods in relation to which any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 has been committed.

(vi) the application is not for the interpretation of the classification of the goods under the Customs Tariff Act, 1975.

Further, application before Settlement Commission can be made only when adjudication is pending.

20. The relevant dates provided under Explanation to section 26A(2) of the Customs Act, 1962 for purpose of refund of duty under specified circumstances are as follows:-

	Case	**Relevant date**
(i)	Goods exported out of India	Date on which the proper officer makes an order permitting clearance and loading of goods for exportation
(ii)	Relinquishment of title to the goods	Date of such relinquishment
(iii)	Goods being destroyed or rendered commercially valueless	Date of such destruction or rendering of goods commercially valueless

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.

Applicability of Standards/Guidance Notes/Legislative Amendments etc. for November, 2018 Examination

Elective Papers

Paper 6A: Risk Management

The pattern of examination for this paper is open-book and case study based. The entire content included in the November 2017 edition of the Study Material shall be relevant for the November 2018 examination.

Paper 6B: Financial Services and Capital Markets

The pattern of examination for this paper is open-book and case study based. The entire content included in the November 2017 edition of the Study Material shall be relevant for November 2018 examination.

In addition to above following five SEBI Regulations **excluding the Schedules** related thereto shall also be relevant for November 2018 examination.

(i) SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 [Last amended upto August 31, 2017]

(ii) SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 [Last amended on August 31, 2017]

(iii) SEBI (Prohibition of Insider Trading) Regulations, 2015 [Last amended on June 30, 2018]

(iv) SEBI (Buy Back of Securities) Regulations, 2015 [Last amended on June 30, 2018]

(v) SEBI (Mutual Funds) Regulations, 1996 [Last amended on June 30, 2018]

Accordingly, the list of SEBI Regulation and Guidelines as provided in the Chapter 16 of the Study Material need to be ignored.

Compilation of above-mentioned Regulations is available at following link:

https://resource.cdn.icai.org/48430bos32482.pdf

Paper – 6C: International Taxation

1. Applicability of amendments made by Finance Act

As far as the applicability of Finance Act is concerned, the amendments made by the Finance Act of a particular year would be applicable for the May and November examinations of the next year. **For instance, the direct tax laws, as amended by the Finance Act, 2017, would be applicable for May, 2018 and November 2018 examinations. The relevant assessment year for May, 2018 and November, 2018 examinations is A.Y.2018-19. This would be relevant as far as the topics on**

International Taxation pertain to the Income-tax Act, 1961, equalization levy and the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

However, in case the case study based question requires computation/determination relating to any earlier assessment year also, then, the relevant provisions pertaining to that year would be given in the question itself. In the alternative, the question may mention that the relevant provisions in the earlier year were the same as they are for A.Y.2018-19.

2. Applicability of amendments made by circulars, notifications and other legislations

Students are expected to be updated with the notifications, circulars and other legislative amendments in direct tax laws made upto 6 months prior to the examination. For instance, for November, 2018 examination, significant notifications and circulars issued by the CBDT/Central Government upto 30th April, 2018 would be relevant.

3. Applicability of provisions of income-tax law dealt with in Final (New) Paper 7 while addressing issues and making computation in case study based questions in Final (New) Paper 6C

The questions based on case study in the Elective Paper 6C: International Taxation may involve application of other provisions of income-tax law dealt with in detail in Paper 7: Direct Tax Laws and International Taxation, which the students are expected to be aware of. Students may note that they are expected to integrate and apply the provisions of income-tax law (dealt with in Final Paper 7: Direct Tax Laws and International Taxation and in the Elective Paper 6C: International Taxation) in making computations and addressing relevant issues in questions raised in the Elective Paper 6C on International Taxation.

4. Scope of coverage of certain topics

As regards certain topics on International Taxation, namely, Overview of Model Tax Conventions, Tax Treaties: Overview, Features, Application & Interpretation and Anti-Avoidance Measures, the content as covered in the October 2017 edition of the Study Material would be relevant for November 2018 Examination.

Further, if a case study based question involves application of a double taxation avoidance agreement (DTAA), the extract of the relevant article(s) of the DTAA would be given in the question paper. Alternatively, the question may mention that the DTAA is in line with the OECD/UN Model Tax Convention, in which case the students have to refer to the relevant article(s) of the Model Tax Convention. Students are expected to have the ability to interpret the article(s) of the DTAA in answering case study based questions.

Paper 6D: Economic Laws

Inclusions / Exclusions from the syllabus			
(1)	**(2)**	**(3)**	**(4)**
S. No. in the syllabus	**Chapters/ Topics of the syllabus**	**Inclusions (Provisions which are included from the corresponding chapter of the syllabus)**	**Exclusions (Provisions which are excluded from the corresponding chapter of the syllabus)**
Chapter 1	World Trade Organization	The entire content included in the November 2017 edition of the Study Material and the Legislative amendments to the extent covered for November, 2018 examinations, shall only be relevant for the said examinations. The Legislative amendments shall be hosted on the BoS Knowledge Portal.	-
Chapter 2	The Competition Act, 2002 and Rules/Regulations	The entire content included in the November 2017 edition of the Study Material and the Legislative amendments to the extent covered for November, 2018 examinations, shall only be relevant for the said examinations **Significant Rules/Regulations** related to the Competition Act are covered in the study material in the Broad manner. These are relevant for November 2018 examination to the extent covered in the study material.	Following Sections of the Competition Act, 2002 are excluded for the examination: 23, 24, 25, 34, 37, 40 are excluded. Coverage of the Rules or regulations to the Competition Act are restricted to the extent covered in the study material.

		The Legislative amendments shall be hosted on the BoS Knowledge Portal.	
Chapter 3	Real Estate (Regulation and Development) Act, 2016 and Rules/Regulations	The entire content included in the November 2017 edition of the Study Material and the Legislative amendments to the extent covered for November, 2018 examinations, shall only be relevant for the said examinations The Legislative amendments shall be hosted on the BoS Knowledge Portal.	Regulations pertaining to RERA is excluded.
Chapter 4	The Insolvency and Bankruptcy Code, 2016 and Rules/Regulations	The entire content included in the November edition of the Study Material and the Legislative amendments to the extent covered for November, 2018 examinations, shall only be relevant for the said examinations. **In specific, Regulations/ Rules** related to Insolvency and Bankruptcy, it is covered in a broad manner and not in entirety. **These** shall only be applicable to the extent covered in the study material. The Legislative amendments shall be hosted on the BoS Knowledge Portal.	Following sections are excluded of the Notified chapters of the Code.: 3(2), 3(3), 3(5), 3(9), 3(14), 3(22), 3(24), 3(25), 3(26), 3(28), 3(29), 3(32), 3(36), 3(37), 5(2) to 5(4), 5(10), 5(13), 5(15)to 5(16), 5(19), 5(21) to 5(23), 19, 20, 26, 48, , 191, 195, 198, 200, 205, 224,227, 228, 229, 241-255. In specific, chapter related to Insolvency resolution and bankruptcy for individuals and partnership firms of the Code (from section 78 to 187) is excluded.(Being un-notified as on 30th April, 2018) Coverage of the Rules or regulations to the IBC are restricted to the extent covered in the study material.

Chapter 5	The Prevention of Money Laundering Act, 2002 and Rules/Regulations	The entire content included in the November 2017 edition of the Study Material and the Legislative amendments to the extent covered for November, 2018 examinations, shall only be relevant for the said examinations. The Legislative amendments shall be hosted on the BoS Knowledge Portal.	Following provisions are excluded for the examination: Sections 2(1)(a), (c), (d),(g), (ga), (h), (m), (ma), (r), , (t), (v), , (x), (za), (zc), (ze), (zg)- (zj), & 2(2)- Definitions, 27, 28, 29, 30, 31, 32, 33, 34, 48, 49, 50, 51, 52, 53, & 54. Rules related to PMLA are excluded.
Chapter 6	The Foreign Exchange Management Act, 1999 and Rules/ Regulations	The entire content included in the November 2017 edition of the Study Material and the Legislative amendments to the extent covered for November, 2018 examinations, shall only be relevant for the said examinations. **In specific following FEM (Regulations)/ Rules** shall only be applicable to the extent covered in the study material- • Foreign Exchange Management (Current Account Transactions) Rules, 2000 • Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000 • Foreign Exchange Management (Acquisition and Transfer of	Following provisions of the FEMA, 1999 is excluded for the examination- Sections 16(2), 16(4) to 16(6) ,17(3) 17(6), 20 to 31, 33 , 45, 46, 47 & 48. Following FEM(Regulations)/ Rules are entirely excluded: • Foreign Exchange (Authentication of Documents) Rules, 2000 • Foreign Exchange (Compounding Proceedings) Rules, 2000 • Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000

		Immovable Property in India) Regulations, 2000 • Foreign Exchange Management (Acquisition and Transfer of Immovable Property outside India) Regulations, 2015 • Foreign Exchange Management (Export of Goods and Services) Regulations, 2015 • Foreign Exchange Management (Realisation, repatriation and surrender of foreign exchange) Regulations, 2000 • Foreign Exchange Management (Possession and retention of foreign currency) Regulations, 2015 • Liberalized Remittance Scheme. The Legislative amendments shall be hosted on the BoS Knowledge Portal.	• Foreign Exchange Management (Encashment of Draft, Cheque, Instrument and Payment of Interest) Rules, 2000 • Foreign Exchange Management (Borrowing and lending in Rupees) Regulations, 2000 • Foreign Exchange Management (Deposit) Regulations, 2016 • Foreign Exchange Management (Establishment in India of a Branch Office or a Liaison Office or a Project Office or any other place of business) Regulations, 2016 Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 • Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015 • Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000

			• Foreign Exchange Management (Guarantees) Regulations, 2000 • Foreign Exchange Management (Insurance) Regulations, 2015 • Foreign Exchange Management (Investment in firm or proprietary Concern in India) Regulations, 2000 • Foreign Exchange Management (Issue of security in India by a Branch Office or Agency of a person Resident in outside India) Regulations, 2000 • Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016 • Foreign Exchange Management (Remittance of Assets) Regulations, 2016 • Foreign Exchange Management (Transfer or issue of any Foreign security) Regulations, 2004 • Foreign Exchange Management

			(Transfer or issue of security by a person resident outside India) Regulations, 2000 • Foreign Exchange Management (Withdrawal of General permission to Overseas Corporate Bodies) Regulations, 2003 • Foreign Exchange Management (Removal of Difficulties) Order, 2000 • Foreign Exchange Management (Crystallization of Inoperative Foreign Currency Deposits) Regulations, 2014 • Foreign Exchange Management (Offshore Banking Unit) Regulations, 2002 • Foreign Exchange Management (International financial Services Centre) Regulations, 2015 Foreign Exchange Management (Regularization of assets held abroad by a person Resident in India) Regulations, 2015

Chapter 7	Prohibition of Benami Property Transactions Act,1988 and Rules/ Regulations	The entire content included in the Novemeber 2017 edition of the Study Material and the Legislative amendments to the extent covered for November, 2018 examinations, shall only be relevant for the said examinations. The Legislative amendments shall be hosted on the BoS Knowledge Portal.	Rules related to Prohibition of Benami Property Transactions Act are excluded.

Notes:

(1) In the above table of exclusion, in respect of the Chapters of the syllabus specified in column (2) the related exclusion is given in column (4). Where an exclusion has been so specified in any topic of the syllabus, the provisions corresponding to such exclusions, covered in other topic(s) forming part of the syllabus, shall also be excluded.

(2) November 2017 edition of the Study Material is relevant for November, 2018 examinations. The amendments - made after the issuance of this Study Material – the Legislative amendments to the extent covered for November, 2018 examinations also shall be relevant for the said examinations The Legislative amendments shall be made available through RTP hosted on the BoS Knowledge Portal.

(3) Except the exclusions mentioned in the column (4) of the table, the entire content of the syllabus included in the Novemeber 2017 edition of the Study Material and the Legislative amendments for November, 2018 examinations shall be relevant for the said examinations.

Paper 6E: Global Financial Reporting Standards

1. Study Material to be referred

In respect of Final Elective Paper 6E : Global Financial Reporting Standards (GFRS), students are advised to read Module 2 (except headings 1.1 to 1.7 of Chapter 4 Unit 1) to Module 6 of Final Paper 1 : Financial Reporting alongwith the 'Major Differences between Ind AS and IFRS and Reason therefor' hosted at the BOS Knowledge Portal at https://www.icai.org/post.html?post_id=14444. Reference of Ind AS material has been given because Ind AS alongwith the differences in Ind AS vis-à-vis IFRS is equivalent to IFRS.

The objective of this elective paper is to develop an understanding of the key concepts and principles of International Financial Reporting Standards and to acquire the ability to apply such knowledge to address issues and make computations in practical case scenarios. Accordingly, the students are expected to keep this objective in mind and read the content based on Ind AS discussed in Modules 2 to 6 of the core Paper 1 on

Financial Reporting along with the above referred differences; and apply the same to address issues and make computations on the basis of IFRS.

In addition, the students are also required to develop an understanding of the significant differences between IFRS and US GAAP. The same has also been webhosted at the above link along with the differences between IFRS and Ind-AS.

Students may note that at the end of certain Ind AS, appendix corresponding to relevant IFRIC /SIC has been appended. Since IFRICs/ SICs are part of IFRS, they also form part of the syllabus. Hence, 'List of IFRICs /SICs included in the corresponding Appendices to Ind AS' has also been uploaded on the website alongwith the 'List of IFRS corresponding to Ind AS' at the above link.

2. Non-applicability of certain International Financial Reporting Standards (IFRS) and IFRS Interpretations (IFRICs)

Since the Core paper on Financial Reporting does not cover Ind AS equivalent to IAS 29, IFRS 15 and IFRS 16, the same IFRS shall also not form part of the GFRS Paper. Similarly, in Ind AS there is no corresponding to Appendix on IFRIC 2 and SIC 7, so they have not been discussed in the Core paper on Financial Reporting. Hence the same shall also not form part of the GFRS Paper.

3. Applicability of amendments made by circulars, notifications and other legislations

Students are expected to be updated with the notifications, circulars and other legislative amendments in Ind AS corresponding to IFRS, made upto 1 year prior to the examination. For instance, for November, 2018 examination, significant notifications and circulars issued by the MCA / Central Government upto 31st October, 2017 with respect to Ind AS would be relevant to GFRS as well for this paper of GFRS.

4. Scope of coverage of certain topics

As regards to the topic on 'Significant differences between IFRS and US GAAPs', the content as covered in the file uploaded on the website at the link https://resource.cdn.icai.org/48696bos32691a.PDF would be relevant for November 2018 Examination.

Paper 7: Direct Tax Laws and International Taxation

Applicability of Finance Act, Assessment Year etc. for November, 2018 Examination

The provisions of direct tax laws, as amended by the **Finance Act, 2017**, including significant notifications and circulars issued and other legislative amendments made up to 30th April, 2018, are applicable for November, 2018 examination. The relevant assessment year is **A.Y.2018-19**.

As regards certain topics on International Taxation, namely, Overview of Model Tax Conventions, Application & Interpretation of Tax Treaties and Fundamentals of Base Erosion and Profit Shifting, the content as covered in the August 2017 edition of the Study Material would be relevant for November 2018 Examination.

Paper 8: Indirect Tax Laws

Applicability of provisions of indirect tax laws for November, 2018 Examination

The following are applicable for November, 2018 examination:

(i) The provisions of CGST Act, 2017 and IGST Act, 2017, including significant circulars and notifications issued and other legislative amendments made upto 30th April, 2018.

(ii) The provisions of the Customs Act, 1962, as amended by the Finance Act, 2017, including significant notifications and circulars issued and other legislative amendments made up to 30th April, 2018.

The Study Guidelines containing the list of topic-wise exclusions from the syllabus is attached as **Annexure I.**

Annexure I

Study Guidelines

Final (New) Course Paper 8: Indirect Tax Laws

List of topic-wise exclusions from the syllabus

(1)	(2)	(3)
S. No. in the syllabus	**Topics of the syllabus**	**Exclusions** **(Provisions which are excluded from the corresponding topic of the syllabus)**
1(ii)	Levy and collection of CGST and IGST – Application of CGST/IGST law; Concept of supply including composite and mixed supplies, inter-State supply, intra-State supply, supplies in territorial waters; Charge of tax; Exemption from tax; Composition levy	**CGST Act, 2017 & IGST Act, 2017** (i) Rate of tax prescribed for supply of **goods*** (ii) Rate of tax prescribed for supply of **services*** (ii) Exemptions for supply of goods
1(vii)	Procedures under GST – All procedures including registration, tax invoice, credit and debit notes, electronic way	**CGST Act, 2017 and CGST Rules, 2017** (i) Registration of persons required to collect tax at source

	bill, accounts and records, returns, payment of tax including reverse charge, refund, job work	(ii) Tax deduction at source except the provisions made effective vide *Notification No. 33/2017 CT dated 15.09.2017* (iii) Collection of tax at source (iv) Furnishing of GSTR-2, GSTR-1A, GSTR-3, GSTR-7, GSTR-8 (v) Claim of input tax credit and provisional acceptance thereof (vi) Matching, reversal & reclaim of input tax credit (vii) Matching, reversal & reclaim of reduction in output tax liability (viii) Categories of supply of goods, tax on which is payable on reverse charge basis under section 9(3) **IGST Act, 2017** Categories of supply of goods, tax on which is payable on reverse charge basis under section 5(3)

***Rates specified for computing the amount payable under composition levy are included in the syllabus.**

Notes:

(1) In the above table, in respect of the topics of the syllabus specified in column (2) the related exclusion is given in column (3). Where an exclusion has been so specified in any topic of the syllabus, the provisions corresponding to such exclusions, covered in other topic(s) forming part of the syllabus, shall also be excluded.

(2) August 2017 edition of the Study Material is relevant for May, 2018 and November, 2018 examinations. The amendments - made after the issuance of this Study Material - to the extent covered in the Statutory Updates for November, 2018 examination alone shall be relevant for the said examination. The Statutory Updates shall be hosted on the BoS Knowledge Portal.

(3) The entire content included in the August 2017 edition of the Study Material, **except** the exclusions mentioned in the table above, and the Statutory Updates for November 2018 examination shall be relevant for the said examination.