

CASE STUDY 1

CA. M has a flourishing practice spanning in areas of auditing, taxation (both direct as well as indirect), consultancy (particularly in foreign exchange laws) in Chennai. His clients include many HNIs (High net worth individuals) apart from corporates and non-corporates.

One day, one of his HNI clients, Mr. P, called him to inquire about tweaking of certain rules pertaining to taxation on redemption of mutual fund investments. He had heard that redemption for certain types of mutual fund investments is now going to attract increased income tax payouts. He had also heard news of the same on BTBC news channel but was unable to comprehend it lucidly. There was no clarity to him whether changes have been made in income tax law or in rules framed by SEBI.

Rely Consultancy, an AMFI registered mutual fund distributor through which MF investments were made, was continuously forwarding messages received from AMFI (Association of Mutual Funds in India) to his mobile. The messages were, at the best, cryptic and required investors to be in touch with their Chartered Accountants/tax consultants.

Mr. P had an impressive investment portfolio of around ₹ 50 crores in various mutual funds and any changes in income tax payouts pertaining to it could affect his ROI adversely. Under stress, he sought for an immediate appointment with CA M. Armed with summary of investments made in mutual funds, he came to CA's office and sought his much-needed advice. The summary of mutual fund investments as on 31st March, 2023 looked as under: -

S.No.	Type of fund in which money invested	Date of Investment	Amount invested (in ₹ crores)
1	MTL Low Duration Fund	3/4/2020	10
2	Bon India Low Duration Fund	12/12/2020	15
3	ABD New Green Energy Fund	2/12/2022	15
4	SBA Life Arbitrage Fund	8/11/2021	10

Besides, he had also invested ₹ 5 lacs in a liquid fund. Since amount invested was small, he was not bothered about the same.

He also informed to CA M that funds stated at 1 and 2 are debt funds and funds stated at 3 and 4 are equity funds. He further informs that these debt funds have invested 30% of their proceeds in equity shares of domestic companies and equity funds have invested 70% of their proceeds

in equity shares of domestic companies. The investment pattern of funds is going to remain unchanged in coming years too. He was planning to redeem his entire mutual fund investment portfolio in month of October 2023 tentatively depending upon suitable market conditions.

Their discussion also veered towards returns from debt funds. Debt funds invest predominantly in government and high-grade corporate bonds. Mr. P was of the view that interest rates in economy are likely to go up in few months' times keeping in view broad macroeconomic indicators.

The discussion stretched a bit and it came out that he plans to buy a villa in Goa. He is already 65 and wants to spend quality time in scenic beauty of Goa. In fact, it transpires that he is going to make an advance payment of ₹ 1.00 crore to owner of villa, Mr. Christopher, an Indian citizen who is non-resident. The non-resident owner of villa had acquired this ancestral property through registered will of his late father. The total consideration to be paid to Mr. Christopher amounts to ₹ 5 crores (including advance payment of ₹ 1 crores).

In fact, it is also one of the reasons for planned redemption of MF investments in current financial year. He enquires from CA M regarding any precautions to be taken/legal requirements to be complied with at the time of entering such transaction. Mr. P also discusses the matter with said Mr. Christopher over phone who happens to be in India at that time for a short visit. He, in turn, also enquires from CA M regarding investment avenues, if any available to non-residents like purchase of other house/investments in NHAI bonds, under taxation laws to save capital gains tax and other requirements pertaining to filing of income tax return. It also transpires that India does not have any DTAA with the country of which Mr. Christopher is a resident.

Mr. Christopher plans to repatriate proposed sale proceeds of villa to the country in which he is resident. He does not know about modalities of the same and inquires from CA M in this matter.

I. Multiple Choice Questions

1. Mr. P has invested ₹ 10 crores in SBA Life Arbitrage fund. Which of the following statements is most appropriate about arbitrage funds?
 - (a) Such funds tend to provide better returns than equity. However, they have lower volatility in comparison to equity. Besides, they seek to capitalize on price differential between spot and futures market. Expense ratios in arbitrage funds are likely to be lower as compared to liquid funds.
 - (b) Such funds tend to provide better returns than debt instruments. However, they have higher volatility in comparison to equity. Besides, they seek to capitalize on

- price differential between spot and futures market. Expense ratios in arbitrage funds are likely to be higher as compared to liquid funds.
- (c) Such funds tend to provide better returns than debt instruments. However, they have lower volatility in comparison to equity. Besides, they seek to capitalize on price differential between spot and futures market. Expense ratios in arbitrage funds are likely to be higher as compared to liquid funds.
- (d) Such funds tend to provide better returns than equity. Therefore, they have higher volatility in comparison to equity. Besides, they do not seek to capitalize on price differential between spot and futures market. Expense ratios in arbitrage funds are likely to be lower as compared to liquid funds.
2. Mr. P is of the view that interest rates in economy are likely to rise. What likely impact it would have on NAV of debt fund? (Ignore other factors like duration of bonds etc.)
- (a) It is likely to lead to fall in NAV of debt fund.
- (b) It is likely to lead to rise in NAV of debt fund.
- (c) NAV of debt fund is likely to remain at past level.
- (d) NAV of debt fund is not affected by movement in interest rate.
3. As regards proposed purchase of villa in Goa from Mr. Christopher is concerned, which of the following statements is likely to be correct as regards deduction of tax at source (TDS) is concerned? Assume he does not have any other taxable income in India except capital gain from proposed sale of villa. Ignore surcharge and cess.
- (a) Mr. P is required to obtain TAN. TDS is required to be deducted @ 1% of ₹ 5 crores. Entire TDS can be deducted at time of/before registration of title deed.
- (b) It is not mandatory for Mr. P to obtain TAN. TDS is mandatorily required to be deducted @ 20% on ₹ 5 crores. However, TDS would be deducted at time of making advance payment as well as at time of making balance payment.
- (c) It is not mandatory for Mr. P to obtain TAN. An application can be made to Assessing Officer for determining capital gains on which tax is to be deducted. In that case, TDS would be deducted at lower rate after determination of capital gains by AO in the international wing. If lower deduction certificate is not available, TDS would be deducted at maximum marginal rate of 30% on ₹ 5 crores. However,

TDS would be deducted at the time of making advance payment as well as at time of making balance payment.

- (d) Mr. P is required to obtain TAN. An application can be made to Assessing Officer for determining capital gains on which tax is to be deducted. In that case, TDS would be deducted at lower rate after determination of capital gains by AO in the international wing. If lower deduction certificate is not available, TDS would be deducted at 20% on ₹ 5 crores. However, TDS would be deducted at the time of making advance payment as well as at time of making balance payment.
4. As regards Mr. Christopher's enquiry regarding purchase of another residential property in India and investment in bonds of NHAI (National Highways Authority of India) and filing of income tax return, which of following statements is most appropriate? (Ignore issue of refund arising on account of TDS deduction for return filing.)
- (a) Non-residents can make above said investments to save capital gains tax. However, after making investments, if he has no taxable income, there is no legal obligation to file income tax return.
- (b) Non-residents can make above said investments to save capital gains tax. However, if his total income before giving effect to deduction against such investments exceeds basic exemption limit, there is legal obligation to file income tax return.
- (c) Non-residents cannot make above investments to save capital gains tax. Such investments can be made by residents only to save capital gains tax. Therefore, question of obligation of filing of return would become superfluous as he would be compulsorily required to file income tax return showing taxable income from sale of villa.
- (d) Non-residents can make investments by purchase of another residential property in India but cannot make investments in bonds of NHAI which can be subscribed by residents only. Therefore, filing of return would depend upon whether he has taxable income left after investing in residential house property.
5. Mr. Christopher plans to repatriate from India sale proceeds of villa. Which of the following statements is most appropriate in this regard?
- (a) Proceeds up to USD 250000 can be repatriated in a financial year by using Liberalised Remittance Scheme (LRS) as it is a capital account transaction falling under the scheme.

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- (b) Proceeds up to USD 250000 can be repatriated in a calendar year by using Liberalised Remittance Scheme (LRS) as it is a capital account transaction falling under the scheme.
- (c) Proceeds can be repatriated using NRO account subject to certain restrictions in a financial year.
- (d) Proceeds up to USD 200000 can be repatriated in a financial year by using Liberalised Remittance Scheme (LRS) as it is a capital account transaction falling under the scheme.

II. Descriptive Questions

- 6. Since Mr. P wants to redeem his entire portfolio in month of October 2023, what should be the advice of CA. M to him regarding income tax implications of such redemption? (Do not calculate income tax liability in each case. Just describe manner of taxation and rates. Ignore surcharge and cess). What further advice he should offer regarding news heard on TV/messages received on mobile?
- 7. Mr. P has also plan to invest further amount of ₹10 crores in MTL Low Duration Fund and Bon India Low Duration Fund taken together in FY 2023-24. What are tax implications on redemption of above investment after holding it for more than 3 years down the line? (Assume that tax law as applicable in FY 2023-24 remains unchanged at time of redemption).
- 8. Mr. Christopher, a non-resident, is planning to sell his villa in Goa. Examine validity of transaction w.r.t FEMA, 1999.

ANSWERS TO THE CASE STUDY 1

I. Answers to the Multiple Choice Questions

- 1. (c) Arbitrage funds provide better returns than debt instruments as they work on the principle of capitalizing price differential between spot and futures market. Equities are riskiest and obviously have high rate of returns. However, arbitrage funds have lower volatility as compared to equity.

Typically, expense ratios in arbitrage funds are likely to be higher as compared to liquid funds. Since arbitrage funds would carry large number of trades to capitalize price differential between different markets, expense ratios tend to be higher as

compared to liquid funds. Liquid funds invest in highly liquid money market instruments and debt securities of short tenure which are normally held till maturity resulting in lower expenses.

2. (a) Debt funds invest in government bonds/securities, high grade corporate bonds etc. There is inverse relationship between market value of bond and interest rates. As interest rate goes up, market value of bond falls and vice-versa. In economic conditions of rising interest rates, people would be unwilling to buy bonds carrying lower interest rates issued previously. Therefore, price of bond falls exhorting people to buy such bonds which were issued at a lower coupon rate. It, in turn, leads to fall in NAV.
3. (d) Tax on purchase of immovable property from non-resident owner is deducted u/s 195 of Income Tax Act, 1961 where the deductor is required to obtain TAN. There is no DTAA agreement with overseas country in which Mr. Christopher is residing. TDS would be deducted @ 20% on ₹ 5 crores. However, application can be made to AO u/s 195(2) or 197 for determination of capital gains on which tax is to be deducted. In that case, tax would be deducted at lower rate. Tax is deducted u/s 195 at the time of credit of such income to the account of payee or at the time of payment, whichever is earlier. Therefore, TDS deduction is required at time of paying advance as well as at the time of making balance payment.
4. (b) Non-residents can make investments by purchasing another residential property u/s 54 and/or by purchasing bonds of NHAI in accordance with provisions of section 54EC. There is no bar in these sections for investments to be made by Non-residents.

Under Section 139 of Income Tax Act, every person, if his total income without giving effect to the provisions of section 54 or section 54B or section 54D or section 54EC or section 54F or section 54G or section 54GA or Chapter VI-A exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income. Therefore, there is a legal obligation to file the return when total income before giving effect to deduction u/s 54 & 54EC exceeds basic exemption limit.

5. (c) Liberalised Remittance Scheme is available for resident individuals only. Sale proceeds of villa would be repatriated by non-resident Mr. Christopher using NRO account subject to certain restrictions in accordance with relevant regulations/circulars i.e. USD 1 million per financial year.

II. Answers to the Descriptive Questions

6. MTL Low Duration Fund and Bon India Low Duration Fund are debt funds. However, in case of MTL Low Duration Fund, holding period would likely to be more than 36 months. It would qualify as a long-term capital asset by virtue of provisions of 2(29AA) and 2(42A) of Income tax act. Therefore, long term capital gain would arise on redemption of units of this fund. Indexation benefit would be available and long-term capital gain would be taxable @ 20% u/s 112 of Income-tax Act, 1961.

In case of Bon India Low Duration Fund (another debt fund), holding period would likely to be less than 36 months. Therefore, short term capital gains would arise on redemption of units of this fund. Short-term capital gain would arise on redemption of these units taxable at normal rates of tax applicable to Mr. P. There is no special rate for short term capital gain on debt funds.

ADB New Energy Green Fund is an equity-oriented fund as it has invested more than 65% of its proceeds in equity shares of domestic companies. Short-term capital gains would arise due to redemption of units of this Fund in month of October 2023 as holding period would be less than 12 months in accordance with provisions of section 2(42A) of Income-tax Act. Such short-term capital gains of equity-oriented funds would be taxable @15% u/s 111A of Income-tax Act, 1961.

SBA Life Arbitrage Fund is also an equity-oriented fund just like ADB New Energy Green Fund. However, long term capital gains would arise on redemption of units of this fund as holding period would be more than 12 months. Such long-term capital gains would be taxable @10% u/s 112 A of Income-tax Act, 1961 exceeding ₹ 1 lakh.

CA M should inform Mr. P that there is no change in taxation pertaining to redemption of his investment portfolio as it stood on 31st March, 2023 and these would continue to be taxed as discussed above. The news/messages received by him are applicable to investments made on or after 1st April, 2023.

7. Both MTL Low Duration Fund and Bon India Low Duration Fund have invested 30% of their proceeds in equity shares of domestic companies. Finance Act, 2023 has introduced **new section 50AA** which states that capital gains arising on redemption of units of a Specified Mutual Fund which has been acquired on or after 1st April, 2023 shall deemed to be arising from transfer of a short-term capital asset. Specified Mutual Fund is a mutual fund which invests not more than 35% of its total proceeds in the equity shares of domestic companies.

Therefore, if Mr. P redeems his proposed investment even holding it for a period of more than 3 years down the line, indexation benefit would not be available to Mr. P and such income would be deemed as short-term capital gains and it would be taxable in accordance with slab rates applicable to him.

8. As per section 6(5) of the FEMA, 1999, a person resident outside India may hold, own, transfer or invest in Indian currency, security or any immovable property situated in India if such currency, security or property was acquired, held or owned by such person when he was resident in India or inherited from a person who was resident in India.

In the given case, villa at Goa was an ancestral property and was obtained through registered will of his father, who was an Indian resident. Sale of villa by a non-resident owner, is a valid transaction.

CASE STUDY 2

An article singing paeans for India's space-tech start-ups appeared in "The New York Times" recently. The article underlined that India has become home to many such start-ups. It pointed out that space technology is fulfilling smaller-scale and commercial purposes like helping farmers in timely insurance of their crops. Space technology is also helping commercial fishing fleets in tracking their catch by sending images back to Earth. Satellites are bringing phone signals to country's remotest corners and are helping in operation of solar farms far away from India's megacities. It's also one of India's most sought-after sectors for venture capital investors.

Start-ups are mushrooming in different sectors of India's economy as varied as education, health, agriculture, fintech, clean energy, electric vehicles, bio technology, waste management, food processing and even drones. *Economic Survey for year 2022-23* highlights that by capitalising on the digital infrastructure support, India has also emerged as one of the world's most vibrant destinations for start-up ecosystems. Start-ups are being envisioned as the spine of new India. In fact, India is home to world's third largest start-up eco system.

GrowFine is an ed-tech start-up incorporated as a private company in April 2023. The founders of start-up believe that some benefits are available to start-ups under income tax law. However, they are unaware about nitty-gritty of the same as they are from engineering and management backgrounds. The company had launched its products in year 2023-24 itself and had a turnover of ₹ 20 crores. It is recognized by DPIIT (Department for Promotion of Industry and Internal Trade under Ministry of Commerce and Industry) and holds a certificate of eligible business and is recognized as a technology driven start-up by competent authority.

GrowFine has issued shares to certain investors who are familiar with founders of this ed-tech start-up during year 2023-24. They believe in the business idea of founders of the company and have decided to invest money out of their own resources. These investors are wedded to idea of providing quality affordable education to all and promoting standards of education in the country. In this way, their ideological belief stands aligned with mission of founders of start-up.

The start-up GrowFine has issued equity shares having face value of ₹ 10/-per share to these individuals @ ₹ 50/-per share during year 2023-24. The fair market value of equity shares of start-up as on valuation date is ₹ 11/-per share. The existing paid up share capital of company is ₹ 1.50 crores. The company has not issued shares at premium anytime in past.

GrowFine is still in nascent stages. However, it has already launched its products and has entered a segment of the market. The market has a considerable potential for company's

business to grow. Start-ups not only need finance but they also require favourable and conducive eco system to grow. It includes not only hand holding at time of germination of a business idea but also policy measures having a legislative backing. In India, relaxations and benefits have been provided to start-ups under various laws like under Income tax Act,1961 and Companies Act,2013.

GrowFine needs talented and skilled employees for its business. However, the company is not in a position to pay high cash salaries to attract and retain employees. It is, therefore, considering route of employee stock option plans (ESOPs). Employee stock option plans provide a chance to employees to become shareholders in the company and also be benefitted by its future growth. The company plans to draft an ESOP scheme containing matters relating to grant of option, vesting period and manner of determining exercise price among others. The company is approaching many talented persons for assuming various senior roles in its organizational set-up. One such senior person, Mr. X, has shown interest in joining the company. However, he is sceptical regarding income tax implications pertaining to ESOPs. He has a doubt that it may lead to withholding of tax by start-up impacting his immediate “in-hand” salary.

GrowFine is planning to merge another start-up company engaged in similar line of activity to increase its size, revenue and scalability. However, founders of the company are clueless regarding modalities of the same under relevant laws.

Valuation of start-ups is often required for bringing in investments. The value of a start-up is dependent upon its future growth prospects. It is also quite likely that such a business idea has never been tested before. It only lies in realms of future. Another problem in start-up valuation is totally new or non-comparable business products and strategies. Start-ups also depend upon many rounds of funding. GrowFine may also approach another set of investors in further rounds of funding.

I. Multiple Choice Questions

1. From the description given in case study relating to finance brought by individuals from their own resources and whose belief in promoting affordable education to all in the country and also improving its standards is aligned with mission of founders, which type of financing for a start-up is being referred to?
 - (a) Bootstrapping
 - (b) Venture capital financing

- (c) Funding by angel investors
 - (d) Factoring
2. The founders of GrowFine believe that some benefits are available to start-ups. Considering the description provided in case study, which of the following statements is in accordance with provisions of income tax law?
- (a) Company is eligible to deduction @ 75% of its profits from eligible business for any 5 consecutive assessment years out of 10 years beginning from the year in which start-up is incorporated. Further, certificate of eligible business in this regard is provided by Inter-Ministerial Board for Certification.
 - (b) Company is eligible to deduction @ 100% of its profits from eligible business for any 3 consecutive assessment years out of 10 years beginning from the year in which start-up is incorporated. Further, certificate of eligible business in this regard is provided by Inter-Ministerial Board for Certification.
 - (c) Company is eligible to deduction @ 75% of its profits from eligible business for any 5 consecutive assessment years out of 10 years beginning from the year in which start-up is incorporated. Further, certificate of eligible business in this regard is provided by CBDT.
 - (d) Company is eligible to deduction @ 100% of its profits from eligible business for any 3 consecutive years out of 10 years beginning from the year in which start-up is incorporated. Further, certificate of eligible business in this regard is provided by CBDT.
3. As regards doubt of Mr. X regarding withholding tax in relation to ESOPs is concerned, which of the following statements is most appropriate?
- (a) Income tax would be withheld at rates in force when option is exercised and shares are allotted to Mr. X.
 - (b) The company is an eligible start-up holding certificate of eligible business. Income tax would not be withheld when option is exercised and shares are allotted to Mr. X as such transactions are exempted from withholding tax in case of eligible start-ups.
 - (c) The company is an eligible start-up holding certificate of eligible business. However, such start-up is allowed to defer withholding tax when option is

- exercised and shares are allotted to Mr. X. It is deducted in required manner after expiry of certain timelines and/ or happening of certain events.
- (d) Income tax would be withheld when option is granted. Such withholding tax would be deducted at the rates in force at time option is granted to Mr. X.
4. The start-up is planning merger with another start-up engaged in similar activities. Which of the following statements is in line with provisions of law regarding proposed merger of these start-ups?
- (a) It requires filing of proposed scheme with NCLT and final order in respect of merger is made by NCLT after following a detailed procedure.
- (b) It involves giving notice of proposed scheme to Registrar and Official Liquidators and approval of scheme by both the companies. After approval of scheme by creditors, the scheme is approved by Registrar of Companies.
- (c) It involves giving notice of proposed scheme to Registrar and Official Liquidators and approval of scheme by both the companies. After approval of scheme by creditors, the scheme is filed with Regional Director, Registrar and Official Liquidators. The scheme is finally registered by Regional Director.
- (d) It requires filing of proposed scheme with NCLT and final order in respect of merger is made by NCLT after following a fast-track procedure.
5. Which of the following is not a factor to be considered for valuing a start-up like GrowFine?
- (a) Past performance indicators
- (b) Educational background of founders
- (c) Uniqueness of product launched by start-up
- (d) Traction

II. Descriptive Questions

6. GrowFine has issued equity shares to individuals having face value of ₹10/-per share at a price of ₹ 50/-per share. What are income tax implications for the same for GrowFine? What is such tax commonly and popularly known as? Under which circumstances can GrowFine claim exemption from such a tax?

7. Start-up GrowFine is also planning to approach other investors to fund its business requirements. What specific points shall be considered while carrying out due diligence of such start-up for picking up an equity interest by a prospective investor?

ANSWERS TO THE CASE STUDY 2

I. Answers to the Multiple Choice Questions

1. (c) Angel investors typically use their own money. Often, they are among an entrepreneur's family and friends. They generally invest in small-start-ups and are attached to the idea of the business floated by start-up. However, venture capitalists take care of pooled money from other investors and place them in a strategically managed fund. Bootstrapping is an attempt to build the company from personal finances or from operating revenues of the company. Factoring is a method of bootstrapping.
2. (b) Under section 80-IAC (1) of Income tax act, 1961, where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to one hundred per cent of the profits and gains derived from such business for three consecutive assessment years.
- (2) The deduction may at the option of the assessee, be claimed by him for any three consecutive assessment years out of ten years beginning from the year in which the eligible start-up is incorporated.
- Further, explanation to section 80-IAC also defines eligible start-up which fulfils the following conditions namely: -
- (a) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2024
- (b) the total turnover of its business does not exceed one hundred crore rupees in the previous year relevant to the assessment year for which deduction under sub-section (1) is claimed and

- (c) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government
3. (c) Under section 192(1C), a person, being an eligible start-up referred to in section 80-IAC, responsible for paying any income to the assessee being perquisite of the nature specified in sub clause (vi) of sub-section (2) of section 17 in any previous year relevant to the assessment year, shall deduct or pay, as the case may be, tax on such income within fourteen days—
- (i) after the expiry of forty-eight months from the end of the relevant assessment year or
- (ii) from the date of the sale of such specified security or sweat equity share by the assessee or
- (iii) from the date of the assessee ceasing to be the employee of the person
- whichever is the earliest, on the basis of rates in force for the financial year in which the said specified security or sweat equity share is allotted or transferred.
- Therefore, section 192(1C) provides for deferment of withholding tax in case of eligible start-ups.
4. (c) In case of merger between small companies/ start-ups, fast track procedure for merger has been prescribed under section 233 of Companies Act, 2013. It does not require filing of application with NCLT. The notices are to be given to registrar, official liquidator and Central Govt (powers delegated to Regional Director). After considering objections of registrar and official liquidator, the scheme is finally registered by Regional Director.
5. (a) In valuation of a start-up like GrowFine, there is no historical data on basis of which future projections can be drawn. Valuation of a start-up entirely rests on its future growth potential. The assessments of future growth are dependent upon competence and drive of persons running the business.

II. Answers to the Descriptive Questions

6. Under clause (viib) of Sub-section 2 of Section 56 of Income Tax Act, where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as

exceeds the fair market value of the shares is chargeable to income tax under head **“Income from other sources”**. Amount received by company which is in excess of fair market value of shares shall be taxable under the head “Income from Other Sources.” This tax is commonly and popularly called as **“Angel tax”**.

However, this clause shall not apply where the consideration for issue of shares is received—

- (i) by a venture capital undertaking from a venture capital company or a venture capital fund or a specified fund; or
- (ii) by a company from a class or classes of persons as may be notified by the Central Government in this behalf.

Accordingly, the Central Government has, vide Notification No. 30/2023 dated 24.5.23 notified that the provisions of section 56(2)(viib) of Income-tax Act shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the said consideration has been received from any person, by a company which fulfils the following conditions specified in para 4 of notification number GSR 127(E) dated 19.2.2019 issued by Ministry of Commerce and Industry in the Department for Promotion of Industry and Internal Trade (DPIIT).

- (i) it has been recognised by DPIIT under this notification or as per any earlier notification on the subject
- (ii) Aggregate amount of paid- up share capital and share premium of the startup after issue or proposed issue of share, if any, does not exceed, twenty five crore rupees.
- (iii) It has not invested in any of the following assets, —
 - (a) Building or land appurtenant thereto, being a residential house, other than that used by the Startup for the purposes of renting or held by it as stock-in-trade, in the ordinary course of business
 - (b) land or building, or both, not being a residential house, other than that occupied by the Startup for its business or used by it for purposes of renting or held by it as stock-in trade, in the ordinary course of business
 - (c) loans and advances, other than loans or advances extended in the ordinary course of business by the Startup where the lending of money is substantial part of its business

- (d) capital contribution made to any other entity
- (e) shares and securities
- (f) a motor vehicle, aircraft, yacht or any other mode of transport, the actual cost of which exceeds ten lakh rupees, other than that held by the Startup for the purpose of plying, hiring, leasing or as stock-in-trade, in the ordinary course of business
- (g) jewellery other than that held by the Startup as stock-in-trade in the ordinary course of business
- (h) any other asset, whether in the nature of capital asset or otherwise, of the nature specified in section 56(2)(vii)(d) (iv) to (ix) of the Act.

It has been further provided that the startup should not invest in any of the above assets for the period of seven years from the end of the latest financial year in which shares are issued at premium.

A start-up fulfilling above conditions has to file a form with DIPP which is forwarded by it to CBDT. By fulfilling above conditions and taking advantage of above notification, start-up can claim exemption from paying angel tax.

7. A prospective investor shall carry out due diligence before picking up equity interest in a start-up. Background of the promoters and credentials would be looked into. It is necessary to verify start-up's claims regarding future growth and numbers. The prospective investor should be convinced about business model of start-up and type of service provided by it. The start-up should be differentiated to meet specific customer needs or to solve a unique customer problem. Besides, start-up should show potential to scale up in near future in accordance with a suitable business plan.

The prospective investor would also look for market size and likely obtainable market share and macroeconomic drivers for the market. The extent of competition in the market in this segment also needs to be looked at. Nonetheless, investor would also be looking for exit avenues. The investor would also be taking into account the fact whether a start-up is showcasing potential future acquirers or alliance partners. It is a valuable parameter for the investor. Subsequent rounds of fundings and acquisitions all are examples of exit options.

CASE STUDY 3

FST Limited is engaged in the business of manufacturing and export of ready-made garments like T-shirts, skirts, tops and similar casual wear. CA T is statutory auditor of the company and also provides tax consultancy services. He also handles matters pertaining to direct and indirect taxes of the company. On a Monday morning, he had gone to the company's office located in NOIDA for participating in a pre-arranged meeting with certain key directors of the company on some matters. The said location also houses company's manufacturing facilities.

Barely had the meeting started, a team of three officers from Income Tax department descended upon the company's premises to conduct TDS survey under Income Tax Act, 1961. After completing the necessary formalities, they asked for financial statements for last three years and evidence of TDS returns filed during those periods. Thereafter, they took control of the systems of the company containing its books of accounts. Meanwhile, directors of the company requested CA T to stay there and help them out in this situation.

After perusing company's accounts books, documentary evidence including bills for few hours, the team summarized following points/ purported lapses by the company in the matter of TDS deduction and incidental issues: -

(i) It was pointed out that company has made payments during these years to Bharat Container Corporation Limited (BCCL), a government owned PSU. The said company operates container cargo services and its terminal is linked with rail lines to various gateway ports including one at JNPT, Nhava Sheva, Mumbai.

FST Limited sends its export bound cargo utilizing above PSU's services. On going through bills raised by BCCL on FST Limited, it was observed that these pertained to charges levied by BCCL for handling containers, road transportation charges and railway freight. The team has pointed out that tax has been short-deducted for above payments made to BCCL.

(ii) FST Limited has made payments during these years to certain companies providing clearing and forwarding services for carriage of goods. The team has pointed out that tax has been deducted on these payments at inappropriate rates leading to short-deduction of tax. The team insists that these payments are in the nature of brokerage and warrant tax deduction rate of 5%.

(iii) FST Limited had also recently participated in a fair in Mumbai in 2023-24 and had paid charges of Rs.5.00 lacs towards makeshift stall and use of furniture in an exhibition centre

owned by a company. The team had pointed out non-deduction of tax at source by FST Limited on the same.

(iv) During the survey, team also stumbled upon service bills of few clearing and forwarding agents. These agents were acting as shipping agents of non-resident ship owners. FST Limited had paid ocean freight to these shipping agents of non-resident shipping lines. The team had pointed out that tax has not been deducted on ocean freight paid to these shipping agents.

Before leaving, the team raised show-cause notice (SCN) relating to above issues.

Just when he was working on preparing a reply to above SCN after few days in his office, CA T received copy of a notice forwarded by the company. The said notice issued by Superintendent (Anti-Evasion), CGST Division informed that exporter company has been flagged as a "risky exporter" on the basis of risk analysis by DGARM (Directorate General of Analytics & Risk Management). The said notice contained a long list of documents to be submitted by the company including copies of GSTR-9, GSTR-3B, GSTR-1, reconciliations with ITC reflecting on portal, reconciliation of e-way bills issued with GSTR-1, financial statements of past years. The company is exporting goods on payment of IGST. Its export bound shipments attract GST @ 5%. Subsequently, a departmental team also visited premises of the company.

On going through documents submitted by the company and after conducting necessary verifications, team raised the following issues: -

- (A) The team pointed out that fabric which is main raw material for manufacturing of garments having taxable value of Rs.50.00 lacs attracting GST rate of 5% was destroyed in a fire in premises of the company during month of April 2023. The company had availed ITC of Rs.2.50 lacs in the month of April 2023.
- (B) The company has been availing services of a security service agency for providing it with security manpower. The company has paid amount of Rs.10.00 lacs to one such security service agency (a proprietorship concern) during year 2023-24 up to date of team's visit. It is insisted that company was required to pay GST on such services under reverse charge mechanism.
- (C) It has been pointed out that company has received duty credit scrips under foreign trade policy of the government by virtue of being in export trade. These duty credit scrips, in turn, have been sold by the company to third parties. Supply of such duty credit scrips are exempt from GST under notification no.35/2017-Central tax (Rate). The team points out that company is required to reverse ITC on common input services relating to such exempt supplies.

Assume that Income Tax Law for financial year 2023-24 (AY 2024-25) is applicable in situations involving past years. Ignore surcharges.

I. Multiple Choice Questions

1. Considering matter stated at [i] relating to short-deduction of tax from payments made to BCCL by survey team in their show-cause notice, which of the following statements is most appropriate in this regard?
 - (a) Tax was required to be deducted on handling charges and railway freight. However, no tax was required to be deducted on road transportation charges under relevant provisions of law.
 - (b) Tax was required to be deducted on road transportation charges and railway freight. However, no tax was required to be deducted on handling charges under relevant provisions of law.
 - (c) Tax was required to be deducted on handling charges, road transportation charges and railway freight. The issue raised in SCN is correct and company has short deducted tax from payments made to BCCL.
 - (d) Tax was required to be deducted on handling charges and road transportation charges. However, no tax was required to be deducted on railway freight under relevant provisions of law.

2. The survey team has raised the issue of application of inappropriate rate while deducting tax from payments made to certain companies providing clearing and forwarding services at JNPT, Nhava Sheva, Mumbai. Which of following statements is likely to be correct in this regard?
 - (a) Tax was required to be deducted @ 5%. FST Limited has deducted tax from payments made to companies providing clearing and forwarding services @ 1%. Hence, there is short deduction of tax @ 4% from payments made to these companies.
 - (b) Tax was required to be deducted @ 5%. FST Limited has deducted tax from payments made to companies providing clearing and forwarding services @ 2%. Hence, there is short deduction of tax @ 3% from payments made to these companies.
 - (c) Tax was required to be deducted @ 2% and not @ 5% as pointed out by team. The issue raised in SCN is not in accordance with law.

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INTEGRATED BUSINESS SOLUTIONS CASE STUDY

- (d) Tax was required to be deducted @ 5%. FST Limited has deducted tax from payments made to companies providing clearing and forwarding services @ 0.5%. Hence, there is short deduction of tax @ 4.5% from payments made to these companies.
3. It was pointed out in the SCN that FST Limited has failed to deduct tax at source on payment made to a company owning exhibition centre in Mumbai for a makeshift stall and use of furniture. Which of following statements is in accordance with law in this regard?
- (a) Tax was required to be deducted at source on payment made to the company owning exhibition centre. Such type of payment necessitates deduction of tax at source @ 2%.
- (b) Tax was required to be deducted at source on payment made to the company owning exhibition centre. Such type of payment necessitates deduction of tax at source @ 10%.
- (c) Tax was required to be deducted only for charges for use of makeshift stall @ 2% and for use of furniture @ 10%.
- (d) Tax was not required to be deducted on the type of payment discussed above. Therefore, issued raised in SCN is not in accordance with law.
4. As regards destruction of stock of raw material in a fire in the month of April 2023 is concerned, which statement is most appropriate?
- (a) Reversal of ITC of Rs.2.50 lacs by the company
- (b) Reducing output liability by Rs.2.50 lacs by the company
- (c) Increasing output liability by Rs.2.50 lacs by the company
- (d) The issue raised by the team is not in accordance with law.
5. The team has raised the issue of non-payment of GST on availing services of a security agency described in case study under reverse charge mechanism. Which of the following is true in this regard?
- (a) GST of Rs.0.50 lac was required to be paid under reverse charge and ITC of Rs.0.50 lac was required to be taken by the company in its monthly GSTR-3B.
- (b) GST of Rs.1.80 lac was required to be paid under reverse charge and ITC of Rs.1.80 lac was required to be taken by the company in its monthly GSTR-3B.

- (c) GST of Rs.0.50 lac was required to be paid under reverse charge but no credit of the same was required to be taken by the company in its monthly GSTR-3B.
- (d) GST of Rs.1.80 lac was required to be paid under reverse charge but no credit of the same was required to be taken by the company in its monthly GSTR-3B.

II. Descriptive Questions

- 6. The survey team has raised the matter regarding non-deduction of tax at source on ocean freight paid to shipping agents of non-resident foreign shipping companies in its show-cause notice. How can CA T defend the company while preparing reply to show cause notice as far as this issue is concerned? Quote relevant provisions of law (including notifications/circulars) on this subject matter.
- 7. The GST team has pointed out that the company is required to reverse the ITC on common input services relating to exempt supplies of duty credit scrips. What is your opinion on this issue considering relevant provisions of law?

ANSWERS TO THE CASE STUDY 3

I. Answers to the Multiple Choice Questions

- 1. (d) Under provisions of section 194C of Income Tax Act, 1961, tax is required to be deducted at source in accordance with provisions of this section for carrying out any work. Explanation to Section 194C explains that work shall include carriage of goods or passengers by any mode of transport other than by railways. Therefore, transport charges by railways does not require deduction of tax at source. Handling charges are in nature of service contracts and require deduction of tax at source under section 194C.
- 2. (c) The team has pointed out that tax has been deducted on payments made to certain companies providing clearing and forwarding services at inappropriate rates leading to short-deduction of tax. The team insists that these payments are in nature of brokerage and warrant tax deduction rate of 5%. However, team's view point is not in accordance with law. The expenses incurred are not in nature of brokerage. Explanation to section 194H provides that "commission or brokerage" includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of

goods or in relation to any transaction relating to any asset, valuable article or thing, not being securities.

However, in the given situation, services are being rendered by companies as forwarders and for facilitating their movement and carriage from port to the country of destination. Brokerage is normally associated with payment in nature of buying or selling of goods or in relation to any transaction relating to any asset. Further, circular no.715 dated 8.8.1995 issued by CBDT states that *“as regards payment to clearing and forwarding agent for carriage of goods, the same shall be subject to tax deduction at source under section 194C of Income Tax Act.*

3. (b) Under provisions of section 194- I of Income Tax Act, 1961, any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of rent, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of—
- (i) two per cent for the use of any machinery or plant or equipment; and
 - (ii) ten per cent for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings

Provided that no deduction shall be made under this section where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed two hundred and forty thousand rupees.

The company has made payment of Rs.5.00 lacs for use of building and furniture which is more than threshold limit of section 194- I. It attracts TDS @ 10% as provided for under section 194- I.

4. (a) Section 17(5)(h) of CGST Act, 2017 states that input tax credit shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Since raw material having taxable value of Rs.50.00 lac has been destroyed in fire, ITC on same amounting to Rs.2.50 lac needs to be reversed by the company.

5. (b) Security services provided by a person other than a body corporate to a registered person located in taxable territory are liable to GST under reverse charge mechanism under notification number 29/2018 -Central Tax (Rate) dated 31.12.2018. Since FST Limited has availed services provided by way of supply of security personnel from a proprietary firm, it has to pay GST under reverse charge mechanism.

Further, GST rate for services i.e. 18% is applicable to such services under reverse charge mechanism and company needs to take ITC in respect of same.

II. Answers to the Descriptive Questions

6. In the given situation, FST Limited has made payment of ocean freight to agents of non-resident foreign shipping companies.

Section 194C states that any person responsible for paying any sum to any resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct tax at source at specified rates. In accordance with provisions of section 194 C, work also includes carriage of goods and passengers by any mode of transport other than railways.

However, Board has issued circular no.723 dated 19.9.1995 in this regard relating to shipping business of non-residents. It states that section 172 deals with shipping business of non-residents. Section 172(1) provides that the mode of the levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, livestock, mail or goods shipped at a port in India. An analysis of the provisions of section 172 would show that these provisions have to be applied to every journey a ship, belonging to or chartered by a non-resident, undertakes from any port in India. Section 172 is a self-contained code for the levy and recovery of the tax, ship-wise, and journey wise, and requires the filing of the return within a maximum time of thirty days from the date of departure of the ship.

The provisions of section 172 are to apply, notwithstanding anything contained in other provisions of the Act. Therefore, in such cases, the provisions of sections 194C and 195 relating to tax deduction at source are not applicable. The recovery of tax is to be regulated, for a voyage undertaken from any port in India by a ship under the provisions of section 172.

Section 194C deals with work contracts including carriage of goods and passengers by any mode of transport other than railways. This section applies to payments made by a person to any "resident" (termed as contractor). It is clear from the section that the area of operation of TDS is confined to payments made to any "resident". On the other hand, section 172 operates in the area of computation of profits from shipping business of non-residents. Thus, there is no overlapping in the areas of operation of these sections.

It further states that there would, however, be cases where payments are made to shipping agents of non-resident ship-owners or charterers for carriage of passengers etc., shipped at a port in India. *Since, the agent acts on behalf of the non-resident ship-owner or charterer, he steps into the shoes of the principal. Accordingly, provisions of section 172 shall apply and those of sections 194C and 195 will not apply.*

Therefore, it is very much clear from above analysis that FST Limited was not required to deduct tax at source from payments on account of ocean freight to shipping agents of non-resident ship owners. CA T can defend the company by preparing reply to SCN on these lines.

7. Section 17(2) of CGST Act, 2017 states that where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

Further, section 17 (3) states that the value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

[**Explanation.-** For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule]

In this regard, Rule 42 of CGST Rules, 2017 prescribes manner of determination of input tax credit in respect of inputs and input services and reversal thereof where input or input services have been partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies.

Further, Rule 43(1) of CGST Rules, 2017 prescribes manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases including where such ITC is partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies.

Explanation 1 under this clause states that for the purposes of rule 42 and rule 43, aggregate value of exempt supplies shall exclude: -

- the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances and
- the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.
- the value of supply of Duty Credit Scrips specified in the notification of the Government of India, Ministry of Finance, Department of Revenue **No. 35/2017-Central Tax (Rate)**, dated 13.10.2017.

Therefore, value of supply of duty credit scrips is excluded from aggregate value of exempt supplies determined under Rule 42 of CGST Rules, 2017. Since value of such supply is excluded while determining value of exempt supplies under Rule 42, no ITC is required to be reversed in respect of such exempt supply.

CASE STUDY 4

Para A - Home Fab Private Limited incorporated in May 2023 having its registered office in New Delhi started construction of its premises building in NOIDA by using pre-fabricated structure common and prevalent in these times and building comprising about 1,00,000 square ft of covered area was ready to use by the end of July 2023 at a cost of ₹ 6.50 crores. The company also obtained GST registration in month of May 2023 in state of Uttar Pradesh.

The company had already ordered in advance import of certain new textile machinery from South Korea at a cost of about ₹ 8.65 crore. Further, indigenous previously used machinery at a cost of about ₹ 2.00 crores was also planned for installation. The company was able to bring imported as well as indigenous machinery to its premises in NOIDA only in 1st week of August 2023 and was able to kick start its commercial production of textile made-ups from 1st September 2023 only. The company has earned huge profits during P.Y. 2023-24.

Para B - The made ups of company got a very good response in the overseas market of USA under brand of *Home Fab* and the company had captured good chunk of export orders via *digital and online marketing platforms* beating its Chinese rivals.

The company has chosen to export on payment of IGST. Discussion takes place among staff members of inhouse GST team relating to preparation of tax invoice and related matters and four different opinions emerge out of their discussions:

Opinion I - The company is legally bound to raise a tax invoice in Indian Rupees only for its products exported in accordance with relevant rules and foreign currency amount is to be converted into Indian Rupees in tax invoice by using RBI reference rate in relation to date of invoice.

Opinion II - The company is legally bound to raise a tax invoice in Indian Rupees as well as commercial invoice in foreign currency in accordance with relevant rules and procedures governing such transactions. Further, foreign currency amount is to be converted into Indian Rupees in tax invoice by using exchange rate in accordance with exchange rate notification issued by CBIC relevant in relation to date of invoice.

Opinion III - The company is legally bound to raise a tax invoice in Indian Rupees only for its products exported in accordance with relevant rules and foreign currency amount is to be converted into Indian Rupees in tax invoice by using TT buying rate in relation to date of invoice.

Opinion IV - The company is legally bound to raise a tax invoice in Indian Rupees as well as

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commercial invoice in foreign currency in accordance with relevant rules and procedures governing such transactions. Further, foreign currency amount is to be converted into Indian Rupees in tax invoice by using TT selling rate in relation to date of invoice.

The company has achieved export turnover of ₹50 crores during year ended 31st March,2024. It has also credited duty drawback from customs authorities amounting to ₹ 2.00 crores in its statement of profit and loss for the same period. During the year ended 31st March 2024, the company has also incurred research and development expenditure of ₹ 10.00 lakhs. The financial statements of the company reflected a net profit before tax amounting to ₹ 7.50 crores. for the same period.

Para C- The inhouse staff GST team of the company was marred in confusion from the very first month of export sales regarding discharge of GST liability on payment of IGST and refund issues. The export sales had begun from October 2023 and made-ups valuing ₹ 5 crores were exported during month of October 23 carrying a GST rate of 5%. The break-up of ITC for month of October 2023 is as under: -

Eligible ITC on inputs	0.15 crores
Eligible ITC on capital goods	0.03 crores
Eligible ITC in input services	0.02 crores

There were divergent opinions among team members pertaining to discharge of tax liability and refund issues given below before they could approach their tax consultant.

Opinion I - The overall IGST liability of the company pertaining to supplies in relation to export in Oct 2023 is ₹ 0.25 crores and it would be discharged by the company by availing ITC on inputs of ₹ 0.15 crores and balance of ₹ 0.10 crore would be discharged by company in cash. After discharge of liability and filing of periodical returns consisting of GSTR- 3B and GSTR-1, the above said amount of ₹ 0.25 crore would be refunded/refundable directly by customs in bank account of company.

Opinion II - The overall IGST liability of the company pertaining to supplies in relation to export in Oct 2023 is ₹ 0.25 crores and it would be discharged by the company by availing ITC on inputs of ₹ 0.15 crores, ITC on capital goods of ₹ 0.03 crore and ITC on services of ₹ 0.02 crores and balance of ₹ 0.05 crore would be discharged by company in cash. After discharge of liability and filing of periodical returns consisting of GSTR- 3B and GSTR-1, the above said amount of ₹ 0.25 crore would be refunded /refundable directly by customs in bank account of the company.

Opinion III - The overall IGST liability of the company pertaining to supplies in relation to export in Oct 23 is ₹ 0.25 crores and it would be discharged by the company by availing ITC on inputs of ₹ 0.15 crores, ITC on capital goods of ₹ 0.03 crore and ITC on services of ₹ 0.02 crores and balance of ₹ 0.05 crore would be discharged by company in cash. After discharge of liability and filing of periodical returns consisting of GSTR- 3B, GSTR-1, and GSTR-9, the above said amount of ₹ 0.25 crore would be refunded/refundable directly by customs in bank account of the company.

Opinion IV - The overall IGST liability of the company pertaining to supplies in relation to export in Oct 2023 is ₹ 0.25 crores and it would be discharged by the company by availing ITC on inputs of ₹ 0.15 crores, ITC on capital goods of ₹ 0.03 crores and ITC on services of ₹ 0.02 crores and balance of ₹ 0.05 crore would be discharged by company in cash. After discharge of liability and filing of periodical returns consisting of GSTR- 3B and GSTR-1, the above said ITC amounting to ₹ 0.20 crore would be refunded/refundable directly by customs in bank account of the company.

Para D-The company had imported machinery worth ₹ 8.65 crores from South Korea. The said cost was CIF Mundra port. However, the company had incurred ₹ 2.36 lakhs as clearing charges paid to DK Services Private Limited (including ₹ 0.36 lakhs on account of IGST) for availing services for getting consignments cleared from port.

Further, company had also incurred ₹ 3.00 lakhs on account of freight paid to D Transport services (a proprietary concern). This proprietary concern is not registered taxpayer under GST and company has deposited IGST of ₹ 0.15 lakhs on account of reverse charge.

Further, company had paid ₹ 1.77 crore to another company providing services relating to building construction (including ₹ 27,00,000/- on account of IGST) during year 2023-24.

I. Multiple Choice Questions

1. Which of the opinion given by the staff members of inhouse GST Team regarding preparation of an invoice for export transaction is *MOST LIKELY* in conformity with relevant legal provisions?
 - (a) Opinion I is in conformity with relevant legal provisions.
 - (b) Opinion II is in conformity with relevant legal provisions.
 - (c) Opinion III is in conformity with relevant legal provisions.
 - (d) Opinion IV is in conformity with relevant legal provisions.

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2. Regarding tax liability of the said company for the month of October 23 under provisions contained in GST laws and rules, which statement is correct?
- (a) Opinion II is correct.
 (b) Opinion III is correct.
 (c) Opinion I is correct.
 (d) Opinion IV is correct.
3. In context of machinery purchase related transactions involving clearing charges, freight etc. discussed in Para D of the case study, consider the following table of compliances under income tax law as well as under GST law:

<i>Nature of Compliances</i>	<i>Appropriate response of company in accordance with law</i>
(1) Deduction of TDS under income tax law and availing of eligible ITC under GST law	(i) TDS of ₹ 3,07,000/- is deducted on account of above three transactions and company is availing ITC of ₹ 51,000/- in respect of these transactions
(2) Deduction of TDS under income tax law and availing of eligible ITC under GST law	(ii) TDS of ₹ 2,30,250/- is deducted on account of above three transactions and company is availing ITC of ₹ 36,000/- in respect of these transactions
(3) Deduction of TDS under income tax law and availing of eligible ITC under GST law	(iii) TDS of ₹ 2,30,250/- is deducted on account of above three transactions and company is availing ITC of ₹ 27,51,000/- in respect of these transactions
(4) Deduction of TDS under income tax law and availing of eligible ITC under GST law	(iv) TDS of ₹ 3,07,000/- is deducted on account of above three transactions and company is availing ITC of ₹ 27,36,000/- in respect of these transactions

Which of the following forms appropriate response by the company in accordance with law?

- (a) Combination (1) and (i)
 (b) Combination (2) and(ii)
 (c) Combination (3) and (iii)
 (d) Combination (4) and (iv)

4. The company is under statutory obligation to submit documentary evidence regarding proof of import of machinery. Which of the following statements is correct in this regard?
- (a) Bill of lading is appropriate documentary evidence regarding evidence of import of machinery and its copy is required to be submitted to jurisdictional office of GST by importer.
 - (b) Bill of Entry is appropriate documentary evidence regarding evidence of import of machinery and its copy is required to be submitted to jurisdictional office of GST by importer.
 - (c) Bill of lading is appropriate documentary evidence regarding evidence of import of machinery and its copy is required to be submitted to the concerned branch of bank through whom import transaction was channelised.
 - (d) Bill of Entry is appropriate documentary evidence regarding evidence of import of machinery and its copy is required to be submitted to the concerned branch of bank through whom import transaction was channelised.
5. Under provisions of Companies Act, 2013, the books of accounts and records are required to be kept at registered office of the company. However, the manufacturing facilities of company are located in NOIDA in state of Uttar Pradesh. In light of above, which of the following statements is in accordance with law?
- (a) The company can keep books of accounts and records at NOIDA by filing form AOC-2 within 30 days of passing board resolution.
 - (b) The company can keep books of accounts and records at NOIDA by filing form AOC-4 within 30 days of passing board resolution.
 - (c) The company can keep books of accounts and records at NOIDA by filing form AOC-5 within 7 days of passing board resolution.
 - (d) There is no recourse available to the company as books of accounts and records are to be kept at registered office of company.

II. Descriptive Questions

6. The promoters of the company are law compliant and do not want to be seen on the wrong side of law. However, they are also prudent minded and want to take tax benefits available legally and seek your advice.

Advise promoters of company of any such legally permissible benefits to lower its income tax liability for A.Y. 2024-25. Ignore the adjustment on account of depreciation under the Income-tax Act, 1961.

7. The company has exported made ups of ₹ 50 crores on payment of IGST during year 2023-24 carrying a GST rate of 5%. Further, the company had availed ITC of ₹ 2.00 crore during year 2023-24. The details of same are as under: -

Eligible ITC on inputs	₹ 1.50 crore
Eligible ITC on capital goods	₹ 0.36 crore
Eligible ITC on services	₹ 0.14 crore

Discuss whether there was any other legally permissible way to export its goods keeping in view provisions of GST law. Also make a cross comparison of export on payment of IGST vs. other legally compliant way in terms of financial burden/benefit and procedural requirements to the taxpayer company. Make suitable assumptions.

ANSWERS TO THE CASE STUDY 4

I. Answers to the Multiple Choice Questions

1. (b) The company is legally bound to raise a tax invoice in Indian Rupees as well as commercial invoice in foreign currency in accordance with relevant rules and procedures governing such transactions. Further, foreign currency amount is to be converted into Indian Rupees in tax invoice by using exchange rate in accordance with exchange rate notification issued by CBIC relevant in relation to date of invoice.

Reason: As per Rule 34 of CGST Rules, 2017, the rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act. The exchange rate notifications are issued by CBIC in exercise of powers conferred under section 14 of Customs Act on a periodic basis and value of taxable goods as reflected in tax invoice has to be arrived at in accordance with such notification. Further, commercial invoice in foreign currency amount is required to be raised for export transaction in accordance with procedures of customs.

2. (a) Opinion II is correct.

Reason: The IGST liability of company pertaining to zero-rated supplies (export) in Oct 23 is 5% of ₹ 5crores i.e. ₹ 0.25 crore. It is discharged by setting off eligible ITC of ₹ 0.20 crore. It is immaterial whether ITC is availed on inputs, capital goods or input services. The export supplies are zero-rated supplies and IGST paid of ₹ 0.25 crore would be refunded/refundable directly in bank account of the company by customs upon monthly filing of GSTR-3B and GSTR-1 for each tax period. Further, filing of GSTR-9 is an annual affair and hence nothing to do with refund of IGST.

The refund by customs is system generated upon filing of GSTR-3B and GSTR-1 for each tax period. The invoices transmitted to customs via GST network are matched with shipping bills and others details which are also system driven and refund scroll is generated. After scroll generation, refund is credited in bank account of exporter.

3. (a) Combination (1) and (i).

Reason: The TDS amount to be deducted during financial year 2023-24 is as under -

TDS to be deducted on clearing charges of ₹ 2.00 lakhs u/s 194 C is 2% in case of payment to companies.

TDS to be deducted on freight paid of ₹ 3.00 lakhs u/s 194 C is 1% in case of payment to individuals.

TDS to be deducted on payment made to building contractor company of ₹ 1.50 crore u/s 194 C is 2% in case of payment to companies.

Hence, total TDS to be deducted by company comes to ₹ 3,07,000/- (4,000 + 3,000 + 3,00,000).

It is to be remembered that TDS is not to be deducted on GST amount included in payments made to above service contractors in accordance with provisions of CBDT circular number 23/2017 dated 19.7.2017. Hence, for calculation of TDS, pre-GST amounts have to be arrived at.

Further, company has correctly availed IGST on services amounting to ₹ 51,000/-. The company is eligible to avail ITC on services for import of machinery amounting to ₹ 36,000/-. Further, credit of IGST paid on reverse charge

basis by the company on freight services amounting to ₹ 15,000/- is also available to the company. The IGST on building contractor services is not eligible as amount would be capitalised under building and the same is blocked under section 17(5) of CGST Act.

4. (d) Bill of Entry is appropriate documentary evidence regarding evidence of import of machinery and its copy is required to be submitted to the concerned branch of bank through whom import transaction was channelised.

Reason: , The importer of goods has to present to the proper officer electronically bill of entry. Therefore, bill of entry is appropriate document establishing import of goods. The bill of entry has to be submitted to the concerned bank branch through whom remittance was made as evidence for import of goods. It is not required to be submitted to GST office.

Bill of lading is issued in case of export transactions evidencing that goods have finally left the country.

5. (c) The company can keep books of accounts and records at NOIDA by filing form AOC-5 within 7 days of passing board resolution.

Reason: Books of accounts and records can be kept at place other than registered office of the company. The relevant form is AOC-5 which is to be filed on MCA portal in 7 days of passing board resolution.

II. Answers to the Descriptive Questions

6. In a major tax policy initiative, section 115BAB has been inserted w.e.f. A.Y. 2020-21 to provide an option to new manufacturing or electricity generating domestic companies set up and registered on or after 1.10.2019 and commences manufacturing or generating electricity on or before 31.3.2024 for availing concessional income tax rates subject to fulfilment of certain conditions contained thereunder like non-availability of profit-linked deductions and investment-linked tax deduction under the Act, non-availability of deduction for contribution to research and development, additional depreciation etc.

Section 115BAB provides for concessional rate of tax @15% (plus surcharge@10% plus HEC@4%).

The option for section 115BAB has to be exercised in the **very first year** in which the **eligible company is set up**, failing which it cannot exercise such option in the future years. However, once the company exercises such option under 115BAB, as the case

may be, in a year, it would continue to be governed by the special provisions u/s 115BAB thereafter and cannot opt for regular provisions in any subsequent year.

It may be noted that companies exercising option under section 115BAB are not liable to minimum alternate tax under section 115JB.

The following are the conditions specified under section 115BAB:

- (a) the company has been set-up and registered on or after the 1.10.2019, and has commenced manufacturing or production of an article or thing on or before the 31.3.2024 and, —
 - (i) the business is not formed by splitting up, or the reconstruction, of a business already in existence:
 - (ii) does not use any machinery or plant previously used for any purpose.

Any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled -

- (A) such machinery or plant was not, at any time previous to the date of the installation used in India;
- (B) such machinery or plant is imported into India from any country outside India; and
- (C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.

Further, where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of the machinery or plant or part so transferred does not exceed 20% of the total value of the machinery or plant used by the company, then, the condition specified that the company does not use any machinery or plant previously used for any purpose would be deemed to have been complied with.

- (b) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

The business of manufacture or production of any article or thing referred to in clause (b) shall not include business of,—

- (i) development of computer software in any form or in any media;
 - (ii) mining;
 - (iii) conversion of marble blocks or similar items into slabs;
 - (iv) bottling of gas into cylinder;
 - (v) printing of books or production of cinematograph film; or
 - (vi) any other business as may be notified by the Central Government in this behalf; and
- (c) the total income of the company has to be computed -
- (i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A other than the provisions of section 80JJAA or section 80M;
 - (ii) without set-off of any loss or allowance for unabsorbed depreciation deemed so under section 72A where such loss or depreciation is attributable to any of the deductions referred to in sub-clause (i).
 - (iii) by claiming the depreciation under the provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

In the present case, company is eligible to opt for concessional tax rate of 15% (plus surcharge@ 10% plus HEC @ 4%), since it satisfies the following condition -

- (1) It is a company registered after 1.10.2019 and has started production on or before 31.3.2024.

- (2) Its business is not formed by splitting or reconstruction of business already in existence.
 - (3) Although it has used plant and machinery previously used, it falls within overall cap of 20% stipulated u/s 115BAB. The total value of plant and machinery used by the company is ₹ 10.65 crores. However, value of machinery previously used is only ₹ 2.00 crore which is 18.78% of total value of plant and machinery. Hence, this newly set up domestic company satisfies this criterion also.
 - (4) The company is engaged in business of manufacturing of an article or thing and research in relation to it.
 - (4) The company's business does not fall into prohibited categories.
 - (5) The company has not taken benefit of other beneficial provisions as listed out under section 115BAB.
 - (6) The company has to exercise the option by filing Form 10-ID by due date of filing first return of income under section 139 for A.Y. 2024-25.
7. Under provisions of section 16(3) of IGST Act, 2017, a registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:—
- (a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or
 - (b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.

It is to be noted that changes made in Section 16(3) by Finance Act, 2021 requiring person making zero rated supplies to claim of refund of unutilized ITC without payment of IGST under bond or LUT only are still to be notified.

Therefore, for the year under consideration, both routes as discussed above are available to exporter.

Therefore, under IGST Act, 2017, a taxpayer engaged in zero-rated supplies can make export without payment of tax under LUT or bond or alternatively, it can export on payment of IGST. In case of export under LUT/bond, refund of unutilised ITC would be refundable so that exports remain competitive. However, under Rule 89(4) of CGST Rules, 2017, net ITC means ITC on inputs and input services only. Hence, in case of export under LUT, ITC on capital goods is not refundable.

However, in case of export on payment of IGST, entire IGST paid would be refunded due to same reason. Hence, refund of ITC on input and input services is available under LUT route whereas refund of ITC on input, input services and capital goods is refundable on exports made on payment of IGST.

Export under LUT or bond

Tax liability	0
Refund of unutilized ITC	₹ 1.64 crore

Export on payment of IGST

Tax liability	₹ 2.50 crore
Set off by using ITC	₹ 2.00 crore
Set off by payment of cash	₹ 0.50 crore
Refund of IGST paid	₹ 2.50 crore

Hence, in export under LUT, ITC of input and input services amounting to ₹ 1.64 crore is refunded/refundable. In case of export on payment of IGST, entire ITC of ₹ 2.00 crore is refunded along with tax of ₹ 0.50 crore deposited by company in cash.

Therefore, under export via LUT route, refund of ITC of ₹ 1.64 crore would be available to the company. However, under export via payment of IGST, entire ITC of ₹ 2.00 crore is refundable.

In terms of procedural requirements, separate refund application has to be filed electronically for exports under LUT. However, for exports on payment of IGST, refund is automatically granted by customs on valid filing of GSTR-3B and GSTR-1 and validation of tax invoice data with shipping bills and other information.

Further, in case of export under LUT, no tax is to be deposited by the company and refund of ITC has to be applied by way of separate application. Therefore, it does not involve any cash outgo.

In case of export on payment of IGST, it involves cash out go of ₹ 50.00 lakhs which is refunded automatically in a few days. Therefore, it involves temporary blockage of working capital for certain period of time. However, since refund process is system driven and automated as provided in rules under this route, it results in quicker refunds including refund of entire ITC and cash deposited.

CASE STUDY 5

ABCD Ltd. is a textile manufacturing company based in Surat, Gujarat, which enjoys a vintage of more than 50 years of good reputation and business. The Company was set up by Mr. Amar Dev in the 60's in a small room and as years passed by, it became such a successful and big business that now after serving domestic consumers, the Company has gone global and expanding its business across Europe and Canada through third party sales from India. Mr. Rahul Dev, grandson of Mr. Amar Dev is Managing Director of Company and has been following quite an aggressive approach in globalizing their business after graduating from college. He remains in constant touch with CA Nitin Garg, partner of Nitin Garg & Co., Chartered Accountants, and keeps on discussing with him legal compliances and procedures.

Rahul knows that the complexities in business have increased a lot particularly after advent of GST and it is imperative to diversify the ever-expanding businesses. He understands that their company is well integrated into the web of international business transactions. There is inward as well as outward flow of goods and services between India and other countries. GST impacts imports and exports too. Provisions in the GST laws seek to (i) provide a level playing field to domestic suppliers vis a vis international suppliers in case of imports and (ii) make exports more competitive. He has been discussing various provisions of GST law as will be applicable on import and export supplies w.r.t. their business, if they wish to enter the global market directly, apart from the normal customs levy.

To expand the business, Rahul is in talks with Robert de Nero, one of his fast friends whom he met during his graduation in London and who is currently the owner of a famous International Clothing Brand "ALPHA". Robert wants to establish a company in India and seeks Rahul's help who further consults CA Nitin on helping Robert set up a branch office in India. Robert's venture – ALPHA Units LLC is a limited company incorporated in London in the year 2011, and he desires to establish a branch office at Surat in the year 2023.

Nitin, being a practicing Chartered Accountant, is appointed by Robert as a liaison officer for compliance of legal formalities on behalf of the company. Nitin helps them in the legal compliance, research, feasibility, documentation and procedural work to set up branch office in India. Rahul, in order to expand his business, discusses with Nitin on setting up a subsidiary outside India at Paris for specifically carrying out the Import-Export transactions easily and soon afterwards Rahul sets up a subsidiary at Paris under the name & style of PQRS Ltd.

5.2

INTEGRATED BUSINESS SOLUTIONS CASE STUDY

ABCD Ltd. is engaged in the business of manufacturing cloth for other textile companies and non-textile companies. Now the company will be itself carrying out the Import-Export transactions without involving any 3rd Party for export purposes which it had been doing till now. It applies for the IEC – Importer Exporter Code online and gets the same. Its wholly owned subsidiary, PQRS Ltd., is engaged in the business of readymade designer garments. The subsidiary purchases garments and other stuff from its parent company. The demand for garments of PQRS Ltd. is very high and hence to cater to its shortfall, PQRS Ltd also purchases garments from other companies. Purchases are made at competitive prices. During the year 2023-24, ABCD Ltd sold garments to PQRS Ltd for Euro 13 lakhs on 1st January, 2024. The cost of these garments was ₹ 936 lakhs in the books of ABCD Ltd at the time of sale. At the year-end i.e., 31st March 2024, all these Garments were lying as closing stock with PQRS Ltd. Euro is the functional currency of PQRS Ltd. while Indian Rupee is the functional currency of ABCD Ltd.

ABCD Limited seeks help from CA Nitin on the following issues: -(a) During the year, Rahul is finding it difficult to comprehend the GST taxation w.r.t. export sales made by their company, ABCD Ltd., which are of a peculiar nature. One such sale is where ABCD Ltd. receives an order to supply goods to a dealer 'B' in Greece. The company finds a supplier 'C' in Singapore and asks him to supply goods to 'B' in Greece. Two invoices are raised here: one by the company on 'B' in Greece and the other by 'C' in Singapore on ABCD Ltd. in India. The point to be noted here is that goods do not touch the Indian shores; they are shipped by 'C' from Singapore to 'B' in Greece. There are many more, such kind of export sales and Rahul seeks CA Nitin's help in getting out of this confusion.

(b) Rahul seeks CA Nitin's opinion on the GST procedures and treatment for the following two types of export transactions which he plans to proceed with in near future: -

- Rahul has purchased a license to put up a stall in the Textile Supermarket Global Fair to be held at Milan, Italy and he wishes to send his team to this fair along with their company's merchandise to be displayed over there for promotional purposes.
- He had heard from a dear friend that he could sell his company's products within India but these could still be categorized as exports. He was eager to know about such circumstances.

(c) The Chief accountant of the Company further seeks CA Nitin's time to understand about the valuation & taxability of the following transactions under GST:-

- ABCD Ltd. has imported a special fabric from Paris and files an ex-bond bill of entry for clearing such warehoused goods for home consumption.

- ABCD Ltd. imported textile fabric from London and sells them to a Panacea Pvt. Ltd. in India itself before the goods are cleared for home consumption. The customs declarations i.e. bill of entry etc. is filed by the agent of Panacea Pvt. Ltd. for clearance of such goods.

The Statutory audit of the company ABCD Ltd. is also being carried out by Nitin Garg & Co. under the supervision of the Engagement Partner CA Krit Garg. CA Krit understands that as the auditor, he should develop an audit plan that shall include a description of the procedures to be performed as per SA 315 & 330. The audit plan is more detailed than the overall audit strategy that includes the nature, timing and extent of audit procedures to be performed by engagement team members. Planning for these audit procedures takes place over the course of the audit as the audit plan for the engagement develops. He asks Megha in his audit team to work on planning the nature, timing and extent of specific further audit procedures and Saurab on planning of risk assessment procedures. Further, CA Krit knows that the overall audit strategy & audit plan should take into consideration the element of materiality and its relationship with Risks & procedures to be adopted. CA Krit has already developed an audit strategy and while a detailed audit plan is being developed, he decides that materiality levels set earlier need to be lowered as weaknesses in the internal controls were highlighted in the internal audit reports. Subsequently, a deviation from the audit strategy is felt necessary and he is stuck in a dilemma as what to do first – modify the audit strategy and then revise the audit plan or vice-versa and seeks his Partner CA Nitin's suggestion.

I. Multiple Choice Questions

1. Which of following is responsible for issuing/granting IEC (Importer Exporter code)?
 - (a) Customs under Department of Revenue, Ministry of Finance
 - (b) Directorate General of Foreign trade (DGFT), Ministry of Commerce and Industry
 - (c) Department for Promotion of Industry and Internal Trade (DPIIT)
 - (d) Ministry of Corporate Affairs (MCA)
2. What should CA Nitin advise CA Krit to do when the latter is stuck in the revision dilemma of materiality levels set earlier?
 - (a) Firstly, modify the overall strategy and thereafter, prepare the audit plan in line with the strategy.
 - (b) Firstly, prepare the audit plan and then modify the overall audit strategy in line with the Plan.
 - (c) Modify the Audit Plan and Strategy simultaneously.
 - (d) Go with change in anyone, as these are not inter-related.

5.4

INTEGRATED BUSINESS SOLUTIONS CASE STUDY

3. STATEMENT 1:- GST is leviable on the fabric imported from Paris while filing for its clearance.
- STATEMENT 2:- GST is not leviable on the sales made to Panacea Pvt. Ltd.
- (a) Statement 1 is Correct but statement 2 is Incorrect.
- (b) Both the statements are Correct and independent of each other.
- (c) Statement 2 is Correct & Statement 1 supports Statement 2.
- (d) Statement 1 is Correct but Statement 2 is Incorrect.
4. STATEMENT 1 :- In case of trade involving 'B' in Greece and 'C' in Singapore, invoicing should not have been done by ABCD Ltd. in India.
- STATEMENT 2 :- Value of such shipments has to be included by ABCD Ltd. in the value of exempt supply for the purpose of reversal of ITC under rules 42 and 43 of CGST Rules.
- (a) Statement 1 is Correct & Statement 2 supports Statement 1.
- (b) Both the Statements are Incorrect.
- (c) Statement 2 is Correct & Statement 1 supports Statement 2.
- (d) Statement 1 is Incorrect but Statement 2 is Correct.

II. Descriptive Questions

5. Provide the accounting treatment w.r.t. transaction between ABCD Ltd. and PQRS Ltd. in their respective books of accounts. Also show its impact on consolidated financial statements. Support your answer by Journal entries, wherever necessary, in the books of ABCD Ltd.
- Following additional information is available:
- | | |
|------------------------------------|---------------|
| Exchange rate on 1st January, 2024 | 1 Euro = ₹ 83 |
| Exchange rate on 31st March, 2024 | 1 Euro = ₹ 85 |
6. Discuss implications of proposed transaction relating to sending of company's merchandise for display in textile fair in Italy. Also discuss under what circumstances goods sold within India can still be categorized as exports under GST law and also touch upon taxability of such transactions under such law.

ANSWERS TO THE CASE STUDY 5**I. Answers to the Multiple Choice Questions**

1. (b) Directorate General of Foreign trade under Ministry of Commerce and Industry is responsible for granting IEC.
2. (a) Firstly, modify the overall strategy and thereafter, prepare the audit plan in line with the strategy.

Reason: CA Krit should firstly modify the overall strategy and thereafter, prepare the audit plan in line with the strategy. This shows that the audit strategy and audit plan are closely inter-related as change in one is resulting into change in the other.

3. (b) Both the statements are Correct and independent of each other

Reason: GST is not leviable when goods deposited in customs bonded warehouse are sold before clearance; the same is leviable when ex-bond bill of entry is filed for clearing such warehoused goods for home consumption. GST is not leviable on high sea sales (the sales made to Panacea Pvt. Ltd.).

4. (b) Both the Statements are Incorrect.

Reason: Third country shipments or triangular trade is a common practice in international trade whereby goods move from one country to another without touching India; only invoicing is done by the registered person in India. Paragraph 7 of the Schedule III to CGST Act provides that supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India (third country shipments) is treated neither as a supply of goods nor a supply of services. Thus, there is no GST liability on such sales. Further, value of such third country shipments is not included in the value of exempt supply for the purpose of reversal of ITC under rules 42 and 43 of CGST Rules [Explanation to section 17(3) of the CGST Act].

II. Answers to the Descriptive Questions

5. **Accounting treatment in the books of ABCD Ltd (Functional Currency ₹)**

ABCD Ltd will recognize sales of ₹ 1079 lakhs (13 lakhs Euro x 83)

Profit on sale of Inventory = 1079 lakhs – 936 lakhs = ₹ 143 lakhs.

On balance sheet date receivable from PQRS Ltd. will be translated at closing rate i.e. 1 Euro = ₹ 85. Therefore, unrealised forex gain will be recorded in standalone profit and loss of ₹ 26 lakhs. (i.e. $(85 - 83) \times 13$ Lakhs)

Journal Entries

		₹ (in Lakhs)	₹ (in Lakhs)
PQRS Ltd. A/c	Dr.	1079	
To Sales			1079
(Being revenue recorded on initial recognition)			
PQRS Ltd. A/c	Dr.	26	
To Foreign exchange difference (unrealised)			26
(Being foreign exchange difference recorded at year end)			

Accounting treatment in the books of PQRS Ltd. (Functional currency EURO)

PQRS Ltd will recognize inventory on 1st January, 2024 of Euro 13 lakhs which will also be its closing stock at year end.

Accounting treatment in the consolidated financial statements

Receivable and payable in respect of above-mentioned sale / purchase between ABCD Ltd and PQRS Ltd will get eliminated.

The closing stock of PQRS Ltd will be recorded at lower of cost or NRV.

	Euro (in lakhs)	Rate	₹ (in lakhs)
Cost	13	83	1079
NRV (Assumed Same)	13	85	1105

Therefore, no write off is required. The amount of closing stock of ₹ 1079 includes two components–

Cost of inventory for ₹ 936 lakhs; and Profit element of ₹ 143 lakhs; and

At the time of consolidation, the second element amounting to ₹ 143 lakhs will be eliminated from the closing stock.

Journal Entry

		₹ (in Lakhs)	₹ (in Lakhs)
Consolidated P&L A/c	Dr.	143	143
	To Inventory		
(Being profit element of intragroup transaction eliminated)			

6. **Export of goods or services are treated as inter-State supply and zero rated.** This means that even if there is full exemption for the supply, ITC is still available to the exporter. The exporter will have an option to either pay IGST on the outward supply and claim refund of such IGST paid or export under Bond/LUT without payment of IGST and claim refund of ITC. The objective is to make Indian exports competitive in the international market. It may be noted that since exports are inter-State supplies, the tax associated with them will always be IGST.

(a) Rahul has purchased a license to put up a stall in the Textile Supermarket Global Fair to be held at Milan, Italy and he wishes to send his team to this fair along with their company's merchandise to displayed over there for promotional purposes.

= Sending/ taking goods out of India for exhibition or on consignment basis for export promotion: Circular No. 108/27/2019 GST dated 18.07.2019 has clarified that the activity of sending/ taking goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act, does not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a 'supply', the same cannot be **considered as "zero rated supply" as per the provisions contained in section 16 of the IGST Act**. Thus, activity of sending/ taking specified goods out of India is not a zero-rated supply. That being the case, execution of a bond or LUT, as required under section 16 of the IGST Act, is not required.

(b) He had heard from a dear friend that he could sell his company's products within India and these still can be categorized as exports..

It takes place in deemed exports. Deemed exports refers to supplies of goods manufactured in India (**and not services**) which are notified as deemed exports under section 147 of the CGST Act. Such supplies do not leave India and the

payment for the same is received either in Indian rupees or in convertible foreign exchange.

Following categories of supply of goods have been notified as deemed exports by the Government vide Notification No. 48/2017 CT dated 18.10.2017, -

- (a) Supply of goods by a registered person against Advance Authorisation (AA)
- (b) Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation (EPCG)
- (c) Supply of goods by a registered person to Export Oriented Unit (EOU)
- (d) Supply of gold by a bank or Public sector Undertaking specified in Notification No. 50/2017 Cus dated 30.06.2017 (as amended) against AA

Taxability of deemed exports

Deemed exports are not zero-rated supplies by default, unlike the regular exports. Hence, all supplies notified as supply for deemed export are subject to levy of taxes, i.e. such supplies can be made on payment of tax and cannot be supplied under a Bond/LUT.

However, the refund of tax paid on the supply regarded as deemed export is admissible to either the supplier or the recipient. Thus, the application for refund has to be filed by the supplier or the recipient (subject to certain conditions) of deemed export supplies, as the case may be.

CASE STUDY 6

Luminous Ltd. is a company engaged in the manufacture of solar panels. The vision of the company is to provide the most compelling value in solar energy industry. By value, the company means designing and installing highest quality solar panels on a timely basis with proper safety standards and lowest cost. The company aims at providing the country with clean, abundant, low cost, distributed and renewable energy. It is one of the largest vertically integrated solar company that offers services across the spectrum of photovoltaics manufacturing. The company offers and produces high efficiency solar panels with higher performance and enhanced reliability. The company has the following vision:

“To be world class leader in businesses that contribute to nations in building infrastructure through sustainable value creation”.

Luminous Ltd. has always been a standard for all the manufacturing companies for product quality. The company has multiple quality checks during its solar module production. This helps to ensure flawless production of solar panels and hence attain utmost customer satisfaction.

The company believes that in resource-scarce developing countries, identifying and targeting R&D policies in critical areas, such as energy, is particularly important to maximize benefits derived from limited funds and skilled manpower. Energy R&D policy analysis and formulation in a developing country should not be carried out in isolation — it must be consistent with overall technology policy, as well as national energy policy. The management of the company is of the view that ultimately, energy R&D policies and priorities must support the goals of national socioeconomic development. Therefore, these priorities must be determined on the basis of an analytical framework that recognizes and addresses national development objectives. The company's Research & Development department is working very hard to come out with solar panels with the lowest possible cost, so as to compete with the foreign manufacturers of solar panels. During the FY 2023-24, the Government gave the following grants to Luminous Ltd. for its business of solar panel:

1. ₹ 30 lakhs for past research of technology related to solar system. There is no condition attached to the grant.
2. ₹ 5 lakhs towards purchase of machinery of ₹ 15 lakhs. Useful life of the machinery is 5 years and depreciation on the machinery is to be charged on straight line basis.
3. 3 acres of land to set up a plant. The fair value of the land is ₹ 20 lakhs.

4. Government grant of ₹ 20 lakhs to defray expenses for environmental protection. Expected environmental costs to be incurred is ₹ 6 lakhs per annum for the next 5 years.

B R Sridharan & Associates are statutory auditors of company for FY 2023-24. The said chartered accountant firm has a robust team of skilled and proficient Chartered Accountants, who can handle all financial services areas relating to accounting, auditing and assurance, income tax, GST, company law matters, foreign exchange matters, etc.

During the financial year under consideration, the Board of Directors of the company passed a board resolution to sell one of the company's undertakings out of the multiple undertakings of the company. One of the directors of the company, Mr. Ramesh, is of the view that the board can exercise this power with the consent of shareholders by way of an ordinary resolution and passing only a Board resolution would not be sufficient. The other directors on the Board, however, did not agree with him. The investment of the company in the said undertaking which has been proposed to sell is 22% of its net worth as per the last audited balance sheet of F.Y. 2022-23.

Further, Mr. Ramesh stays in Delhi with his wife. With respect to one of his immovable house properties in USA, he took the professional services of a consulting engineer, Mr. George, based in Chennai. Mr. George has high engineering qualifications, specialised background and wide experience and can plan, design and supervise and help in undertaking maintenance of any type of structure according to the needs of the client.

On 31.05.2023, Mr. Ramesh took his family to an amusement park located in Gurugram (Haryana). This particular amusement park has various attractions such as rides and games as well as other events for entertainment purposes. For such visit, son of Mr. Ramesh who stays in Jaipur for his studies came to Delhi. Mr. Ramesh bought three tickets for the amusement park.

Luminous Limited is based in Delhi, primarily. During the FY 2023-24, the company receives legal services from an attorney in Dubai (unrelated person) in relation to registration of company's trademark in Dubai. The company paid AED 10,000 for the same to the attorney in Dubai.

The company has 10 directors on its board. Three of the directors have retired by rotation at the Annual General Meeting conducted recently. The place of retiring directors is not so filled up and the meeting has also not expressly resolved 'not to fill the vacancy'. Since the AGM could not complete the said business, it was adjourned to the same day in the next week, at the same

time and place. At this adjourned meeting also, the place of retiring directors could not be filled up, and the meeting has also not expressly resolved 'not to fill the vacancy'.

Further, Mr. Baldev is one of the directors of the company. During the financial year under consideration, the company paid him the sitting fee amounting to ₹ 35,000, for the month of December.

The company has its retail showrooms in Patiala and Delhi and factory at Ludhiana. During the F.Y. 2023-24, the company has manufactured 1,50,000 units of solar panels at its factory at Ludhiana, Punjab. The management decided to transfer half of the units manufactured to one of its retail showrooms in Patiala and the second half to its retail showroom in Delhi for sale therefrom. The factory and the aforesaid retail showrooms are registered under GST, in the states where they are located. Further, the company has obtained separate registrations under GST, for Ludhiana factory and the Patiala showroom. The management of the company understands that such transfer shall not be considered as supply under GST as such transfers are without any consideration.

I. Multiple Choice Questions

1. Is understanding of Mr. Ramesh for obtaining prior consent for selling one of the undertakings of the company, correct, considering the fact that Luminous Limited is not a private company?
 - (a) No, as only board's resolution is required in this case, which has been duly passed.
 - (b) No, as the Board can exercise this power with the consent of the shareholders by a special resolution and not on its own simply by passing of an ordinary resolution.
 - (c) Yes, his understanding is correct.
 - (d) Partly correct, as the Board shall exercise the powers with the consent of the company by an ordinary resolution and not only by passing a Board resolution at a Board meeting. Further, prior approval of the Registrar of Companies is also required.

2. What is the place of supply with respect to the professional service rendered by Mr. George to Mr. Ramesh?
 - (a) Chennai
 - (b) Delhi

6.4

INTEGRATED BUSINESS SOLUTIONS CASE STUDY

- (c) USA
 - (d) Place of supply is not relevant, as such services are not liable to GST as the property is situated outside India.
3. What is the place of supply with respect to the tickets bought by Mr. Ramesh for the amusement park?
- (a) Delhi
 - (b) Gurugram
 - (c) With respect to tickets purchased for Mr. Ramesh and his wife, the place of supply is Delhi and for the ticket purchased for his son, the place of supply is Jaipur.
 - (d) Either Delhi or Gurugram
4. Which of the following is the correct statement with respect to the GST liability in case of the fees paid to Mr. Baldev?
- (a) GST shall be payable by Luminous Ltd. under reverse charge mechanism.
 - (b) GST shall be payable by Mr. Baldev.
 - (c) Sitting fees paid to the director of a company is not liable to GST.
 - (d) Sitting fees paid to the director of a company is treated as salary paid to the director and is subjected to deduction of TDS under section 192 of the Income Tax Act, 1961 and not liable to GST.

II. Descriptive Questions

5. (i) Whether the retiring directors shall be deemed to have been re-appointed at the adjourned meeting?
- (ii) What will be your answer in case at the adjourned meeting, the resolutions for re-appointment of these directors were lost?
- (iii) Whether such directors can continue in case the directors do not call the Annual General Meeting?
6. Whether the management's understanding related to the transfer of solar panel to the company's retail showrooms, correct, in view of the GST law?

Also determine the place of supply in case of services procured from attorney by Luminous Limited and suggest if the company is required to pay tax under reverse charge on such transaction.

7. How should Luminous Ltd. recognise the government grants in its books of accounts for the F.Y. 2023-24?

ANSWERS TO THE CASE STUDY 6

I. Answers to the Multiple Choice Questions

1. (b) No, as the Board can exercise this power with the consent of the shareholders by a special resolution and not on its own simply by passing of an ordinary resolution.

Reason: The powers of the Board of Directors of a company are not unrestricted or uncontrollable as Section 180 of the Companies Act 2013 portrays. This Section contains directive provisions which direct that the powers in respect of specified matters shall be exercised by the Board subject to the certain restrictions i.e. in such cases the exercise of powers by the Board shall be restricted as per law. Section 180 is not applicable to a private company.

(i) Matters in respect of which powers shall be exercised after obtaining consent by a special resolution: According to Section 180 (1), following are the matters in respect of which the Board shall exercise the powers with the consent of the company by a special resolution and not on its own simply by passing a Board resolution at a Board meeting:

- (a) To sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company or where the company owns more than one undertaking, of the whole or substantially the whole of any of such undertakings. In other words, out of multiple undertakings of a company even if one is sold, leased or disposed of, either wholly or substantially, the consent by special resolution shall be required.

2. (b) Delhi

Reason: The place of supply of services,—

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INTEGRATED BUSINESS SOLUTIONS CASE STUDY

- (a) directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or
- (b) by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or
- (c) by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or
- (d) any services ancillary to the services referred to in clauses (a), (b) and (c), shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:

Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

3. (b) Gurugram

Reason: The place of supply of following services-

- (i) services provided by way of admission to following types of events: cultural, scientific, sporting, artistic, entertainment.
- (ii) services provided by way of admission to amusement park or any other place.
- (iii) services ancillary to the above-mentioned services.

is the place where the event is actually held or where the park or such other place is located.

4. (a) GST shall be payable by Luminous Ltd. under reverse charge mechanism.

Reason: Sitting fee paid to director – As per reverse charge notification, tax on services supplied by a director of a company/ body corporate to the said company/ body corporate, located in the taxable territory, is payable under reverse charge.

Hence, in the present case, the sitting fee amounting to ₹ 35,000, payable to Mr. Baldev by Luminous Ltd., is liable to GST under reverse charge and thus, recipient of service – Luminous Ltd. – is liable to pay GST on the same.

II. Answers to the Descriptive Questions

5. In accordance with the provision of the Companies Act, 2013, as contained in section 152(7)(a) which provides that if at the annual general meeting at which a director retires and the vacancy is not so filled up and the meeting has not expressly resolved not to fill the vacancy, the meeting shall stand adjourned to same day in the next week, at the same time and place, or if that day is a national holiday, till the next succeeding day which is not a holiday, at the same time and place.

Section 152(7)(b) further provides that if at the adjourned meeting also, the place of the retiring director is not filled up and that meeting also has not expressly resolved not to fill the vacancy, the retiring director shall be deemed to have been re-appointed at the adjourned meeting, unless at the adjourned meeting or at the previous meeting a resolution for the re-appointment of such director was put and lost or he has given a notice in writing addressed to the company or the Board of Directors expressing his desire not to be re-elected or he is disqualified.

Therefore, in the given circumstances answers to the asked questions shall be as under:

- (i) In the first case, applying the above provisions, the retiring directors shall be deemed to have been re-appointed.
- (ii) In the second case, where the resolutions for the reappointment of the retiring directors were lost, the retiring directors shall not be deemed to have been re-appointed.
- (iii) Section 152(6)(c) states that 1/3rd of the rotational directors shall retire at every AGM.

Accordingly, the directors will retire as soon as the AGM is held on its due date. Further, as per Section 96 (dealing with Annual General Meeting), every company other than a One Person Company is required to hold an Annual General Meeting each year. Hence, it is necessary for the company to hold the AGM, where the directors liable to retire by rotation shall retire. In case AGM is not held till the last date on which it should have been held, the term of retiring directors ends on this last date and it cannot be extended till the new date when the AGM shall be held. As the calling of the AGM is the duty and responsibility of the directors, they by omitting to call the AGM on its due date cannot

take advantage of their own fault and by that means cannot extend their own continuance in the office for any period of their choice and as long as the holding of the next AGM does not take place.

6. **Stock transfers or branch transfers qualify as supply:** It is a common practice in business that one branch supplies services to another branch of same entity without consideration. Similarly, goods are transferred among different units of same entity free of cost, for instance, distribution of samples manufactured in a factory to different branches or transfer of goods from factory to depot/showroom for sale therefrom, from one warehouse to another warehouse, from one branch to another branch where the demand of the goods is higher. These transactions are termed as self-supplies.

Under GST, these transactions undertaken, even without consideration, will also qualify as supply, provided the transfer of goods or services is between

- (i) different locations (with separate GST registrations) of same legal entity as these are transactions between distinct persons, or
- (ii) establishments of distinct persons.

The establishments of a person with **separate registrations** whether within the same State/UT or in different States/UTs are considered as distinct persons as per section 25(4) of the CGST Act.

Therefore, transfer of solar panels from Ludhiana factory to showroom in Delhi will be considered as a supply under GST.

Also, since the company has obtained separate registrations for the Ludhiana factory and the showroom in Patiala, the transfer of solar panels will also constitute supply.

Service of Attorney taken by Luminous Limited:

In the given case, the service provider i.e. the attorney, is outside India, and the service recipient i.e. Luminous Limited, is based in Delhi, India. Thus, the place of supply will be determined on the basis of the provisions of section 13. Since the given service does not get covered under any of the specific provisions of section 13, the place of supply thereof will be governed by the general rule, i.e. place of supply of services will be the location of the recipient of service, which in this case is Delhi (India).

Further, the given case is import of service in terms of section 2(11) of the IGST Act, as the supplier of service is located outside India, the recipient of service is located in India and the place of supply of service is in India. Since the services are imported for a

consideration from an unrelated person, the same tantamount to supply in terms of section 7(1)(b) of CGST Act and are liable to GST.

As per reverse charge *Notification No. 10/2017 Integrated tax(R) dated 28.06.2017*, if a service is supplied by a person located in a non-taxable territory to a person located in the taxable territory, other than non-taxable online recipient, the tax is payable by the recipient of service under reverse charge. Therefore, Luminous Limited will pay GST under reverse charge on AED 10000 paid by it to the attorney in Dubai.

7. Luminous Ltd. should recognise the government grants in its books of accounts in the following manner:

1. Entire grant amount of ₹ 30 lakhs should be recognised immediately in the profit & Loss account as there are no conditions attached to the grant.
2. ₹ 5 lakhs should be recognised as deferred income and will be transferred to profit and loss over the useful life of the asset. In this case, ₹ 1,00,000 [₹ 5 lakhs/5] should be credited to profit and loss each year over period of 5 years.

Alternatively, ₹ 5,00,000 may be deducted from the cost of the asset and depreciation shall be charged at ₹ 10,00,000 (₹ 15,00,000 – ₹ 5,00,000).

3. Land should be recognised at fair value of ₹ 20 lakhs and government grants should be presented in the balance sheet by setting up the grant as deferred income. Alternatively, deduct the amount of grant from the cost of the asset. In the given case, the land is granted at no cost. It will be presented in the books at nominal value.
4. As per paragraph 29 of Ind AS 20, Grants related to income are presented as part of profit or loss, either separately or under a general heading such as 'Other income'; alternatively, they are deducted in reporting the related expense.

In accordance with the above, presentation of grants related to income under both the methods are as follows:

Method 1: Credit in the statement of profit and loss: The entity can recognise the grant as income on a straight line basis i.e., ₹ 4,00,000 per year (₹ 20 lakhs / 5) in the statement of profit and loss either separately or under the head "Other Income".

Method 2: As a deduction in reporting the related expense:

Since the grant relates to environmental expenses incurred/to be incurred by the entity, it can present the grant by reducing the grant amount every year from the related expense i.e., environmental expense of ₹ 2,00,000 (i.e., net expense ₹ 6,00,000 – ₹ 4,00,000).

The Standard regards both the methods as acceptable for the presentation of grants related to income. However, method 2 may be more appropriate when the company can relate the grant to a specific expenditure. The Standard also provides that disclosure of the grant may be necessary for a proper understanding of the financial statements. Disclosure of the effect of the grants on any item of income or expense which is required to be separately disclosed is usually appropriate.

CASE STUDY 7

Mr. Murli Lal & Mrs. Bansuri Devi have been residing in Manpur village since their marriage. They have been actively involved in agriculture & dairy farming business in their village and sell their output in nearby villages as well. They have earned much accolades for business they run and have accrued much wealth. There have been many instances where the couple felt that they could move to a metro town to explore more but without any knowledge of business world and regulatory compliances, they felt handicapped. Their children are also settled abroad. One fine day, when they are visited by CA Puru, a fast friend of their son who usually comes down to their village quite often to know about the well-being of his friend's parents from time to time. Mrs. Bansuri Devi discusses with him about agricultural operations she manages with the help of her team in the village and scale of operations they maintain. Puru tells them about how agricultural activities are maintained and operated in the metro towns like Mumbai where he lives and practices his profession. During discussion, he tells her that one of his clients, M/s Khetibaadi Ltd., a listed company is involved in agricultural and allied operations by procuring material from nearby areas. This company is also involved in various other types of animal husbandry operations and works on the same scale as Mrs. Bansuri Devi & Mr. Murli Lal work in the village. On getting curious, Mrs. Bansuri Devi asks him about the form and style in which Khetibaadi Ltd. works in the city. Puru tells her that unlike villages, in corporate world, large businesses have to follow certain accounting standards while maintaining books and balances of their businesses. Standards related to agriculture set out accounting for agricultural activity, the management of the transformation of biological assets (living plants and animals) into agricultural produce (harvested product of the entity's biological assets). The standards generally require biological assets to be measured at fair value less costs to sell. He tells her about following activities carried out by Khetibaadi Ltd.:-

- Managing animal-related recreational activities like Zoo
- Fishing in the ocean
- Fish farming
- Development of living organisms such as cells, bacteria and viruses for research
- Growing of plants to be used in the production of drugs.

Hearing about this, Mrs. Bansuri Devi persuades Mr. Murli Lal to set up a company in town under Puru's guidance to expand their business outside village as well. CA Puru assures Mr.

Murli Lal on all his queries and tells him that he and his team will help them at every step in setting up their company. Soon, the couple, with the help of CA Puru, set up and start operating their company in Mumbai under the name & style of M/s. Bansuri Pvt. Ltd. which ventured into business of agricultural operations with Mr. Murli Lal, Mrs. Bansuri Devi and Mr. Prabhudeva as the directors of company. Mr. Prabhudeva is appointed as the managing director, as the former directors are quite busy in the business already set up at Manpur. The company got registered under GST solely in the State of the Maharashtra. During the year, the company falls short of funds and they decide to borrow funds from the market. The Board of Directors of the company resolve to borrow a sum of ₹ 20 crores from a nationalized bank at a Board meeting held on 15.1.2024. Mr. Prabhudeva, who opposes the said borrowing as not in the interest of the company has raised an issue that the said borrowing is outside the borrowing powers of the Board putting forward the following data :-

- (i) Share Capital ₹ 5 crores
- (ii) Reserves and Surplus ₹ 5 crores
- (iii) Secured Loans ₹ 10 crores
- (iv) Unsecured Loans ₹ 5 crores.

After the meeting, since Mr. Murli Lal was in Mumbai, he wanted to discuss all the tax matters with CA Puru and sits with him in his office for the same :-

1. With business expansion, Mr. Murli Lal has also purchased a controlling stake in M/s Khetibaadi Ltd. and is now a director in the said company. He wants Puru to tell him briefly about the performance of this company in tea Market as well. Puru tells him that for the previous year ended 31.03.2023, Khetibaadi Ltd.'s composite business profits before allowing deduction relating to growing and manufacturing of tea is ₹ 50,00,000. On 01.09.2023, it deposited a sum of ₹ 10,00,000 in the Tea Development Account. During the previous year 2021-22, this company had incurred a business loss of ₹ 15,00,000 which has been carried forward. On 25.01.2024, it withdrew ₹ 10 lakhs, from deposit account which is utilized as :-

- (1) ₹ 6,00,000 for purchase on non-depreciable asset as per the scheme specified.
- (2) ₹ 3,00,000 for purchase of machinery to be installed in the office premises;
- (3) ₹ 1,00,000 was spent for the purpose of scheme on 05.04.2024.

Mr. Murli Lal wants to know about the income of the company for the year & the tax liabilities, if any, thereon, and about which CA Puru gives him an approximate idea of at that time itself.

2. Mr. Prabhudeva had informed CA Puru about two peculiar transactions related to GST which he wanted to discuss in the presence of Mr. Murli Lal, related to M/s Bansuri Pvt. Ltd. In one of the cases, they send raw tea leaves to their registered job worker under GST, Mr. Sharma in Mangalore, Karnataka and further, the processed flavoured tea, which is further delivered to the wholesalers in Telangana from the job worker's place in Mangalore itself with invoice and the e-way bill being issued by the company's department from the Mumbai office. Further, he asks him about the treatment of another transaction. They had sent a special lot of Tea "Rosa" to another job worker, Mr. Shakti Puri, in Ratlam for making flavoured tea as per the directions given. Further, due to a decline in the market of flavoured tea, they sent fresh normal unprocessed raw tea with new instructions to the job worker to hold the earlier consignment in stock till a buyer is found. The new stock is easily sold, but the old stock remained in godown of the job worker for over a year. CA Puru guides them properly about the tax treatment of these two transactions under GST.
3. Mr. Murli Lal is happy that their business has gone online as well and now they are selling their products through various e-commerce platforms. Mr. Prabhudeva shows his concern over the online selling part and wants CA Puru to keep a check on the working of the same during his audit. CA Puru assures him that his audit strategy would majorly be based on the fact that a good part of the company's business has gone online.

In evening, Mr. Murli Lal takes Puru with him to meet his old friend Mr. Babu Lal who resides in Mumbai with his family. Mr. Babulal had requested him for a meeting with Puru so that he could discuss with the latter certain tax related issues of his family and hire his services for tax related work. Mr. Babulal tells Puru that his son Gautam is liable to pay ₹ 10,000 per month to Barkha (his ex-wife) as alimony. Gautam, being an employee of PQR Pvt. Ltd., has instructed his company's HR department to pay ₹ 10,000 per month out of his salary to his wife directly and remit the remaining salary in his account. Mr. Babulal wants to know the tax treatment of such alimony given by Gautam in his hands. Further, he tells CA Puru that he works under a partnership firm in which he and his other two sons, Mr. B & Mr. C are partners. The partnership deed provides that after his death, Mr. B & Mr. C shall continue the business of the firm subject to a condition that 20% of profit of the firm shall be given to Mrs. Daya (wife of Mr. Babu Lal). Mr. Babu Lal wants

to know the tax treatment of such receipt in his wife's hands after his death. Puru satisfies Mr. Babu Lal by solving all his queries and quotes his fees to handle all the tax related matters of the family.

I. Multiple Choice Questions

1. An assessee carrying on business of growing and manufacturing tea is allowed a deduction under income tax law upon fulfilment of certain conditions like depositing amount in a deposit account opened in accordance with scheme framed by Tea Board. Deposits made in accordance with schemes framed by other Boards for agricultural commodities also qualify for similar deduction. Which of following schemes qualify in this regard?
 - (a) Schemes framed by Coffee Board and Spices Board
 - (b) Schemes framed by Rubber Board and Spices Board
 - (c) Schemes framed by Coffee Board and Rubber Board
 - (d) Schemes framed by Coffee Board, Rubber Board and Spices Board
2. Select the correct option on the basis of the following two statements :-
STATEMENT 1:- Payment of 20% profit to Mrs. Daya is applicaton of income.
STATEMENT 2:- Payment of alimony by Gautam to his ex-wife is diversion of Income.
 - (a) Statement 1 is Correct but Statement 2 is Incorrect.
 - (b) Statement 1 is Incorrect but Statement 2 is Correct.
 - (c) Both the Statements are Correct.
 - (d) Both the Statements are Incorrect.
3. What would be the GST Treatment of the stock lying with Mr. Shakti Puri?
 - (a) Tax payable by Mr. Shakti Puri.
 - (b) Tax payable by Bansuri Pvt. Ltd.
 - (c) No GST liability.
 - (d) Tax payable by Bansuri Pvt. Ltd. on its removal from the premises of Mr. Shakti Puri.

4. Bansuri Pvt. Ltd. is also engaged in sending raw tea leaves to job workers and selling processed tea after the job work is performed. Which of the following forms/returns is to be filed by Bansuri Pvt Ltd on GST portal in this respect :
- (a) ITC-04
 - (b) ITC-03
 - (c) ITC-02
 - (d) ITC-01
5. W.r.t the decision taken at the 4th Board meeting, the contention of director Prabhudeva is -
- (a) Valid, as per the provisions of the Companies Act, 2013.
 - (b) Invalid, as Bansuri Pvt Ltd is a Private Company.
 - (c) Valid, subject to passing an Ordinary Resolution in the General Meeting.
 - (d) Valid, subject to passing a Special Resolution in the General Meeting.

II. Descriptive Questions

6. Analyse whether the activities as narrated by CA Puru to Mrs. Bansuri Devi w.r.t Khetibaadi Ltd. fall within the scope of Ind AS 41 with proper reasoning.
7. You are required to state income tax implications of withdrawals from deposit account during financial year 2023-24 relevant for assessment year 2024-25.
8. What specific factors for online shopping would be considered by CA Puru in formulating the audit strategy of the company in the above case keeping in mind the concern raised by Mr. Prabhudeva?

ANSWERS TO THE CASE STUDY 7

I. Answers to the Multiple Choice Questions

1. (c) Schemes framed by Coffee Board and Rubber Board enjoy similar deduction under section 33AB of Income Tax Act.
2. (d) Both the Statements are Incorrect.

Reason: STATEMENT 1 :- Such income does not reach the assessee-firm.

Rather, such income stands diverted to the other person as such other person has a better title on such income than the title of the assessee. The firm might have received the said amount, but it so received for and on behalf of Mrs. Dayaa, who possesses the overriding title. Therefore, the amount payable to Mrs. Daya after the death of Mr. Babu Lal would be excluded from the income of the partnership firm in question.

STATEMENT 2 :- In this case, the amount of ₹ 10,000 per month is an obligation of Gautam to pay to his ex-wife out of his income and not an income in which she had over riding entitlement. In other words, this is the income of Gautam, which is applied by him to fulfill an obligation and hence, includible in his total income and a mere arrangement to pay a sum directly to his ex-wife would not make it a case of diversion of income.

3. (b) Tax payable by Bansuri Pvt. Ltd.

Reason: Here, sending of unprocessed tea by Bansuri Pvt Ltd to the job worker Mr. Shakti Puri in the first lot will be deemed as a supply and thus, tax would be payable on the same by the company.

4. (a) ITC-04.

Reason: ITC-04 is the prescribed return/form under GST Rules for giving account of goods sent on job work and received back.

5. (b) Invalid, as Bansuri Pvt Ltd is a Private Company.

Reason: According to the provisions of Section 180(1)(c) of the Companies Act, 2013, the powers of the Board are not uncontrolled and there are restrictions on the borrowing powers to be exercised by the Board of Directors. According to the said section, the borrowings should not exceed the aggregate of the paid-up share capital, free reserves and securities premium. While calculating the limit, the temporary loans obtained by the company from its bankers in the ordinary course of business will be excluded. However, from the figures available in the present case, the proposed borrowing of ₹ 20 crore will exceed the limit calculated as per the given information. Thus, the proposed borrowings are beyond the powers of the Board of Directors. In view of the above position, the management of any Company should take steps to pass a special resolution authorising to borrow the proposed amount of ₹ 20.00 crore, so that the requirement of Section 180(1)(c) is satisfied. Only thereafter, the proposed borrowing can be availed of.

However, Bansuri Private Limited is a Private Company and as per the MCA notification dated 5th June, 2015 which stated that this section shall not apply to private companies. Further on 4th January 2017, Specified IFSC public company would also not be required to comply with this section, unless the article of the company provides otherwise. Hence, they can avail the required Borrowing. As notified by the MCA, Section 180 of the Act (i.e. restrictions on the powers of the Board) shall not apply to a private company which has not committed a default in filing its financial statements under Section 137 or Annual Return under Section 92 with the Registrar. [Notification No. 464(E), dated 5th June, 2015 as amended by Notification No. 583 (E), dated 13th June, 2017.]

II. Answers to the Descriptive Questions

6.

Activity	Whether in the scope of Ind AS 41?	Remarks
Managing animal- related recreational activities like Zoo	No	Since the primary purpose is to show the animals to public for recreational purposes, there is no management of biological transformation but simply control of the number of animals. Hence it will not fall in the purview of the definition of agricultural activity.
Fishing in the ocean	No	Fishing in ocean is harvesting biological assets from unmanaged sources. There is no management of biological transformation since fish grow naturally in the ocean. Hence, it will not fall in the scope of the definition of agricultural activity.
Fish farming	Yes	Managing the growth of fish and then harvest for sale is agricultural activity within the scope of Ind AS 41 since there is management of biological transformation of biological assets for sale or additional biological assets.

Development of living organisms such as cells, bacteria and viruses for research.	No	The development of living organisms for research purposes does not qualify as agricultural activity, as those organisms are not being developed for sale, or for conversion into agricultural produce or into additional biological assets. Hence, development of such organisms for the said purposes does not fall under the scope of Ind AS 41.
Growing of plants to be used in the production of drugs	Yes	If an entity grows plants for using it in production of drugs, the activity will be agricultural activity. Hence it will come under the scope of Ind AS 41.

7. Tax consequences for the A.Y. 2024-25

Particulars	(₹)
₹ 10,00,000 being the amount withdrawn from Tea Development Account has to be utilized in the prescribed manner, otherwise, the withdrawn amount would be chargeable to tax as business income. In the given case, the taxability of withdrawal amount based on their utilization is as follows:	Not taxable
- ₹ 6,00,000, out of the amount withdrawn from the deposit account, utilised for purchase of non-depreciable asset as per the specified scheme. [As per section 33AB(6), no deduction would be allowed under section 33AB since amount is spent out of ₹ 10 lakh deposited in Tea Development Account, which has already been allowed as deduction in A.Y. 2023-24 (See Working Note below)].	
- ₹ 3,00,000, being the amount utilized for purchase of machinery to be installed in the office premises is not a permissible utilization. Hence, the amount would be deemed as profits and gains of business of the previous year 2023-24 as per section 33AB(4).	3,00,000
- ₹ 1,00,000 was spent for the purpose of scheme on 05.04.2024. As per section 33AB(7), this amount would be taxable since the same is not utilized during the same previous year (i.e., P.Y. 2023-24) in which the amount is withdrawn from the deposit account.	1,00,000

When any part of withdrawal amount becomes taxable, the agricultural and non-agricultural portions of income must be segregated.
Accordingly, ₹ 1,60,000, being 40% of ₹ 4,00,000 (₹ 3,00,000 + ₹ 1,00,000) would be chargeable to tax as business income and the balance ₹ 2,40,000, being 60% of ₹ 4,00,000 would be agricultural income exempt from tax.

Working Note:**Computation of Business Income of Khetibaadi Ltd. for the A.Y. 2023-24**

Particulars	(₹)
Composite business profits before allowing deduction under section 33AB	50,00,000
Less: Deduction under section 33AB(1) would be the lower of:	
- Amount deposited in Tea Development Account on or before 30.9.2023 [i.e., ₹ 10,00,000]	
- 40% of profits of such business [i.e., ₹ 20,00,000, being 40% of ₹ 50,00,000]	10,00,000
	40,00,000
Less: 60% of ₹ 40,00,000, being agricultural income [as per Rule 8]	24,00,000
Business income	16,00,000
Less: Brought forward business loss of A.Y. 2022-23 set-off as per section 72	15,00,000
Business income chargeable to tax	1,00,000

8. **Formulation of Audit Strategy:** While formulating the audit strategy for a company, following factors may be considered -

Specific Factors for Online Shopping: The auditor shall also obtain an understanding of the information system including the related business processes due to new venture of online shopping in the following areas:

- (i) The classes of transactions in the entity's operations that are significant to the financial statements;
- (ii) The procedures, within both information technology (IT) and manual systems, by which those transactions are initiated, recorded, processed, corrected as necessary, transferred to the general ledger and reported in the financial statements;
- (iii) The related accounting records, supporting information and specific accounts in the financial statements that are used to initiate, record, process and report

transactions; this includes the correction of incorrect information and how information is transferred to the general ledger. The records may be in either manual or electronic form;

- (iv) How the information system captures events and conditions, other than transactions, that are significant to the financial statements;
- (v) Controls surrounding journal entries, including non-standard journal entries used to record non-recurring, unusual transactions or adjustments.

CASE STUDY 8

LWS & Co., a chartered accountant firm has been into practice since 2006 in Delhi. CA Suresh Shah and CA Harvinder Kaur started their firm after practicing individually for almost 4 years and now firm has grown into big firm of 5 partners. The partners of firm have contributed various articles on subjects of Direct tax and allied Laws in professional journals and magazines. The clientele encompasses various segments i.e. software, education, NGOs, Government Bodies, real estate, construction, jewellery and a host of others. Over the years, the firm has evolved into renowned professional firm that has worked on various assignments ranging from statutory audits, management audits, income tax planning, FEMA consultancy, GST consultancy, establishment of overseas ventures and other related matters.

The firm has unique way of training its articles by involving them with its experienced partners on crucial projects so that they are able to learn and understand the practical issues arising in different industries. Currently, Subhash, Ashish and Manoj being articles of the firm are working with CA Harsh Bhatia, CA Nikhil Grover and CA Sakshi Ahuja, respectively for prestigious clients of the firm.

(1) Subhash assisting CA Harsh Bhatia

Currently, CA Harsh Bhatia is working on the applicability of Ind AS for various clients. The firm has a prestigious client, Shivalik Construction Private Limited, a construction company. On 1st January 2024, the company contracts to renovate a building including installation of new elevators. The company estimates following with respect to the contract:

Particulars	Amount (₹)
Transaction price	60,00,000
Expected costs:	
(a) Elevators	10,00,000
(b) Other costs	<u>35,00,000</u>
	45,00,000

The company purchased elevators and they are delivered to the site six months before they will be installed. The Company uses an input method based on cost to measure progress towards completion. The Company has incurred actual other costs of ₹ 7,00,000 by 31st March, 2024. The accounts team of the Company is facing difficulty in recognising revenue in respect of above contract. So, they have approached CA Harsh Bhatia with the abovementioned facts. CA Harsh

Bhatia delegated the said work to Subhash to start initial working and then revert to him with his opinion.

(2) Ashish assisting CA Nikhil Grover

CA Nikhil Grover handles tax department of the firm. The final calculation of income tax and tax planning is being headed by CA Nikhil Grover. He is nowadays being assisted by Ashish. One of the oldest clients of the firm is MVS Private Ltd. The accountant of the company approached CA Nikhil Grover for calculation of final tax liability of the company. CA Nikhil assigned the work to Ashish. The accountant showed financials of the company to Ashish as below:-

The Profit & Loss Account of MVS private Limited for the year ended 31st March, 2024 shows a profit of ₹ 75 lakhs after debiting the following items:

- (i) ₹ 2 Lakhs contributed to Employee's Welfare Trust (not required as per any law for the time being in force).
- (ii) ₹ 7,80,000 paid towards course fee and hostel expenses for MBA course of a close relative of a director. The relative is not in employment with the company.
- (iii) ₹ 3.50 lakhs being expenses incurred on installation of a traffic signal, so as to facilitate its employees coming to office to overcome traffic jam and save office time.
- (iv) ₹ 3 lakhs spent on gift items distributed to various dealers under the company's sales incentive scheme.
- (v) ₹ 6 lakhs being expenses incurred on the travelling of the wife of MD, who accompanied him on tour to Singapore on invitation of Trade and Commerce chamber, Singapore.
- (vi) ₹ 3 lakhs being amount paid in March 2024 consequent upon change in currency rate due to exchange fluctuation in excess of the amount due to the supplier of machinery. Such second hand machinery was acquired and put to use on 10th September 2023.
- (vii) ₹ 18,000 and ₹ 9,000 paid in cash on 25th August, 2023 by two separate vouchers to a contractor who carried out certain repair work in the office premises.
- (viii) Interest of ₹ 2 lakhs was paid in September, 2023 to a company on a loan taken from it. Tax deducted at source, during P.Y. 2023-24, from such interest was deposited in April 2024.

Additional Information:

- (a) Audit fee of ₹ 6 lakhs was credited during previous year 2022-23 without deducting tax at source. Such fee was paid to the auditors in September, 2023 after deducting tax under section 194J and the tax so deducted was deposited on 7th December, 2023. 30% of audit fee was disallowed while computing income for financial year 2022-23.
- (b) During financial year under consideration, the company purchased 10,000 shares of AB Private Limited out of its total 2 lakh shares at ₹ 40 per share. The fair market value of such shares on the date of transaction was ₹ 60 per share.

(3) Manoj assisting CA Sakshi Ahuja

Mr Amit, the director of SSI Pvt. Ltd. visited CA Sakshi Ahuja who is handling all customs related works of clients for past 7 years. The company imported machinery from USA by air for which the details are given under. FC signifies foreign currency in appended table.

Purchase cost of Machinery	FC 7,000
Accessories worth US \$ 2,000 compulsorily supplied with machine, price of which is included in price of machine	
Air Freight	FC 2,000
Insurance	FC 100
Local Agent Commission (not buying commission)	₹ 4,500
Exchange Rate with respect to INR	1 FC = 70
Custom Duty on Machine	10% ad valorem
Custom duty on Accessory	20% ad valorem
Integrated Tax	12%
GST Compensation cess	Nil
SWS (Social Welfare Surcharge)	10%

I. Multiple Choice Questions

1. With reference to the Information given in point (3), compute the FOB value of machinery purchased by SSI Pvt. Ltd. as per Customs Act, 1962.
- (a) ₹ 4,90,000
- (b) ₹ 4,94,500

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INTEGRATED BUSINESS SOLUTIONS CASE STUDY

- (c) ₹ 6,30,000
(d) ₹ 6,37,000
2. With reference to the Information given in point (3), compute assessable value of machinery purchased by SSI Pvt. Ltd. as per Customs Act, 1962.
- (a) ₹ 6,00,400
(b) ₹ 6,37,000
(c) ₹ 6,41,500
(d) ₹ 7,81,500
3. With reference to the Information given in point (3), compute the total customs duty and integrated tax payable as per Customs Act, 1962 by SSI Pvt. Ltd. in respect of imported machine.
- (a) ₹ 1,54,918
(b) ₹ 1,46,017
(c) ₹ 1,56,013
(d) ₹ 1,90,060
4. With reference to the Information given in point (2), compute the Income of MVS Private Limited taxable under the head "Income from other sources".
- (a) ₹ 4,00,000
(b) ₹ 1,50,000
(c) ₹ 2,00,000
(d) Nil
5. Existence of which of the conditions would make it appropriate for Shivalik Construction Private Limited to recognise revenue only to the extent of costs incurred?
- (i) The goods do not represent a distinct performance obligation
(ii) The goods represent a distinct performance obligation
(iii) Customer is expected to obtain control of the goods significantly before receiving the services

- (iv) Cost of such goods is significant relative to the total expected costs to complete the performance obligation and
- (v) The entity procures the goods from a third party and does not significantly involve in designing / manufacturing the goods (even if the entity is a principal in the arrangement between the entity and end customer).

In the above context, which of the following is correct combination:

- (a) (i), (ii), (iii), (iv), (v)
- (b) (i), (iii), (iv), (v)
- (c) (ii), (iii), (iv), (v)
- (d) (i), (ii), (iii), (iv)

II. Descriptive Questions

6. Compute total income of MVS Private Limited for Assessment Year 2024-25 and tax liability under Income Tax Act on such income indicating reasons for treatment of each item. Ignore provisions relating to minimum alternate tax. Assume that company does not opt for provisions of section 115BAA (Turnover of company for previous year 2021-22 was ₹ 250 crore)
7. How will Shivalik Construction Private Limited recognize revenue as per the relevant Ind AS, if performance obligation is met over a period of time?

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I. Answers to the Multiple Choice Questions

1. (b) ₹ 4,94,500

Reason:

Particulars	Amount
Cost of machinery inclusive of accessory (FOB) (See note)	7,000
Total (in Indian ₹) FC 7000 * ₹ 70 (being Exchange Rate)	₹ 4,90,000
Add: Local Agency Commission	₹ 4,500
FOB Value as per Customs	₹ 4,94,500

Note:

- 1) As per Accessories (Conditions) Rules, 1963, accessories and spare parts compulsorily supplied with main implements are chargeable at the same rate applicable to main machine. Therefore, such accessories shall also be chargeable with duty at the rate applicable to the machinery i.e. 10% ad valorem
- 2) Agency Commission, which is incurred in India, is not regarded as Buying Commission and therefore will be added to determine customs FOB Value.

2. (a) ₹ 6,00,400

Reason:

Particulars	Amount
Cost of machinery inclusive of accessory (FOB) (See note)	7,000
Total (in Indian ₹) FC 7,000* ₹ 70 (being Exchange Rate)	₹ 4,90,000
Add: Agency Commission	₹ 4,500
FOB Value as per Customs	₹ 4,94,500
Add: Cost of insurance (FC 100 * ₹ 70)	₹ 7,000
Add: Air freight restricted to 20% of FOB Value as per customs	₹ 98,900
CIF Value/Assessable Value	₹ 6,00,400

Note: Actual Air freight is FC 2,000, it is limited to 20% of Custom FOB value of Goods as per Rule 10(2) of Custom Valuation Rules

3. (b) ₹ 1,46,017

Reason:

Particulars	Amount (₹)
Assessable Value (A)	6,00,400
Add: Basic Custom Duty (10%) (B)	60,040
Add: SWS @10% on BCD (C)	6,004
Total for Integrated Tax u/s 3(7) CTA,1975 (D)	6,66,444
Integrated Tax @ 12% of ₹ 6,66,444 (rounded off) (E)	79,973

Total Custom Duty Payable = (B) + (C) + (E) i.e. ₹ 1,46,017

4. (c) ₹ 2,00,000

Reason: Income from other sources- Difference between the aggregate fair market value of shares of a closely held company and the consideration paid for purchase of such shares is deemed as income in the hands of the purchasing company under section 56(2)(x). Since the difference exceeds ₹ 50,000, the entire sum is taxable.

$$10,000 \text{ shares} * (60 - 40) = ₹ 2,00,000$$

5. (b) (i), (iii), (iv), (v)

Reason: While applying input method, a careful consideration should be given for events that do not depict a direct relationship between entity's inputs and transfer of control of goods or services. For example, when cost-based input method is used, an adjustment may be required when cost incurred is not proportionate to entity's progress in satisfying its performance obligation. In such cases, the best reflection is to adjust the input method to recognise revenue only to the extent of costs incurred. Such recognition of revenue to the extent of costs incurred is appropriate, if at contract inception, all the following conditions exist:

- (i) The goods do not represent a distinct performance obligation;
- (iii) Customer is expected to obtain control of the goods significantly before receiving the services;
- (iv) Cost of such goods is significant relative to the total expected costs to complete the performance obligation; and
- (v) The entity procures the goods from a third party and does not significantly involve in designing / manufacturing the goods (even if the entity is a principal in the arrangement between the entity and end customer).

II. Answers to the Descriptive Questions

6. Computation of total income of MVS Private Ltd. for A.Y. 2024-25

Particulars	Amount (₹)
Profits and gains of business or profession	
Net profit for the year as per profit and loss account	75,00,000
Add: Expenses debited to profit and loss account but not allowable	

Contribution to Employees' Welfare Trust disallowed under section 40A(9) Note: Alternatively, contribution to Employees Welfare Trust can be regarded as labour welfare expenditure and hence, can be allowed as deduction under section 37 as the payments were made on the ground of assessee's business exigencies [CIT v. Cheran Transport Corp. Ltd. (Mad.)]	2,00,000
Expenses on course fee and hostel expenses for MBA course of a close relative of a director, who is not in employment of MVS Private Ltd., is not deductible under section 37 [Enkay (India) Rubber Co. Ltd. V CIT] Such expenditure is not incurred wholly and exclusively for the purposes of business. Hence, it should be added back to compute business income.	7,80,000
Expenses on installation of traffic signal, to facilitate its employees to overcome traffic jam and be on time, is in the interest of the business so that the work gets completed on time, and is hence, an allowable expense under section 37(1) [Infosys Technologies Ltd. v. CIT (Bangalore)]	
Expenses on distribution of gift items to dealers under sales incentive scheme would promote goodwill and is made in the interest of business. Such gifts are prompted by commercial expediency and hence, the expenditure is allowable under section 37(1) [CIT v. Avery Cycle Industries Ltd. (Punjab & Haryana)]	
Expenses on travelling to Singapore of the wife of Managing Director on the invitation of Trade and Commerce Chamber, Singapore, is an allowable expense on the grounds of commercial expediency and business considerations. [Hero Honda Motors Ltd. v. CIT (Delhi)]	
Increase in liability due to change in currency rate and paid to the suppliers of machinery is to be added to cost of the asset as per section 43A. Hence, it should be added back to compute business income.	3,00,000
Payments to a contractor for repair work in a day by two separate vouchers in cash, is not an allowable expense as per section 40A(3), since the aggregate payments in a day exceeds the limit of ₹ 10,000	27,000
Interest of ₹ 2 lakhs paid in September, 2023, on which tax deducted at source was remitted to the government before the due date of filling of income tax return, is allowable as per section 40(a)(ia).	
Total	88,07,000
Less: Expenditure allowable as deduction but not debited to profit and loss account	

Disallowed audit fees paid for the year ended 31.3.2023 for which tax was not deducted in the F.Y. 2022-23 but was deducted and paid in F.Y 2023-24, is allowable as deduction in the A.Y. 2024-25, as per the proviso to section 40(a)(ia)	1,80,000
Depreciation on the amount of ₹ 3 lakhs added in cost of Machinery was put to use for more than 180 days	45,000
Income under the head Profits & Gains of Business or Profession	85,82,000
Income from other sources Difference between the aggregate fair market value of shares of a closely held company and the consideration paid for purchase of such shares is deemed as income in the hands of the purchasing company other section 56(2)(x). Since the difference exceeds ₹ 50,000, the entire sum is taxable.	2,00,000
Total Income	87,82,000

Computation of tax liability of MVS Private Ltd. For the A.Y. 2024-25

Particulars	Amount (₹)
Tax on ₹ 87,82,000 @ 25%	21,95,500
Add: Health & Education cess @ 4%	87,820
Total tax payable	22,83,320

7. Costs to be incurred comprise two major components – elevators and cost of construction service

- (a) The elevators are part of the overall construction project and are not a distinct performance obligation.
- (b) The cost of elevators is substantial to the overall project and are incurred well in advance.
- (c) Upon delivery at site, customer acquires control of such elevators.
- (d) And there is no modification done to the elevators, which the company only procures and delivers at site. Nevertheless, as part of materials used in overall construction project, the company is a principal in the transaction with the customer for such elevators also.

Therefore, applying the guidance on input method as provided under Ind AS 115, 'Revenue from Contracts with Customers' –

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- The measure of progress should be made based on percentage of costs incurred relative to the total budgeted costs.
- The cost of elevators should be excluded when measuring such progress and revenue for such elevators should be recognized to the extent of costs incurred.

The revenue to be recognized is measured as follows:

Particulars	Amount (₹)
Transaction price	60,00,000
Costs incurred:	
(a) Cost of elevators	10,00,000
(b) Other costs	7,00,000
Measure of progress:	$7,00,000/35,00,000 = 20\%$

Revenue to be recognised:	
(a) For costs incurred (other than elevators)	Total attributable revenue = 50,00,000 % of work completed = 20% Revenue to be recognised = 10,00,000
(b) Revenue for elevators	10,00,000 (equal to costs incurred)
Total revenue to be recognised	$10,00,000 + 10,00,000 =$ 20,00,000

Therefore, for the year ended 31st March, 2024, the company shall recognize revenue of ₹ 20,00,000 on the project.

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Economic Survey for 2023-24 has been presented to the Parliament. According to the survey, "the Indian Economy, however, appears to have moved on after its encounter with the pandemic, staging a full recovery ahead of many nations and positioning itself to ascend to the pre-pandemic growth path". It is also stated that agencies worldwide continue to project India as the fastest growing major economy.

This could be possible with TEAM (Together Everyone Achieves More) efforts. The participants of this Team are the Central Government, State Governments, industry and the people of this country.

There has been a tectonic shift in policies of the government. The emphasis of the present government has been to stimulate entrepreneurship so that more and more people become job givers rather than job seekers. This has also resulted in providing impetus and encouragement to the youth of the nation to pursue their entrepreneurial dreams.

One such case of entrepreneurial dreams is of Manu and Tanu, two friends who always aspired to have their own business ventures when they complete their education. They both completed MBA from top business schools in India and were working in large corporates with big pay packages.

Whilst they always wanted to pursue business ideas, nothing came their way which enticed them to start their entrepreneurial journey. Meanwhile, Manu who was interested in economic policy and defence related matters came across a write up which described the shift in the policy by the present government in defence sector. The new policy emphasised on giving priority to the indigenous market players and reserving more than 500 items for domestic manufacturing, was a lucrative business chance, he thought.

Though Manu and Tanu were in contact, it had been couple of years since they met. Manu met Tanu and discussed this idea of business potential in defence sector and how they could start something of their own. They believed there is a lot of scope in domestic as well as in global market, if they could manufacture the ancillary items used in defence equipment.

Having realised their true calling, both resigned from their high paying jobs to start their own venture. In 2021, they incorporated a company called M&A Private Ltd, with both of them being the shareholders and directors of the Company. Gradually, when the business started growing, they brought in Shyam as a shareholder and director. Presently, Shyam holds 12% of the equity share capital while Manu and Tanu hold 44% each. The Company is able to fund its operations internally without seeking any outside funds.

As both Tanu and Manu had business acumen and strategic vision, they wanted to rely on a professional who can guide them on accounting, law and compliance matters and give expert

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INTEGRATED BUSINESS SOLUTIONS CASE STUDY

advice at various points in time as required by business. They appointed their long-time friend and a tenured financial professional, Ajim as the Chief Financial Officer (CFO) of the Company.

During one of the board meetings, while briefing about the audit status, the CFO informed the directors that the financial statements for the current year would be prepared as per the Indian Accounting Standards (Ind AS). In the audit kick-off meeting held in March 2024, the following points were discussed by the CFO, while Tanu and Manu, added their insights:

- (A) Shyam is a director on the Board of Directors and holds 12% equity shares of the Company. As Shyam had some financial emergency, Tanu and Manu wanted to support him by giving loan of ₹ 5 Lakhs from the Company. CFO mentioned that the Company had an accumulated profit of ₹ 7.5 Lakhs as on the date of loan to Shyam. It is pertinent to note that Shyam is also a Partner in Shyamlal & Co, with a 30% profit sharing therein. During the current year, the Company made an advance of ₹ 2 Lakhs to Shyamlal & Co. towards procurement of materials.
- (B) The Company also purchases goods from entities registered under Micro, Small and Medium Enterprises Act, 2006. The CFO of the Company provides the following information of trade payable to Micro and Small Enterprises:

Not due	₹ 7 lakhs (out of which ₹ 3 lakhs are disputed)
Due less than 1 year	₹ 12 lakhs (out of which ₹ 2 lakhs are disputed and in arbitration)
1-2 years	₹ 3 lakhs disputed
More than 2 years	Nil

During the year, the Company paid an interest of ₹ 2.50 lakhs in terms of section 16 of the Micro, Small and Medium Enterprises Development Act, 2006 and ₹ 1.5 Lakhs were paid beyond the appointed day and the interest due of ₹ 10,000 was not paid.

- (C) M&A Private Ltd acquired 100% of the shares of another company P&T Private Ltd. The negotiations for this acquisition commenced on 1st January 2023 and the agreement was finalised on 1st March 2023. While M&A Private Ltd obtained the power to control P&T Private Ltd.'s operations on 1st March 2023, the agreement states that the acquisition is effective from 1st January 2023 and that M&A Private Ltd is entitled to all profits after that date. In addition, the purchase price is based on P&T Private Ltd.'s net assets as at 1st January 2023. The final settlement of consideration was made on 1st May 2023.
- (D) M&A Private Ltd also holds 70% stake of issued equity share capital of SAGE Ltd. and 45% of issued redeemable preference shares. This acquisition was made on 31st

December 2023. Issued and paid-up equity and preference share capital of SAGE Ltd as on 31st March 2023 is ₹ 15 Crores and ₹ 5 Crores respectively. Balance in the Statement of Profit and Loss for the year ended 31st March 2024 is ₹ 25 Crores. All the book values of assets and liabilities were same as their fair values except for an item of Property, Plant and Equipment (PPE). The carrying amount, at the time of acquisition by M&A Private Ltd, of PPE is ₹ 3 crores and its fair value was ₹ 6.20 Crores. No adjustment for fair-value has been done in the books of SAGE Ltd.

- (E) Anu is also a director of M&A Private Ltd, who was going on world tour for a period of 5 months. In his absence, he wishes to appoint his friend Kumar, as an alternate director of M&A Private Ltd on his behalf. The Articles of Association of the Company allows the appointment of alternate director.
- (F) M&A Private Ltd enters into a seven-year service contract with a customer NP Ltd for an amount of ₹ 21 Lakhs i.e. ₹ 3 Lakhs per year. The standalone selling price for one year contract at inception of the contract is ₹ 3 Lakhs per year. M&A Private Ltd. accounts for the contract as a series of distinct services. At the beginning of the Seventh year, the parties agree to modify the contract as follows:
- the fees for the seventh year is reduced to ₹ 2.7 Lakhs and
 - NP Ltd agrees to extend the contract for another seven years for ₹ 16.80 Lakhs i.e. ₹ 2.40 Lakhs per year.

The standalone selling price for one year of service at the time of modification is ₹ 2.10 Lakhs.

I. Multiple Choice Questions

1. The CFO says that the tax auditor wants to treat the loan of ₹ 5 Lakhs to Shyam and advance of ₹ 2 Lakhs to Shyamlal & Co. as deemed dividend. Is it appropriate?
- (a) Both the loan of ₹ 5 Lakhs and advance of ₹ 2 Lakhs will not be treated as deemed dividend as both are repayable.
- (b) The loan of ₹ 5 Lakhs and advance of ₹ 2 Lakhs will be treated as deemed dividend only to the extent of ₹ 90,000 i.e. 12% of the accumulated profit.
- (c) Both the loan and advance will not be treated as deemed dividend as his interest in the Company is only 12%.
- (d) The loan will be taxable as deemed dividend, but the advance given to Shyamlal & Co. will not be treated as deemed dividend since it is a business advance.

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INTEGRATED BUSINESS SOLUTIONS CASE STUDY

2. CFO states that the interest paid to the MSME vendors is allowed as a business expenditure and should be reported accordingly in the tax returns:
 - (a) The interest of ₹ 2.60 Lakhs will be deductible, as it is business expenditure.
 - (b) The interest of ₹ 1.95 Lakhs will be deductible, as 75% of the interest paid to MSME vendors will be allowed as a deduction.
 - (c) The interest of ₹ 2.50 Lakhs paid to MSME vendors will not be allowed as deduction from computation of income, as the Micro, Small and Medium Enterprises Act, 2006 specifically prohibits such deduction.
 - (d) The interest of ₹ 1.25 Lakhs will be deductible, as 50% of the interest paid to MSME will be allowed as a deduction.
3. As per Ind AS 103, what is the date of acquisition of P&T Private Ltd. by M&A Private Ltd. for the purposes of business combination?
 - (a) 1stJanuary 2023
 - (b) 1stMarch 2023
 - (c) Either of 1stJanuary 2023 or 1stMarch 2023 at the choice of M & A Private Ltd.
 - (d) 1stMay 2023
4. Compute the amount of non-controlling interest of SAGE Ltd as on 31st March 2023:
 - (a) ₹ 15.68 Crores
 - (b) ₹ 12.00 Crores
 - (c) ₹12.96 Crores
 - (d) ₹ 14.75 Crores
5. Whether Anu has a right to appoint alternate director in his absence:
 - (a) Claim made by Anu to appoint Kumar as alternate Director is valid, as the Articles of Association of M&A Private Ltd provide for appointment.
 - (b) Claim made by Anu to appoint Kumar as alternate Director is not valid, as the authority to appoint alternate Director vests with the Board of Directors only and that too subject to Articles of Association.
 - (c) Kumar cannot be appointed as alternate director in place of Anu, since his absence will be of less than six months.

- (d) Kumar cannot be appointed as alternate director in place of Anu, since his absence will be more than 3 months.

II. Descriptive Questions

6. As Tanu and Manu are not well versed with Ind AS, with reference to business combinations, they want to understand about:
- (i) Determination of acquisition date
 - (ii) Ascertainment of control
7. The CFO believes that a loan to directors is prohibited under the Companies Act, 2013. Can M&A Private Ltd extend the proposed loan to Shyam? Comment.
8. The CFO wants to understand, how to record revenue at the end of seventh year as per Ind AS 115. Also, prepare a brief note explaining the accounting for revenue when the contract is modified.

ANSWERS TO THE CASE STUDY 9

I. Answers to the Multiple Choice Questions

1. (d) As per Section 2(22)(e) of the Income-tax Act, 1961, dividend includes -any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise) made after the 31st day of May, 1987, by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than ten per cent 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 (hereafter in this clause referred to as the said concern) 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.
- Hence, loan to director will be treated as deemed dividend and advance to firm will not be considered as deemed dividend, as it is a business advance.
2. (c) Section 23 of the MSMED Act lays down that an interest payable or paid by the buyer, under or in accordance with the provisions of this Act, shall not for the

purposes of the computation of income under the Income-tax Act, 1961 be allowed as a deduction

3. (b) Paragraph 8 of Ind AS 103 provides that acquisition date is the date on which the acquirer obtains control of the acquiree.

4. (a)

Share Capital	₹ in crores	NCI	₹ in crores
Equity	15	30%	4.5
Preference	5	55%	2.75
Profit	25	30%	7.5
Fair Value Adjustment	3.2	30%	0.96
Depreciation Adj	0.1	30%	-0.03
			15.68

5. (b) Section 161 of the Companies Act, 2013 vests the Board of Directors to appoint any person as an alternate director and not to the director during whose absence he is to act.

II. Answers to the Descriptive Questions

6. (i) **Determination of Acquisition Date: Paragraph 8 of Ind AS 103 provides the acquisition date as the date on which the acquirer obtains control of the acquiree. Further, Paragraph 9 of Ind AS 103, clarifies that the date on which the acquirer obtains the control of the acquiree is generally the date on which the acquirer legally transfers the consideration, acquires the assets and assumes the liabilities of the acquiree — the closing date.**

However, the acquirer might obtain control on a date that is either earlier or later than the closing date. For example, the acquisition date precedes the closing date if a written agreement provides that the acquirer obtains control of the acquiree on a date before the closing date.

The acquisition date is a very important step in the accounting of business combination because it determines when the acquirer recognizes and measures the consideration, the assets acquired and liabilities assumed. The acquiree's results are consolidated from this date. **The acquisition date materially impacts the overall acquisition accounting, including post-combination earnings.**

(ii) **Ascertainment of Control:**

Paragraphs 6 of Ind AS 110, “Consolidated Financial Statements”, , states that an investor controls an investee when it is exposed, or has rights, to variable returns from its involvement with the investee and has the ability to affect those returns through its power over the investee. Further, para 7 of Ind AS 110 states that an investor controls an investee if and only if the investor has all the following:

- (a) power over the investee;
- (b) exposure, or rights, to variable returns from its involvement with the investee; and
- (c) the ability to use its power over the investee to affect the amount of the investor’s returns.

7. **Section 185** of the Companies Act, 2013 (the Act) imposes restrictions on the Company on providing of loans to directors of the Company. As per the exemption notified by the Ministry of Corporate Affairs, (MCA), Section 185 of the Act shall not apply to a Private Company in case of fulfillment of the following conditions:

- (a) in whose share capital no other body corporate has invested any money;
- (b) if the borrowings of such a company from banks or financial institutions or anybody corporate is less than twice of its paid-up share capital or fifty crore rupees, whichever is lower; and
- (c) such a Company has no default in repayment of such borrowings subsisting at the time of making transactions under this section.

Analysis and Conclusion

In the given case, since the Company (M&A Private Limited) is in compliance with the above mentioned criteria. So it will be exempted from the applicability of Section 185 of the Act on it. So the restrictions marked on providing of loan under Section 185 of the Act will not be applicable on M&A Private Limited. **Hence, M&A Private Limited can extend the proposed loan to Shyam.**

ALTERNATE ANSWER

Section 185 of the Companies Act, 2013 imposes restrictions on the Company on providing of loans to directors.

Accordingly,

- (i) **A Company is not permitted, to advance any loan, / any guarantee /any security in connection with any loan taken by,—**
- (a) **any director of Company**, or of a Company which is its holding company or any partner or relative of any such director; or
 - (b) **any firm** in which any **such director** or relative is a **partner**.
- (ii) **Relaxation:** Subject to the specified conditions, a Company is permitted to:
- advance any loan or give any guarantee or provide any security in connection with any loan **taken by any person in whom any of the director of the company is interested**.

The expression "any person in whom any of the director of the company is interested" means—

- (a) any **private company** of which any such director is a director or member;
- (b) any **body corporate** at a general meeting of which **not less than twenty-five per cent** of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or
- (c) any **body corporate**, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.

In the given instance, Shyam is a director on the BoD of the M&A Private Limited. Shyam had some financial emergency, so Tanu and Manu wanted to support him by giving loan of 5 lakhs from the company. Also **Shyam is a partner in Shyamlal & Co.**

Analysis and Conclusion

Accordingly, as per the stated provision, Loan is prohibited to be given to Shyam, a director in M&A Private Limited who is also partner in a firm, Shyamlal & Co. However subject to compliance of specified conditions mentioned in Section 185(2) of the Act, a Company is permitted to advance loan taken by any person in whom any of the director of the company is interested. As per the explanation, "any person in whom any of the director of the company is interested" includes any private company of which any such director is a director or member.

As Shyam is a director in M&A Private Limited, so falling within the specified category, makes him eligible under the said Section to get the loan from M&A Private Limited. **Hence, M&A Private Limited can extend the proposed loan to Shyam.**

8. (i) Recording of revenue at the end of the seventh year as per Ind AS 115

In the given case, even though the remaining services to be provided are distinct, the modification should not be accounted for as a separate contract because the price of the contract did not increase by an amount of consideration that reflects the standalone selling price of the additional services.

The modification would be accounted for, from the date of the modification, as if the existing arrangement was terminated and a new contract created (i.e. on a prospective basis) because the remaining services to be provided are distinct.

M&A Pvt. Ltd. should reallocate the remaining consideration to all of the remaining services to be provided (i.e. the obligations remaining from the original contract and the new obligations). M&A Pvt. Ltd. will recognize a total of ₹ 19.50 lakhs (₹ 2.70 lakhs + ₹ 16.80 lakhs) over the remaining eight-year service period (one year remaining under the original contract plus seven additional years) or ₹ 2.4375 lakhs per year.

(ii) Brief note for accounting for revenue when the contract is modified:

Paragraphs 18 to 20 of Ind AS 115 deals with contract modification. It provides in certain circumstances to treat it as a separate contract. A contract modification is a change in the scope or price of the contract that is approved by the parties to the contract.

A contract modification is a change in the scope or price (or both) of a contract i.e. approved by the parties to the contract. The contract modification exists when parties to a contract approves a modification that either creates a new or changes existing enforceable rights and obligations of the parties to the contract. A contract modification could be approved in writing, by oral agreement or implied by customary business practices. If the parties to the contract had not approved to the contract modification, the entity shall continue to apply this standard to the existing contract until the contract modification is approved.

Accounting for the modification

Once determination of contract being modified is established, the entity further determines its accounting either as a separate contract or as a termination of the old contract and the creation of a new contract, by making a cumulative catch-up adjustment to the original contract or a combination of the two.

An entity accounts for a contract modification as a separate contract if the modification

- (1) increases the scope of the work promised under the original contract by adding new promised goods or services that are considered distinct, **and**
- (2) the increase in the contract price reflects the stand-alone selling price of the additional goods or services.

If a modification adds a distinct good or service to a series of distinct goods or services that is accounted for as a single performance obligation, the modification is accounted for as a separate contract as long as the transaction price increases by the stand-alone selling price for those added goods or services.

CASE STUDY 10

Sahana is MBA Graduate from IIM Bangalore. Sahana and her father incorporated a company 'Sah Fashions Ltd.' to set up a boutique and chain of readymade garment stores to support their family business of cotton and yarn mills. She was able to manage the accounting and taxation part of her business by herself in the initial stages. Considering the business expansion, she was evaluating to hire a professional consultant who would support in all business matters including taxation and accounting. She reached out to her old friend, Madan, a Practising Chartered Accountant to seek his help on accounting and compliance matters relating to the Company.

Madan set up his own Proprietorship firm and has been in practice specialising in Audit and Taxation since 10 years. When Sahana contacted Madan for professional help, he was more than glad to support her. They met up at a coffee shop to discuss the details of the engagement. During the conversation, Madan tells her that times have changed and so have the ways of presenting accounts of any business as per the financial reporting framework. He explains how the preparation of the Financial Statements is now regularized in such a way where all such Financial Statements shall have a consistency/ uniformity across the industry (with few exceptions e.g. specially regulated financial statements). In addition, the users of these Financial Statements would also have an assurance of complying with basic framework. He also gives her an overview of latest changes in the income tax and GST which could have an impact on her business. After a detailed conversation on accounting and taxation aspects, he asks Sahana to brief him about her business and the issues she is facing. The meeting gets more formal as Sahana calls Murari, the Accountant working in her Company to the meeting.

Sahana explains the following open issues to Madan:

Issue 1

Sahana opines that Murari is not computing the depreciation on the Plant and Machinery appropriately:

	Particulars	₹ Lakhs
(1)	WDV of Plant & Machine (P & M)	30
(2)	New P & M purchased and put to use on 8 th June 2023*	20
(3)	New P & M acquired and put to use on 15 th December 2023*	8
(4)	Computer acquired and installed on 2 nd January 2024	3

* Qualified for additional depreciation @20% p.a.

As per Murari's workings, total maximum depreciation on machinery @15% comes to ₹ 8.7 Lakhs and on computer @40% comes to ₹ 1.2 Lakhs.

Issue 2

On 1st April 2022, Sah Fashions Ltd acquired 100% of Spun Ltd for ₹ 5 Lakhs, which was into cotton spinning business. The fair value of the net identifiable assets of Spun Ltd was ₹ 4.5 Lakhs and goodwill was ₹ 0.5 Lakhs. On 31st March 2024, the government changed its policy on textile sector having adverse impact on business of companies like Spun Ltd.

Internal discussion on government policies indicate that revenue of Spun Ltd is estimated to fall by 20% in coming three to five years. The adverse effect on market place and strict regulatory conditions indicate impairment. As a result, Spun Ltd. has to estimate the recoverable amount of goodwill and net assets on 31st March 2024.

Sah Fashions Ltd. uses straight line depreciation. The useful life of Spun Ltd assets is estimated to be 15 years with no residual value. Further, no independent cash inflows can be identified to any individual assets. So the entire operation of Spun Ltd is to be treated as a cash generating unit (CGU). Due to the regulatory entangle, it is not possible to determine the selling price of Spun Ltd. as a CGU. Its value in use is estimated by the management at ₹ 3.02 Lakhs.

Issue 3

Mr. Geet was appointed as the new Managing Director of the company on 05.10.2023 in place of Mr. Suresh. The company decided to pay remuneration to Mr. Geet as per Section 197 (4) of the Companies Act, 2013. Mr. Baman, one of the members of the company, wanted to inspect contract of service entered into by the company with Mr. Greet for assigning him the office of Managing Director but he was denied to have such inspection on the grounds that the contract with Mr. Greet was not in writing.

Issue 4

Company at the Annual General Meeting (AGM) held on 30th September 2021 appointed Gana as a Non-Executive Director on the board of the Company for a period of three years. On 2nd October 2021, Gana met with an accident and died on the spot. The Board of Directors of the Company on 16th October 2021 appointed Hero to fill the casual vacancy so created. Appointment of Hero was made for a term of three years by the Board unconditionally. The next General Meeting (GM) was held on 29th October 2021.

Issue 5

Besides Company related matters, Sahana asked Madan to advise her in her individual tax matters too. She is planning to buy a residential flat for her own residence, which is priced at ₹ 48.50 Lakhs. The person selling the flat, Rainbow is a NRI as per the provisions of Income-tax Act, 1961 and he will be visiting India to execute the sale deed. After the title gets transferred,

the flat will be renovated with a total cost of ₹ 60 Lakhs approximately. Madan was quite astonished when he got to know that the renovation cost is more than the purchase price of the flat. Sahana informed Madan that she is purchasing the flat due to her father's emotional attachment with the locality and evaluating to finalise the contractor for the renovation work to make the interiors as per her liking. Apparently, Murari informed her that there would not be any compliance under the Income-tax Act, 1961 towards flat purchased and proposed renovation.

I. Multiple Choice Questions

1. Is the maximum depreciation allowable under Income-tax Act, 1961 calculated by Murari correct? If not, what is the maximum allowable depreciation as per details given in Issue 1?
 - (a) No, the depreciation calculated is wrong and the correct maximum depreciation should be ₹ 14.3 Lakhs
 - (b) No, the depreciation calculated is wrong and the correct maximum depreciation should be ₹ 14.9 Lakhs
 - (c) No, the depreciation calculated is wrong and the correct maximum depreciation should be ₹ 13.5 Lakhs
 - (d) No, the depreciation calculated is wrong and the correct maximum depreciation should be ₹ 12.9 Lakhs

2. What is the amount of impairment loss which Sah Fashions Ltd is required to transfer to Statement of profit and Loss and how the same should be allocated?
 - (a) Impairment loss is ₹ 1.98 Lakhs and the same should be allocated to goodwill and other assets proportionately.
 - (b) Impairment loss is ₹ 1.38 Lakhs and the same should be allocated to goodwill and other assets proportionately.
 - (c) Impairment loss is ₹ 1.68 Lakhs and the same should be allocated first to goodwill and then the balance to all other assets.
 - (d) Impairment loss is ₹ 1.38 Lakhs and the same should be allocated first to goodwill and then the balance to all other assets.

3. Regarding the request of Mr. Baman to inspect the contract of service entered by company with Mr. Geet, MD, identify the incorrect statement out of followings;
 - i. Such contract of service shall be kept at registered office of the company.

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- ii. Member may inspect the contract of service only after payment of prescribed fee
 - iii. Member can inspect the contract of service with MD or WTD only if authorised by Article.
 - (a) i, ii, and iii
 - (b) i and ii
 - (c) i and iii
 - (d) ii and iii
4. Considering the facts in Issue 4, is appointment of Hero as a director of the Company valid?
- (a) Appointment of Hero by Board of Directors is not valid as it is against the provisions of the Companies Act, 2013 and he should have been appointed by the members in extra ordinary general meeting.
 - (b) Appointment of Hero by Board of Directors is valid but should be approved by members in general meeting held on 29th October 2021.
 - (c) Appointment of Hero by Board of Directors is valid, as the approval of shareholders is not required for appointment of directors.
 - (d) Appointment of Hero by Board of Directors is not valid as a director cannot be immediately appointed in place of director who expires.
5. Is Sahana not required to comply with any provisions under Income-tax Act, 1961, considering her individual tax returns are not subject to audit under the provisions of Income-tax Act, 1961?
- (a) TDS is required to be deducted u/s 194-IA on purchase of property, but no TDS is required to be deducted on contract work of renovation as individuals are not required to deduct TDS.
 - (b) TDS is required to be deducted u/s 195 on purchase of property and also TDS is required to be deducted on contract work of renovation as the contract value is ₹ 60 Lakhs.
 - (c) TDS is not required to be deducted u/s 195, as the amount of purchase consideration is less than ₹ 50 Lakhs but TDS is required to be deducted on contract work of renovation as the contract value is ₹ 60 Lakhs.

- (d) TDS is not required to be deducted u/s 194-IA as the amount of purchase consideration is less than ₹ 50 Lakhs and no TDS is required to be deducted on contract work of renovation as individuals are not required to deduct TDS.

II. Descriptive Questions

6. Sahana is intrigued by the concept of impairment and wants to understand, if an asset once impaired, can it be reversed. In this context:
- Explain in brief the accounting for reversal of impairment.
 - Source of information which indicates reversal of impairment loss
7. Sahana wants to know if her Company missed some invoices while claiming GST ITC, till what time that ITC can be claimed. She believes the same may be taken till filing GSTR 3B return for the month of March of the concerned financial year. Is her view appropriate?
8. "The executive and non-executive directors have different roles and responsibilities. The responsibility of independent directors with reference to financial reporting and approval, as part of an Audit Committee requires a special mention." Explain with examples.

ANSWERS TO THE CASE STUDY 10

I. Answers to the Multiple Choice Questions

- 1 (c) Maximum Depreciation as follows

Particulars	Plant & Machinery @ 15%	Computer @ 40% (₹)
Normal Depreciation @15% on ₹ 50.00 Lacs (30+20)	7.5	
@7.5 on ₹ 8.00 Lacs – put to use for Less 180 days	0.6	
@ 20% on ₹ 3.00 Lacs – Put to use for less than 180 days		0.6
Additional Depreciation @ 20% on ₹ 20.00 Lacs (new machinery)	4.0	

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Additional Depreciation @ 10% on Rs. 8.00 Lacs (new machinery) put to use for less than 180 days	0.8	
TOTAL	12.9	0.6

The answer is ₹ 13.5 lakhs

2 (d) Calculation of Impairment loss

	Goodwill	Other assets	Total Lakhs ₹
Historical Cost	0.5	4.5	5
Accumulated Depreciation (4.5/15) X 2	-	(0.6)	(0.6)
Carrying Amount	0.5	3.9	4.4
Impairment Loss	(0.5)	(0.88)	(1.38)
	--		

Revised Carrying Amount

Impairment Loss = Carrying Amount – Recoverable Amount (₹ 4.4 - ₹ 3.2) = 1.38
is charged in statement of profit and loss for the period end

Impairment loss is allocated first to goodwill ₹ 0.5 and remaining loss of ₹ 0.88
(1.38-0.5) as impairment loss is allocated to the other assets

3 (d) The register of directors and key managerial personnel shall be kept open for inspection during business hours. The members shall have the right to take extracts therefrom and copies thereof on request and the same will be provided to them within 30 days free of cost. [Section 171(1)(a) of the Companies Act, 2013]

4 (b) Casual Vacancy [Section 161(4)]: According to this section:

(i) if the office of any director appointed by the company in general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board which shall be subsequently approved by members in the immediate next general meeting.

- (ii) Any person so appointed shall hold office only up to the date up to which the director in whose place he is appointed would have held office if it had not been vacated.
- 5 (b) Section 194-IA read with section 195 requires every transferee responsible for paying any sum as consideration for transfer of immovable property (land, other than agricultural land, or building or part of building) to deduct tax, at the rate of 1% of higher of consideration and stamp duty value, at the time of credit of such sum to the account of the resident transferor or at the time of payment of such consideration to the resident transferor, whichever is earlier. However, no tax is required to be deducted where the consideration for transfer of an immovable property and stamp duty value of such property, both are less than ₹ 50 lakhs.
- TDS is required to be deducted u/s 195 on purchase of property as payment is to be made to a NRI and also TDS is required to be deducted on contract work of renovation as the contract value is ₹ 60.00 Lacs.

II. Answers to the Descriptive Questions

6. (i) **Accounting for reversal of impairment (Paragraphs 110-116 of Ind AS 36)**

The increased carrying amount of an asset other than goodwill attributable to a reversal of an impairment loss shall not exceed the carrying amount that would have been determined (net of amortization or depreciation) had no impairment loss been recognized for the asset in prior years. Any increase in excess of this amount would be a revaluation and would be accounted for under the appropriate Standard (e.g. Ind AS 16 Property, Plant and Equipment).

A reversal of an impairment loss for an asset other than goodwill is recognized immediately in profit or loss, unless the asset is carried at revalued amount in accordance with another Ind AS. Any reversal of an impairment loss of a revalued asset shall be treated as a revaluation increase in accordance with that other Ind AS.

A reversal of an impairment loss on a revalued asset is recognized in other comprehensive income and increases the revaluation surplus for that asset. However, to the extent that an impairment loss on the same revalued asset was previously recognised in profit or loss, a reversal of that impairment loss is also recognised in profit or loss. After a reversal of an impairment loss is recognised, the depreciation (amortization) charge for the asset is adjusted in future periods

to allocate the asset's revised carrying amount, less its residual value (if any), on a systematic basis over its remaining useful life.

(ii) Indications of reversals of impairment loss (Paragraph 111 of Ind AS 36)

In assessing whether there is any indication that an impairment loss recognised in prior periods for an asset other than goodwill may no longer exist or may have decreased, an entity shall consider, as a minimum, the following indications:

External sources of information

- (a) there is observable indication that the asset's value has increased significantly during the period;
- (b) significant changes with a favorable effect on the entity have taken place during the period, or will take place in the near future, in the technological, market, economic or legal environment in which the entity operates or in the market to which the asset is dedicated; and
- (c) market interest rates or other market rates of return on investments have decreased during the period, and those decreases are likely to affect the discount rate used in calculating the asset's value in use and increase the asset's recoverable amount materially.

Internal sources of information

- (a) significant changes with a favourable effect on the entity have taken place during the period, or are expected to take place in the near future, in the extent to which, or manner in which, the asset is used or is expected to be used; and
- (b) evidence is available from internal reporting that indicates that the economic performance of the asset is, or will be, better than expected.

7. A registered person is not entitled to take ITC in respect of any invoice/debit note for supply of goods or services or both after the **30th day of November following the end of financial year** to which such invoice/debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Thus, in accordance with above provisions, the view taken by Sahana that ITC of missed invoices may be taken till filing GSTR 3B return for the month of March of the concerned financial year is **not correct**.

The ITC of missed invoices can be taken till 30th day of November following the end of financial year to which such invoice pertains or furnishing of the relevant annual return, whichever is earlier.

8. Different Roles of Executive and Non-Executive Directors

The Board of Directors may comprise both executive and nonexecutive directors. The executive directors are responsible for managing different business operations. A whole time director and the Managing Director are covered under this category. In contrast, the non- executive directors participate through Board Meetings in discussions relating to formulation of policies from the efficient management of the business. Professional directors and nominee directors are included in this category. They are not as active as that of executive directors and they are held liable only if they knowingly consented for wrongful acts.

Responsibility of Independent Directors with reference to financial reporting and approval as apart of Audit Committee According to Section 177 (4), every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, inter alia, include,-

- (a) recommendation for appointment, remuneration and terms of appointment of auditors of the company;
- (b) review and monitor the auditor's independence and performance, and effectiveness of audit process;
- (c) examination of the financial statement and the auditors' report thereon;
- (d) evaluation of internal financial controls and risk management systems.
- (e) valuation of undertakings or assets of the Company, wherever it is necessary.
- (f) approval or any subsequent modification of transactions of the company with related parties.
- (g) scrutiny of inter-corporate loans and investments
- (h) monitoring the end use of funds raised through public offers and related matters.

The Independent Director (ID) is a person of integrity and possesses relevant expertise and experience in one or more fields of finance, law, management, sales, marketing, administration, research, corporate governance, technical operations or other disciplines related to the company's business. Majority of members, being an independent directors

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INTEGRATED BUSINESS SOLUTIONS CASE STUDY

in the Audit Committee leads to promote the principles of corporate governance by enabling disclosures, transparency, and accountability of the Company.

All the afore mentioned transactions have a critical impact with reference to the financial reporting process and approval of the financial statements. Accordingly, the Independent Directors in their capacity as members of the audit committee play a key role.

CASE STUDY 11

Apara and Sampad had completed their articleship training from a reputed CA Firm in Chennai. Both were good in studies and after qualifying they decided to become partners in profession and partners in life. Sampad was proficient in interpretation of laws and direct tax, while Apara was good in indirect tax, audit and financial reporting. They started their Firm at Kochi in the name of Apara Sampad & Co., Chartered Accountants.

Currently, they have a well-established practice spread across various spheres including FEMA, Corporate law, international taxation, valuation, etc. Apara and Sampad had in the past done few engagements for Greenly Ltd. Ramnik, the Vice President (Finance) of Greenly Ltd. invited Apara and Sampad for a meeting along with Finance team, internal auditors and tax consultants of the company. As Greenly Ltd was a coveted client for the Firm, Apara and Sampad attended the meeting. During the meeting, Ramnik discussed the following points:

I. Greenly Ltd is one of the leading laundry in Delhi. For cleaning of suits, it charges ₹ 625 per suit set. The price has been derived by the laundry asunder:

- | | |
|-----------------------|---|
| a. Cleaning Materials | ₹ 37 |
| b. Labour | ₹ 180 (3 hours @ ₹ 60/-) |
| c. Variable overheads | ₹ 80 |
| d. Fixed Overheads | ₹ 60 (3 hours @ ₹ 20 per hour) plus mark up 75% on total cost |

The Company is known for timely delivery and quality service and hence, it charges premium for its services. The labour charges have been derived by dividing the total salary paid by the total number of hours available. Variable overheads depend on the number of suits cleaned while fixed overhead rate is derived at by dividing the total cost of all related expenses by the number of labour hours available. Fixed Overhead generally includes office rent and administrative salary. A conference is being held in Delhi on account of T20 and a hotel is also required to provide premium laundry services for which the Company has been approached for its lowest quotes. There is possibility of 150 suits being given for laundry on priority basis. The Company has sufficient material of cleaning in stock even for this additional special order. It is believed that 55% of the additional work can be done in normal working hours and for rest of the work, overtime by some of the employees will be required. Overtime hours are paid at one and one half of the normal hourly rate.

II. Greenly Ltd is having 3 years average profit of ₹ 10 Crores and during the financial year 2023-24, it is required to spend on account of Corporate Social Responsibility (CSR). It wants to incur this expenditure through an NGO named Green Foundation. Green Foundation was formed by a few like-minded individuals, who wanted to take up the

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cause of education for kids living in slums. It was registered under section 12A and section 80G of the Income-tax Act, 1961, but not registered with Ministry of Corporate Affairs (MCA). However, the foundation is carrying out certain CSR projects on a smaller scale for some entities since 2020.

- III. The Company purchased a land in city outskirts on 1st August 2018 for a consideration of ₹ 1.25 Crores to construct a factory, for which the Stamp duty valuation on that date was ₹ 1.75 Crores. Later, management decided to sell that land to fund the business diversification objectives. On 1st August 2023, the land on city outskirts was sold for ₹ 5.00 Crores. The stamp duty valuation was ₹ 5.40 Crores. Cost inflation index for FY 2010-11 and FY 2023-24 is 167 and 348, respectively.
- IV. ABC LLP, the Statutory auditors of Greenly Ltd resigned due to personal reasons and Aparaj Sampad & Co. was proposed to be appointed as the subsequent auditor of the Company by the Board of Directors. This was a great opportunity for both Aparaj and Sampad, as they were trying to get some business from Greenly Ltd.
- V. After the meeting was completed, Ramnik met Sampad and had a casual discussion with him. He told that his daughter, Sweety, was pursuing post-graduation from Stanford University, USA for which he had remitted USD 50,000 i.e., ₹ 40 Lakhs for her maintenance abroad under Liberalised Remittance Scheme. Thankfully, he did not have to do any other remittance during the year.
- VI. While Sampad was busy in a discussion with Ramnik, CA. Mani, the internal auditor of Greenly Ltd and a close friend of Aparaj approached her for a quick chat. Mani informed Aparaj that his practice was going good and he was appointed as statutory auditor of a listed entity. Lately, he has been busy finalising the audit letter communicating the key points of audit to those charged with Governance and audit committee.

I. Multiple Choice Questions

1. From remittance of ₹ 40 Lakhs by Ramnik, the authorised dealer is:
 - (a) Not required to make any collection of tax at source.
 - (b) Required to make collection of tax at source of ₹ 1.65 Lakhs.
 - (c) Required to make collection of tax at source of ₹ 2 Lakhs.
 - (d) Required to make collection of tax at source of ₹ 0.165 Lakhs.
2. The capital gain arising on sale of land at city outskirts by the Company would be
 - (a) ₹ 2.80 Crores

- (b) ₹ 1.35 Crores
 - (c) ₹ 1.75 Crores
 - (d) ₹ 2.40 Crores
3. While drafting audit letter communicating the key points of audit to those charged with Governance and audit committee, Mani was thinking if he needs to generate a Unique Document Identification Number (UDIN):
- (a) Yes, separate UDINs are to be generated for the Statutory audit report and Letter to those charged with governance.
 - (b) No, UDIN is required only for all Certificates, all Audit Reports and all other Audit, Assurance and Attestation functions and not for any letters etc. making communications.
 - (c) Yes, one single UDIN can be generated for all documents of one client. UDINs are required to be generated client wise instead of document wise.
 - (d) No, one single UDIN can be generated for the whole year for one engagement which may include various communications by auditor to management and those charged with Governance.
4. During the conclusion of the audit, Aparajita was thinking if she is required to report the fact of the resignation by the previous auditor?
- (a) Yes. As per Companies (Auditors Report) Order, 2020 Aparajita Sampad & Co. should report the resignation of ABC LLP and state if the Firm has taken into consideration the issues or objections raised by ABC LLP.
 - (b) No. Since the resignation of ABC LLP is due to personal reasons, the same need not be reported in the Auditors Report.
 - (c) Yes. As per provisions of Section 143(3) of the Companies Act, 2013, the fact of previous auditor's resignation should be reported.
 - (d) Yes. The fact of previous auditors resignation should be reported as per Companies (Audit and Auditors) Rules, 2014.

II. Descriptive Questions

5. Aparajita wants to draw the attention of the readers of the financial statements by way of an Emphasis of Matter (EOM) paragraph in the Audit Report issued by them indicating the fact of their appointment due to resignation of the existing auditor. Explain the

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circumstances in which an auditor may consider to include an Emphasis of Matter (EOM) paragraph in their audit report.

6. Sampad discussed with Aparajita and thought that it would be handy and easy to explain the clients the details of Liberalised Remittance Scheme (LRS), if they have standard document. Draft a note covering various aspects of LRS.
7. Ramnik requests you to:
 - (i) Compute the incremental cost of Greenly Ltd. which may be taken as a base for quoting the minimum price per suit.
 - (ii) Indicate the aspects to be considered for making lowest quote.

ANSWERS TO THE CASE STUDY 11

I. Answers to the Multiple Choice Questions

1. (b) Second proviso to section 206(1G).of the Income-tax Act, requires collection of tax at source @ 5% of the amounts in excess of = 7 Lakhs in a financial year. Hence, 5% of 40 Lakhs -7 Lakhs = 1.65 Lakhs.
2. (b) Working will be as under:

Total consideration	₹ 5.00
Indexed cost	₹ 3.46 (Stamp duty value at the time of purchase ₹ 1.75 Crores x 331/167)
Capital Gain	₹1.53 crores
As the variation at the time of sale is less than 110%, the actual consideration will be taken	
3. (b) UDIN is required only for all Certificates, all Audit Reports and all other Audit, Assurance and Attestation functions and not for any letters etc. making communications.
4. (a) As per clause (xviii) of para 3 of Companies (Auditor's Report) Order 2020 Aparajita Sampad & Co. should report the resignation of ABC LLP and state if he has taken into consideration the issues or objections raised by ABC LLP.

II. Answers to the Descriptive Questions

5. In the case of a Company whose accounts are subject to audit by an auditor appointed by the Comptroller and Auditor-General of India, be filled by the Comptroller and Auditor-General of India within 30 days. It may be noted that in case the Comptroller and Auditor-General of India does not fill the vacancy within the said period, the Board of Directors shall fill the vacancy within next 30 days.

Emphasis of Matter paragraph is a paragraph included in the auditor's report that refers to a matter appropriately presented or disclosed in the financial statements that, in the auditor's judgment, is of such importance that it is fundamental to users' understanding of the financial statements.

Circumstances in which an auditor may consider to include an **Emphasis of Matter (EOM) Paragraph their Audit Report**: SA 706 contains specific requirements for the auditor to include Emphasis of Matter paragraphs in the auditor's report in certain circumstances.

These circumstances include:

- (i) When a financial reporting framework prescribed by law or regulation would be unacceptable but for the fact that it is prescribed by law or regulation.
- (ii) To alert users that the financial statements are prepared in accordance with a special purpose framework.
- (iii) When facts become known to the auditor after the date of the auditor's report and the auditor provides a new or amended auditor's report (i.e., subsequent events).
- (iv) An uncertainty relating to the future outcome of exceptional litigation or regulatory action.
- (v) A significant subsequent event that occurs between the date of the financial statements and the date of the auditor's report.
- (vi) Early application (where permitted) of a new accounting standard that has a material effect on the financial statements.
- (vii) A major catastrophe that has had, or continues to have, a significant effect on the entity's financial position.

In view of above, contention or Apara, to draw the attention of the readers of the financial statements by way of an Emphasis of Matter (EOM) paragraph in the Audit Report issued

by them indicating the fact of their appointment due to resignation of the existing auditor, **is not correct.**

6. Note covering various aspect of the Liberalized Remittance Scheme (LRS)

The Liberalized Remittance Scheme (LRS) is part of the Foreign Exchange Management Act (FEMA) 1999, which lays down the guidelines for outward remittances from India.

Liberalized Remittance Scheme (LRS)

- It applies to all resident individuals, including minors.
- It allows to freely remit up to USD 250,000 per financial year (April – March).
- It can be for any permissible current or capital account transaction or a combination of both.
- This is inclusive of foreign exchange facility for the purposes mentioned in Para 1 of Schedule III of Foreign Exchange Management (CAT) Amendment Rules 2015, dated May 26, 2015.
- In case of remitter being a minor, the LRS declaration form must be countersigned by the minor's natural guardian. The Scheme is not available to corporates, partnership firms, HUF, Trusts etc.
- Remittances under the Scheme can be consolidated in respect of family members subject to individual family members complying with its terms and conditions.

Exception: Clubbing is not permitted by other family members for capital account transactions such as opening a bank account/investment/purchase of property, if they are not the co-owners/co-partners of the overseas bank account/investment/property.

7. (i) 'Greenly Ltd' can use the incremental cost numbers for pricing the 'rush order'. The minimum price that firm would charge is ₹238.50 per suit (=₹35,775/150). This price is well below normal price of ₹625.

Particulars	Amount (₹)
Cleaning materials (150 × ₹37)	5,550
Labour (150 × 3 × 45% × ₹60 × 1.5)	18,225
Variable overheads (150 Suits × 80)	12,000
Incremental cost	35,775
Quote per Suit	238.5

(ii) **Aspects to be considered for quoting lowest price**

Firms face situations where they are confronted with the opportunity of offering for a one time special offer. In this situation, only the incremental cost of the undertaking the order should be taken into consideration. Quote should be made at prices that exceeds incremental costs.

However, in decision making other conditions are equally important. For instance, if this is a one-time deal with **no prospect of repeat business**, then 'Greenly Ltd' might well charge a premium over the normal price. Long-term implications also matter. The prospect of "getting a foot in the door" to quote for future business would push the price downward. Therefore, 'Greenly Ltd' can price based on both the short-run benefits from accepting the order and the long-run consequences.

CASE STUDY 12

Wanton Terun Limited (WTL) is a fast growing listed company focussing on innovation in the Textile and Garments Industry. The Company has grown in last one decade from Punjab (India) to the homes of millions of customers across 50 countries and is aiming the target of becoming the most trusted brand that takes conscious care of its customers, employees and all stakeholders, and treats them 'the best.' Company also has 5 subsidiaries operating outside India in the same business line of garments and trading of some special types of yarns. Financial Statements of the Company for the financial year 2023-2024 have already been prepared and audit was completed as per all regulatory requirements.

After gaining experience as CFO of the Company WTL for last 15 years, Tiru has resigned and started his own venture in professional consultancy with some other players in the same business domain. Management of the Company gave an advertisement in all leading newspapers for hiring qualified professional for the vacant post of CFO. Fifty applications were received by the Company and all the candidates were competent and had good exposure in financial reporting, corporate governance, MIS reporting, capital budgeting, direct and indirect tax matters.

Management of the Company decided to have interview board for selecting the appropriate candidate for the post of CFO. After looking at the recent developments in various areas relating to the operations of the Company, accounting and other technical aspects of Companies Act, GST etc., following issues (as per books of accounts of the company) were selected on which opinion of all the candidates was sought and whosoever gives the correct response will be selected for next round of interviews. You are also interested in this job profile and have been asked the following issues during the interview:

Issue 1

Company is operating in 50 countries, so employees of the Company travel worldwide to oversee the operations and for business expansion. For this purpose, foreign currency is taken from authorized dealers (who charge GST as per relevant provisions of GST Law and applicable valuation guidelines) and used for meeting all overseas expenses including stay, local travelling and food expenses in foreign countries. For the upcoming business trip, employees will be travelling to United States of America and require US\$ 10,000. Company purchased foreign currency (9900 US\$) by paying ₹ 7.40 Lakhs, however the customs exchange rate and bank buying rate on the same will lead to amount of ₹ 7.45 Lakhs and ₹ 7.50 Lakhs respectively for equivalent number of dollars on the same date.

Issue 2

One of the overseas subsidiaries SSS Inc. has provided financial assistance to WTL. The said financial assistance is outstanding in the books of accounts of the Company as Foreign

Currency Loan (FCL) on which it paid an interest of ₹ 32 Crores in the last financial year. The amount of TDS, as applicable, has been deducted and deposited within the due date. Profits before interest, taxes, depreciation and amortization (EBITDA) of the borrower in the previous year were ₹ 100 Crores and the amount of depreciation was ₹ 15 Crores.

Issue 3

Company has to comply with listing obligations and disclosure requirements relating to corporate governance and for this, independent and a qualified audit committee is already formed and functioning. The audit committee consisted of six directors (having wide experience in corporate matters) with four of them being independent directors. One of the directors P (an independent director) has resigned as a director of the Company. WTL proposes to appoint Q as an independent director who is already serving as managing director in one company and independent director in three other listed entities. During the current year, the Company increased the share capital by issuing 10 Lakh equity shares (amounting to ₹ 100 Lakhs) with superior rights.

Issue 4

Arunima is woman director of the Company. Due to her other engagements, she tendered her resignation from directorship with effect from 1st March 2024, vide her letter dated 15th February 2024, which was received by the Company on 20th February 2024. The Board took note of the resignation in its meeting held on 15th March 2024.

Issue 5

Aver Private Ltd was acquired by WTL and the same was accounted as a business combination as per Ind AS 103. However, there was an existing share-based scheme in Aver Private Ltd with a vesting condition for 4 years in which 3 years had already lapsed at the date of acquisition. WTL agreed to replace the existing award for the employees of the acquired entity. The fair value of the option under share-based payment scheme on acquisition date was ₹ 1,200, while the fair value of option replacing the existing scheme was ₹ 1,500. Also, only one more year was left for vesting after the acquisition.

I. Multiple Choice Questions

1. In respect of purchase of foreign currency from authorized dealer, whether the GST will be applicable and if yes, what will be the value of services on which GST will be charged under rule 32(2)(a)? Also calculate the GST amount assuming tax rate @ 18%.
 - (a) GST will be applicable on these services and the value of services will be ₹ 7,450. GST amount will be ₹ 1,341

-
- (b) GST will be applicable on these services and the value of services will be ₹ 7,400. GST amount will be ₹ 1,332
- (c) GST will be applicable on these services and the value of services will be ₹ 5,200. GST amount will be ₹ 936
- (d) GST on transactions below US \$ 10,000 is specifically exempted, so GST will not be applicable.
2. With respect to facts given in Issue 2 above, the interest to be reported by tax auditor under the form 3CD of Income-tax Act, 1961 would be:
- (a) ₹ 30 Crores and ₹ 2 Crores under clause 30B
- (b) ₹ 32 Crores and ₹ 2 Crores under clause 30B
- (c) ₹ 32 Crores and ₹ 34.50 Crores under clause 30A
- (d) ₹ 32 Crores under clause 30A
3. In the background of circumstances described in Issue 3, the Company Secretary contends that the Audit Committee should be reconstituted, even if Q is appointed as an independent director. Is the Company Secretary's contention appropriate?
- (a) Contention of Company Secretary is correct and the Audit Committee should be reconstituted, as it should have majority of members as independent directors.
- (b) Contention of Company Secretary is not correct and the existing Audit Committee can continue as independent directors constitute more than two third of the total number of directors of audit committee.
- (c) Contention of Company Secretary is correct and the Audit Committee shall be reconstituted, as it should have only independent directors as members.
- (d) Contention of Company Secretary is not correct and the Audit Committee is not required to be reconstituted due to change in its members.
4. WTL shall appoint another woman director on the Board of the Company on or before:
- (a) 1st June 2024
- (b) 20th May 2024
- (c) 15th June 2024
- (d) 15th May 2024

II. Descriptive Questions

5. Mr Q, before accepting the appointment as a director, discussed with the Company about the implications of GST on his appointment and emoluments. Explain if the services provided by the directors are under the ambit of Goods and Service Tax Act.
6. In the background of facts stated in issue 5, compute the value of option under the share based payment as per Ind AS 102.
7. In case you are appointed as CFO of the company:
 - (i) Indicate the areas for establishing and maintaining internal controls for financial reporting which will be certified by you.
 - (ii) Mention the aspects that you would certify to the Board of directors along with the Chief Executive Officer of the Company.

ANSWERS TO THE CASE STUDY 12

I. Answers to the Multiple Choice Questions

1. (b) GST will be applicable on these services and the value of services will be & ₹ 7,400

Rule 32 — Determination of value in respect of certain supplies

The value of supply is difference between buying rate or selling rate of currency and RBI reference rate for that currency at the time of exchange multiplied by total units foreign currency.

However, if RBI reference rate for a currency is not available then value of supply is 1% of the gross amount of Indian Rupees provided/ received by the person changing the money.

Currency purchased = ₹ 7.4 Lakhs/\$9,900= 74.74

Less: Bank exchange rate 74

Difference 0.74

Value of Services = 0.74*9,900= 7400

18% GST thereon 1,332

2. (b) Clause 30B requires reporting for the purposes of examining allowability of expenditure by way of interest in respect of debt issued by non-resident associated enterprise under section 94B, while computing income under the head 'Profits and Gains of Business or Profession.'

The excess interest to be computed as lower of:

- (i) Total interest paid or payable in excess of 30% of earnings before interest, taxes, depreciation and amortization (EBITDA) of the borrower in the previous year or
 - (ii) Interest paid or payable to the associated enterprise for that previous year
3. (c) In case of listed Companies having Outstanding Superior Rights equity shares, the audit committee shall only comprise of independent directors. As the Company has issued SR equity shares during the current year, it should ensure that the audit committee consists of all independent directors.
4. (a) Proviso to Rule 3 of the Companies (Appointment of Directors) Rules, 2014 provides any intermittent vacancy of a woman director shall be filled up by the Board at the earliest but not later than immediate next board meeting or three months from the date of such vacancy whichever is later.

II. Answers to the Descriptive Questions

5. Services provided by the independent directors who are not employees of the said company to such company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are **therefore taxable**.

As per Schedule III of the CGST Act, services by an employee to the employer in the course of or in relation to his employment are non-supplies, i.e. they are neither supply of goods nor supply of services.

Further, tax on services supplied by a director of a company to the said company located in the taxable territory is **payable by the recipient under reverse charge**.

Thus, services provided by Mr. Q, being an independent director to WTL, are taxable under reverse charge and tax on emoluments payable to Mr. Q is payable by the company (WTL) on reverse charge basis.

6. Computation of Value of Option under the share based payment

Pre-acquisition period		3
Post-acquisition period		1
Total fair value at acquisition date		₹1,200
Value to be recorded as per business combination under Ind AS 103		₹1,200/4 X 3 = ₹900
Value to be recorded as per IND AS 102 (A)		₹ 1,200 /4 X 1 = ₹ 300
Fair value of the replacement of such award		₹1,500
Difference from acquisition date fair value (B)		₹1,500 - ₹1,200 = ₹300
Total value to be accounted over vesting period = A + B		₹300 + ₹300 = ₹600

ALTERNATE ANSWER

Pre-acquisition period		3
Post-acquisition period		1
Total fair value at acquisition date		₹1,200
Value to be recorded as per business combination		₹1,200/4 X 3 = ₹900

Since the fair value of the new award at the time of acquisition is ₹ 1,500, balance ₹ 1,500 - ₹900 i.e. ₹ 600 will be recorded as an employee expense in the books.

7. (i) **Areas for establishing and maintaining Internal Controls for Financial Reporting** Part B of Schedule II clearly brings out that the responsibility entrusted to the CEO and CFO is in relation to establishing and maintaining internal controls over financial reporting. The Compliance Certificate has to assert that they have evaluated the effectiveness of internal control systems of the listed entity pertaining to financial reporting.

The Compliance Certificate will further state the manner in which deficiencies (if any) in the design or operation of such internal controls has been disclosed to the auditors and the Audit Committee.

The Compliance Certificate will also state the steps they have taken or propose to take to rectify these deficiencies in the design or operation of such internal controls pertaining to financial reporting.

(ii) Aspects to certify to the Board of Directors along with CEO of the Company

The Chief Executive Officer and the Chief Financial Officer shall certify to the Board that:

- (a) They have reviewed financial statements and the cash flow statement for the year and that to the best of their knowledge and belief:
 - (i) These statements do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading;
 - (ii) These statements together present a true and fair view of the listed entity's affairs and are in compliance with existing accounting standards, applicable laws and regulations.
- (b) There are, to the best of their knowledge and belief, no transactions entered into by the listed entity during the year which are fraudulent, illegal or violative of the listed entity's code of conduct.
- (c) They accept responsibility for establishing and maintaining internal controls for financial reporting and that they have evaluated the effectiveness of the internal control systems of the listed entity pertaining to financial reporting and they have disclosed to the auditors and the Audit Committee, deficiencies in the design or operation of internal controls, if any, of which they are aware and the steps they have taken or propose to take to rectify these deficiencies.
- (d) They have indicated to the auditors and the Audit Committee:
 - (i) Significant changes in internal control over financial reporting during the year;
 - (ii) Significant changes in accounting policies during the year and that the same have been disclosed in the notes to the financial statements; and
 - (iii) Instances of significant fraud of which they have become aware and the involvement therein, if any, of the management or an employee having a significant role in the listed entity's internal control system over financial reporting.

CASE STUDY 13

Para 1

As from last many years, it has been observed that people are returning back to their own country. India, as evidenced by economists all over the world, is not only the world's largest democracy but a country with untapped and unlimited economic potential. As there is a rising trend of companies in sectors such as pharmaceutical, manufacturing, automobiles, healthcare shifting more and more research and development work to India. This trend is leading many Indians to return from overseas to lead prime projects.

Para 2

This situation is called as "reverse brain drains". It is form of brain drain where human capital moves in reverse from a more developed country to a less developed country that is developing rapidly. People returning back to their home country may accumulate savings, earn skills as well as knowledge which can be used in their home country. This became possible in India only due to strategies and long-term planning implemented by the Government to reverse the migration.

Para 3

NRIs knowledge as well as experience can be applied in Indian context in numerous ways across all sectors whether it be managing MNC's, new business start -ups, domestic industries etc. For attracting NRIs, developing countries like India always endeavour to create an environment which will provide ample rewarding opportunities for those who have earned knowledge and skills from overseas.

Para 4

Similarly, Mr. Pardeep, had left India in 2007. He was living in U.K. since then and finally moved back to India on 12th June 2023, where he had spent substantial part of his life. Mr. Pardeep was a non- resident in 9 years preceding the previous year 2023-24 but he visited India on various occasions and stayed in India for a total period amounting to 630 days during last 10 years preceding the previous year 2023-24. Mr Pardeep wants to spend rest of his life in his home country.

He returned with one of his close friend Mr John. Mr John, a foreign national & a cricketer came to India as a member of England cricket team in the year ended 31st March, 2024 for 50 days. Mr John received ₹ 5 Lakhs for participation in matches in India. He also received ₹ 1 Lakh for an advertisement of a product on TV. He contributed articles in a newspaper for which he received ₹ 10,000. When he stayed in India, he also won a prize of ₹ 10,000 from horse racing in Mumbai. He has no other income in India during the year.

Para 5

After reaching India, Pardeep visited one of his close friend Anuj who is Chartered Accountant by profession, and he discussed all his details of income for the Financial Year 2023-24:

- (i) Rental Income from the flat situated in London which was deposited in a bank there. The flat was given on rent by him after his return to India since July, 2023.

13.2

INTEGRATED BUSINESS SOLUTIONS CASE STUDY

- (ii) Dividends on the shares of three German companies which are being collected in a bank account in London. He proposes to keep the dividend on shares in London with the permission of Reserve Bank of India.
- (iii) He has got two sons, one of whom is of 12 years and other son is major. Both his sons are staying in London and not returning to India with him. Each of his sons is having income of ₹ 75,000 in U.K. (not received in India) and of ₹ 20,000 in India.
- (iv) During the preceding accounting year when he was a non-resident, he had sold 1,000 shares which were acquired by him in British Pound Sterling and the sale proceeds were repatriated. The profit in term of British Pound Sterling on sale of these 1,000 shares was 175% of the cost at ₹ 37,500 while in term of Indian Rupees it was ₹ 50,000

Para 6

Mr. Pardeep came back to his parental house in Punjab where his parents were staying with Pardeep's younger brother, Mr. Gulshan. With the grace of God and blessings of parents, Mr Gulshan is also well settled in India. Presently, Mr Gulshan is managing a company i.e. Technologies Ltd being a director of company. Presently Technologies Ltd. has 9 directors. Company's Board of Directors desire to increase the number of directors from 9 to 16. But the Company Secretary of the company informed the company's Board of Directors that as per provisions of the Companies Act, 2013, every public company shall have **x** number of minimum and **y** number of maximum directors. But if the company wants to appoint more than the specified limit i.e. **y**, it can do so only after passing special resolution.

Para 7

Technologies Ltd. has 2 divisions Laptops and Mobiles. Division Laptops has been making constant profits while division Mobiles has been invariably suffering losses. The company called a meeting for the discussion of financials of the company.

On 31st March, 2024, the division-wise draft extract of the Balance Sheet was:

(₹ in crores)

	Laptops	Mobiles	Total
Property, Plant and Equipment cost	500	1000	1500
Depreciation	(450)	(800)	(1250)
Net Property, Plant and Equipment (A)	<u>50</u>	<u>200</u>	<u>250</u>
Current assets:	400	1000	1400
Less: Current liabilities	(50)	(800)	(850)
(B)	<u>350</u>	<u>200</u>	<u>550</u>
Total (A+B)	<u>400</u>	<u>400</u>	<u>800</u>
Financed by:			

CASE STUDIES

13.3

Loan funds	-	600	600
Capital: Equity ₹ 10 each	50	-	50
Surplus	<u>350</u>	<u>(200)</u>	<u>150</u>
	<u>400</u>	<u>400</u>	<u>800</u>

The management is of the opinion to sell Division Mobiles along with its assets and liabilities for ₹ 50 crores to Mobize Ltd. a new company, who will allot 2 crore equity shares of ₹ 10 each at a premium of ₹ 15 per share to the members of Technologies Ltd. in full settlement of the consideration, in proportion to their shareholding in the company. One of the members of the Technologies Ltd. was holding 52% shareholding of the Company.

I. Multiple Choice Questions

- With reference to information given in Para 4, tax liability of Mr. John for Assessment year 2024-25 would be:
 - ₹ 1,25,000
 - ₹ 1,30,000
 - ₹ 1,22,000
 - ₹ 1,70,000
- With reference to information given in Para 4, income earned by Mr. John in India would be subject to TDS. Income constituting ₹ 5,00,000 for participation in matches in India, ₹ 1,00,000 for an advertisement of a product on TV & ₹ 10,000 from articles contributed in newspaper would be subject to TDS at the rate _____ (excluding health & education cess) & ₹ 10,000 from horse racing in Mumbai would be subject to TDS at the rate _____ (excluding health & education cess)
 - 20%, 0%
 - 20%, 20%
 - 30%, 30%
 - 30%, 20%

13.4

INTEGRATED BUSINESS SOLUTIONS CASE STUDY

3. What would be the residential status of Mr. Pardeep for the P.Y. 2023-24:
- (a) Non-Resident
 - (b) Resident but ordinarily Resident
 - (c) Resident but not ordinarily Resident
 - (d) Resident because he is from Indian origin
4. Business combinations involving entities or businesses under common control shall be accounted for using the pooling of interest method. The pooling of interest method is considered to involve the following:
- (i) The assets and liabilities of the combining entities are adjusted to bring them to fair values.
 - (ii) The assets and liabilities of the combining entities are reflected at their carrying amounts.
 - (iii) The financial information in the financial statements in respect of prior periods should be restated as if the business combination had occurred from the beginning of the earliest period presented in the financial statements, irrespective of the actual date of the combination. However, if business combination had occurred after that date, the prior period information shall be restated only from that date.
 - (iv) The identity of the reserves shall be preserved and shall appear in the financial statements of the transferee in the same form in which they appeared in the financial statements of the transferor.
 - (v) The reserves of transferor shall not be preserved and shall not appear in the financial statements of the transferee.
 - (vi) The difference, if any, between the amount recorded as share capital issued plus any additional consideration in the form of cash or other assets and the amount of share capital of the transferor shall be transferred to capital reserve.
 - (vii) The difference, if any, between the amount recorded as share capital issued plus any additional consideration in the form of cash or other assets and the amount of share capital of the transferor shall be transferred to Goodwill/General Reserve.
- In the above context, which of the following is correct combination:
- (a) (i), (iii), (iv), (vi)
 - (b) (ii), (iii), (iv), (vi)

- (c) (ii), (iii), (iv), (vii)
 (d) (i), (iii), (iv), (vi)
5. With reference to information given in Para 6, **x & y** equals to-
- (a) 2, 12
 (b) 2, 15
 (c) 3, 15
 (d) 3, 12

II. Descriptive Questions

6. Mr. Pardeep provides the sources of his various income and seeks your opinion to know about his liability to income tax thereon in India in assessment year 2024-25 assuming that he has exercised the option to shift out of the default tax regime under section 115BAC.
7. Assuming that there are no other transactions, you are required to:
- (a) Pass journal entries in the books of Technologies Ltd.
 (b) Prepare the Balance Sheet of Technologies Ltd. after the entries in (a)
 (c) Prepare the Balance Sheet of Mobize Ltd.

ANSWERS TO THE CASE STUDY 13

I. Answers to the Multiple Choice Questions

1. (b) ₹ 1,30,000

Reason: Computation of tax liability of Mr. John for the A.Y. 2024-25

Particulars	(₹)	(₹)
Income taxable under the section 115BBA		
Income from the participation in matches in India	5,00,000	
Advertisement of product on TV	1,00,000	
Contribution of articles in newspaper	10,000	6,10,000
Income from Horse racing		10,000
Total Income		6,20,000

13.6

INTEGRATED BUSINESS SOLUTIONS CASE STUDY

Tax @ 20% under section 115BBA on ₹ 6,10,000		1,22,000
Tax @ 30% under section 115BB on income of ₹ 10,000 from Horse races		3,000
		1,25,000
Add: Health & Education cess @ 4%		5,000
Total Tax Liability for Mr John for the A.Y. 2024-25		1,30,000

2. (a) 20%,0%

Reason: Income referred to in section 115BBA (i.e., ₹ 6,10,000, in this case) is subject to tax deduction at source @ 20% under section 194E.

Income referred to in section 115BB (i.e., ₹ 10,000, in this case) will not be subject to tax deduction at source since the amount did not exceed ₹ 10000 as per section 194BB.

3. (c) Resident but not ordinarily Resident.

Reason: Mr Pardeep returned to India on 12th June 2023 for permanently residing in India after staying in UK for 16 years. During the P.Y, 2023-24, he stayed in India for 294 days. Since he has stayed in India for a period of 182 days or more during the previous year 2023-24, **he would be a resident in India for the A. Y. 2024-25.** However, he would be a resident but not ordinarily resident because he was a non -resident in nine out of ten previous years preceding the P.Y 2023-24 or his stay in India during the 7 previous years is less than 730 days. The residential status of Pardeep for A.Y. 2024-25 is, therefore, **resident but not ordinarily resident.**

4. (b) (ii), (iii), (iv), (vi)

Reason: Business combinations involving entities or businesses under common control shall be accounted for using the pooling of interest method. The pooling of interest method is considered to involve the following:

- (a) The assets and liabilities of the combining entities are reflected at their carrying amounts.
- (b) The financial information in the financial statements in respect of prior periods should be restated as if the business combination had occurred from the beginning of the earliest period presented in the financial statements, irrespective of the actual date of the combination. However, if

business combination had occurred after that date, the prior period information shall be restated only from that date.

- (c) The identity of the reserves shall be preserved and shall appear in the financial statements of the transferee in the same form in which they appeared in the financial statements of the transferor.
- (d) The difference, if any, between the amount recorded as share capital issued plus any additional consideration in the form of cash or other assets and the amount of share capital of the transferor shall be transferred to capital reserve.

5. (c) 3, 15

Reason: As per Section 149(1) of Companies Act, 2013, every public company shall have-

Minimum Directors -3 and Maximum directors -15

However, the company can appoint more than 15 directors by passing special resolution in general meeting.

II. Answers to the Descriptive Questions

6. **As per section 5(1) of the Income-tax Act, 1961**, income which is received/ deemed to be received/ accrued or arisen/ deemed to accrue or arise in India is taxable in case of resident but not ordinarily resident. Income which accrues or arises outside India shall not be included in his total income unless it is derived from a business controlled in or a profession set up in India.

- (i) Rental income from a flat in London which was deposited in a bank there shall not be taxable in the case of a resident but not ordinarily resident, since both the accrual and receipt of income are outside India.
- (ii) Dividends from shares of three German companies, collected in a bank account in London, would also not be taxable in the case of a resident but not ordinarily resident since both the accrual and receipt of income are outside India.
- (iii) As per section 64(1A), all income accruing or arising to a minor child is includible in the hands of the parent, after providing for deduction of ₹ 1,500 per child under section 10(32).

Accordingly, income of ₹ 20,000 accruing to his minor son, aged 12 years, in India is includible in the income of Pardeep, after providing a deduction of ₹ 1,500. Therefore, ₹ 18,500 is includible in the income of Pardeep. Income accruing to the

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INTEGRATED BUSINESS SOLUTIONS CASE STUDY

minor child outside India (which is also received outside India) is not includible in the income of Mr Pardeep.

As given, his other son is a major son and hence, his income is not includible in the income of Pardeep.

- (iv) Repatriation of sale proceeds of 1,000 shares sold in the preceding accounting year, when Pardeep was a non- resident, is not taxable in the A.Y. 2024-25 since it is not the income of the P.Y. 2023-24.

Consequently, only the income includible under section 64(1A) would form part of the total income of Mr. Pardeep for A.Y. 2024-25. Since his total income (i.e., ₹ 18,500) is less than the basic exemption limit, there would be no liability to income-tax for A.Y. 2024-25.

7.

Journal of Technologies Ltd.

(₹ in crores)

			Dr.	Cr.
(1)	Loan Funds	Dr.	600	
	Current Liabilities	Dr.	800	
	Provision for Depreciation	Dr.	800	
	To Property, Plant and Equipment			1000
	To Current Assets			1000
	To Capital Reserve (Balancing Figure)			200
	(Being division Mobiles along with its assets and liabilities sold to Mobize Ltd. for ₹ 50 crores)			

Note:

- (1) In the given scenario, this demerger will meet the definition of common control transaction. Accordingly, the transfer of assets and liabilities will be derecognized and recognized as per book value and the resultant loss or gain will be recorded as capital reserve in the books of demerged entity (Technologies Ltd).

Technologies Ltd.

Balance sheet after reconstruction

(₹ in crores)

ASSETS	Note No.	Amount
Non-current assets		
Property, Plant and Equipment		50

CASE STUDIES

13.9

Current assets		
Other current assets		400
		450
EQUITY AND LIABILITIES		
Equity		
Equity share capital (of face value of ₹ 10 each)		50
Other equity (Surplus)	1	350
Liabilities		
Current liabilities		
Current liabilities		50
		450

Notes to Accounts

		(₹ in crores)
1.	Other Equity	
	Surplus (350-200)	150
	Add: Capital Reserve on reconstruction	<u>200</u>
		350

Notes to Accounts: Consequent on transfer of Division Mobiles to newly incorporated company Mobize Ltd., the members of the company have been allotted 2 crore equity shares of ₹ 10 each at a premium of ₹ 15 per share of Mobize Ltd., in full settlement of the consideration in proportion to their shareholding in the company.

Balance Sheet of Mobize Ltd.

(₹ in crores)

ASSETS	Note No.	Amount
Non-current assets		
Property, Plant and Equipment (1000-800)		200
Current assets		
Other current assets		1000
		1200
EQUITY AND LIABILITIES		
Equity		
Equity share capital (of face value of ₹ 10 each)	1	20

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Other equity	2	(220)
Liabilities		
Non-current liabilities		
Financial liabilities		
Borrowings		600
Current liabilities		
Current liabilities		800
		1200

Notes to Accounts

		(₹ in crores)
1.	Share Capital:	
	Issued and Paid-up capital	
	2 crore Equity shares of ₹ 10 each fully paid up	20
	(All the above shares have been issued for consideration other than cash, to the members of Technologies Ltd. on takeover of Division Mobiles from Technologies Ltd.)	
2.	Other Equity:	
	Securities Premium	30
	Capital reserve [50- (1200 – 1400)]	(250)
		(220)

Working Note:

In the given case, since both the entities are under common control, the accounting has been done considering the following:

- All assets and liabilities will be recorded at book value.
- Identity of reserves to be maintained.
- No goodwill will be recorded.
- Securities issued will be recorded as per the nominal value.

CASE STUDY 14

BASP & Co. Chartered Accountants is a firm of Chartered Accountants, having offices across major towns of south India. They provide consultancy in the field of GST, income-tax and corporate law consultancy. ABC Private Ltd is a one of the major clients of the firm having a dynamic and professional Finance team., Tan & Kan, the Partners of BASP & Co, had regular meetings with Jay, the Director (Finance) of ABC Private Ltd and his team. During one of the meetings, Jay seemed to have quite some points for discussion with Tan & Kan. Having seen new members in the audit team, Jay gave a quick overview about the Company and its operations for their understanding. He explained that the Company manufactures and supplies air conditioners (AC), refrigerators, and other products.

He went on to explain the following points:

- (A) The Company is expanding its business and establishing a new unit with an estimated budget of ₹ 250 Lakhs. The break-up of this expenditure is as follows:

Civil construction	₹ 120 Lakhs (excluding GST)
Plant and Machinery	₹ 130 Lakhs (excluding GST)

The civil construction cost of ₹ 120 Lakhs above includes construction of foundation for installation of Plant and Machinery. The cost of construction of foundation is ₹ 20 Lakhs. CGST and SGST for both civil construction and Plant and Machinery is 9% each i.e.18% in aggregate. The details of expenditure are as under:

Date	Details	Amount ₹ Lakhs
1 st April 2023	<i>Advance given for Plant & Machinery</i>	40
	<i>Advance to contractor for civil construction</i>	10
15 th April 2023	<i>Work of construction begins</i>	
30 th April 2023	<i>Civil construction work expenses</i>	25
31 st July 2023	<i>Civil construction work expenses</i>	25
1 st October 2023	<i>Payment made to suppliers of Plant and Machinery and delivery received</i>	90
31 st December 2023	<i>Construction work expenses</i>	20
31 st March 2024	<i>Final payment made (including outstanding GST)</i>	40

- (B) During the financial year 2023-24, in one of the Board meetings, the management sought an approval from the Board, for investing in equity shares of other Companies as per the provisions of the Companies Act, 2013. The Board approved the management's proposal, after due deliberations and discussions. The Company purchased 10,000 shares of Milaan Ltd. on 1st January 2023 at a price of ₹ 20 per share. Milaan Ltd.

declared bonus of one share for every 2 shares held on 31st March 2023 as record date for issue of bonus. The Company sold 10,000 shares purchased on 1st January 2023 on 31st August 2023 at ₹ 15 per share.

- (C) In addition to manufacture and supply of ACs, the Company also does installation for the same. It had received advance of ₹5 Lakhs for supply of 5 split air-conditioners to Bavana Ltd. for installation at their factory in Haryana on 15th February 2024. The Company supplied the ACs and installed them on 28th February 2024 and issued the invoice on the same date i.e. 28th February 2024. The supply was chargeable to tax @ 18% but was reduced to 12% from 25th February 2024. The Company charged GST @ 18% while the buyer Bavana Ltd. contended that GST should have been charged @ 12% as the supply was made after the change of rate.
- (D) The Company had entered into an agreement with Humlog Private Ltd, for supply manpower on contract basis. This agreement was in existence for more than 8 years now and both the parties renewed the agreement every two years. However, the Company noticed that the services provided were not up to the mark. Though the agreement was due for renewal this month, the Company raised a dispute relating to quality of manpower and was planning to invoke the arbitration clause.
- (E) During the financial year 2019-20, the Company bought back equity shares worth ₹ 5 Crores resulting in 5% decrease in combined outstanding of paid up share capital and free reserves. Further to this, during the financial year 2021-22 bonus shares were issued in the ratio of 3:2. Bonus shares were issued using the amount lying in securities premium account. Both the actions of the Company were according to the guidelines prescribed under the Companies Act. Tan and Kan endorsed this fact and also added that appropriate disclosures were made in the financial statements.
- (F) Jay was happy to inform that the Company's operations were going on smoothly and they were on a growth trajectory. During the financial year 2022-23, the Company had a turnover of ₹ 100 Crores and there was Loan outstanding from a bank of ₹ 75 Crores and deposits of ₹ 30 Crores.
- (G) After the audit discussions were over, Jay and Kan had a general discussion. During the conversation he mentions that Shahi, a shareholder and non executive director of the Company has become the present Member of Parliament. His son, Abhir is studying abroad in US. As the present term of Parliament is coming to an end next year and his term also will come to an end. Shahi is willing to contest next election as an independent candidate. He has many friends and relatives in US and he asked his son to contact

them, to collect fund for his election. Jay also told Ranga, Shahi's friend who is a contractor working for Ministry of Transport, Shipping and National Highways also accompanied Shahi on the US trip as part of government delegation.

- (H) Jay asked Tan and Kan, if they could help his friend Merun, Partner Mahim & Co, Chartered Accountants. Jay and Merun were close friends and they often used to have professional and academic discussions. Tan and Kan gladly agreed to provide clarifications to Merun, if he had any technical query. Jay set up a zoom call between Merun and them. During the call, Merun said he would be more comfortable and confident, if some other Chartered Accountant reviews the financial statements and audit reports he is signing.

I. Multiple Choice Questions

1. Is ABC Private Ltd required to appoint an internal auditor during the financial year 2023-24 for complying with the provisions of Companies Act, 2013?
 - (a) The Company is required to appoint internal auditor as one of limits of appointment of internal auditor is met by the company.
 - (b) The Company being a private company is not required to appoint internal auditors.
 - (c) The Company is not required to appoint the internal auditors, as the appointment of internal auditor is a matter of Board's decision.
 - (d) The Company is not required to appoint internal auditor because the thresholds prescribed under the Act, have not been met.
2. The Company will treat the loss on sale of shares as:
 - (a) Loss of ₹ 50,000 on sale of 10,000 shares will be claimed as a loss.
 - (b) There will be gain of ₹ 16,666.67 as the cost of shares will be spread across total 15,000 shares.
 - (c) The Company cannot claim the loss of ₹ 50,000. However, this loss of ₹ 50,000 will become cost of acquisition of remaining 5000 shares received as bonus.
 - (d) Loss of ₹ 50,000 cannot be claimed as loss and the cost of acquisition of bonus shares will be 'nil'.
3. In the background of the facts given above, the amount which ABC Private Ltd. is entitled to take credit for Input tax (ITC) of ₹
 - (a) ₹ 45 Lakhs

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- (b) ₹ 27 Lakhs
 - (c) ₹ 23.40 Lakhs
 - (d) ₹ 21.60 Lakhs
4. Advise ABC Private Ltd, what is the correct position of law in the facts given in case study:
- (a) Since payment was received prior to change of rate of tax, old rate will be applicable.
 - (b) Since provision of supply and issue of invoice is after the change in rate of tax, and only payment has been received before the change in rate, new rate shall be applicable.
 - (c) Since the time of supply shall be earlier of date of receipt of payment and date of issue of invoice, old rate shall be applicable.
 - (d) Since provision of service is after the change in rate of tax, new rate shall be applicable. Date of invoice is not relevant.
5. Whether the transactions of buy back and bonus shares are required to be reported in the financial statements for the financial year 2023-2024?
- (a) As per schedule III to the Companies Act, 2013, the comparative information for last financial year needs to be presented and the said transactions do not pertain to last financial year, hence no reporting is required.
 - (b) As per schedule III to the Companies Act, 2013, only transaction of buy back completed in last three financial years is required to be reported.
 - (c) As per schedule III to the Companies Act, 2013, only transaction of bonus shares issued during last three financial years is required to be reported.
 - (d) As per schedule III to the Companies Act, 2013 both bonus shares issued and shares bought back during last five financial years needs to be reported.

II. Descriptive Questions

6. Jay feels it is not appropriate for Shahi to seek funds for election in such a manner. With reference to the Foreign Contribution (Regulation) Act, 2010, explain who are prohibited from taking any contributions from a foreign source.

7. In background of Merun's discussion with Tan and Kan, answer the following:
- (i) Can the financial statements and audit report signed by Merun be reviewed by some other Chartered Accountant? If yes, who can do such review in terms of Standard on Quality Controls Auditing, Review, Other Assurance and Related Services.
 - (ii) What should be the contents of the review policy and procedures, if Merun's firm is required to establish such policy?

ANSWERS TO THE CASE STUDY 14

I. Answers to the Multiple Choice Questions

1. (d) Rule 13 of the Companies (Accounts) Rules 2014
The condition of deposit does not apply to a Private Company.
2. (c) According to section 94(8), where (a) any person buys or acquires any securities or units within a period of three months prior to the record date; (b) such person is allotted additional securities or units without any payment on the basis of holding such securities or units on such date; (c) such person sells or transfers all or any of the securities or units referred to in (a) above within a period of nine months after such date, while continuing to hold all or any of the additional securities or units referred to in (b), then –
 - (i) the loss on sale of original securities or units sold within a period of 9 months after the record date will be ignored for the purpose of computing his income chargeable to tax and
 - (ii) the amount of such loss so ignored will be deemed to be the cost of purchase or acquisition of the bonus securities or units referred to in (b) above, held by him on the date of such sale or transfer

The Company cannot claim the loss of ₹ 50,000. However, this loss of ₹ 50,000 will become cost of acquisition of remaining 5000 shares received as bonus.
3. (b) On Foundation work = ₹ 20 Lakhs + Plant and Machinery ₹ 130 Lakhs = 150 Lakhs @ 18% = 27 Lakhs
4. (b) Section 14(b)(iii) of the CGST Act

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5. (d) As per schedule III to the Companies Act, 2013 both bonus shares issued and shares bought back during last five financial years needs to be reported.

II. Answers to the Descriptive Questions

6. As per **Section 3 of the Foreign Contribution (Regulation) Act (FCRA), 2010**, certain prohibitions are imposed on acceptance of foreign contribution.

Following are the categories of persons on whom directly/indirectly prohibitions are imposed on acceptance of foreign contribution:

- (1) No foreign contribution shall be accepted by any:
- (a) candidate for election;
 - (b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
 - (c) public servant, Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;
 - (d) member of any Legislature;
 - (e) political party or office-bearer thereof;
 - (f) organization of a political nature as may be specified under Section 5(1) by the Central Government;
 - (g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any mode of mass communication
 - (h) correspondent or columnist, cartoonist, editor, owner of the association or Company referred to in clause (g).
- (2) The Act also prohibits acceptance of foreign contribution by the following persons:
- (a) Person, resident in India, and citizen of India resident outside India- shall not accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in (1) above, or both.
 - (b) Person, resident in India- shall not deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in (1) above, or both.

- (c) Citizen of India resident outside India- shall not deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to—
- (i) any political party or any person referred to in (1) above, or both; or
 - (ii) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to (1) above, or both.

In the give case study, Shahi, who is Member of Parliament and willing to contest next election as an independent candidate. He is seeking funds for his election. He asked his son, Abhir to contact his friends and relatives in US to collect funds.

According to Section 3(1)(a) of the Foreign Contribution (Regulation) Act, 2010 provides that no foreign contribution shall be accepted by any candidate for election.

Therefore, Jay was correct that it is not appropriate for Shahi to seek funds for election in such stated manner.

7. (i) As per **SQC 1**, some sole practitioners or small firms may wish to use other firms to facilitate engagement quality control reviews. Accordingly, financial statements and audit report signed by Merun can be reviewed by some other Chartered Accountant.

The firm's policies and procedures should address the appointment of engagement quality control reviewers and establish their eligibility through:

- (a) The technical qualifications required to perform the role, including the necessary experience and authority; and
- (b) The degree to which an engagement quality control reviewer can be consulted on the engagement without compromising the reviewer's objectivity.

(ii) **Engagement Quality Control Review:**

The firm should establish policies and procedures requiring, for appropriate engagements, an engagement quality control review that provides an objective evaluation of the significant judgments made by the engagement team and the conclusions reached in formulating the report. Such policies and procedures should:

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- (a) Require an engagement quality control review for all audits of financial statements of listed entities;
- (b) Set out criteria against which all other audits and reviews of historical financial information, and other assurance and related services engagements should be evaluated to determine whether an engagement quality control review should be performed; and
- (c) Require an engagement quality control review for all engagements meeting the criteria established in compliance with subparagraph (b).

The firm's policies and procedures should require the completion of the engagement quality control review before the report is issued.

The firm should establish policies and procedures setting out:

- (a) The nature, timing and extent of an engagement quality control review;
- (b) Criteria for the eligibility of engagement quality control reviewers; and
- (c) Documentation requirements for an engagement quality control review.

CASE STUDY 15

CA Arvind Kapoor, the founder of Kapoor & Co., is a member of the Institute of Chartered Accountants of India who initially set up his practice in Delhi. Kapoor & Co. has rich experience of more than 35 years in almost every field and served a diverse clientele from individual taxpayers to conglomerates. Their audit approach is pragmatic, relying on a risk-based audit methodology, built on extensive planning and client input, and is fully supported by the latest technology and tools. As a result, the firm's audit practice has grown continuously and has earned specialization in core areas like direct taxation, indirect taxation, internal audit etc.

CA Arvind Kapoor, CA Rajesh Dhamija, CA Piyush Makkar and CA Gaurav Satija are four partners of the firm. They all are specialized in their own niche. They all met at a common event and decided to start their own firm. With their combined efforts and dedication, firm has accumulated an enormous amount of knowledge capital that has been built with passing of every year. This has resulted in association of various valuable clients with the firm.

One of such valuable clients is Vallabh Cotton Limited which is a listed company. Vallabh Cotton Limited is leading manufacturer of cotton. There are some issues going on in the company in respect of appointment of small shareholders' director. The Company gets its all the finance related work done from CA Gaurav Satija. When management discussed this matter with CA Gaurav Satija, he praised work of his partner CA Rajesh Dhamija who is an expert in company law matters & has been practising in this area since 15 years. Hence, management of Vallabh Cotton Limited approached CA Rajesh Dhamija for seeking advice on appointment of small shareholders' director and appointment of woman director in the company. Company has 10,00,000 equity shares of ₹ 10 each. Company has 500 small shareholders. Majority (400) of the small shareholders want to appoint Mr. Brijesh as a director as their representative on the Board of directors of the said company. Mr. Brijesh already holds 10,000 equity shares in the said company.

One sister concern of Vallabh Cotton Limited is Aggarsain Spinners Private Ltd. Earlier Aggarsain Spinners Private Ltd. was in business of trading of yarns. Now, gradually the Company wants to go forward in the area of manufacturing as well. Last year, the company had made capital investment in construction of building. This year, the company purchased machinery on 1st April 2023 for ₹ 10 crore. The Company had paid from their own funds 30% and balance 70% by availing loan facility from Synditop bank @ 12% per annum. The machine was required for extension of business of company and was put to use into effective production

on 1st February, 2024. The accountant of Company wants to take advice from CA Arvind Kapoor who is specialised in direct taxation regarding amount of depreciation that can be claimed by the company under the Income-tax Act.

The management of company also wants to discuss with CA Arvind Kapoor regarding applicability of TDS provisions under Income Tax Act on the following payments made for job work (excluding material cost) to Khushi Ltd for the financial year 2023-24 towards work done under different contracts.

Contract no.	Date of payment	Amount (₹)
1	15.05.2023	22,000
2	04.06.2023	15,000
3	08.07.2023	23,000
4	09.09.2023	25,000
5	26.01.2024	18,000

Company claims that it is not liable to deduction of tax at source. The company is seeking advice from CA Arvind Kapoor on implications of TDS.

The partners and staff of Kapoor & Co usually meet on every Saturday over coffee and discuss topics requiring deliberations. Such exercise makes their staff updated as well. In one such meeting, they discussed issues related to blocked input tax credit and credit admissible under GST Law. In this meeting, they also discussed about remedy that would be available if incorrect input tax credit is taken. All of a sudden, CA Piyush Makkar, expressed his willingness to handle a renowned client, IGT Private Limited, having good volume of turnover. .

IGT Private Limited is in business of manufacturing of textile products. The accounts team of the Company is not much aware about GST Law. Earlier, GST work of company was being taken care by some other professional, Ryan & Co., till Jan 2024. In Feb, 2024, the proprietor of Ryan & Co. had shifted abroad. Hence, the management approached Kapoor & Co. for their GST work for which CA Piyush Makkar came forward to support. The accountant of Company has correctly taken all other input tax credit related to Company's purchases, but he was confused in respect of availing of input tax credit on following inputs purchased and input services availed in the month of February, 2024:-

Particulars	Input Tax paid (₹)
Goods purchased without invoice	40,000
Purchase of goods not to be used for business purpose	20,000

Purchase of goods from Sethi Lal & Sons (Invoice of Sethi Lal & Sons received in the month of February, 2024 but goods were received in the month of March, 2024)	28,000
Pollution control Equipment used in the factory capitalized in the books	1,50,000
Motor Lorries used for transportation of goods capitalized in the books	2,50,000
Electrical Transformers used in the factory capitalized in the books	2,25,000
Capital goods to be used as parts, purchased from supplier paying tax under the composition scheme and such composite tax has not been collected from IGT Private Limited by the supplier.	25,000
Moulds and dies used in the factory	65,000
The company buys cement, tiles and avail the services of an architect for the construction of its office building	1,68,000
Total	9,71,000

I. Multiple Choice Questions

- With reference to information given in the Table regarding payments on account of job work to Khushi Ltd., which one of the below option is correct in respect of the amount on which TDS is required to be deducted under the provisions of Income-tax Act, 1961:
 - TDS is not required to be deducted as each contract amount does not exceed the threshold limit
 - TDS is only required to be deducted on Contract 5 i.e. ₹ 18,000
 - TDS is required to be deducted on the whole amount i.e. ₹ 1,03,000
 - TDS is required to be deducted only on ₹ 3,000.
- Credit of tax paid on almost every input and input service used for supply of taxable goods and/or services is allowed under GST except a list of items provided under CGST Act. Thus, ITC on such items is not allowed even though the same may qualify as inputs, input services & capital goods and are used in the course or furtherance of business. Considering the relevant GST Law, which of the following ITC is admissible under GST:
 - Goods lost, stolen, destroyed, written-off or disposed-off by way of gift or free samples.
 - Service of general insurance of motor vehicles for transportation of persons having approved seating capacity of 7 persons (including driver).

- (c) Confectionery items for consumption provided to employees working in the factory under statutory obligation.
- (d) Food and beverages procured from Mohan Caterers for being used in Dealer's meet.
3. According to provisions of the Companies Act, 2013, a listed Company may have one Director elected by small shareholders. The provision enables the small shareholders to place their representative on the Board of Directors of a listed company so that their voice is also listened effectively. The small shareholders are entitled to give a notice to the company requiring the company to make appointment of a small shareholders' director. Whether 400 small shareholders of Vallabh Cotton Limited are in position to propose appointment of Mr. Brijesh as small shareholders' director.
- (a) Yes, the notice may be given by at least 1,000 small shareholders or 1/10th of the total number of small shareholders whichever is lower.
- (b) No, the notice may be given by at least 1,000 small shareholders or 1/10th of the total number of small shareholders whichever is higher.
- (c) No, the notice may be given by at least 1,000 small shareholders.
- (d) Yes, the notice may be given by at least 9/10th of the total number of small shareholders.
4. Compute interest on machinery that is allowed as deduction under Income-tax Act to Aggarsain Spinners Pvt. Ltd.
- (a) ₹ 70,00,000
- (b) ₹ 84,00,000
- (c) 0
- (d) ₹ 14,00,000
5. As management of Vallabh Cotton Limited approached CA Rajesh Dhamija for seeking advice on appointment of woman director in the company, which one of the following, he should have suggested regarding the same as per law relating to companies?
- (a) That all companies need to appoint a woman director.

- (b) That every listed company or every other public company having paid up share capital equal to or more than ₹ 100 crores or turnover equal to or more than ₹ 300 crores.
- (c) That every listed company or every other public company having paid up share capital equal to or more than ₹ 10 crores or turnover equal to or more than ₹ 100 crores.
- (d) That the requirement of a woman director is applicable only for private companies.

II. Descriptive Questions

6. Describe in the light of provisions contained in the Companies Act, 2013, whether the proposal to appoint Mr. Brijesh as a small shareholders' director can be adopted by the company and also brief the law relating to appointment of small shareholders' director. What would be your answer if Mr. Brijesh is already holding a position of Small Shareholders' Director in two companies?
7. Advise Aggarsain Spinners Private Ltd. on treatment of interest payment made on loan and depreciation allowable for the Assessment Year 2024-25. Assume that this machine is the only machine in the related block of assets. Aggarsain Spinners Private Ltd. is not opting for the concessional rate of tax u/s 115BAA.
8. Compute the Input Tax credit admissible under GST law to IGT Private Ltd. in respect to various inputs purchased/ input services availed during month of February, 2024.

ANSWERS TO THE CASE STUDY 15

I. Answers to the Multiple Choice Questions

1. (c) TDS is required to be deducted on the whole amount i.e. ₹ 1,03,000

Reason: As per Section 194C(5) of the Income-tax Act, 1961, tax has to be deducted at source where amount credited or paid or likely to be credited or paid to contractor or sub-contractor exceeds ₹ 30,000 in a single payment or ₹ 1,00,000 in aggregate during the financial year.

Therefore, in the given case, even though the value of each individual contract does not exceed ₹ 30,000, the aggregate amount exceeds ₹ 1,00,000. Hence, tax is required to be deducted at source on the whole amount ₹ 1,03,000 from the last

payment of ₹ 18000 on account of which the aggregate amount exceeded ₹ 1,00,000.

2. (c) Confectionery items for consumption of employees working in the factory under statutory obligation.

Reason: As per Section 17(5)(b) of CGST Act, ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply or where it is obligatory for an employer to provide the same to its employees under any law for the time being in force. Hence the input tax credit is available on Confectionery items for consumption of employees working in the factory, since same is provided under statutory obligation. Sec 17(5) also restricts the input tax credit on motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including driver). Goods lost, stolen, destroyed, written off or given off by way of gift or free samples also covered under Sec 17(5) (h).

3. (a) Yes, the notice may be given by at least 1,000 small shareholders or 1/10th of the total number of small shareholders whichever is lower.

Reason: As per Rule 7 of the Companies (Appointment and Qualification of Directors) Rules, 2014, the small shareholders are entitled to give a notice to the company requiring the company to make appointment of a Small Shareholders' Director. The notice shall be given by at least –
1000 small shareholders; or
1/10th of the total number of small shareholders,
whichever is lower.

4. (d) ₹ 14,00,000

Reason: As per proviso to section 36(1)(iii), interest paid in respect of capital borrowed for acquisition of an asset for the period beginning from the date of borrowing of loan for acquiring the asset till the date on which such asset is first put to use is not allowable as deduction. Therefore, interest @ 12% p.a. for a period of 2 months from 1st February, 2024 to 31st March, 2024 on ₹ 7crores is allowable as deduction under Income-tax Act.

5. (b) That every listed company or every other public company having paid up share capital equal to or more than ₹ 100 crores or turnover equal to or more than ₹ 300 crores.

Reason: Rule 3 of the Companies (Appointment and Qualification of Directors) Rules, 2014 provides the following classes of companies shall appoint at least one woman director:

- 1) every listed company,
- 2) every other public company having-
 - a. paid up share capital of ₹ 100 crores rupees or more or
 - b. turnover of ₹ 300 crore rupees or more.

II. Answers to the Descriptive Questions

6. **Small Shareholders' Director:** The provisions relating to appointment of directors by small shareholders are contained in section 151 of the Companies Act, 2013 read with Rule 7 of the Companies (Appointment and Qualification of Directors) Rules, 2014.

The legal position

1. The provisions contained in section 151 read with Rule 7 are applicable to listed companies only.
2. The small shareholders are entitled to give a notice to the company requiring the company to make appointment of a Small Shareholders' Director. The notice shall be given by at least –
 - i. 1000 small shareholders; or
 - ii. 1/10th of the total number of small shareholders,whichever is lower.
3. The notice shall be given at least fourteen days before the meeting and should be signed by all the small shareholders proposing the appointment of small shareholders' director.
4. A person shall not hold the position of small shareholders' director in more than 2 companies at the same time.

Facts of the case and analysis

In the given case, Vallabh Cotton Limited is a listed company. Some small shareholders have given a notice to the company requiring the company to appoint a Small Shareholders' Director.

The small shareholders eligible to give notice for appointment of Small Shareholders' Director shall be –

- a) 1,000 small shareholders ; or
- b) 1/10th of 500, i.e. 50 small shareholders,

whichever is lower.

Since lower of 1,000 and 50 is 50, the notice for appointment of Small Shareholders' Director has to be given by at least 50 small shareholders.

Conclusions

As in the given case, 400 of the small shareholders are interested in appointing small shareholders' director, the company shall adopt the procedure given in Rule 7 for appointment.

Neither section 151 nor Rule 7 state any eligibility criteria for appointment of a person as a small shareholders' director to be a small shareholder himself or not. Thus, Mr. Brijesh may be appointed as a Small Shareholders' Director i.e. even he has 10,000 equity shares in the company, it does not affect his appointment.

If Mr. Brijesh already holds position of Small Shareholders' Director in 2 companies, then, he cannot be appointed as a small shareholders' director in Vallabh Cotton Limited.

7. (i) Interest on term loan for purchase of machinery

As per proviso to section 36(1)(iii), interest paid in respect of capital borrowed for acquisition of an asset for the period beginning from the date of borrowing of loan for acquiring the asset till the date on which such asset is first put to use is not allowable as deduction.

Interest for such period has to be capitalised, by adding the same to the cost of the asset. Therefore, interest @12% p.a. for a period of 10 months from 1st April, 2023 to 31st January, 2024 on ₹ 7 crores, being the amount of loan, has to be capitalised.

Particulars	Amount (₹)
Cost of machinery	10,00,00,000
Add: Interest [12% x 10/12 x ₹ 7,00,00,000]	70,00,000
Actual Cost of machinery	10,70,00,000

Interest @ 12% for two months (February, 2024 & March, 2024) ₹ 14,00,000 after the asset put to use is allowable as deduction under section 36(1)(iii) [12% x 2/12 x ₹ 7,00,00,000]

(ii) Depreciation

Particulars	Amount (₹)
Since the machinery is put to use for less than 180 days in the previous year 2023-24, the depreciation would be restricted to 50% of the amount calculated at the prescribed percentage of 15%. Therefore, depreciation is 50% x [15% x ₹ 10,70,00,000]	80,25,000
Additional depreciation of 20%, for being engaged in the manufacturing of cotton and purchasing new machinery, would also be restricted to 50% of the amount calculated. Therefore, additional depreciation= 50% x [20% x 10,70,00,000]	1,07,00,000
Total Depreciation	1,87,25,000

However, balance additional depreciation of ₹ 1,07,00,000 shall be allowed under section 32(1)(ia) in the immediately succeeding previous year.

8. Computation of input tax credit admissible to IGT Private Ltd. in respect to various inputs purchased during the month of February, 2024

S. No.	Particulars	Input Tax Credit (₹)
1	Goods purchased without invoice (working note 1)	nil
2	Purchase of Goods not to be used for business purpose (working note 2)	nil
3	Purchase of Goods from Sethi Lal & Sons (Invoice of Sethi Lal & Sons received in the month of February, 2024 but goods were received in the month of March, 2024) (working note 3)	nil
4	Pollution control Equipment used in the factory (working note 4)	1,50,000

5	Motor Lorries used for transportation of goods (working note 6)	2,50,000
6	Electrical Transformers used in the factory (working note 4)	2,25,000
7	Capital goods used as parts purchased from supplier who paid tax under the composition scheme and the tax has not been collected from IGT Private Limited (working note 5)	nil
8	Moulds and dies used in the factory (working note 4)	65,000
9	The company buys cement, tiles and avails the services of an architect for the construction of its office building (working note 7)	nil
	Eligible ITC	6,90,000

Working Notes-

- 1) No Input tax credit will be available since IGT Private Limited is not in possession of valid tax paying document.
- 2) A registered person shall be entitled to take the input tax credit on goods which are used or intended to be used in the course or furtherance of his business. Since the company has purchased the goods for non-business purpose, hence no credit will be available on such purchases.
- 3) Input tax credit is admissible only when registered person has received such goods. Hence, when goods received in the month of March, 2024 input tax credit cannot be taken in the month of February, 2024.
- 4) As per section 2(19), "Capital goods" means goods, the value of which is capitalized in the books of accounts of the person claiming input tax credit and which are used or intended to be used in the course or furtherance of business. Hence:
 - a) Electrical Transformers
 - b) Moulds and dies
 - c) Pollution control Equipment

which are used or intended to be used in the course or furtherance of business are eligible for ITC as capital goods.

However, where tax element is added to the cost of plant and machinery and depreciation is claimed thereon, no input tax credit is available.

- 5) As per Section 17(5)(e), input tax credit shall not be available in respect of goods or services or both on which tax has been paid under sec 10. Thus, no ITC shall be allowed of tax paid under composition scheme by the supplier.
- 6) In respect of motor vehicle used for the purpose of transportation of goods, the same is not covered under the ambit of blocked credit, hence ITC shall be admissible in respect of motor vehicles.
- 7) As per Section 17(5)(c), ITC is blocked on input or input service relating to construction activity like construction of office building, factory building etc.