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.

(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)	50	200	250
Current assets:		400	1000	1400
Less: Current liabilities		(50)	(800)	(850)
	(B)	350	200	550
Total	(A+B)	400	400	800
Financed by:				

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

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

1. With reference to information given in Para 4, tax liability of Mr. John for Assessment year 2024-25 would be:

   (a) ₹ 1,25,000

   (b) ₹ 1,30,000

   (c) ₹ 1,22,000

   (d) ₹ 1,70,000

2. 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)

   (a) 20%, 0%

   (b) 20%, 20%

   (c) 30%, 30%

   (d) 30%, 20%

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

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 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

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	200
		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

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:

(a) All assets and liabilities will be recorded at book value.

(b) Identity of reserves to be maintained.

(c) No goodwill will be recorded.

(d) Securities issued will be recorded as per the nominal value.