

# REVISION TEST PAPERS

FINAL (NEW) COURSE

GROUP – II

MAY, 2018



BOARD OF STUDIES

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA  
(Set up by an Act of Parliament)

*New Delhi*

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## REVISION TEST PAPER, MAY, 2018 – OBJECTIVE & APPROACH

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

### I Objective of Revision Test Paper

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

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

The primary objectives of the RTP are:

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

RTPs contain the following:

- (i) Planning and preparing for examination
- (ii) Subject-wise guidance – An overview
- (iii) Updates applicable for a particular exam in the relevant subjects
- (iv) Topic-wise questions and detailed answers thereof in respect of each paper
- (v) Relevant announcement applicable for the particular examination

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

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

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

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

## II. Planning and preparing for examination

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

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

### Examination tips

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

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

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

#### PAPER - 5: Strategic Cost Management and Performance Evaluation

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

S. No.	Topic	About the Problem
<b>Case Study</b>		
1.	Value Chain Analysis, Balanced Scorecard, KPI	Case Study on 'Performance Measurement' through 'Balanced Scorecard'.
2.	Six Sigma and Cost of Quality	Case Study on 'Six Sigma' implementation.
<b>Case Scenario</b>		
3.	Decision Making	Case Scenario on 'Non- Financial Considerations' relevant to 'Decision Making'.
4.	Balanced Scorecard	Case Scenario on implementation of 'Balanced Scorecard' in a banking company.
5.	5S	Case Scenario on implementation of '5S' in a CA firm.
6.	Total Quality Management 'TQM'	Case Scenario on implementation of 'TQM' in a banking company.
7.	Pricing Strategy	Case Scenario on 'Pricing Strategy' in a software company.

Questions		
8.	Customer Profitability Analysis (CPA)	Question requiring recommendation of appropriate 'Strategy' regarding customers through 'CPA'.
9.	Target Costing	Question requiring recommendation of 'Strategy' to attain 'Target Cost'.
10.	Just in Time (JIT)	Question requiring advise on implementation of 'JIT Production System'.
11.	Transfer Pricing	Question on computation of 'Transfer Price' based on 'Opportunity Cost'.
12.	TPM	Question on 'Overall Equipment Effectiveness (OEE)'.
13.	ROI vs RI	Question on 'Interpretation' of conflicting results (ROI and RI).
14.	Theory of Constraints	Question covering various aspects of 'Theory of Constraints'.
15.	Standard Costing	Question on 'Performance Measurement' in 'Standard Costing' system.

#### PAPER 7: DIRECT TAX LAWS AND INTERNATIONAL TAXATION

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

The provisions of direct tax laws, as amended by the Finance Act, 2017, and significant notifications, circulars and other legislative amendments upto 31.10.2017 are relevant for May, 2018 Examination. The relevant assessment year for May, 2018 examination is A.Y.2018-19.

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

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

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

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

### PAPER – 8: INDIRECT TAX LAWS

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

- (i) The provisions of CGST Act, 2017 and IGST Act, 2017, including significant circulars and notifications issued and other legislative amendments made upto 31<sup>st</sup> October, 2017.
- (ii) The provisions of the Customs Act, 1962, as amended by the Finance Act, 2017, including significant notifications and circulars issued and other legislative amendments made up to 31<sup>st</sup> October, 2017.

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

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

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

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

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

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



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

It may be noted that the Statutory Update comprising of the significant legislative developments by way of notifications/circulars issued from 16.09.2017 to 31.10.2017 for Goods and Services Tax and from 01.05.2017 to 31.10.2017 for Customs, will be web-hosted at the BoS Knowledge Portal on the ICAI's website [www.icai.org](http://www.icai.org).



## PAPER – 5: STRATEGIC COST MANAGEMENT AND PERFORMANCE EVALUATION

### \*\*\*CASE STUDY\*\*\*

#### Value Chain Analysis, Balanced Scorecard, KPI

1. You are the Finance Manager of DP Limited which is in the business of manufacturing wire rods. A division in the company manufactures copper wire rods from a single manufacturing plant in Central India. The division purchases raw material (copper cathodes) from various suppliers across the country. The cathodes are melted and wire rods of various dimensions are produced. Each batch of wire rods produced are tested for quality and strength.

The wire rods are stored in rolls in the warehouse and dispatched in company owned trucks as per the requirement of the customers. The customers are required to pay 50% of invoice value as advance and balance 50% within 30 days of delivery of goods. The company prices its copper wire rods based on the price prevailing on London Metal Exchange after adjusting it with a factor to cover conversion costs and profits.

The company explores newer markets by advertising in national dailies and participating in various industrial events in India as well as abroad. An annual conference of customers is conducted by the company to improve customer relationships and attract newer customers. The customers have right to return the material if quality specifications are not met. There is a separate team to handle such complaints.

The following email was sent by the Chief Financial Officer of the company to you.

---

From: Chief Financial Officer  
To: Finance Manager  
Subject – Commodity Price Fluctuation

*The board is quite aware of foreign exchange fluctuation related risks. However, they are not much aware of risks related to fluctuation in commodity prices. The prices of copper which are used to manufacture copper wire rods have fallen down by over 20% in the last six months owing to global factors.*

*The procurement team of Copper Wire Division has been waiting for the right time to buy these metals as they expect the prices to fall down further. However, we are at a verge of stock-out of these metals as no purchase was made in the last one month.*

*The bonus of procurement team largely depends on the annual savings as compared to the budgeted cost of purchase. I am not happy with the approach of speculation and making profits out of price fluctuation in raw materials. Could you highlight the issues related with our performance measurement mechanism and suggest how it could be improved?*

Regards  
Chief Financial Officer

Attachment:  
Copper Prices Quoted on LME



### Required

- (i) EXPLAIN and IDENTIFY the various primary activities of Copper Division.
- (ii) DISCUSS the issues with performance measure in force in the company.
- (iii) ADVISE an alternate performance measure and Identify Key Performance Indicators (KPI).

### Six Sigma and Cost of Quality

2. Absolute Singapore Pte Ltd. (ASPL) manufactures electronic components for washing machines in an assembly line. Recent market survey reports indicate erosion of its clientele. Feedback taken from customers suggest that the company's products were not of good quality. ASPL is concerned because its competitors have been able to achieve zero defect performance in terms of nil sale returns on account of quality and nil subsequent warranty cost. Therefore, the competitors enjoy huge customer loyalty.

To satisfy its customers, the company ASPL wants to improve its product quality. Consequently, it has decided to undertake Six Sigma study of its operations.

Below is the additional information given about ASPL's operations:

Yearly sales of electronic components are 25,000 units at ₹20,000 each. Of these, 1% sales are returned due to quality issues. These are scrapped and a replacement is made by the company. In addition, each product is under warranty for one year after sale. If a claim is accepted under warranty, service and replacement of parts is done free of cost. Current yearly warranty claims (these are separate from sales returns), which is also representative of the average yearly warranty claims, amount to ₹30,00,000 per annum.

## PAPER – 5 : STRATEGIC COST MANAGEMENT AND PERFORMANCE EVALUATION 3

Quality control check and inspection is carried out directly at the assembly line. There is no quality check done at any other point in the entire work flow. Total time spent on inspection is 2,000 hours in a year which costs the company ₹10,00,000 per annum. Inspection leads to 10% rejection i.e. 2,525 units. These units require only one cycle of rework, after which they are ready for sale. Rate of rework in the units rejected on inspection at the assembly line is 5 units in 1 hour. Cost of rework is ₹6,250 per hour.

The variable cost of electronic component is ₹12,500.

The Six Sigma team as part of its study found that rework on products was mainly due to the following reasons:

- (1) Assembly line workers, including new hires, learnt on the job as to how to assemble the input material to produce the final electronic component. This lead to many errors due to lack of proper standardized training. Therefore, on account of these errors, the entire electronic component has to assembled again.
- (2) Sub-standard quality of raw material is detected on inspection only at the assembly line. By this time, the defective material is already fitted into the final electronic component. Therefore, entire component has to be reworked upon to replace the defective raw material input.
- (3) Machines are outdated and are not entirely suitable for the current production methodology.

Proposed solutions to tackle these issues are as follows:

- (1) Provide *training to assembly line workers* to train them on the production methodology. This training is expected to standardize work flow, thereby reducing errors. Such training programs will be held regularly to update the workers on new methodologies. These programs can also serve as employee feedback sessions about the actual working conditions at the assembly line. This two-way communication can improve and streamline the production process. Brainstorming can help detect or give heads up about potential problems in the production process. Total training hours in a year are expected to be 5,000 hours, costing ₹1,000 each hour.
- (2) Currently poor quality of raw material input is detected only on inspection at the assembly line. This results in wastage of resources in terms of material, time and capacity. In addition to the existing inspection at the assembly line, a *new functional area for quality planning and improvement* is proposed to be set up. At the time of procurement, the department will determine the appropriate quality of raw material input, ensure that suppliers supply material as per these requirements as well as suggest alternatives that can help improve product quality. By ensuring quality of raw materials at the beginning of the production process, wastage of resources is

reduced, if not can be eliminated. Cost of setting up such a facility will be ₹1,50,00,000. In addition to this facility, inspection will continue at the assembly line. This ensures complete quality check during the entire production cycle. At the same time, due to the introduction of this new functionality for quality control, the pressure on resources for inspection at the assembly line would reduce.

- (3) Current machines should be replaced entirely with *new machines*. Old machines can be sold for negligible amount as scrap. New machines would cost ₹3,60,00,000 having a life of three years.

Implementation of the above three solutions can have the following impact:

- Rework of products can be entirely eliminated.
- Sale returns will reduce from 1% to 0% due to better quality of products.
- Yearly warranty claims will reduce from ₹30,00,000 to nil per annum.
- With the introduction of the new facility, time required for inspection at the assembly line would reduce from 2,000 hours to 1,200 hours. Cost of inspection to do quality check at the assembly line would reduce from ₹10,00,000 per annum to ₹600,000 per annum.
- Due to better quality, ASPL can build better reputation with the customers which can further yield additional sales of 5,000 units per year.

### **Required**

You are the management accountant at ASPL. As part of the Six Sigma project implementation team, you are requested to EVALUATE proposals suggested by the Six Sigma team. The team has used the DMAIC technique to assess quality improvements.

### **\*\*\*CASE SCENARIO\*\*\***

#### **Decision Making**

3. Aayla runs the Planetarium Station in New Delhi, India. The strength of the station lies in its live interactions and programs for visitors, students and amateur astronomers. The station is always active with programs for school and college students and for amateur astronomers. One of the station's key attractions is a big screen IMAX theatre. IMAX is a 70 mm motion picture film format which shows images of far greater size and resolution than traditional film systems. The IMAX cinema projection standards were developed in Canada in the late 1960s. Unlike traditional projectors, the film is run horizontally so that the image width is greater than the width of the film.

The average IMAX show at the station attracts 120 visitors (50 children and 70 adults) at a ticket price of ₹160 for children and ₹200 for adults. Aayla estimates that the running costs per IMAX show are ₹10,000. In addition, fixed costs of ₹7,500 are allocated to each show based on annual estimate of the number of IMAX shows.

## PAPER – 5 : STRATEGIC COST MANAGEMENT AND PERFORMANCE EVALUATION 5

The Hobart School has approached Aayla about scheduling an extra show for its class VIII students. One hundred students and five teachers are expected to join the special show on the 'Planets & Solar System', a feature that is currently showing. The school has asked Aayla for a price quote. The special show will take place at 08:30 AM when the IMAX is not usually open.

### **Required**

RECOMMEND the minimum amount that Aayla should charge.

### **Balanced Scorecard**

4. Your Bank Ltd., was established on the 30<sup>th</sup> September, 1940 under the provisions of Co-operative Societies Act by the eminent professionals to encourage self-help, thrift, cooperation among members. Bank was issued Banking License under Banking Regulation Act, 1949 on October 25, 1986 to carry out the Banking Business within the national capital and since then the Bank has been growing continuously. At present, Bank has large number of membership of individuals from different sections. The Bank has 12 branches in the NCT of Delhi. Bank offers 'traditional counter service'. Opening hours are designed to coincide with local market days.

Board of Directors were worried from growing popularity of new style banks. These banks offer diverse range of services such as direct access to executive management, a single point of contact to coordinate all banking needs, appointment banking to save time, free online banking services 24/7, free unlimited ATM access etc.

It has now been decided that the bank will focus on "What Customers Want" and will use a balanced scorecard to achieve this goal.

### **Required**

PRODUCE, for each of the three non-financial perspectives of a 'Balanced Scorecard', an objective and a performance measure that the bank could use with appropriate reason.

### **5S**

5. Y & E Chartered Accountants offers a wide range of specialized, multi-disciplinary professional services that meet the immediate as well as the long-term business needs of clients. One of partner 'E' was upset with office documentation. 'E' argued that a document management solution is needed to maximize efficiency within the firm. The senior partner 'Y' has recently attended a seminar on lean system and heard the '5S'. He said that old files hide the key files from the eye and forces staff to ask which to use. Accordingly, he desires to implement '5S'.

### **Required**

ADVISE on implementation of '5S' in Y & E.

**TQM**

6. CIMZ is a new banking company which is about to open its first branch in INDIA. CIMZ believes that in order to win customers from the market, it needs to offer potential customers a new banking experience. Other banking companies are focusing on interest rates and bank charges, whereas CIMZ believes that quality and timely availability of service is an important factor to attract customers.

**Required**

EXPLAIN how Total Quality Management would enable CIMZ to gain competitive advantage in the banking sector.

**Pricing Strategy**

7. Swift Tech Ltd. (STL) is a leading IT security solutions and ISO 9001 certified company. The solutions are well integrated systems that simplify IT security management across the length and depth of devices and on multiple platforms. STL has recently developed an Antivirus Software and company expects to have life cycle of less than one year. It was decided that it would be appropriate to adopt a market skimming pricing policy for the launch of the product. This Software is currently in the Introduction stage of its life cycle and is generating significant unit profits.

**Required**

- (i) EXPLAIN, with reasons, the changes, if any, to the unit selling price that could occur when the Software moves from the Introduction stage to Growth stage of its life cycle.
- (ii) Also IDENTIFY necessary strategies at this stage.

\*\*\*QUESTIONS\*\*\*

**Customer Profitability Analysis**

8. Bookmark LLP is a publishing firm that started operations very recently. The firm has published "Advanced Learner's Dictionary" this first year, that have been sold to 3 distributors PER, MGH and WLY. The firm's financials reflect profits in its first year of operations. The management is pleased with the results. However, they are interested in finding out how profitable each customer is. This would help them formulate their sales strategy.

Particulars	PER	MGH	WLY
Sales units p.a.	1,000	950	1,250
Sale price (gross)	250	250	250
Payment terms	3/10 net 30	net 30	3/10 net 30
Sales returns	0.5%	0%	10%
Delivery terms	FOB destination	FOB destination	FOB shipping point



## PAPER – 5 : STRATEGIC COST MANAGEMENT AND PERFORMANCE EVALUATION 7

In order to get market share, PER and WLY have been extended credit terms to avail discount if payment is made within 10 days. Customer MGH does not have much bargaining power and hence has been allowed only 30 days' credit period without any benefit of availing discount for early payment. Both PER and WLY have made payments within 10 days to avail of the discount extended.

On the cost front, variable cost of goods sold is ₹150 per unit. Key metrics of customer assignable marketing, administrative and distribution costs are as below:

Activity	Activity Driver	No. of Units of Activity Driver			Cost Driver Rate (₹)
		PER	MGH	WLY	
Order taking and processing	# of orders	4	2	15	300
Expedited / rush orders	# of orders	1	-	5	250
Delivery costs	# distance in km.	100	50	-	80
Sale return processing	# of returns	1	-	8	150
Billing cost	# of invoices	4	2	15	50
Customer visit	# of visits	1	-	5	800
Inventory carrying cost *	# 1 per unit	1,000	950	1,250	10

\* Assume no opening and closing stock

Fixed cost that are not assignable to any customer is ₹1,00,000 p.a.

### Required

- PREPARE the customer wise profitability statement as also the overall profitability statement of Bookmark LLP.
- RECOMMEND a strategy for Bookmark LLP regarding its customers.

### Target Costing

- Storewell Industries Ltd. manufactures standard heavy duty steel storage racks for industrial use. Each storage rack is sold for ₹750 each. The company produces 10,000 racks per annum. Relevant cost data per annum are as follows:

Cost Component	Budget	Actual	Actual Cost p.a. (₹)
Direct Material	5,00,000 sq. ft.	5,20,000 sq. ft.	20,00,000
Direct Labour	90,000 hrs.	1,00,000 hrs.	10,00,000
Machine Setup	15,000 hrs.	15,000 hrs.	1,50,000
Mechanical Assembly	200,000 hrs.	200,000 hrs.	30,00,000

The actual and budgeted operating levels are the same. Actual and standard rates of material procurement and hourly labor rate are also the same. Any variance in cost is solely on account of difference in the material usage and hours required to complete production. Aggressive pricing from competitors has driven down sales. A comparable rack is available in the market for ₹675 each. Vishal, the marketing manager has determined that in order to maintain the company's existing market share of 10,000 racks, Storewell Industries must reduce the price of each rack to ₹675.

**Required**

- (i) CALCULATE the current cost and profit per unit. IDENTIFY the non-value added activities in the production process.
- (ii) CALCULATE the new target cost per unit for a sales price of ₹675 if the profit per unit is maintained.
- (iii) RECOMMEND what strategy Storewell Industries should adopt to attain target cost calculated in (ii) above.

**Just in Time**

10. Revolution Ltd. has entered into a contract to supply a component to a company which manufactures electronic equipments.

Expected demand for the component will be 70,000 units totally for all the periods. Expected sales and production cost will be

Period	1	2	3	4
Sales (units)	9,500	17,000	18,500	25,000
Variable cost per unit	30	30	32.50	35

Total fixed overheads are expected to be ₹14 lakhs for all the periods.

The production manager has to decide about the production plan.

The choices are:

Plan 1: Produce at a constant rate of 17,500 units per period. Inventory holding costs will be ₹ 6.50 per unit of average inventory per period.

Plan 2: Use a just-in-Time (JIT) system

Maximum capacity per period normally.....18,000 units

It can produce further up to 10,000 units per period in overtime.

Each unit produced in overtime would incur additional cost equal to 30% of the expected variable cost per unit of that period.

Assume zero opening inventory.

**Required**

- (i) CALCULATE the incremental production cost and the savings in inventory holding cost by JIT production system.
- (ii) ADVISE the company on the choice of a plan.

**Transfer Pricing**

11. Maryanne Ltd. has two divisions Division A and Division B. Division A produces product Z, which it sells to external market and also to Division B. Divisions in the Maryanne Ltd. are treated as profit centres and divisions are given autonomy to set transfer prices and to choose their supplier. Performance of each division measured on the basis of target profit given for each period.

Division A can produce 1,00,000 units of product Z at full capacity. Demand for product Z in the external market is for 70,000 units only at selling price of ₹ 2,500 per unit. To produce product Z Division A incurs ₹ 1,600 as variable cost per unit and total fixed overhead of ₹ 4,00,00,000. Division A has employed ₹ 12,00,00,000 as working capital, working capital is financed by cash credit facility provided by its lender bank @ 11.50% p.a. Division A has been given a profit target of ₹ 2,50,00,000 for the year.

Division B has found two other suppliers R Ltd and S Ltd. who are agreed to supply product Z.

Division B has requested a quotation for 40,000 units of product Z from Division A.

**Required**

- (i) CALCULATE the transfer price per unit of product Z that Division A should quote in order to meet target profit for the year.
- (ii) CALCULATE the two prices Division A would have to quote to Division B, if it became Maryanne Ltd. policy to quote transfer prices based on opportunity costs.

**TPM**

12. SSK Pharmaceuticals Ltd. is producing medication products (pills, balms etc.) and can be called high volume based production environment. There are several different automated production machines located in the plant, through which production of medicines is accomplished and fulfilled the demands. Plant operates in double shift a day each consisting of 8 hours with 30 minutes' lunch break and tea break of 15 minutes. Following data pertains to automated machine 'X-78'.

X-78

14 February 2018, Wednesday

Breakdown, repair and start up time	68 minutes
Standard cycle time	2.5 minutes per tablet
Quality loss due to scrap, rework and rejection	50 tablets
Total quantity produced	280 tablets

**Required**

COMMENT on OEE.

**ROI vs RI**

13. The following data pertain to two divisions.  $W_1$  and  $W_2$ , of a large Shipping Company.

	$W_1$ (₹)	$W_2$ (₹)
Profit	1,20,00,000	31,20,000
Investment	9,60,00,000	1,56,00,000

Cost of Capital at 10%

**Required**

INTERPRET the conflicting results based on financial performance measure ROI and RI.

**Theory of Constraints**

14. Z Plus Security (ZPS) manufactures surveillance camera equipment that are sold to various office establishments. The firm also installs the equipment at the client's place to ensure that it works properly. Each camera is sold for ₹2,500. Direct material cost of ₹1,000 for each camera is the only variable cost. All other costs are fixed. Below is the information for manufacturing and installation of this equipment:

Particulars	Manufacture	Installation
Annual Capacity (camera units)	750	500
Actual Yearly Production and Installation (camera units)	500	500

**Required**

The questions below are separate scenarios and are not related to each other.

- IDENTIFY the bottleneck in the operation cycle that ZPS should focus on improving. Give reasoning for your answer.
- An improvement in the installation technique could increase the number of installations to 550 camera units. This would involve total additional expenditure of ₹40,000. ADVISE ZPS whether they should implement this technique?

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- (iii) Engineers have identified ways to improve manufacturing technique that would increase production by 150 camera units. This would involve a cost ₹100 per camera unit due to necessary changes to made in direct materials. ADVISE ZPS whether they should implement this new technique.

### Standard Costing

15. T-tech is a Taiwan based firm, that designs, develops, and sells audio equipment. Founded in 1975 by Mr. Boss, firm sells its products throughout the world. T-tech is best known for its home audio systems and speakers, noise cancelling headphones, professional audio systems and automobile sound systems. Extracts from the budget are shown in the following table:

#### Home Audio System Division Jan'2018

System	Sales (units)	Selling Price ₹	Standard Cost (per System) ₹
3,000 W PMPO	1,500	18,750	12,500
5,000 W PMPO	500	50,000	26,250

The Managing Director has sent you a copy of an email he received from the Sales Manager 'K'. The content of the email was as follows:

*"We have had an outstanding month. There was an adverse Sales Price Variance on the 3,000 W PMPO Systems of ₹22,50,000 but I compensated for that by raising the price of 5,000 W PMPO Systems. Unit sales of 3,000 W PMPO Systems were as expected but sales of the 5,000 W PMPOs were exceptional and gave a Sales Margin Volume Variance of ₹23,75,000. I think I deserve a bonus!"*

The managing Director has asked for your opinion on these figures. You got the following information:

Actual results for Jan' 2018 were:

System	Sales (units)	Selling Price ₹
3,000 W PMPO	1,500	₹17,250
5,000 W PMPO	600	₹53,750

The total market demand for 3,000 W PMPO Systems was as budgeted but as a result of suppliers reducing the price of supporting UHD TV System the total market for 5,000 W PMPO Systems raised by 50% in Jan'2018.

The company had sufficient capacity to meet the revised market demand for 750 units of its 5,000 W PMPO Systems and therefore maintained its market share.

**Required**

- (i) CALCULATE the following Operational Variances based on the revised market details:
- Sales Margin Mix Variance
  - Sales Margin Volume Variance
- (ii) COMMENT briefly on the measurement of the K's performance.

**SUGGESTED ANSWERS/HINTS**

1. (i) Value chain is defined as "a chain of value added activities; products pass through the activities in a chain, gaining value at each stage". Value chain focuses on systems, and how business inputs are changed into business outputs purchased by customers. The entire set of activities that a business undertakes to convert inputs to outputs are interlinked to each other.

Porter's value chain classifies activities into primary activity and secondary activity.

**Primary Activities**

Primary activities are those activities that are directly related with creating and delivering a product to the end customers. The following activities are considered as primary activities:

**Inbound Logistics**

Inbound logistics involves arranging inbound movement of materials from suppliers to the manufacturing plants. The activities related to inbound logistics in the case of copper division of DP limited would involve transporting copper cathodes from multiple suppliers across the country and storing them in the warehouse. The cathodes stored in warehouse would be issued to the production facilities depending on the requirement of the production plants.

**Operations**

Operations involve those activities which are concerned with conversion of input into outputs in case of manufacturing companies. The activities under operations would include those related to melting of copper cathode and converting the copper cathodes into wire rods. The quality tests carried out for wire rods would also be included as a part of operations.

**Outbound Logistics**

These include planning and despatch, distribution management, transportation, warehousing, and order fulfilment. This includes warehousing of finished goods (copper wire rods) and distribution of copper wire rods to its customers. The

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company uses its own trucks to distribute finished goods to its customers. The scheduling of trucks and dispatch of material would also be a part of outbound logistics.

### **Marketing & Sales**

Marketing and sales are the means whereby consumers and customers are made aware of the product which is ultimately sold to them. The activities include selling products to the end customers covering activities like product management, price management, promotion and marketing management. DP limited uses advertisement in national dailies and holds conferences as a part of its marketing and sales efforts. The company also holds annual customer conference to improve customer relations and attract new customers.

### **Service**

In case of manufacturing industry, service generally refers to the after sales service which are required to maintain the value of product and includes activities like installation, repair etc. The service team is also expected to handle customer returns on account of poor quality of copper wire rods.

### **(ii) What is the issue?**

A procurement team is generally a cost centre and the most appropriate way to evaluate performance of cost centre is the comparison between actual cost and budgeted cost (also called variance). A large portion of bonus (performance measurement) is dependent on the savings in actual purchases.

The company has adopted variance analysis as a measure of performance. If the team is able to reduce the actual cost of purchase as compared to the budgeted cost, a higher bonus is paid. The procurement team has stopped purchase of copper cathodes to save on the purchase budget which ultimately would translate into higher payout of bonus.

The commodity prices of copper have fallen by about 20% in the last six months. The speculation of fall in price has resulted in halting of procurement process. It is very difficult to time the market and such speculation could lead to losses to the company. There could be a stock-out situation if the procurement is not resumed and the situation could hamper the production and overall delivery schedules.

The procurement team appears to have taken a short- term view of price movement. The team is focused on earning higher bonus and hence is waiting to buy at lower prices. There is a larger impact of not being able to deliver product on time which could damage the reputation of the company. This has been ignored by the procurement team. Managers must be encouraged to consider the impact on the company as a whole and not on just the own department.

The company is using just a financial measure to measure performance. This can result in lopsided view of the goals and objectives of the company. Managers tend to look at short term profits and ignore the long- term growth.

#### *Optimum Performance Measurement*

A performance measurement is most effective when the goals of the respective departments are aligned with that of the company. This ensures that each employee within the company works towards the overall objective of the company. The company manufactures wire rods and the objective of the copper division is to manufacture copper wire rods as per the requirement of the customers.

The profit flows from the main business of the company. If a department focusses on an objective which is not aligned with the main goal, the company as a whole suffers. A stock-out like situation would hamper the image of a company, if wire rods are not delivered as per schedule to the customers.

Another aspect to be considered is that managers and employees are evaluated only on those parameters which are controlled by them. If for example, the procurement team is able to purchase copper at a discount to market price because of their efforts, it could be considered as saving.

The prices of copper are determined by the prices on commodity exchanges and are not in the control of procurement managers. The performance of managers and employees should not be impacted by global change in prices of commodities as they are not controlled by the concerned employees.

#### **(iii) Alternate Performance Measure**

The issue with financial performance measures alone is that managers tend to have a short- term view as can be seen in our case. In order overcome possible short-termism of financial measures Kaplan and Norton developed the Balanced Scorecard which outlined four key areas in which company and divisional performance should be measured to focus on both the short and long term needs of the organisation.

The key idea is that managers are to be appraised on a variety of measures which include non-financial measures so that their focus is both long and short term. The four perspectives used to measure performance measure in a Balanced Scorecard is given below:

**Financial Perspective:** This measures the financial performance which is linked to the overall objective of maximising shareholder's wealth. We already use financial measures to measure performance. The weightage could be reduced to include other measures. Also, factors beyond the control of managers like commodity prices should be excluded.



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**Customer Perspective:** This includes focussing on customers and meeting their needs. Measures could include quality of material produced, optimum levels of inventory maintained, number of stock-out instances, etc.

**Internal Business Perspective:** This includes measures to evaluate the performance of business processes with particular emphasis on productivity and efficiency. Measures could include procurement lead time, number of defective purchases etc. The company could use measures like JIT to reduce the procurement lead time.

**Training and Growth:** This includes focusing on innovating in processes and developing and learning for the future. Trainings could be given to procurement managers to identify best quality of copper cathodes, aspects related to purity etc.

2. DMAIC technique analyses operational problems by assessing them in the following phases (1) Define; (2) Measure; (3) Analyze; (4) Improve and (6) Control.

- (1) *Define the problem, project goals and customer requirements:* Poor quality leading to erosion of clientele.

Customers feedback indicates that product quality requires improvement. Dissatisfaction is reflected in the form of sale returns and warranty claims. Competitors have no sale returns on account of poor quality as well as no warranty claims on its products. Hence, in an environment where 100% quality can be achieved, **ASPL is facing quality issues**. This is the problem to be addressed. Failure to do so would result in loss of clientele, leading to a possibility of going out of business. The goal of the project is to identify what is the sigma level at which the company is operating and to suggest improvements to the production process it achieve 6 $\sigma$  level of operations.

- (2) *Measure current performance:* Indicators of poor quality to find out what is the sigma level of the current operations?

Current performance focusing on quality can be determined based on the cost incurred in the following phases:

- (a) **Sale returns:** Sale returns are 1% of total sales. Gross sales are 25,000 units per annum at selling price of ₹20,000 each, therefore having a value of ₹50,00,00,000. Sales returns @1% amount to ₹50,00,000 that represent the return of 250 units per annum. The cost of poor quality on account of these sale returns is the variable cost of the product ₹ 12,500 per unit. This is an avoidable cost amounting to ₹31,25,000 per annum that is 0.63% of sales (₹31,25,000/₹ 50,00,00,000).
- (b) **Warranty claims:** Warranty is an undertaking given by the company to repair the electronic component free of cost if defect occurs within a specific period of time. Hence, when the customer files a claim that is accepted by the company, it means that there has been an issue with the quality of the product. This is a

liability / cost that should ideally be kept minimum, if not nil like ASPL's competitors.

Warranty for the product is for one year from the date of sale. Warranty claims this year is ₹30,00,000, which is given to be representative of the average yearly warranty cost. Therefore, currently this cost amount to 0.60% of sales (₹30,00,000/ ₹50,00,00,000).

Summarizing sale returns and warranty claims alone represent 1.23% of current sales. Considering the current percentage of deficiency, the **company is operating between 3σ and 4σ level**. The rest of the industry is able to achieve 6 σ level of operations. At zero defective production, there are no sale returns on account of quality and no warranty claim costs. Therefore, is **tremendous scope for improvement in ASPL's operations**.

- (3) *Analyze:* What is the cause of poor quality? What is the cost of resources focused on quality?

Six sigma team studied the production process in detail. Replicating the issues detailed in the given problem:

- (a) Problem 1: Assembly line workers, including new hires, learnt on the job as to how to assemble the input material to produce the final electronic component. This lead to many errors due to lack of proper standardized training. Therefore, on account of these errors, the entire electronic component has to assembled again.
- (b) Problem 2: Sub-standard quality of raw material is detected on inspection only at the assembly line. Inspection leads to 10% rejection of units. By this time, the defective material is already fitted into the final electronic component. Therefore, to entire component has to be reworked upon to replace the defective raw material input.
- (c) Problem 3: Machines are outdated and are not entirely suitable for the current production methodology.

The above factors result in rework on products, an internal failure cost, that lead to wastage of material, resources and capacity.

Two costs incurred to focus on quality are cost of inspection and cost of rework,

2,525 units are reworked upon. Time required to rework 2,525 units per year = 2,525 units / 5 units per hour = 505 hours per year. Cost of rework is given to be ₹6,250 per hour. Therefore, total cost of rework per year = ₹31,56,250.

Inspection cost for 2,000 hours at the assembly line is given to be ₹10,00,000 per annum.

Therefore, total cost of resources currently incurred for quality = ₹41,56,250 per annum.

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(4) *Improve*: Reduce errors and improve quality of the product

While cost of resources currently incurred for quality is only 0.83% of sales (₹41,56,250/₹50,00,00,000), a detailed analysis brings forth many qualitative aspects that ASPL needs to be address. If its competitors are able to achieve excellence in quality, so must ASPL, in order to remain in business. Therefore, following are the proposals that can provide solutions to the problems referred to above:

- (a) Solution to Problem 1: Periodic training sessions to educate new hires and update workers in the assembly line on the latest techniques in production. Standardized and informed working will lead to lower errors and thereby improving product quality. Cost per year = 5,000 hours yearly training × ₹1,000 per hour = ₹50,00,000.
- (b) Solution to Problem 2: Delay in detection of poor quality input can be resolved by streamlining the work flow. New function for quality planning and improvement, at the beginning of the process helps in early detection, without wastage of resources. Cost per year for introducing this functionality = ₹1,50,00,000.
- (c) Solution to Problem 3: Replace old machines with newer ones. Machine upgrade will align the resource with the production requirements. This reduce chances of errors in the production process.

Cost of procurement: ₹3,60,00,000 has a life of 3 years. Therefore, annual depreciation is ₹1,20,00,000.

- (d) Consequences of implementing these proposals, as given in the problem, can result in the following improvements:
  - (i) Rework of products can be entirely eliminated.
  - (ii) Sale returns will reduce from 1% to 0% due to better quality of products.
  - (iii) Yearly Warranty claims will reduce from ₹30,00,000 to nil per annum.
  - (iv) With the introduction of the new facility, time required for inspection at the assembly line would reduce from 2,000 hours to 1,200 hours. Cost of inspection at the assembly line would reduce from ₹10,00,000 per annum to ₹6,00,000 per annum.
  - (v) Due to better quality, ASPL can build better reputation with the customers which can further yield additional sales of 5,000 units per year.

When the company is capable to achieve points (i), (ii) and (iii) milestones, it would have achieved 6  $\sigma$  operational level. The cost of quality report summarizes the above discussion:

### Cost of Quality Report

Cost of Quality Component	Before Improvements		After Improvements	
	Current Cost ₹	% of Sales	Projected Cost ₹	% of Sales
<b>Preventive Cost</b>				
Training (5,000 hrs. × ₹1,000 per hour)	xxx	xxx	50,00,000	0.83%
Quality Planning and Improvement	xxx	xxx	1,50,00,000	2.50%
<b>Appraisal Cost</b>				
Inspection Cost	10,00,000	0.20%	6,00,000	0.10%
<b>Internal Failure Cost</b>				
Rework	31,56,250	0.63%	xxx	0.00%
<b>External Failure Cost</b>				
Sale Returns	31,25,000	0.63%	xxx	0.00%
Warranty Claims	30,00,000	0.60%	xxx	0.00%
<b>Total Cost of Quality</b>	<b>1,02,81,250</b>	<b>2.06%</b>	<b>2,06,00,000</b>	<b>3.43%</b>
Yearly Sales	50,00,00,000		60,00,00,000	
<b>Total Cost of Quality / Sales (%)</b>	<b>2.06%</b>		<b>3.43%</b>	

- (e) Cost of quality is 2.06% of sales of which 1.23% alone is external failure cost. This has an impact on the customer experience and can erode customer base. By implementing the six sigma team's proposal, this external failure cost on account of sale returns and warranty costs, can completely eliminated. Internal failure cost can also be eliminated. The increase in cost of quality proposed to be made would be a preventive cost to avoid failure of quality. The company should focus on preventing the error such that it ensures that product is of good quality when it reaches the customer at the very first instance. This enhances the customer experience and therefore eliminating the scope for external failures like sales returns and warranty claims. Better quality can yield further sales of 5,000 units per year. Therefore, an increase in spending on quality measures is justified since it not only yields significant improvements to quality but also brings in more sales orders.

Improvement to the financial position of the firm is summarized below:

Particulars	Amount ₹
Improved Contribution Margin (Ref. note 1)	3,75,00,000

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Elimination of Goods Replacement		31,25,000
Elimination of Warranty Claims		30,00,000
Elimination of Rework		31,56,250
Savings in Inspection Cost		4,00,000
Total Benefit	...(A)	4,71,81,250
Additional Costs Incurred		
Training		50,00,000
Quality Planning and Improvement		1,50,00,000
Increase in Fixed Cost (Yearly Depreciation of Upgraded Machines)		1,20,00,000
Total Additional Cost	...(B)	3,20,00,000
Net Benefit	...(A) - (B)	1,51,81,250

Note 1: Incremental Contribution:

Sales have increased by 5,000 units. Selling Price is ₹20,000 per unit while variable cost is ₹12,500 per unit. Contribution is ₹7,500 per unit.

**Conclusion: Six Sigma team's proposals are focused on preventing the error from occurring. Consequently, quality improves, sale improves and thereby can yield a net benefit of ₹1,51,81,250 per year to the company.**

- (5) *Control*: Maintain quality at  $6\sigma$  level and keep the production facilities updated.
- (i) Training sessions with workers can serve as two way communication platform to detect other problems that can be resolved in more timely manner. Inputs received can also be used to improve the production work flow as well.
  - (ii) New function of quality planning and improvement can help the company be better informed about the latest production methodologies.
  - (iii) Updated machines are better equipped to handled changes in the production process since they are built with the latest technology. ASPL should do a continuous assessment of the state of its machines and upgrade them when necessary.
3. The incremental cost associated with the IMAX show appears to be ₹10,000 i.e. cost of running the show. The allocated fixed cost per show is not relevant because the total amount of fixed costs for the year will not change as a result of the special show. Further, the stated ticket prices are not relevant because the show will take place at 08:30 AM when the IMAX is not usually open – thus, the students will not be displacing any regular visitors. Based on the financial data provided, the minimum price quote appears to be ₹10,000.

Ayla should consider the following factors:

- Does the station have a souvenir shop and/or cafeteria?

If so, many students are likely to buy food and/or souvenir items, thereby increasing the station's contribution. In turn, this would reduce the minimum price quote.

- What is the impact on future revenue?

After seeing the show, many students may return with their parents, thereby increasing future revenue.

- Are there costs linked with the special showing that are not included in the ₹10,000 variable cost number?

For example, will the station have to pay an overtime premium.

Ayla should also consider the educational mission of the Planetarium Station. Such shows directly contribute to this mission, the station, and, hopefully, the betterment of the students. The special shows may be an excellent way to expose some students to earth science – these students may have never gone through the Planetarium Station if it were not for the school excursion.

**Overall**, the “best” price to charge is unclear and requires some judgment as Ayla needs to balance an array of financial and non-financial factors.

#### 4. Internal Business Process Perspective

Objective: Cross-sell Products

Measure: Products Purchased *per customer*

Reason: Cross-selling, or encouragement customers to purchase additional products e.g. insurance, forex etc. is a *measure of customer satisfaction*. Only if a service is perceived as highly satisfactory the service would be repeated/ additional products or services would be accepted.

#### Learning and Growth Perspective

Objective: Increase the Number of New Products or Services Sold

Measure: Number of Customers Buying the New Products/ New Services

Reason: Long term financial success requires bank to create new products / services (e.g. internet banking, ATM access) that will meet emerging needs of current / future customers such as 24/7 banking.

#### Customer Perspective

Objective: Increase Customer Loyalty

Measure: Number of Accounts Closed or Closure Request Received

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Reason: Customer loyalty describes the extent to which bank maintains durable relations to its customers. The share of existing customers should have a high importance as it indicates about image and reputation. Closure request is not a good sign for bank. Bank should investigate reasons for the same and take appropriate actions to improve services offered to retain customers.



Other **Objectives** and **Measures** are also possible but they must relate to the bank's **Goal**.

5. Office processes often have huge amounts of paperwork and this not only makes processes slower but also allows errors to be introduced. 5S is a method of both cleaning out the working area and maintaining the cleanliness to improve process quality. The 5S process is based on:

### **Sort (Seiri)**

This is sorting and removal of unnecessary files, papers, books and documents in the work area. Sorting is designed to make the work area neat, organized and arranged so that relevant items can be found easily. If an item is not relevant for the work, then it should not be in the work area.

### **Set in Order (Seiton)**

Set in order means systematic arrangement of things i.e. arrange all necessary items into most efficient and accessible arrangement so that they can be easily identified for use. It is advisable to have proper indexing of files and proper documentation i.e. proper index should be made and pasted on each file about its contents and in that pattern of contents, documents should be kept inside the files so that specific document can easily be traced and withdrawn on time. Even inside cupboard, paper of indexing about files with its name should be pasted so that specific file can easily be traced. Same can be done w.r.t. folders in computer, right file should be saved in right folder with identifiable name so that anyone can easily find any file. Frequent use items should be close by and infrequent use items can be further away in a central area. All storage areas should be clearly labeled to allow items to be put in the correct place, e.g. where did I leave the office stamp again?

### **Shine (Seiso)**

After sorting and simplifying, it is necessary to keep the work area clean and safe. Shining is also an inspection process for the area, i.e. is everything in good condition. It is desirable to involve employees for 15-20 minutes each day to clean the work area so that they can have the habit of cleanness. In the same way, unimportant files either in desktop or any driver should be permanently deleted.

**Standardize (Seiketsu)**

A clean and tidy work area allows the process to be standardized and examined for quality or process improvements. Best practices are documented and rolled out across the work area, standards and process measures are established and displayed in the work area.

For example, red file can be standardized for very important files (can be required anytime), green file for important files and yellow file for unimportant files.

**Sustain (Shitsuke)**

It means to maintain discipline, this can only be achieved by auditing work areas and processes to make sure that the 5S standards are maintained. It is worthwhile to apply 5S standards continuously i.e. daily basis and check for any upgradation if needed, so that firm can have good management in terms of documentation, cleanness, time saving of partners as well as clients.

Overall, 5S in offices streamlines the work (low to reduce errors as well as improving process times) and employee satisfaction.

6. Total Quality Management is a management philosophy. It concerns itself with managing the processes and people to make sure that the customer is satisfied at each and every stage. This means *making the needs of the customer the priority, expanding the relationship beyond traditional services and incorporating the customer's needs in the company's business plan and corporate strategy*. In TQM, the concept of "quality" is perceived exclusively from the frame of reference of the customer. These customers can be internal, such as, those working in another department and there can be external customers who are the end recipients of the product or services. The organisation should attempt for continuous improvement in the quality that it delivers with the ultimate aim of achieving zero defects in this quality.

TQM should be view as an investment rather than as a cost that should be minimised. There are many ways in which investment can be made in TQM.:

- fine-tuning the product mix,
- fine-tuning of the processes of ensuring quality,
- introducing employee development programmes with the nature of an academic course,
- empowering the employees professionally and personally,
- improving the top management commitment to quality,
- monitoring of the performances and proper rewarding based on achievements,
- ensuring the customer satisfaction etc.

CIMZ could provide its employees with *training* in the technical aspects of banking practice as well as in customer care. Customers would thus get a better service not only technically but also from a customer care perspective. This should lead to smaller



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customer complaints and greater customer satisfaction. It could also motivate customers to recommend others to use this bank.

TQM also requires CIMZ to respond to its customer's requirements immediately for example by providing more staff to reduce the lengths of queues in festive/ seasonal/ busy time. If Bank could also be opened for longer hours to allow customers to complete their bank related requirements and have meetings with bank employees at a time that is more convenient for the customer, this would lead to more satisfaction to customers.

In long run, if bank continue to follow TQM, the bank would have higher profits and competitive advantage in banking sector despite incurring additional expenditure to improve quality.

7. Following acceptance by early innovators, conventional consumers start following their lead. New competitors are likely to now enter the market attracted by the opportunities for large scale production and profit. STL may wish to discourage competitors from entering the market by lowering the price and thereby lowering the unit profitability. The price needs to be lowered so that the product becomes attractive to different market segments thus increasing demand to achieve the growth in sales volume.

**Strategies** at this stage may include the following

- (i) Improving quality and adding new features such as Data Theft Protection, Parental Control, Web Protection, Improved Scan Engine, Anti Spyware, Anti Malware etc.
- (ii) Sourcing new market segments/ distribution channels.
- (iii) Changing marketing strategy to increase demand.
- (iv) Lowering price to attract price-sensitive buyers.

8. (i) **Customer Wise Profitability Statement and Overall Profitability Statement**

SN.	Particulars	PER	MGH	WLY	Total ₹
A	Sales (net proceeds) –Table 1	241,288	237,500	272,812	751,600
B	Variable Cost of Goods Sold @150 p.u.	1,50,000	1,42,500	1,87,500	4,80,000
C	<i>Assignable- Marketing and Administration Cost - Table 2</i>				
	• Order Taking and Processing	1,200	600	4,500	6,300
	• Sale Return Processing	150	-	1,200	1,350
	• Billing Cost	200	100	750	1,050
	• Customer Visit	800	-	4,000	4,800

	Total Assignable Marketing and Administration Cost	2,350	700	10,450	13,500
D	Assignable- Distribution Cost - Table 2				
	• Expedited / Rush Orders	250	-	1,250	1,500
	• Delivery Costs	8,000	4,000	-	12,000
	• Inventory Carrying Cost	10,000	9,500	12,500	32,000
	Total Assignable Distribution Cost	18,250	13,500	13,750	45,500
E	Non- Assignable Fixed Cost	-	-	-	100,000
F	Total Costs (B+C+D+E)	170,600	156,700	211,700	639,000
G	Net Profit (Step A - F)	70,688	80,800	61,112	112,600
H	Profit % of Sales (G / A)	29%	34%	22%	15%

**Workings****Table 1: Customer Sales Analysis - Revenue Analysis**

All figures in ₹

Particulars	PER	MGH	WLY	Total ₹
Sales {Sale Units × Sale Price (gross)}	2,50,000	2,37,500	3,12,500	8,00,000
Less: Sale Return (Step 1 × Return%)	1,250	-	31,250	32,500
Net Sales	2,48,750	2,37,500	2,81,250	7,67,500
Less: Cash Discount	7,462	-	8,438	15,900
Net Proceeds	2,41,288	2,37,500	2,72,812	7,51,600
Final Collections vs Original Sale	97%	100%	87%	94%

**Table 2: Assignable Marketing, Administrative and Distribution Costs**

All figures in ₹

Particulars	PER	MGH	WLY	Total
Order Taking and Processing (# of orders × cost per order)	1,200	600	4,500	6,300
Expedited / Rush Orders (# of orders × cost per order)	250	-	1,250	1,500

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Delivery Costs (Distance in km. × cost per km)	8,000	4,000	-	12,000
Sale Return Processing (# of returns × cost per return)	150	-	1,200	1,350
Billing Cost (# of invoices × cost per invoice)	200	100	750	1,050
Customer Visit (#of customer visits × cost per visit)	800	-	4,000	4,800
Inventory Carrying Cost (# of units × inventory carrying cost p.u.)	10,000	9,500	12,500	32,000

- (ii) Customer strategy: It can be seen that Bookmark LLP has an overall profit of ₹112,600 or 15% of sales. While the performance is good, the firm's management has to analyze customer wise profitability.
- WLY is the largest customer in terms of units sold. However, Table 1 above shows that sale returns at 10%, which is unusually large compared to other customers. Bookmark LLP has to investigate why the returns are of such large quantity. Possibly, there could be communication gap between the firm and WLY. Possible non-conformity in goods delivered has resulted in returns. Only 87% of the original sale value is being collected. The root cause of the problem has to be identified and rectified. This will also reduce the sale return processing costs.
  - WLY has placed many rush orders, which requires Bookmark LLP to ship these orders immediately, using costlier means of transportation. Currently, there is no charge for shipping rush orders. In order to deter WLY from repeatedly placing rush orders, Bookmark LLP can charge the customer for shipping such orders beyond a threshold number of orders. Say rush orders beyond 2 orders will be charged to the customer.
  - WLY has placed 15 orders for 1,250 units. Comparatively, PER and MGH placed 4 and 2 orders for approximately 1,000 units each. WLY can be requested to place fewer orders with larger quantity per order, in order to optimize ordering cost.
  - Being the largest customer, WLY has 5 sale visits from Bookmark LLP, which is more than the other 2 customers. Priced at ₹800 per visit, this very costly. At the same time, WLY is yielding the least profit. Therefore, Bookmark LLP should reassess if resources can be reallocated to the other two more

profitable customers. That may encourage more sales from higher yielding customers.

- (e) Since WLY seems to need more hand-holding in terms of more sales visits as well as higher rush orders, Bookmark LLP may assess if it wants to discontinue or reduce business. Alternatively, it may reassign these resources towards existing or newer customers to get better profitability. However, if WLY can be migrated to a higher profitability, Bookmark LLP need not lose out its market share.
- (f) Customer MGH is the most profitable yielding 34% return over sales, although in terms of 'Advanced Learner's Dictionary' ordered, it is the smallest of the three. Bookmark LLP can assess if it can extend some discount, in order to encourage more sales. Currently, Customer MGH does not get any discount.
- (g) Bookmark LLP can assign more sales visits to Customer PER and MGH to encourage them purchase more as well as provide high quality customer service.

9. (i) The current cost and profit per unit are calculated as below:

Cost Component	Units	Actual Cost p.a. for 10,000 racks (₹)	Actual Cost per rack (₹)
Revenue	10,000 racks	75,00,000	750
Direct Material	5,20,000 sq. ft.	20,00,000	200
Direct Labour	1,00,000 hrs.	10,00,000	100
Machine Setup	15,000 hrs.	1,50,000	15
Mechanical Assembly	200,000 hrs.	30,00,000	300
Total Cost		61,50,000	615
Profit		13,50,000	135

Therefore, the current cost is ₹615 p.u. while the profit is ₹135 p.u. Machine setup is the time required to get the machines and the assembly line ready for production. In this case, 15,000 hours spent on setting up does not add value to the storage racks directly. Hence, it is a non-value add activity.

- (ii) New sale price per rack is ₹675 per unit. The profit per unit needs to be maintained at ₹135 per unit. Hence, the new target cost per unit = new selling price per unit – required profit per unit = ₹675 - ₹135 = ₹540 per unit.
- (iii) As explained above, current cost per unit is ₹615 while the target cost per unit is ₹540. Hence, the cost has to be reduced at least by ₹75 per unit. Analysis of the cost data shows the variances between the budget and actual material usage and

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labor hours. It is given that the material procurement rate and labor hour rate is the same for budgets and actuals. Hence, the increment in cost of direct materials and labor is due to inefficient use of material and labor hours to complete the same level of production of 10,000 storage racks.

Corrective action to address these inefficiencies could result in the following savings:

- (a) Inefficiencies resulted in use of extra 20,000 sq. ft of material.

Material cost per sq. ft. = Actual cost / Actual material usage = ₹20,00,000 / 5,20,000 sq. ft = ₹3.85 per sq. ft.

Therefore, inefficiencies resulted in extra cost = 20,000 sq. ft. × ₹3.85 per sq. ft. = ₹77,000.

If corrective action is taken, for 10,000 racks this translates to a saving of ₹7.70 per unit.

- (b) Inefficiencies resulted in extra 10,000 hrs. to be spent in production.

Labor cost per hr. = Actual cost / Actual labor hrs. = ₹10,00,000 / 10,000 hrs. = ₹10 per hr.

Therefore, inefficiencies resulted in extra cost = 10,000 hrs. × ₹10 per hour = ₹100,000.

If corrective action is taken, for 10,000 racks this translates to a saving of ₹10 per unit.

- (c) Machine setup cost is a non-value added cost. Value analysis can be done to determine if the setup time of 15,000 hrs. can be reduced. However, since these activities have been carried out for a reason, care should be taken to ensure that this change should not adversely impact the production activity later down the stream.

- (d) Mechanical assembly cost is almost half of the total cost. These are costs incurred during the production process on the assembly line. Value analysis can be done to determine if the production process can be made more efficient. For example, the process can be streamlined, such that steps can be combined that can be handled by fewer people (process centering). Similarly, value analysis / value engineering can focus on the product design.

Some questions to raise may be:

- Can the product be designed better to make the production more efficient?
- Can the design be minimized to include fewer parts and thus make it easier and efficient to manufacture?
- Can be substitute parts to make it more efficient? Or

- Is there simply a better way of producing the same product?

While target costing is a dynamic and corrective approach, care must be taken to ensure that the product quality, characteristics and utility are maintained.

10. (i) **Workings**

**Statement Showing 'Inventory Holding Cost' under Plan 1**

Particulars	Pd. 1	Pd. 2	Pd. 3	Pd.4
Opening Inventory ... (A)	---	8,000	8,500	7,500
Add: Production	17,500	17,500	17,500	17,500
Less: Demand/ Sales	9,500	17,000	18,500	25,000
Closing Inventory ... (B)	8,000	8,500	7,500	---
Average Inventory $\left(\frac{A+B}{2}\right)$	4,000	8,250	8,000	3,750
Inventory Holding Cost @ ₹6.50	26,000	53,625	52,000	24,375

Inventory Holding Cost for the four periods = ₹1,56,000

(₹26,000+₹53,625+₹52,000+₹24,375)

**Statement Showing 'Additional Cost-Overtime' under Plan 2 (JIT System)**

Particulars	Pd. 1	Pd. 2	Pd. 3	Pd.4
Demand/ Sales	9,500	17,000	18,500	25,000
Production in Normal Time	9,500	17,000	18,000	18,000
Production in Over Time ... (A)	---	---	500	7,000
Variable Cost per unit	30.00	30.00	32.50	35.00
Additional Cost – Overtime per unit ... (B) (@ 30% of Variable Cost)	9.00	9.00	9.75	10.50
Additional Cost – Overtime ... (A) × (B)	---	---	4,875	73,500

Total Additional Payment (Overtime) = ₹78,375

(₹4,875 + ₹73,500)

**Statement Showing 'Additional Variable Cost\*' under Plan 2 (JIT System)**

Particulars	Pd. 1	Pd. 2	Pd. 3	Pd.4	Total
Production (Plan 1)	17,500	17,500	17,500	17,500	70,000
Variable Cost ... (A)	5,25,000	5,25,000	5,68,750	6,12,500	22,31,250

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Production (Plan 2,JIT)	9,500	17,000	18,500	25,000	70,000
Variable Cost ... (B)	2,85,000	5,10,000	6,01,250	8,75,000	22,71,250
Total				...(B) – (A)	40,000

\* excluding overtime cost

$$\begin{aligned} \text{Incremental Production Cost in JIT System} &= ₹78,375 + ₹40,000 \\ &= ₹1,18,375 \end{aligned}$$

$$\begin{aligned} \text{Therefore, Saving in JIT System (Net)} &= ₹1,56,000 - ₹1,18,375 \\ &= ₹37,625 \end{aligned}$$

**(ii) Advice**

Though Revolution Ltd is saving ₹37,625 by changing its production system to Just-in-time but it has to consider *other factors* as well before taking any final call which are as follows:-

- Revolution Ltd has to ensure that it receives materials from its suppliers on the exact date and at the exact time when they are needed. Credentials and reliability of supplier must be thoroughly checked.
- To remove any quality issues, the engineering staff must visit supplier's sites and examine their processes, not only to see if they can reliably ship high-quality parts but also to provide them with engineering assistance to bring them up to a higher standard of product.
- Revolution Ltd should also aim to improve quality at its process and design levels with the purpose of achieving "Zero Defects" in the production process.
- Revolution Ltd should also keep in mind the efficiency of its work force. Revolution Ltd must ensure that labour's learning curve has reached at steady rate so that they are capable of performing a variety of operations at effective and efficient manner. The workforce must be completely retrained and focused on a wide range of activities.

**11. (i) Transfer Price *per unit* of Product Z that Division A Should Quote *in order to meet Target Profit***

Quotation for the 40,000 units of product Z should be such that meet Division A's target profit and interest cost on working capital. Therefore the minimum quote for product Z will be calculated as follows:

Particulars	Amount (₹)
Target Profit (given for the year)	2,50,00,000
Add: Interest Cost on Working Capital (₹12,00,00,000 @11.5%)	1,38,00,000

Required Profit	3,88,00,000
Add: Fixed Overhead	4,00,00,000
Target Contribution	7,88,00,000
Less: Contribution Earned --- External Sales {60,000 units × (₹ 2,500 – ₹1,600)}	5,40,00,000
Contribution Required – Internal Sales	2,48,00,000
Contribution <i>per unit</i> of Product Z (₹ 2,48,00,000 ÷ 40,000 units)	620
Transfer Price of Product Z to Division B (Variable Cost <i>per unit</i> + Contribution <i>per unit</i> )	2,220

**(ii) The Two Transfer Prices Based on Opportunity Costs**

For the 30,000 units (i.e. maximum capacity – maximum external market demand) at variable cost of production i.e. ₹ 1,600 per unit.

For the next 10,000 units (i.e. external market demand – maximum possible sale) at market selling price i.e. ₹ 2,500 per unit.

**12. Calculation of Loss of Time Per Shift**

Mins.

Lunch Break	30
Tea Break	15
Breakdown, Repair, and Startup Time (68 mins / 2 Shift)	34
Total Time Loss Per Shift	79

$$\text{Availability Ratio per shift} = \left\{ \frac{480 \text{ mins.} - 79 \text{ mins.}}{480 \text{ mins.}} \right\} \times 100\%$$

$$= 83.54 \%$$

$$\text{Actual Production} = 140 \text{ tablets per shift}$$

$$\text{Standard time} = 2.5 \text{ minutes}$$

$$\text{Standard Time Required} = 140 \text{ units} \times 2.5 \text{ minutes}$$

$$= 350 \text{ minutes}$$

$$\text{Actual Time Taken} = 480 \text{ mins.} - 79 \text{ mins.}$$

$$= 401 \text{ minutes}$$

$$\text{Performance Ratio} = \left\{ \frac{350 \text{ mins.}}{401 \text{ mins.}} \right\} \times 100\%$$



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$$\begin{aligned}
 &= 87.28\% \\
 \text{Quality Ratio} &= \left\{ \frac{140 \text{ tab.} - 25 \text{ tab.}}{140 \text{ tab.}} \right\} \times 100\% \\
 &= 82.14\% \\
 \text{Thus, OEE} &= 0.8354 \times 0.8728 \times 0.8214 \\
 &= 59.89\%
 \end{aligned}$$

Since OEE of SSK Pharmaceuticals Ltd. is lesser than 85 % i.e. World Class Performance Level, Company is advised to improve its each ratio i.e. availability ratio, performance ratio and quality ratio by collecting information related to all downtime and losses on machines, analyzing such information through graphs and charts, making improvement decisions thereon like autonomous maintenance, preventive maintenance, reduction in set up time etc. and implementing the same.

13. This questions shows that RI is subject to a **size effect** but ROI is not. The larger size for the  $W_1$  Division (which is more than 6 times that of the  $W_2$  Division) overcomes its lower profitability, as measured by ROI. Thus, RI is not a good way to compare divisions that differ greatly on size.

**Workings**

	<b>W<sub>1</sub> (₹)</b>	<b>W<sub>2</sub> (₹)</b>	<b>Remark</b>
ROI	12.50% (₹1,20,00,000 / ₹9,60,00,000)	20.00% (₹31,20,000 / ₹1,56,00,000)	W <sub>2</sub> division has the higher ROI.
RI	₹24,00,000 (₹1,20,00,000 – 0.1 × ₹9,60,00,000)	₹15,60,000 (₹31,20,000 – 0.1 × ₹1,56,00,000)	W <sub>1</sub> division has the higher RI.

14. (i) **Identification of Bottleneck:** Installation of cameras is the bottleneck in the operation cycle. The annual capacity for manufacturing and installation are given to be 750 camera units and 500 camera units respectively. Actual capacity utilization is 500 camera units, which is the maximum capacity for the installation process. Although, ZPS can additionally manufacture 250 camera units, it is constrained by the maximum units that can be installed. Therefore, the number of units manufactured is limited to 500 camera units, subordinating to the bottleneck installation operation. Therefore, ZPS should focus on improving the installation process.
- (ii) **Improving Capacity of Installation Technique:** Every camera sold increases the through put contribution by ₹1,500 per camera unit (sale price ₹2,500 per camera unit less direct material cost ₹1,000 per camera unit). By improving the current installation technique an additional 50 camera units can be sold and installed. This

would involve total additional expenditure of ₹40,000. Hence, the incremental benefit would be:

Particulars	Amount (₹)
Increase in throughput contribution (additional 50 camera units ₹1,500 per camera unit)	75,000
Less: Increase in total expenditure	40,000
Incremental benefit	35,000

Since the annual incremental benefit is ₹35,000 per annum, ZPS should implement this improvement to installation technique, the current bottleneck operation.

- (iii) **Improving Manufacturing Capacity:** Every camera sold increases the throughput contribution by ₹1,500 per camera unit (sale price ₹2,500 per camera unit less direct material cost ₹1,000 per camera unit). By improving the current manufacturing technique an additional 150 camera units can produced. This would involve a cost ₹100 per camera unit due to necessary changes to made in direct materials. Therefore, number of units manufactured can increase to 650 camera units. However, production of 150 camera units will not translate into additional sales, because each sale also requires installation by ZPS. In a year only 500 camera installations can be made, leading to an inventory pile up of 150 camera units. This is detrimental to ZPS, since it does not earn any contribution by holding inventory. Therefore, ZPS should not go ahead with the proposal to improve the manufacturing technique.

15. (i) **Statement Showing Sales Margin Mix Variance**

System	Standard Margin per unit (₹)	Actual Qty. (units)	Revised Actual Quantity (units)	Difference (₹)	Variance (₹)
3,000 W PMPO	₹6,250	1,500	1,400	+100	+6,25,000 (F)
5,000 W PMPO	₹23,750	600	700	-100	23,75,000 (A)
Total		2,100			17,50,000 (A)

**Statement Showing Sales Margin Volume Variance**

System	Standard Margin per unit (₹)	Actual Qty. (units)	Budgeted Quantity (units)	Difference (₹)	Variance (₹)
3,000 W PMPO	₹6,250	1,500	1,500	0	-
5,000 W PMPO	₹23,750	600	750	-150	35,62,500 (A)
Total		2,100			35,62,500 (A)

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- (ii) A Planning Variance simply compares a revised standard (that should or would have been used if planners had known in advance what was going to happen) to the original standard. A planning variance is considered as not to be controllable by management.

The market size is not within the control of the sales manager and therefore variances caused by changes in the market size would be regarded as planning variances.

However, variances caused by changes in the selling prices and consequently the selling price variances and market shares would be within the control of the sales manager and treated as *operating variances*.

The *market size variance* compares the original and revised market sizes. This is unchanged for 3,000 W PMPO Systems so the only variance that occurs relates to the 5,000 W PMPO Systems and is ₹ 59,37,500 (F) [250 systems × ₹23,750].

It is vital to make this distinction because as can be seen from the scenario the measurement of the 'K's performance is incomplete if the revised market size is ignored.

The favourable volume variance of ₹23,75,000 referred to in the 'K's e-mail is made up of two elements, one of which, the market size, is a planning variance which is outside his control. It is this that has caused the overall volume variance to be favourable, and thus 'K' is not responsible for the overall favourable performance.

## **PAPER – 6A to 6F [ELECTIVE PAPERS]**

**PAPER – 6 A : RISK MANAGEMENT**

**PAPER – 6 B : FINANCIAL SERVICES AND CAPITAL MARKET**

**PAPER – 6 C : INTERNATIONAL TAXATION**

**PAPER – 6 D : ECONOMIC LAWS**

**PAPER – 6 E : GLOBAL FINANCIAL REPORTING STANDARDS**

**PAPER – 6 F : MULTIDISCIPLINARY CASE STUDY**

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

## PAPER 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION

### SECTION – A: STATUTORY UPDATE

The direct tax laws, as amended by the Finance Act, 2017, including significant notifications/circulars issued upto 31<sup>st</sup> October, 2017 are applicable for May, 2018 examination. The relevant assessment year for May, 2018 examination is A.Y.2018-19. The significant notifications/circulars issued upto 31.10.2017, relevant for May, 2018 examination but not covered in the August 2017 edition of the Study Material, are given hereunder.

### PART – I : DIRECT TAX LAWS

#### CHAPTER 1: BASIC CONCEPTS

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

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

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

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

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

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

attained the age of 80 years in the P.Y.2017-18, and would be eligible for higher basic exemption limit of ₹ 5 lakh in computing his tax liability for A.Y.2018-19.

## CHAPTER 2: RESIDENCE AND SCOPE OF TOTAL INCOME

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

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

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

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

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

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

- (e) the fund should have a minimum of twenty-five members who are, directly or indirectly, not connected persons;
- (f) any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding ten per cent;
- (g) the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty per cent.

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

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

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

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

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

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

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

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

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

In view of the above, it is clarified that so long as the Regional Headquarter operates for subsidiaries/ group companies in a region within the general and objective principles of global policy of the group laid down by the parent entity in the field of Pay roll functions, Accounting, HR functions, IT infrastructure and network platforms, Supply chain functions, Routine banking operational procedures, and not being specific to any entity or group of entities per se; it

would, in itself, not constitute a case of BoD of companies standing aside and such activities of Regional Headquarter in India alone will not be a basis for establishment of PoEM for such subsidiaries/ group companies.

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

#### CHAPTER 6: PROFITS AND GAINS OF BUSINESS OR PROFESSION

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

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

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

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

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

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



### CHAPTER 7: CAPITAL GAINS

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

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

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

### CHAPTER 8: INCOME FROM OTHER SOURCES

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

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

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

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

- (i) Advances were made by a company to a sister concern and adjusted against the dues for job work done by the sister concern. It was held that amounts advanced for business transactions do not to fall within the definition of deemed dividend under section 2(22)(e) [*CIT vs. Creative Dyeing & Printing Pvt. Ltd. [NJRS] 2009-LL-0922-2, ITA No. 250 of 2009, Delhi High Court*].
- (ii) Advance was made by a company to its shareholder to install plant and machinery at the shareholder's premises to enable him to do job work for the company so that the company could fulfil an export order. It was held that as the assessee proved business

expediency, the advance was not covered by section 2(22)(e) [*CIT vs Amrik Singh, [NJRS] 2015-LL-0429-5, ITA No. 347 of 2013, P & H High Court*]

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

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

#### CHAPTER 11: DEDUCTIONS FROM GROSS TOTAL INCOME

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

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

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

The courts have generally held that if the expenditure disallowed is related to the business activity against which the Chapter VI-A deduction has been claimed, the deduction needs to be allowed on the enhanced profits. Some illustrative cases upholding this view are as follows:

- (i) If an expenditure incurred by assessee for the purpose of developing a housing project was not allowable on account of non-deduction of TDS under law, such disallowance would ultimately increase assessee's profits from business of developing housing project. The ultimate profits of assessee after adjusting disallowance under section 40(a)(ia) would qualify for deduction under section 80-IB.
- (ii) If deduction under section 40A(3) is not allowed, the same would have to be added to the profits of the undertaking on which the assessee would be entitled for deduction under section 80-IB.

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

disallowances, related to the business activity against which the Chapter VI-A deduction has been claimed, result in enhancement of the profits of the eligible business, and that deduction under Chapter VI-A is admissible on the profits so enhanced by the disallowance.

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

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

The Hon'ble Supreme Court in its judgment dated 9.3.2016 in the case of *Meghalaya Steels Ltd* and other cases has held that the subsidies of transport, power and interest given by the Government to the Industrial Undertaking are receipts which have been reimbursed for elements of cost relating to manufacture/sale of the products. Thus, there is a direct nexus between profit and gains of the industrial undertaking/business and reimbursement of such business subsidies. Accordingly, such subsidies are part of profits and gains of business derived from the Industrial Undertaking and are not to be included under the head 'Income from other sources'. Therefore, deduction is admissible under section 80-1B/80-IC of the Act on such revenue receipts derived from the Industrial Undertaking.

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

**CHAPTER 15: DEDUCTION, COLLECTION AND RECOVERY OF TAX**

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

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

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

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

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

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

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

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

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

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

- (i) Where during the course of proceedings for search and seizure under section 132, or otherwise, the books of account and other documents necessary for making deduction under Chapter XVIIIB of the Act were seized and the assessee was not able to, within the time specified, deduct tax at source from any sum credited to any account (whether called "suspense account" or by any other name) in his books of account.
- (ii) Where any sum paid or payable was not liable for deduction of tax at source in the case of a deductor on the basis of any order passed by the jurisdictional High Court, and as a result, he did not deduct tax at source in relation to such sum, and subsequently, in consequence of any retrospective amendment of law or a decision of the Supreme Court of India or a decision of a Larger Bench of the jurisdictional High Court (which was not challenged before the Supreme Court and has become final) in any proceedings, as the case may be, tax was held to be deductible or the tax deducted by the deductor during such financial year was found to be less than the tax deductible on such sums paid or payable.

- (iii) Where the default under section 201 relates to non-deduction or a lower deduction of tax under section 195 in respect of a payment made to a non-resident (including a foreign company) being a resident of a country or specified territory outside India with whom India has entered into an agreement referred to in section 90 or 90A of the Act, and where —
- (a) a dispute regarding the tax payable in India in respect of the said payment had been referred to the Competent Authority in India mentioned in Rule 44H of the Income-tax Rules, 1962 under the said agreement under section 90 or 90A of the Act;
  - (b) such reference had been received by the Competent Authority in India within a period of two years of the date on which the notice of demand determining the tax payable was received by the person in default under section 201;
  - (c) the dispute has been settled by way of a resolution arrived at under the Mutual Agreement Procedure (MAP) provided in the said agreement; and
  - (d) the person in default under section 201 has given his acceptance to the resolution and has withdrawn his appeal(s) pending on the issue, within the meaning of Rule 44H(4) of the Income-tax Rules, within a period of one month of the date on which the resolution is communicated to him.

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

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

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

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

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

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

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

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

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

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

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

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

**CHAPTER 17: ASSESSMENT PROCEDURE**

**Scope of qualifications for e-Return Intermediary extended to include Company Secretaries, Cost Accountants and Tax Return Preparer [Notification No 66/2016, dated 09.08.2016]**

Section 139(1B) provides for an alternative method to furnish return of income. Vide Notification No 210/2007, dated 27.07.2007, an Electronic Furnishing of Return of Income Scheme, 2007 was notified for the said purpose. The scheme, *inter alia* provides that an eligible person may, at his option, furnish his return of income which he is required to furnish under various provisions of the Act, to an e-Return Intermediary who shall digitize the data of such return and transmit the same

electronically to a server designated for this purpose by the e-Return Administrator, on or before the due date.

Para 5 of the said Notification lays down the qualifications of an e-Return Intermediary. A firm of Chartered Accountants or Advocates, which has been allotted a Permanent Account Number, as well as a Chartered Accountant or an Advocate who has been allotted a Permanent Account Number, *inter alia*, qualified to be an e-Return intermediary.

Vide this Notification, a firm of Company Secretaries or Cost Accountants, if the firm has been allotted PAN as well as a Company Secretary or a Cost Accountant or Tax Return Preparer, who has been allotted a Permanent Account Number, would also qualify to be an e-Return intermediary.

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

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

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

- (i) residing in the States of Assam, Jammu & Kashmir and Meghalaya;
- (ii) a non-resident as per Income-tax Act, 1961;
- (iii) of the age of 80 years or more at any time during the previous year;
- (iv) not a citizen of India.

**CHAPTER 18: APPEALS AND REVISIONS**

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

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

Section 252A has been inserted in the Income-tax Act, 1961 to provide that the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President and other Members of the Appellate

Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017 would be governed by the provisions of section 184 of that Finance Act, 2017.

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

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

## CHAPTER 23: MISCELLANEOUS PROVISIONS

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

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

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

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

## PART – II : INTERNATIONAL TAXATION

### CHAPTER 2: DOUBLE TAXATION RELIEF

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

An assessee, being a resident shall be allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax



in India, in the manner and to the extent as specified in Rule 128 of the Income-tax Rules, 1962.

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

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

- (i) **Online filing of Form 67:** All assesseees who are required to file return of income electronically under section 139(1) as per Rule 12(3), are required to prepare and submit Form 67 online along with the return of income, if credit for the amount of any foreign tax paid by the assessee in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India.
- (ii) **Preparation and Submission of Form 67:** Form 67 shall be available to all assesseees when they login into the e-filing portal using their valid credentials. A link for filing the Form has been provided under "e-File → Prepare and Submit Online Forms (Other than ITR)". Select Form 67 and assessment year from the drop down. The completed Form 67 can be submitted by clicking on "Submit" button. Digital Signature Certificate or Electronic Verification Code is mandatory to submit Form 67.
- (iii) **Submission of Form 67** shall precede filing of return of income.

### CHAPTER 3: TRANSFER PRICING & OTHER ANTI-AVOIDANCE MEASURES

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

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

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

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

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

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

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

<b>I. Information and documents to be kept and maintained [Rule 10DA]</b>	
<b>Rule</b>	<b>Particulars</b>
<b>10DA(1)</b>	<p><b><u>Persons required to keep and maintain the information and documents:</u></b> Every person, being a <b>constituent entity of an international group</b> shall -</p> <p>(i) if the <b>consolidated group revenue</b> of the international group, of which such person is a constituent entity, as reflected in the consolidated financial statement of the international group for the accounting year, <b>exceeds ₹ 500 crore</b>; and</p> <p>(ii) the <b>aggregate value of international transactions</b> -</p> <p>(A) during the accounting year, as per the books of accounts, <b>exceeds ₹ 50 crore</b>, or</p> <p>(B) in respect of purchase, sale, transfer, lease or use of <b>intangible property</b> during the accounting year, as per the books of accounts, <b>exceeds ₹ 10 crore</b>.</p> <p><i><b>Note</b> – The rate of exchange for the calculation of the value in rupees of the consolidated group revenue in foreign currency shall be the telegraphic transfer buying rate (TTBR) of such currency on the last day of the accounting year. [Rule 10DA(8)]</i></p> <p>Part A of Form No. 3CEAA (<b>Master File</b>), however, shall be furnished by every person, being a constituent entity of an international group, whether or not the above conditions are satisfied [Rule 10DA(3)].</p> <p>Part B of Form No.3CEAA has to be furnished by a person, being a constituent entity of an international group, in those cases where the above conditions are satisfied.</p>
	<p><b><u>Information and documents required to be kept and maintained:</u></b> The constituent entity shall keep and maintain the following information and documents of the international group, namely:-</p> <p>(a) a <b>list of all entities</b> of the international group along with their addresses;</p>

	<p>(b) a chart depicting the <b>legal status</b> of the <b>constituent entity</b> and <b>ownership structure</b> of the <b>entire international group</b>;</p> <p>(c) a <b>description of the business</b> of international group during the accounting year including, -</p> <ul style="list-style-type: none"> <li>(I) the nature of the business or businesses;</li> <li>(II) the important drivers of profits of such business or businesses;</li> <li>(III) a description of the supply chain for the five largest products or services of the international group in terms of revenue and any other products including services amounting to more than five per cent. of consolidated group revenue;</li> <li>(IV) a list and brief description of important service arrangements made among members of the international group, other than those for research and development services;</li> <li>(V) a description of the capabilities of the main service providers within the international group;</li> <li>(VI) details about the transfer pricing policies for allocating service costs and determining prices to be paid for intra-group services;</li> <li>(VII) a list and description of the major geographical markets for the products and services offered by the international group;</li> <li>(VIII) a description of the functions performed, assets employed and risks assumed by the constituent entities of the international group that contribute at least ten per cent. of the revenues or assets or profits of such group; and</li> <li>(IX) a description of the important business restructuring transactions, acquisitions and divestments;</li> </ul> <p>(d) a description of the <b>overall strategy of the international group</b> for the development, ownership and exploitation of intangible property, including location of principal research and development facilities and their management;</p> <p>(e) a <b>list of all entities</b> of the international group <b>engaged in development</b> and management of <b>intangible property</b> along with their addresses;</p> <p>(f) a list of all the important intangible property or groups of intangible property owned by the international group along with the names and addresses of the group entities that legally own such intangible property;</p> <p>(g) a list and brief description of <b>important agreements</b> among members of the international group related to intangible property, including cost contribution arrangements, principal research service agreements and license agreements;</p> <p>(h) a detailed description of the <b>transfer pricing policies</b> of the international group related to research and development and intangible property;</p> <p>(i) a description of <b>important transfers of interest</b> in intangible property, if</p>
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	<p>any, among entities of the international group, including the name and address of the selling and buying entities and the compensation paid for such transfers;</p> <p>(j) a detailed description of the financing arrangements of the international group, including the names and addresses of the top ten unrelated lenders;</p> <p>(k) a list of group entities that provide central financing functions, including their place of operation and of effective management;</p> <p>(l) a detailed description of the transfer pricing policies of the international group related to financing arrangements among group entities;</p> <p>(m) a copy of the annual consolidated financial statement of the international group; and</p> <p>(n) a list and brief description of the existing unilateral advance pricing agreements and other tax rulings in respect of the international group for allocation of income among countries.</p>
10DA(2)	<p><b><u>Due date for furnishing report:</u></b></p> <p>The report of the information shall be furnished in Form No. 3CEAA and it shall be furnished on or before the due date for furnishing the return of income specified under section 139(1). For the accounting year 2016-17, such report may, however, be furnished at any time on or before the 31.3.2018.</p>
10DA(4)/(5)	<p><b><u>Furnishing of report in case of more than one constituent entity:</u></b></p> <p>Where there are more than one constituent entities resident in India of an international group, then the report or information, as the case may be, may be furnished by that constituent entity which has been designated by the international group to furnish the said report or information, as the case may be, and the same has been intimated by the designated constituent entity in Form 3CEAB.</p> <p>Such intimation shall be made at least 30 days before the due date of filing the report as specified in Rule 10DA(2).</p>
10DA(7)	<p><b><u>Period for which such information and document to be kept or maintained:</u></b></p> <p>The information and documents shall be kept and maintained for a period of eight years from the end of the relevant assessment year.</p>
<b>II. Furnishing of Report in respect of an International Group [Rule 10DB]</b>	
<b>Rule</b>	<b>Provision</b>
10DB(1)	<p><b><u>Intimation in prescribed from:</u></b></p> <p>For the purposes of section 286(1), every constituent entity resident in India, shall, if its parent entity is not resident in India, intimate the DGIT (Risk Assessment) in Form No. 3CEAC, the following, namely -</p> <p>(a) whether it is the alternate reporting entity of the international group; or</p>

	(b) the details of the parent entity or the alternate reporting entity, as the case may be, of the international group and the country or territory of which the said entities are residents.
10DB(2)	<p><b><u>Due date for the Intimation:</u></b> Every intimation shall be made <b>at least two months prior to the due date</b> for furnishing of report i.e., on or before the due date for furnishing return of income as specified under section 139(1).</p>
10DB(3)/ (4)/(5)	<p><b><u>Entities which are required to furnish report in Form No. 3CEAD:</u></b> Every parent entity or the alternate reporting entity, as the case may be, resident in India, shall, for every reporting accounting year, furnish the report to the DGIT (Risk Assessment) in Form No.3CEAD (<b>Country by Country Reporting</b>).</p> <p>A constituent entity of an international group, resident in India, other than the parent entity or the alternate reporting entity, has to furnish the report in Form No.3CEAD if the parent entity is resident of a country or territory with which India does not have an agreement providing for exchange of the report or there has been a systemic failure of the country or territory and the said failure has been intimated by the prescribed authority to such constituent entity.</p> <p>If there are more than one constituent entities resident in India of an international group, other than the parent entity or the alternate reporting entity, then the report in Form No.3CEAD may be furnished by that entity which has been designated by the international group to furnish the said report and the same has been intimated to the DGIT (Risk Assessment) in Form No.3CEAD.</p>
10DB(6)	<p><b><u>Non-applicability of provisions of section 286</u></b> The provisions of section 286 shall not apply in respect of an international group for an accounting year, if the total consolidated group revenue, as reflected in the consolidated financial statement for the accounting year preceding such accounting year <b>does not exceed ₹ 5,500 crore</b>.</p> <p><b>Note</b> - Where the total consolidated group revenue of the international group, as reflected in the consolidated financial statement, is in foreign currency, the rate of exchange for the calculation of the value in rupees of such total consolidated group revenue shall be the telegraphic transfer buying rate (TTBR) of such currency on the last day of the accounting year preceding the accounting year. [Rule 10DB(7)]</p>

**SECTION – B: QUESTIONS & ANSWERS****PART – I: DIRECT TAX LAWS****QUESTIONS**

1. Mr. Rajiv is a retail trader and his total income for the last few years ranged between ₹ 8 lakh to ₹ 10 lakh. He celebrated his 25<sup>th</sup> wedding anniversary on a large scale on 2<sup>nd</sup> December, 2017 by hosting a cruise party in the luxury cruise liner “Ocean Princess”, for which he had spent ₹ 30 lakh. The Assessing Officer, in the course of scrutiny assessment of Mr. Rajiv, asked him to explain the source of such expenditure. The explanation offered by Mr. Rajiv that the same was out of his savings for the last few years, was not found satisfactory by the Assessing Officer, since a couple of years ago, he had spent to tune of ₹ 60 lakh on the grand wedding celebrations of his daughter at Vijayaseshmahal in Chennai. You are required to examine the tax consequences.
2. Examine, in the context of provisions of the Income-tax Act, 1961, the taxability or otherwise of the income/receipt in each of the following cases for the A.Y. 2018-19:
  - (i) Income of ₹ 75,000 derived by a nursery from the sale of seedlings grown without carrying out all the basic operations on land.
  - (ii) Ms. Reema, born and brought up in the State of Sikkim, has a net profit of ₹ 4,28,000 from the business located in Sikkim and interest of ₹ 32,000 on the securities issued by the Central Government.
  - (iii) Amount of ₹ 10 lakh transferred to the NPS Account of Mr. Sriram, an employee of Gamma Ltd., under Atal Pension Yojana, from an approved superannuation fund.
  - (iv) Receipt by Smt. Vidya, widow of Mr. Sharma (who was an employee of M/s. Phi Ltd.), on 25.10.2017 of ₹ 7.40 lakhs, being amount standing to the credit of Mr. Sharma’s NPS Account, in respect of which deduction has been allowed under section 80CCD to Mr. Sharma in the earlier previous years. Such amount was received by her as a nominee on closure of the account.
  - (v) Amount of ₹ 1,20,000, being 10% of salary of Mr. Ganesh, contributed by his employer Alpha Ltd. to an approved superannuation fund.
3. A partnership firm consisting of three working partners A, B and C is engaged in the business of manufacturing and selling stationery.

Turnover of the business for the year ended 31<sup>st</sup> March, 2018 amounts to ₹ 190 lakh. Bad debts written off in the books are ₹ 80,000. Interest at 12% is provided to partner B on his capital of ₹ 10 lakh as authorized by the partnership deed.

The firm had business loss of ₹ 75,000 and unabsorbed depreciation of ₹ 1,20,000 carried forward from Assessment Year 2017-18. The firm did not pay tax under

presumptive tax system in assessment year 2017-18. The firm opts for presumptive taxation under section 44AD for Assessment Year 2018-19. Assume that whole of the amount of turnover has been received by way of account payee cheque during the P.Y. 2017-18.

- (i) Compute the income of the firm chargeable under the head “Profits and gains of business or profession.”
  - (ii) What would be the liability for interest under sections 234B and 234C, if the firm has not paid any advance tax? Assume that no TDS/TCS to its credit.
4. Delta Limited is engaged in growing and manufacturing rubber in India. It commenced its operations from 1st April, 2017. It acquired plant and machinery (second hand), factory building and furniture at a cost of ₹ 62 lakhs, ₹ 37 lakhs and ₹ 8 lakhs, respectively, in the P.Y. 2017-18 by way of ECS through bank account. Assuming that all the assets were put to use for more than 180 days during the P.Y. 2017-18, you are required to compute the written down value of each block as on 1<sup>st</sup> April, 2018.
  5. Ms. Poorna purchased a residential house from her friend Ms. Leena at ₹ 20 lakhs in the city of Coimbatore on 17<sup>th</sup> December, 2017. The value determined by the Stamp Valuation Authority for stamp duty purpose amounted to ₹ 28 lakhs. Ms. Leena had purchased the house on 28<sup>th</sup> December, 2015 at a cost of ₹ 5 lakhs. Ms. Poorna sold the house for ₹ 30 lakhs on 26<sup>th</sup> February, 2018.

Determine the effect of the above transactions on the assessments of Ms. Poorna and Ms. Leena for the A.Y. 2018-19, assuming that value for stamp duty purpose in case of the second sale was not more than the sale consideration.

6. (a) Mr. Sridhar gifted amount of ₹ 8,00,000 to his brother’s wife, Ms. Lakshmi, which was used by her for the purchase of a house and simultaneously, on the same day, his brother Mr. Vishnu gifted shares owned by him in a foreign company worth ₹ 10,00,000 to Harsh, Mr. Sridhar’s minor son. Examine the impact of such transfers in the hands of Mr. Sridhar and Mr. Vishnu.
- (b) Mr. Kumar held 18% equity shares in PQR (P) Ltd. He gifted all the shares held by him in PQR (P) Ltd., to his wife Sowmya on 17.7.2017. The transfer was made without adequate consideration. On 18.9.2017, Sowmya obtained a loan of ₹ 2 lakh from PQR (P) Ltd., when the company's accumulated profit was ₹ 1,50,000. Examine the tax implications of the above transactions.
7. A private limited company (not being an eligible start up referred to in section 80-IAC) has share capital in the form of equity share capital. The shares were held up till 31<sup>st</sup> March, 2016 by four members Akash, Bala, Chris and Dinesh equally. The company made losses/profits for the past three assessment years as follows:

Assessment Year	Business Loss ₹	Unabsorbed Depreciation ₹	Total ₹
2014-15	Nil	16,00,000	16,00,000

2015-16	Nil	12,00,000	12,00,000
2016-17	10,00,000	7,00,000	17,00,000
Total	10,00,000	35,00,000	45,00,000

The above figures have been accepted by the tax department.

During the previous year ended 31.3.2017, Akash sold his shares to Ganesh and during the previous year ended 31.3.2018, Bala sold his shares to Rajesh. The profits for the P.Y. 2016-17 and P.Y.2017-18 are as follows:

31.3.2017 ₹ 20,00,000 (before charging depreciation of ₹ 8,00,000)

31.3.2018 ₹ 50,00,000 (before charging depreciation of ₹ 10,00,000)

Compute taxable income for A.Y.2018-19. Workings must form part of your answer.

8. With brief reasons, answer the following in terms of Chapter VI-A of the Income-tax Act, 1961:
- (i) Mr. Harish, a resident Indian, deposited ₹ 90,000 with Life Insurance Corporation for the maintenance of his sister who suffers from disability of 80%. She is wholly dependent on him. How much amount is deductible from Gross Total Income?
- (ii) Mr. Rajesh, a resident Indian, has gross total income of ₹ 5,40,000 for A.Y. 2018-19. He has given the following donations:
- National Children's Fund ₹ 50,000 - by cheque  
 Indra Gandhi Memorial Trust ₹ 40,000 - by cheque  
 Clean Ganga Fund ₹ 30,000 - by cash  
 Swachh Bharat Kosh ₹ 60,000 - equally by cash and cheque.
- Compute the amount deductible under section 80G.
- (iii) Mr. Vishal, a resident, who is a computer hardware engineer, co-authored a book on advanced computer programming alongwith his friend. He received ₹ 7,00,000 as lump sum royalty in December, 2017. How much of royalty is deductible?
9. Epsilon Ltd. is engaged in the business of manufacturing fertilizers since 1<sup>st</sup> April 2009. Its statement of profit and loss shows a net profit of ₹ 350 lakhs for the year ended 31-03-2018, after debiting and crediting the following items:
- ◆ Depreciation provided in accounts as per straight line basis ₹ 50 lakhs.  
*Note:* Normal depreciation allowable as per the Income-tax Rules, 1962 is ₹ 62 lakhs.
  - ◆ The company has made cash payments for purchases and expenditure as below:  
 On 05-08-2017 ₹ 8 lakhs (Due to strike by bank staff)



On 17-08-2017 ₹ 5 lakhs (Due to cash demanded by the supplier)

Cash payments made to transport operator for hiring of lorry are as follows:

07-05-2017 ₹ 40,000; 08-01-2018 ₹ 35,000; 02-03-2018 ₹ 52,000.

- ◆ ₹ 8 lakhs contribution to a National Laboratory approved under section 35(2AA).
- ◆ GST of ₹ 2.10 lakhs, pertaining to P.Y.2017-18, was paid on 5-12-2018.
- ◆ The company has also purchased goods of ₹ 63 lakhs from M/s. Gamma Ltd. in which directors have substantial interest. The market value of the goods is ₹ 58 lakhs.
- ◆ The company has incurred legal expenses for the following:
  - Issue of bonus shares ₹ 5 lakhs
  - Issue of rights shares ₹ 4 lakhs
- ◆ Donation paid to a registered political party by way of cheque ₹ 17 lakhs

Compute the total income and tax liability of the company for the A.Y.2018-19 by integrating, analysing and applying the relevant provisions of the income-tax law and decided case laws. Give brief reasons for treatment of each item. Ignore MAT provisions.

**Note** – Turnover of Epsilon Ltd. for P.Y. 2015-16 is ₹ 52 crore.

10. M/s. Omega & Co., a partnership firm in India, is engaged in development of software and providing IT enabled services through two units, one of which is located in a notified Special Economic Zone (SEZ) in Noida (commenced operations from 01.04.2007). The particulars relating to previous year 2017-18 furnished by the assessee are as follows:

Total Turnover: SEZ unit ₹ 180 lakhs and the other unit ₹ 120 lakhs

Export Turnover: SEZ unit ₹ 120 lakhs and the other unit ₹ 80 lakhs

Profit: SEZ unit ₹ 60 lakhs and the other unit ₹ 30 lakhs.

Amount debited to Statement of Profit and Loss and credited to Special Economic Zone Re-Investment Reserve Account ₹16 lakhs.

Considering that the firm has no other income during the year, compute the tax payable by the firm for the A.Y.2018-19 by integrating, analysing and applying the relevant provisions of income-tax law.

11. Examine the correctness or otherwise of the claims made by the following charitable trusts, registered under section 12AA, while computing income for the P.Y.2017-18:

- (a) Kamala charitable trust, having its main object as medical relief, earned the following income during the P.Y.2017-18:

	Particulars	₹ in lakh
(i)	Dividend income	0.50

(ii)	Income from mutual funds specified under section 10(23D)	0.85
(iii)	Agricultural income	3.25

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

- (b) Gandhi charitable trust, having its main object as promoting education in rural areas, purchased computers and laptops for ₹ 15 lakh in March, 2017 for the purposes of the trust and claimed the same as application of income in the P.Y.2016-17. It also claims depreciation @ 40% on such computers and laptops for P.Y.2017-18, while computing income for the purpose of application for that year.
12. Examine whether the following acts can be considered as (i) Tax planning; or (ii) Tax management; or (iii) Tax evasion. Give brief reasons for your answer.
- (i) Miss Aparna deposits ₹ 1,50,000 in PPF account so as to reduce her total income from ₹ 6,40,000 to ₹ 4,90,000, so as to fall in the 5% total income slab.
- (ii) Theta Ltd. maintains register of tax deduction at source effected by it to enable timely compliance.
- (iii) A company installed an air-conditioner costing ₹ 60,000 at the residence of a director as per terms of his appointment but treats it as fitted in quality control section in the factory. This is with the objective of treating it as plant for the purpose of computing depreciation.
13. Sigma Consulting (P) Ltd., an Indian company established in the year 2005, reports total income of ₹ 15 lakh for the previous year ended 31<sup>st</sup> March, 2018. Tax deducted at source by different payers amounted to ₹ 1,35,600 and tax paid in foreign country on a doubly taxed income amounted to ₹ 22,000 for which the company is entitled to relief under section 90 as per the double taxation avoidance agreement.

During the year, the company paid advance tax as under:

Date of payment	Advance tax paid (₹)
14-06-2017	38,000
13-09-2017	73,000
14-12-2017	92,000
15-03-2018	77,000

The company filed its return of income for the A.Y. 2018-19 on 22nd October, 2018.

Compute interest, if any, payable by the company under sections 234A, 234B and 234C and fee payable under section 234F. Assume that transfer pricing provisions are not applicable.

**Note** – Turnover of Sigma Consulting (P) Ltd. for P.Y. 2015-16 is ₹ 55 crore.

14. M/s Cool Sip Limited entered into an agreement for the warehousing of its products with Topstore Warehousing and deducted tax at source as per provisions of section 194C out of warehousing charges paid during the year ended on 31.03.2018. The Assessing Officer, while completing the assessment for A.Y. 2017-18 of Cool Sip Limited in March 2018, treated the warehousing charges as rent as defined in section 194-I and asked the company to make payment of difference amount of TDS with interest. It was submitted by the company that the recipient had already paid tax on the entire amount of warehousing charges and therefore, now the difference amount of TDS cannot be recovered. However, it will make the payment of due interest on the difference amount of TDS. Examine critically in the context of provisions contained in Income-tax Act, 1961 as to the correctness of the submission of M/s. Cool Sip Ltd.
15. An Assessing Officer entered a hotel run by a person, in respect of whom he exercises jurisdiction, at 8.30 p.m. for the purpose of collecting information, which may be useful for the purposes of the Act. The hotel is kept open for business every day between 8 a.m. and 10 p.m. The hotelier claims that the Assessing Officer could not enter the hotel after sunset. The Assessing Officer wants to take away with him the books of account kept at the hotel.

Examine the validity of the claim made by the hotelier and the proposed action of the Assessing Officer with reference to the provisions of section 133B of the Income-tax Act, 1961.

16. (a) In an order of assessment for the A.Y. 2016-17, the assessee noticed a mistake for which application under section 154 was moved and the order was rectified. Subsequently, the assessee moved further application for rectification under section 154 which was rejected by the Assessing Officer on the ground that the order once rectified cannot be rectified again. Examine the correctness or otherwise of the contention of the Assessing Officer.
- (b) The return for A.Y.2018-19 was filed on time as per section 139(1) and proceedings were taken up for assessment under section 143(3). Later on, the assessee, noticed certain omissions and therefore filed a revised return on 18.4.2019. The Assessing Officer ignoring the revised return so filed framed the order on 27.4.2019. Is the action of Assessing Officer correct? Examine.
17. The assessment of Vindhya Ltd. was completed under section 143(3) with an addition of ₹ 21 lakhs to the returned income. Vindhya Ltd. preferred appeal before the Commissioner (Appeals) which is pending now.

In this backdrop, examine the following issues:

- (i) Based on fresh information that there was escapement of income for the same assessment year, can the Assessing Officer initiate reassessment proceedings when the appeal is pending before Commissioner (Appeals)?
- (ii) Can the Assessing Officer pass an order under section 154 for rectification of mistake in respect of issues not being subject matter of appeal?

- (iii) Can the assessee-company seek revision under section 264 in respect of matters other than those preferred in appeal?
- (iv) Can the Commissioner make a revision under section 263 both in respect of matters covered in appeal and other matters?
18. Explain the circumstances under which the Assessing Officer can resort to provisional attachment of the property of the assessee. Also, state the period of time for which such attachment can take place.

When can the Assessing Officer revoke provisional assessment of property? Discuss.

19. The details given hereunder for the A.Y.2018-19 relate to two foreign nationals (who are non-residents in India) - Mr. William Jones, an English cricket player and his brother, Mr. Frederick Jones, a singer:

	Particulars	Mr. William Jones	Mr. Frederick Jones
(1)	Participation in cricket tournaments in India	₹ 45 lakhs	
(2)	Winnings from lotteries (net)	₹ 69,100	
(3)	Contribution of an article relating to the sport of cricket in a sports magazine in India	₹ 10,000	
(4)	Performance in a music show in India		₹ 3 lakhs

With reference to the provisions of the Income-tax Act, 1961, you are required to –

- (i) Compute their tax liability for the A.Y.2018-19.
- (ii) Examine whether the above income are subject to deduction of tax at source.
- (iii) Decide whether it is necessary for them to file their return of income for A.Y.2018-19.
20. ABC Inc., a US company has a subsidiary, XYZ Ltd. in India. ABC Inc. sells LEDs to XYZ Ltd. for resale in India. ABC Inc. also sells LEDs to PQR Ltd., another LED reseller in India. It sells 30,000 LEDs to XYZ Ltd. at ₹ 22,000 per unit. The price fixed for PQR Ltd. is ₹ 18,000 per unit. The warranty in case of sale of LEDs by XYZ Ltd. is handled by XYZ Ltd. However, for sale of LEDs by PQR Ltd., ABC Inc. is responsible for the warranty for 6 months. Both ABC Inc. and XYZ Ltd. offer extended warranty at a standard rate of ₹ 2,500 per annum. On these facts, examine how the assessment of XYZ Ltd. is going to be affected.
21. The following are the particulars of income earned by Miss Anuradha, a resident Indian aged 25, for the A.Y. 2018-19:

Particulars	(₹ In lacs)
Income from playing hockey matches in country A	15.00
Tax paid in country A	3.00

Income from playing hockey matches in India	23.00
Deposit in PPF	1.50
Medical Insurance Premium paid for her mother aged 75 years (paid through credit card), who is not dependent on her.	0.40

Compute her total income and tax liability for the A.Y.2018-19. There is no Double Taxation Avoidance Agreement between India and country A.

22. Mr. Vallish, a non-resident, made an application to the Authority for Advance Rulings on 9.9.2017 in relation to a transaction proposed to be undertaken by him. On 1.11.2017, he decides to withdraw the said application. Can he withdraw the application on 1.11.2017? Examine.
23. Explain how the income derived by a resident of a Contracting State in respect of professional services is taxable as per the UN Model Convention. In this context, discuss the scope of professional services.
24. Explain, with examples, the role of Protocol and Preamble in interpretation of tax treaty
25. What is the meaning of, and difference between, a hybrid mismatch and branch mismatch? Briefly mention the reasons why hybrid mismatch arrangements arise. Which Action Plan of BEPS gives recommendations in this regard?

### SUGGESTED ANSWERS/HINTS

1. If any expenditure is incurred by an assessee in any financial year in respect of which he is not able to offer explanation about the source of such expenditure or the explanation offered by him is not satisfactory in the opinion of the Assessing Officer, then the amount of such unexplained expenditure may be deemed as income of the assessee for such financial year as per section 69C.

Therefore, in this case, since the Assessing Officer is not satisfied with the explanation offered by Mr. Rajiv, the expenditure of ₹ 30 lakh incurred by him in the financial year 2017-18 in hosting a grand cruise party may be deemed as his income for P.Y. 2017-18 as per section 69C.

Further, such unexplained expenditure which is deemed as the income of Mr. Rajiv shall not be allowed as deduction under any head of income.

Where the total income of Mr. Rajiv includes such unexplained expenditure of ₹ 30 lakh, which is deemed as his income under section 69C, such deemed income would be taxed at the rate of 60% as per section 115BBE *plus* surcharge@25% and cess@3%. The effective rate of tax would be 77.25%.

Further, no basic exemption or allowance or expenditure shall be allowed to him under any provision of the Income-tax Act, 1961 in computing such deemed income. No set-off of loss is permissible against such deemed income.

New section 271AAC has been inserted with effect from 1<sup>st</sup> April, 2017 in the Income-tax Act, 1961 to provide for levy of penalty@10% of tax payable under section 115BBE, in a case where income determined includes any income referred to in sections 68, 69, 69A to 69D for any previous year.

However, no such penalty would be levied on such income to the extent the same has been included by the assessee in return of income furnished under section 139 and tax in accordance with section 115BBE has been paid on or before the end of the relevant previous year.

2. (i) *Explanation 3* to section 2(1A) provides that the income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income, whether or not the basic operations were carried out on land. Accordingly, the income of ₹ 75,000 derived by a nursery from the sale of seedlings grown without carrying out all the basic operations on land shall be treated as agricultural income and exempt from tax under section 10(1).
- (ii) Section 10(26AAA) exempts the income which accrues or arises to a Sikkimese individual from any source in the State of Sikkim and the income by way of dividend or interest on securities. Therefore, the income of Ms. Reema from a business located in Sikkim and interest income on the securities issued by the Central Government shall not be subject to tax.
- (iii) Any payment from an approved superannuation fund made by way of transfer to the account of an employee under a notified pension scheme referred to in section 80CCD and notified by the Central Government is exempt under section 10(13). Since Atal Pension Yojana is a notified pension scheme under section 80CCD, the amount of ₹ 10 lakhs transferred from an approved superannuation fund to the NPS Account of Mr. Sriram, an employee of Gamma Ltd., is exempt under section 10(13).
- (iv) The proviso to section 80CCD(3) provides that the amount received by the nominee, *inter alia*, on closure of NPS account on the death of the assessee, shall not be deemed to be the income of the nominee. Accordingly, the amount of ₹ 7.40 lakhs standing to the credit of Mr. Sharma's NPS Account, received by the nominee Smt. Vidya, on closure of the account after death of her husband, would not be deemed to be her income.
- (v) The amount of any contribution by the employer to an approved superannuation fund in respect of an employee would be a taxable perquisite under section 17(2), to the extent it exceeds ₹1,50,000. In this case, since the contribution by the employer, Alpha Ltd., is only ₹ 1,20,000, no part of the said contribution would be taxable as perquisite under section 17(2) in the hands of the employee, Mr. Ganesh.

3. (i) Computation of income of the firm chargeable under the head “Profits and Gains of business or profession”

Particulars	₹
Presumptive income under section 44AD (6% of ₹ 190 lakh) [See Note 1]	11,40,000
Less: Brought forward business loss under section 72 [See Note 4]	<u>75,000</u>
Income of the firm chargeable under the head “Profits and Gains of business or profession”	<u>10,65,000</u>
Tax liability at @ 30.9%	3,29,085

**Notes: -**

- (1) A partnership firm falls within the definition of “eligible assessee” under section 44AD. The threshold limit of turnover for applicability of presumptive taxation scheme under section 44AD is ₹ 200 lakh. In this case, since the turnover of the business of the firm is ₹ 190 lakh, it falls within the definition of “eligible business” and therefore, the firm is eligible to opt for presumptive taxation scheme under section 44AD. 6% of the total turnover would be deemed to be the business income of the firm as whole of the amount of turnover has been received by way of account payee cheque during the P.Y. 2017-18.
  - (2) As per section 44AD(2), all deductions allowable under sections 30 to 38 shall be deemed to have been allowed in full and no further deduction shall be allowed.  
  
Accordingly, no deduction shall be allowed for bad debts since the same is deductible under section 36(1)(vii). Likewise, unabsorbed depreciation is not deductible since the same is deductible under section 32(2).
  - (3) Interest on capital and working partner salary are also not deductible while computing the presumptive income of a partnership firm under section 44AD for the assessment year 2018-19.
  - (4) However, brought forward business loss of previous year 2016-17 can be set-off against current year business income as per section 72.
- (ii) Since the partnership firm has opted for computation of income on presumptive basis under section 44AD, it must pay the whole amount of advance tax in one installment on or before 15.03.2018. Further, any amount paid by way of advance tax on or before 31.3.2018 shall also be treated as advance tax paid during the financial year on or before 15<sup>th</sup> March 2018.
- Since the firm has not paid advance tax –
- (a) it has to pay interest under section 234C at 1% on ₹ 3,29,085.

(b) it has to pay interest under section 234B @1% per month or part of a month on ₹ 3,29,085 from 1<sup>st</sup> April, 2018 to the date of determination of total income under section 143(1) and where regular assessment is made, to the date of regular assessment.

4. As per section 32, depreciation to be allowed has to be computed at the prescribed percentage on the written down value of any block of assets.

As per section 43(6), in the case of assets acquired before the previous year, the written down value means the actual cost to the assessee less all depreciation “actually allowed” to him under the Income-tax Act, 1961.

As per Rule 7A of the Income-tax Rules, 1962, only 35% of income from business of growing and manufacturing of rubber in India is deemed to be income liable to tax. The balance 65% would be agricultural income, which is not chargeable to tax.

*Explanation 7* to section 43(6) provides that in cases of composite income, for the purpose of computing written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire composite income of the assessee is chargeable to tax under the head “Profits and gains of business or profession”. The depreciation so computed shall be deemed to have been “actually allowed” to the assessee.

Therefore, even if only 35% of Delta Limited’s income from sale of rubber grown and manufactured in India is taxable, full depreciation (and not 35%) should be taken as “actually allowed” for the purpose of computing WDV. Accordingly, the WDV of each block as on 1<sup>st</sup> April 2018 will be as follows:

Plant & Machinery = ₹ 62 lakhs – ₹ 9.30 lakhs (15% of ₹ 62 lakhs) = ₹ 52.70 lakhs.

Building (Factory) = ₹ 37 lakhs – ₹ 3.70 lacs (10% of ₹ 37 lakhs) = ₹ 33.30 lacs.

Furniture = ₹ 8 lakhs – ₹ 0.80 lakhs (10% of ₹ 8 lakhs) = ₹ 7.20 lakhs.

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

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

In the instant case, Ms. Leena sold a residential house at Coimbatore to her friend Ms. Poorna for ₹ 20 lakhs, whereas the stamp duty value was ₹ 28 lakhs. Therefore, stamp duty value shall be deemed to be the full value of consideration for sale of the property. Therefore, short-term capital gain arising to Ms. Leena for A.Y. 2018-19 will be ₹ 23 lakhs (i.e. ₹ 28 lakhs - ₹ 5 lakhs). The capital gain is short-term since the period of holding of residential house is not more than 24 months.



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

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

As per section 56(2)(x), where any immovable property is received for a consideration which is less than the stamp duty by an amount exceeding ₹ 50,000, the difference between the stamp duty value and the consideration shall be chargeable to tax in the hands of the recipient as the income from other sources. The provisions of section 56(2)(x) would be attracted in this case, since the difference exceeds ₹ 50,000. Therefore, ₹ 8 lakhs, being the difference between the stamp duty value of the property (i.e., ₹ 28 lakhs) and the actual consideration (i.e., ₹ 20 lakhs) would be taxable in the hands of Ms. Poorna, under the head 'Income from Other Sources'.

As per section 49(4), the cost of acquisition of such property for computing capital gains would be the value which has been taken into account for section 56(2)(x). Accordingly, ₹ 28 lacs would be taken as the cost of acquisition of the house. Therefore, on sale of the flat by Ms. Poorna, ₹ 2 lakhs (i.e. ₹ 30 lakhs – ₹ 28 lakhs) would be chargeable to tax as short-term capital gains in her hands for A.Y. 2018-19. Since this is a case covered by section 49(4) and not section 49(1), the period of holding of the previous owner, namely, Ms. Leena, will NOT be considered for determining whether the capital gain in short term or long term.

6. (a) In the given case, Mr. Sridhar is making a gift of ₹ 8,00,000 to his brother's wife for the purchase of a house by her and simultaneously, his brother, Mr. Vishnu, is making a gift of shares worth ₹ 10,00,000 owned by him in a foreign company to the minor son of Mr. Sridhar. These transfers are in the nature of cross transfers. Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

The Supreme Court has, in *CIT vs. Keshavji Morarji (1967) 66 ITR 142*, held that if two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted.

Accordingly, the income arising to his brother's wife Ms. Lakshmi from the house property would be included in the total income of his brother, Mr. Vishnu and the dividend income from shares transferred to Mr. Sridhar's minor son would be taxable in the hands of Mr. Sridhar. This is because both Mr. Sridhar and his brother are the indirect transferors of the income yielding assets to their minor child and spouse, respectively, with an intention to reduce their burden of taxation. However, dividend income earned from shares of the value of ₹ 8,00,000 alone will be clubbed in the hands of Mr. Sridhar, since cross transfer is only to the extent of

₹ 8,00,000. Balance dividend income (in respect of shares of the value of ₹ 2,00,000) will be included in the hands of Mr. Sridhar or his spouse, as the case may be, whose total income excluding such income is greater under section 64(1A).

However, since husband's brother and father's brother fall within the definition of "relative" under section 56(2)(x), hence, the sum of money and property, respectively, received from them would be exempt in the hands of the concerned transferee.

- (b) Under section 2(22)(e), any payment by a closely-held company by way of loan or advance to its shareholder, being a person who is the beneficial owner of shares, holding not less than 10% of the voting power, is deemed as dividend to the extent to which the company possesses accumulated profits.

Therefore, in order to attract the deeming provisions under section 2(22)(e), the recipient of loan should be a registered shareholder as well as the beneficial owner of shares.

Accordingly, in this case, ₹ 1,50,000 (i.e., loan to the extent of accumulated profits of PQR (P) Ltd.) would be deemed as dividend in the hands of Sowmya, who holds 18% equity shares in PQR (P) Ltd., under section 2(22)(e).

Thereafter, the clubbing provisions under section 64(1)(iv) would be attracted, as per which, income as arises, directly or indirectly, from asset transferred to spouse, otherwise than for adequate consideration, would be included in the hands of the transferor.

If the assets so transferred are shares in a company, the loan taken from the company is deemed as dividend income of the shareholder under section 2(22)(e) to the extent to which the company possesses accumulated profits. Thus, on account of this deeming provision, such loan is treated as income arising from the shares. It was so held by the Madras High Court in *CIT v. Vimalan (A.) (1975) 98 ITR 529*.

Accordingly, as per section 64(1)(iv), such income arising in the hands of the shareholder, Sowmya, by virtue of section 2(22)(e) (i.e., deemed dividend of ₹ 1,50,000) would be included in the total income of Mr. Kumar, who had transferred the said shares to Sowmya without consideration.

7. Akash, Bala, Chris and Dinesh are the four shareholders of a private limited company. The shareholding pattern of the company in the three financial years are given below:

As on 31 <sup>st</sup> day of March	Akash	Bala	Chris	Dinesh	Ganesh	Rajesh
	%	%	%	%	%	%
2016	25	25	25	25	-	-
2017	-	25	25	25	25	-
2018	-	-	25	25	25	25

Section 79 provides that, in case of a closely held company not being an eligible start up referred to in section 80-IAC, no loss incurred in the previous year shall be carried forward and set off against the income of the subsequent previous year unless the shares carrying at least 51% of the voting power of the company are beneficially held on the last day of the previous year in which the loss is sought to be set off, by the same shareholders, who beneficially held the shares carrying at least 51% of the voting power on the last day of the previous year in which the loss was incurred.

Since shareholders holding at least 51% of the voting power are the same on 31<sup>st</sup> March 2016 and 2017, the restriction imposed by section 79 is not applicable for set-off of losses of the P.Y. 2015-16 against income of the P.Y. 2016-17. Thus, the taxable income for the assessment year 2017-18 would be:

Particulars	₹
Business profit	20,00,000
Less: Current year's depreciation	8,00,000
	12,00,000
Less: Brought forward business loss [as per section 72(2)]	10,00,000
Unabsorbed depreciation [as per section 32(2)]	2,00,000
<b>Taxable income for A.Y. 2017-18</b>	<b>Nil</b>

Balance Unabsorbed depreciation relating to the earlier assessment years can be carried forward to the next assessment year i.e., A.Y.2018-19. There is no brought forward business loss and section 79 is not applicable in case of carry forward of unabsorbed depreciation. Section 32 governs the carry forward and set off of depreciation for which the shareholding pattern is not relevant at all. Consequently, the income for A.Y.2018-19 will be determined as under -

Particulars	₹	₹
Business income		50,00,000
Less: Current year's depreciation		10,00,000
		40,00,000
Less: Unabsorbed depreciation:-		
Assessment year 2014-15	14,00,000	
Assessment year 2015-16	12,00,000	
Assessment year 2016-17	7,00,000	33,00,000
<b>Taxable Income for A.Y.2018-19</b>		<b>7,00,000</b>

8. **Allowability of deduction under Chapter VIA**

	Deduction (₹)	Reasons
(i)	1,25,000	As per section 80DD, an assessee, being an individual or HUF,

		<p>who is resident in India during the previous year, has –</p> <ul style="list-style-type: none"> <li>- incurred any expenditure for medical treatment (including nursing), training and rehabilitation of a dependent, or</li> <li>- paid or deposited any amount under a scheme framed by LIC or other insurer for the maintenance of a dependent,</li> </ul> <p>would be eligible for deduction of ₹ 75,000, in case such dependent is a person with disability. In case such dependent is a person with severe disability, the deduction under this section would be ₹ 1,25,000.</p> <p>Mr. Harish would be eligible for deduction under section 80DD since he has deposited money with LIC for maintenance of his sister (a dependent for the purpose of section 80DD), who suffers from severe disability (80% or more disability) and is wholly dependent on him.</p> <p>A flat deduction of ₹ 1,25,000 would be available to him under section 80DD, irrespective of the amount deposited with LIC.</p>																									
(ii)	1,00,000	<p>Mr. Rajesh would be eligible for deduction under section 80G in respect of the donations made during the previous year as follows:</p> <table border="1"> <thead> <tr> <th>Donation to</th> <th>Amount of donation (₹)</th> <th>Mode of donation</th> <th>% eligible for deduction</th> <th>Amount of deduction (₹)</th> </tr> </thead> <tbody> <tr> <td>National Children's Fund</td> <td>50,000</td> <td>Cheque</td> <td>100%</td> <td>50,000</td> </tr> <tr> <td>Indira Gandhi Memorial Trust</td> <td>40,000</td> <td>Cheque</td> <td>50%</td> <td>20,000</td> </tr> <tr> <td>Clean Ganga Fund</td> <td>30,000</td> <td>Cash</td> <td>100%</td> <td>Nil (Cash donation in excess of ₹ 2,000 would <u>not</u> qualify for deduction)</td> </tr> <tr> <td>Swachh Bharat Kosh</td> <td>60,000</td> <td>₹ 30,000 by cheque &amp; ₹ 30,000 by cash</td> <td>100%</td> <td>30,000 (Amount of ₹ 30,000 contributed by cheque qualifies for deduction.)</td> </tr> </tbody> </table>	Donation to	Amount of donation (₹)	Mode of donation	% eligible for deduction	Amount of deduction (₹)	National Children's Fund	50,000	Cheque	100%	50,000	Indira Gandhi Memorial Trust	40,000	Cheque	50%	20,000	Clean Ganga Fund	30,000	Cash	100%	Nil (Cash donation in excess of ₹ 2,000 would <u>not</u> qualify for deduction)	Swachh Bharat Kosh	60,000	₹ 30,000 by cheque & ₹ 30,000 by cash	100%	30,000 (Amount of ₹ 30,000 contributed by cheque qualifies for deduction.)
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						₹ 30,000 contributed by cash will not qualify for deduction u/s 80G)
(iii)	3,00,000	<p>The entire royalty would be first included in Mr. Vishal's income under the head "Income from other sources".</p> <p>Thereafter, Mr. Vishal is eligible for deduction from gross total income under section 80QQB, of the whole of the income derived by him on account of any lumpsum consideration in the form of royalty in respect of a book, being a work of literary or scientific nature, or ₹ 3,00,000, whichever is less.</p> <p>Book on Advanced computer programming would fall within the description of work of literary or scientific nature [<i>Dassault Systems K.K. In Re. (2010) 322 ITR 125 (AAR)</i>].</p> <p>In this case, the eligible deduction under section 80QQB would be the lower of ₹ 7,00,000, being the amount of lumpsum royalty received by Mr. Vishal or ₹ 3,00,000.</p> <p>The net effect is that out of ₹ 7,00,000 included in Vishal's income, he can claim deduction of ₹ 3,00,000 under section 80QQB. The balance of ₹ 4,00,000 would form part of his total income.</p>				

9. Computation of Total Income of Epsilon Ltd. for the A.Y.2018-19

Particulars	Amount (₹)	
<b>Profits and Gains from Business and Profession</b>		
Net profit as per profit and loss account		3,50,00,000
<b>Add: Items debited but to be considered separately or to be disallowed</b>		
Depreciation provided on straight line basis (Note 1)	50,00,000	
Disallowance under section 40A(3) for payment exceeding ₹ 10,000 made in cash for purchases and expenditure (Note 2)	5,00,000	
Disallowance under section 40A(3) for cash payment exceeding ₹ 35,000 in a day to transport operators for hiring of lorry (Note 3)	92,000	
Contribution to a National Laboratory (considered separately for weighted deduction) (Note 4)	8,00,000	
GST deposited on 5.12.2018 (Note 5)	2,10,000	

Disallowance under section 40A(2) for excess payment to related person (Note 6)	5,00,000	
Legal expenses for issue of bonus shares (Note 7)	-	
Legal expenses for issue of right shares (Note 7)	4,00,000	
Donation to a registered political party (Note 8)	<u>17,00,000</u>	<u>92,02,000</u>
		<b>4,42,02,000</b>
<b>Less: Items credited but to be considered separately or to be allowed/ Expenditure to be allowed</b>		
Depreciation allowable under the Income-tax Act, 1961 (Note 1)	62,00,000	
Weighted deduction @ 150% in respect of contribution of ₹ 8 lakhs to National Laboratory under section 35(2AA) (Note 4)	<u>12,00,000</u>	<u>74,00,000</u>
<b>Gross Total Income</b>		<b>3,68,02,000</b>
<b>Less: Deduction under Chapter VI-A</b>		
U/s 80GGB [Donation to registered political party] (Note 8)		<u>17,00,000</u>
<b>Total Income</b>		<b><u>3,51,02,000</u></b>

**Computation of tax liability of Epsilon Ltd. for A.Y.2018-19**

Particulars	₹
Tax@30% on total income of ₹ 3,51,02,000 [Since turnover of P.Y. 2015-16 > ₹ 50 crore]	1,05,30,600
Add: Surcharge@7% (since total income exceeds ₹ 1 crore but does not exceed ₹ 10 crores)	<u>7,37,142</u>
Tax payable including surcharge	1,12,67,742
Add: Education cess@2% and secondary and higher education cess@1%	<u>3,38,032</u>
<b>Total tax payable</b>	<b><u>1,16,05,774</u></b>
<b>Tax payable (Rounded off)</b>	<b>1,16,05,770</b>

**Notes:**

- Depreciation provided in the accounts on straight line basis (i.e., ₹ 50 lakhs) has to be added back and depreciation calculated as per Income-tax Rules, 1962 (i.e. ₹ 62 lakhs) is allowable as deduction under section 32.
- Cash payments exceeding ₹ 10,000 a day attracts disallowance under section 40A(3). However, Rule 6DD provides for certain exceptions, which includes, *inter alia*, payments which are required to be made on a day on which the banks were closed on account of strike. Therefore, cash payment of ₹ 8 lakhs made on the day of strike by bank staff would not attract disallowance under section 40A(3),

assuming that the payment was required to be made on that specific date. However, cash payment of ₹ 5 lakhs made on 17-8-2017 due to demand of supplier would attract disallowance under section 40A(3), since the same is not covered under any of the exceptions laid out in Rule 6DD.

- (3) In respect of cash payments to transport operators, a higher limit of ₹ 35,000 per day is permissible. Therefore, cash payment of ₹ 35,000 on 8-1-2018 would not attract disallowance under section 40A(3). However, cash payments of ₹ 40,000 and ₹ 52,000 on 7.5.2017 and 2.3.2018, respectively, would attract disallowance under section 40A(3) since the same exceeds ₹ 35,000 per day.
- (4) Contribution to a National Laboratory under section 35(2AA) qualifies for weighted deduction@150%. Hence, the contribution of ₹ 8 lakhs is first added back and thereafter, deduction of ₹ 12 lakhs (i.e., 150% of ₹ 8 lakhs) has been provided under section 35(2AA).
- (5) GST liability of ₹ 2.10 lakhs would attract disallowance under section 43B, since it was paid only on 5.12.2018 (i.e., after the due date of filing return of income of A.Y.2018-19). It would be allowed in the year of payment (i.e., P.Y.2018-19). Hence, it has to be added back for computing business income.
- (6) Gamma Ltd. is a related person under section 40A(2), since the directors of Epsilon Ltd. have substantial interest in Gamma Ltd. Therefore, excess payment of ₹ 5 lakh to Gamma Ltd. for purchase of goods would attract disallowance under section 40A(2).
- (7) There is no fresh inflow of funds or increase in capital employed on account of issue of bonus shares and there is only reallocation of the company's fund. Consequently, since there is no increase in the capital base of the company, legal expenses of ₹ 5 lakhs in connection with issue of bonus shares is a revenue expenditure and is hence, allowable as deduction. It has been so held by Apex Court in case of *CIT vs. General Insurance Corpn. (2006) 286 ITR 232*.

However, ₹ 4 lakhs, being legal expenses in relation to issue of rights shares results in expansion of the capital base of the company and is, hence, a capital expenditure. Therefore, the same is not allowable as deduction. It has been so held in *Brooke Bond India Ltd. v. CIT (1997) 225 ITR 798 (SC)*.

- (8) Donation paid to a political party is not an allowable expenditure under section 37 since it is not laid out wholly or exclusively for the purposes of business or profession. Hence, the same has to be added back while computing business income. However, donation made by a company to a political party is allowable deduction under section 80GGB from gross total income, subject to the condition that payment is made otherwise than by way of cash. Since the donation is made by cheque the same is allowed as deduction under section 80GGB.

10. Computation of total income and tax liability of M/s. Omega & Co., a partnership firm, as per the normal provisions of the Act for A.Y. 2018-19

Particulars		₹ (in lakhs)
Business income (before deduction under section 10AA) (₹ 60 lakhs + ₹ 30 lakhs)		90.00
Add: Amount debited to SEZ Re-investment Reserve		<u>16.00</u>
		106.00
Less: Deduction u/s 10AA = ₹ 60 lakhs × ₹ 120 lakhs/₹ 180 lakhs = 40 × 50% (being the 11 <sup>th</sup> year)	20.00	
Amount credited to SEZ Re-investment Reserve Account - whichever is less is deductible	<u>16.00</u>	<u>16.00</u>
<b>Total Income</b>		<b><u>90.00</u></b>
Tax on total income@30%		27.00
Add: Education cess@2% & SHEC @1%		<u>0.81</u>
<b>Tax liability (as per normal provisions)</b>		<b><u>27.81</u></b>

**Computation of Adjusted total income and Alternate Minimum tax of M/s. Omega & Co., a partnership firm, as per the provisions of section 115JC for A.Y.2018-19**

Particulars	₹ (in lakh)
Total income as per the normal provisions	90.00
Add: Deduction under section 10AA	<u>16.00</u>
Adjusted total income	<u>106.00</u>
Tax@18.5% of Adjusted Total Income	19.6100
Add: Surcharge @12% as the adjusted total income is > ₹ 1 crore	<u>2.3535</u>
	21.9632
Add: Education cess @2% & SHEC @1%	<u>0.6589</u>
<b>Alternate Minimum Tax as per section 115JC</b>	<b><u>22.6221</u></b>

Since the tax payable as per the normal provisions of the Act is more than the alternate minimum tax payable, the total income as per normal provisions shall be liable to tax and the tax payable for A.Y. 2018-19 shall be ₹ 27.81 lakhs.

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



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

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

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

Accordingly, in this case, since the cost of computers and laptops (i.e., ₹ 15 lakh) has been claimed and allowed as application of income under section 11 while computing the income of the trust for the P.Y.2016-17, depreciation on computers and laptops will not be allowed for the purpose of determining income for the purposes of application in the P.Y.2017-18.

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

## 12. Tax Planning / Tax Management / Tax Evasion

	Answer	Reason
(i)	Tax planning	Depositing money in PPF and claiming deduction under section 80C is as per the provisions of law. Hence, it is a legitimate tax planning measure which enables her to reduce her tax liability by claiming a deduction permissible under the Income-tax Act, 1961.
(ii)	Tax management	Maintaining register of payments subject to TDS helps in complying with the obligations under the Income-tax Act, 1961. Hence, such maintenance would fall within the meaning of Tax Management.
(iii)	Tax evasion	An air conditioner fitted at the residence of a director as per the terms of his appointment would be a furniture qualifying for depreciation@10%, whereas an air conditioner fitted in a factory would be a plant qualifying for a higher depreciation@15%. The wrong treatment unjustifiably increases the amount of depreciation and consequently, reduces profit and consequent tax liability. Treatment of air-conditioner fitted at the residence of a director as a plant fitted at the factory would tantamount to furnishing of false particulars with an attempt to evade tax.

13. **Interest under section 234A:** Since the return of income has been furnished by Sigma Consulting (P) Ltd. on 22nd October, 2018 i.e., 22 days after the due date for filing return of income (30.9.2018), interest under section 234A will be payable for 1 month @ 1% on the amount of tax payable on the total income, as reduced by tax reliefs and prepaid taxes.

Particulars	₹
Tax on total income (₹ 15,00,000 x 30.9%) (Since turnover of P.Y. 2015-16 > ₹ 50 crore)	4,63,500
Less: Advance tax paid	2,80,000
Less: Tax deducted at source	1,35,600
Less: Relief of tax allowed under section 90	<u>22,000</u>
<b>Tax payable on self assessment</b>	<b><u>25,900</u></b>
Interest = ₹ 25,900 x 1% = ₹ 259	

**Interest under section 234B :** Where the advance tax paid by the assessee is less than 90% of the assessed tax, the assessee would be liable to pay interest under section 234B.

Computation of assessed tax	₹
<b>Tax on total income (₹ 15,00,000 x 30.9%)</b>	4,63,500
Less: Tax deducted at source	1,35,600
Less: Relief of tax allowed under section 90	<u>22,000</u>
<b>Assessed tax</b>	<b><u>3,05,900</u></b>
90% of assessed tax = ₹ 3,05,900 x 90% = ₹ 2,75,310	

Since the advance tax paid by Sigma Consulting (P) Ltd. (₹ 2,80,000) is more than 90% of the assessed tax (₹ 2,75,310), it is not liable to pay interest under section 234B.

**Interest under section 234C**

Particulars	₹
Tax on total income ( ₹ 15,00,000 x 30.9%)	4,63,500
Less: Tax deducted at source	1,35,600
Less: Relief of tax allowed under section 90	<u>22,000</u>
Tax due on returned income/Total advance tax payable	<b><u>3,05,900</u></b>

**Calculation of interest payable under section 234C:**

Date	Advance tax paid till date (₹)	Advance tax payable till date %	Minimum % of tax due on returned income to be paid till date to avoid interest u/s 234C (c)		Shortfall (₹)	Interest (₹)
			%	Amt (₹)		
15.6.2017	38,000	15%	12%	36,708	-	Nil (See Note below)
15.9.2017	1,11,000	45%	36%	1,10,124	-	Nil (See Note below)
15.12.2017	2,03,000	75%	75%	2,29,425	26,425	26,425 x 1% x 3 months = 793
15.3.2018	2,80,000	100%	100%	3,05,900	25,900	25,900 x 1% = 259
<b>Interest payable under section 234C (Nil + Nil + ₹ 793 + ₹ 259)</b>						<b>₹ 1,052</b>

**Note:** Since the advance tax paid by Sigma Consulting (P) Ltd. on 14<sup>th</sup> June, 2017 is more than 12% of the tax due on returned income (i.e., ₹ 3,05,900) and the advance tax paid on 13<sup>th</sup> September, 2017 is more than 36% of the tax due on returned income, it is not liable to pay any interest under section 234C in respect of these two quarters.

**Fee under section 234F**

₹ 5,000 is payable under section 234F by way of fee, since the return was filed after the due date but before 31.12.2018.

14. The first proviso to section 201 provides that the payer (including the principal officer of the company) who fails to deduct the whole or any part of the tax on the amount credited or payment made to a resident payee shall not be deemed to be an assessee-in-default in respect of such tax if such resident payee –

- (1) has furnished his return of income under section 139;
- (2) has taken into account such sum for computing income in such return of income; **and**
- (3) has paid the tax due on the income declared by him in such return of income,

and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed.

The date of deduction and payment of taxes by the payer shall be deemed to be the date on which return of income has been furnished by the resident payee.

However, where the payer fails to deduct the whole or any part of the tax on the amount credited or payment made to a resident and is not deemed to be an assessee-in-default

under section 201(1) as mentioned above, interest under section 201(1A)(i) i.e., @1% p.m. or part of month, shall be payable by the payer from the date on which such tax was deductible to the date of furnishing of return of income by such resident payee.

Therefore, M/s Cool Sip Limited shall not be required to pay the difference tax in case the above mentioned conditions are fulfilled. However, the company shall be liable to make payment of interest from the date on which such tax was deductible to the date of furnishing of return of income by Topstore Warehousing.

Therefore, the submission of the assessee company, in this case, is correct.

15. Section 133B(2) of the Income-tax Act, 1961 empowers an income-tax authority to enter any place of business during the hours at which such place is open for the conduct of business. The hotel is open from 8.00 a.m. to 10.00 p.m. for the conduct of business. The Assessing Officer entered the hotel at 8.30 p.m. which falls within the working hours. The claim made by the hotelier to the effect that the Assessing Officer could not enter the hotel after sunset is not in accordance with law.

Section 133B(3) provides that an income tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any books of account. In view of this clear prohibition in section 133B(3), the proposed action of the Assessing Officer to take away with him the books of account kept at the hotel is **not** valid in law.

16. (a) It has been held by the Apex Court in the case of *Hind Wire Industries Ltd. v. CIT (1995) 212 ITR 639* that the order once amended can also be rectified subsequently provided the mistake apparent from record is rectifiable under section 154. The Apex Court enlarged the scope of the words used in that section by stating that it does not necessarily mean the original order. It could be any order including the amended or rectified order. The action of the Assessing Officer is, therefore, incorrect.
- (b) The original return for A.Y.2018-19 was filed in time and the proceedings were already taken up for assessment under section 143(3). A revised return was filed by the assessee after the end of the relevant assessment year. The action of the Assessing Officer in making the assessment in disregard of the revised return filed on 18.4.2019 is correct because as per the provisions of section 139(5) the assessee can file the revised return only within the end of the relevant assessment year to which the return relates or before completion of the assessment, whichever is earlier.
17. (i) As per the third proviso to section 147, the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matters of any appeal, reference or revision, which is chargeable to tax and has escaped assessment. The doctrine of partial merger would apply in this case.

Therefore, even when an appeal is pending before Commissioner (Appeals), the Assessing Officer can initiate reassessment proceedings in respect of income chargeable to tax which has escaped assessment, provided such income is not the

subject matter of the appeal before the Commissioner (Appeals) i.e., such income which has escaped assessment does not form part of the additions of ₹ 21 lakhs to the returned income, which is the subject matter of appeal.

- (ii) As per section 154(1A), the Assessing Officer can pass an order under 154(1) to rectify a mistake apparent from the record, provided the rectification is in relation to a matter, other than the matter which has been considered and decided in the appeal before Commissioner (Appeals). Thus, the doctrine of partial merger holds good for section 154 also.

Since the issue under consideration in this case relates to rectification of a mistake in respect of a matter which is not the subject matter of appeal, the Assessing Officer can pass an order under section 154 for rectification of the same provided the same is a mistake apparent from the record.

- (iii) As per section 264(4), the Commissioner shall not revise any order under section 264, where such order has been made the subject of an appeal to the Commissioner (Appeals). Thus, the concept of total merger would apply in the case of section 264.

Therefore, under section 264, the Commissioner cannot revise an order which is pending before the Commissioner (Appeals), even if the revision pertains to a matter, other than the matter(s) covered in the appeal.

- (iv) As per section 263, the Commissioner has the power to revise an order prejudicial to revenue, even if the order is the subject matter of appeal before Commissioner (Appeals). However, the power of the Commissioner under section 263 shall extend to only such matters as had not been considered and decided in such appeal. Here again, the doctrine of partial merger would apply.

In a case where the appeal is pending but not yet decided, the Commissioner cannot exercise his revisionary jurisdiction in respect of those issues which are the subject matter of appeal [*CWT v. Sampathmal Chordia (2002) 256 ITR 440 (Mad.)*].

18. As per the provisions of section 281B, there can be provisional attachment of property to protect the interest of Revenue in certain cases i.e. -
- (i) The proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment should be pending.
  - (ii) Such attachment should be necessary for the purpose of protecting the interest of Revenue in the opinion of the Assessing Officer.
  - (iii) The previous approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director has been obtained by the Assessing Officer.
  - (iv) The Assessing Officer, may, by an order in writing attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule.

Such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of order made under section 281B(1). However, the period can be extended by the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director, as the case may be, for the reasons to be recorded in writing for a further period or periods as he thinks fit. The total period of extension in any case cannot exceed 2 years or 60 days after the date of order of assessment or reassessment, whichever is later.

The Assessing Officer shall, by order in writing, revoke provisional attachment of a property made under section 281B(1) in a case where the assessee furnishes a guarantee from a scheduled bank, for an amount not less than the fair market value of such provisionally attached property or for an amount which is sufficient to protect the interests of the revenue.

19. (i) **Computation of tax liability of Mr. William Jones for the A.Y.2018-19**

Particulars	₹	₹
<b>Income taxable under section 115BBA</b>		
Income from participation in cricket tournaments in India	45,00,000	
Contribution of article in a magazine in India	10,000	
<b>Income taxable under section 115BB</b>		
Winnings from lotteries [₹ 69,100 / (100 - 30.9%)]	1,00,000	
<b>Total Income</b>	<b>46,10,000</b>	
Tax @ 20% under section 115BBA on ₹ 45,10,000		9,02,000
Tax@30% under section 115BB on income of ₹ 1,00,000 by way of winnings from lotteries		30,000
		<b>9,32,000</b>
Add: Education cess@2% and SHEC@1%		27,960
<b>Total tax liability of Mr. William Jones</b>		<b>9,59,960</b>

Mr. Frederick Jones is a non-resident entertainer, whose income of ₹ 3 lakh from a music show in India is taxable@20% under section 115BBA. Therefore, his tax liability is ₹ 61,800 (being 20% of ₹ 3 lakh plus education cess@2% and secondary and higher education cess@1%)

(ii) Yes, the above income are subject to deduction of tax at source.

Income referred to in section 115BBA is subject to deduction of tax at source@20% under section 194E.

Income referred to in section 115BB (i.e., winnings from lotteries) is subject to deduction of tax at source@30% under section 194B.

Since Mr. William Jones and Mr. Frederick Jones are non-residents, the amount of tax to be deducted calculated at the prescribed rates mentioned above, would be increased by education cess@2% and secondary and higher education cess@1%.

- (iii) Section 115BBA provides that if the total income of the non-resident sportsman or non-resident entertainer comprises of only income referred to in that section and tax deductible at source has been fully deducted, it shall not be necessary for him to file his return of income.

In this case, although Mr. William Jones is a non-resident sportsman, he has winnings from lotteries as well. Therefore, he cannot avail the benefit of exemption from filing of return of income as contained in section 115BBA. Hence, he has to file his return of income for A.Y.2018-19.

However, since Mr. Frederick Jones's income comprises of only income referred to in section 115BBA, in respect of which tax is deductible under section 194E, he need not file his return of income for A.Y.2018-19, if tax has been so deducted.

20. ABC Inc., the foreign company and XYZ Ltd., the Indian company are associated enterprises since ABC Inc. is the holding company of XYZ Ltd. ABC Inc. sells LEDs to XYZ Ltd. for resale in India. ABC Inc. also sells identical LEDs to PQR Ltd., which is not an associated enterprise. The price charged by ABC Inc. for a similar product transferred in comparable uncontrolled transaction is, therefore, identifiable. Therefore, Comparable Uncontrolled Price (CUP) method for determining arm's length price can be applied.

While applying CUP method, the price in comparable uncontrolled transaction needs to be adjusted to account for difference, if any, between the international transaction (i.e. transaction between ABC Inc. and XYZ Ltd.) and uncontrolled transaction (i.e. transaction between ABC Inc. and PQR Ltd.) and the price so adjusted shall be the arm's length price for the international transaction.

For sale of LEDs by PQR Ltd., ABC Inc. is responsible for warranty for 6 months. The price charged by ABC Inc. to PQR Ltd. includes the charge for warranty for 6 months. Hence, the arm's length price for LEDs being sold by ABC Inc. to XYZ Ltd. would be:

Particulars	No.	₹
Sale price charged by ABC Inc. to PQR Ltd.		18,000
Less: Cost of warranty included in the price charged to PQR Ltd. (₹ 2,500 x 6 /12)		<u>1,250</u>
<b>Arm's length price</b>		<b>16,750</b>
Actual price paid by XYZ Ltd. to ABC Inc.		<u>22,000</u>
<b>Difference per unit</b>		<b><u>5,250</u></b>
No. of units supplied by ABC Inc. to XYZ Ltd.	30,000	
Addition required to be made in the computation of total income of XYZ Ltd. (₹ 5,250 × 30,000)		15,75,00,000

No deduction under Chapter VI-A would be allowable in respect of the enhanced income of ₹ 15.75 crores.

**Note:** It is assumed that XYZ Ltd. has not entered into an advance pricing agreement or opted to be subject to Safe Harbour Rules.

**21. Computation of total income and tax liability of Miss Anuradha for the A.Y. 2018-19**

Particulars	₹	₹
Indian Income [Income from playing hockey matches in India]		23,00,000
Foreign Income [Income from playing hockey matches in country A]		<u>15,00,000</u>
<b>Gross Total Income</b>		<b>38,00,000</b>
Less: <b>Deduction under Chapter VI-A</b>		
<u><b>Deduction under section 80C</b></u>		
PPF deposit of ₹ 1,50,000 made during the previous year is within the overall limit of 1.5 lakh. Hence, fully allowable as deduction	1,50,000	
<u><b>Deduction under section 80D</b></u>		
Medical insurance premium of ₹ 40,000 paid for her mother aged 75 years. Since her mother is a senior citizen, the deduction is allowable to a maximum of ₹ 30,000 (assuming that her mother is also a resident in India), even though she is not dependent on her. Further, deduction is allowable where payment is made by any mode other than cash. Here payment is made by credit card hence, eligible for deduction.	<u>30,000</u>	<u>1,80,000</u>
<b>Total Income</b>		<b><u>36,20,000</u></b>
<u><b>Tax on Total Income</b></u>		
Income-tax	8,98,500	
Add: Education cess @ 2%	17,970	
Add: Secondary and higher education cess @ 1%	<u>8,985</u>	9,25,455
Average rate of tax in India (i.e. ₹ 9,25,455/₹ 36,20,000 × 100)	25.57%	
Average rate of tax in foreign country "A" (i.e. ₹ 3,00,000/₹15,00,000 ×100)	20.00%	
Rebate under section 91 on ₹ 15 lakh @ 20% (lower of average Indian-tax rate or average foreign tax rate)		<u>3,00,000</u>
Tax payable in India (₹ 9,25,455 – ₹ 3,00,000)		<b><u>6,25,455</u></b>



**Note:** Miss Anuradha shall be allowed deduction under section 91, since the following conditions are fulfilled:-

- (a) She is a resident in India during the relevant previous year.
  - (b) The income accrues or arises to her outside India during that previous year and such income is not deemed to accrue or arise in India during the previous year.
  - (c) The income in question has been subjected to income-tax in the foreign country A in her hands and she has paid tax on such income in the foreign country A.
  - (d) There is no agreement under section 90 for the relief or avoidance of double taxation between India and country A where the income has accrued or arisen.
- 22.** Section 245Q(3) of the Income-tax Act, 1961 provides that an applicant, who has sought for an advance ruling, may withdraw the application within 30 days from the date of the application. Since more than 30 days have elapsed from the date of application by Mr. Vallish to the Authority for Advance Rulings, he cannot withdraw the application.

However, the Authority for Advance Rulings (AAR), in *M.K. Jain AAR No.644 of 2004*, has observed that though section 245Q(3) provides that an application may be withdrawn by the applicant within 30 days from the date of the application, this, however, does not preclude the AAR from permitting withdrawal of the application after the said period with its permission, if the circumstances of the case so justify.

- 23.** Taxation of income derived by a resident of a Contracting State in respect of professional services is dealt with in Article 14 of the UN Model Convention

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

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

**Scope of professional services:** The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the

independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

24. (i) **Protocol:** Protocol is like a supplement to the treaty. In many treaties, in order to put certain matters beyond doubt, there is a protocol annexed at the end of the treaty, which clarifies borderline issues. A protocol is an integral part of a tax treaty and has the same binding force as the main clauses therein.

Protocol to India France treaty contains the Most Favoured Nation Clause. Thus, protocol must be referred to before arriving at any final conclusion in respect of any tax treaty provision.

- (ii) **Preamble:** Preamble to a tax treaty could guide in interpretation of a tax treaty. In case of *Union of India v. Azadi Bachao Andolan (2003) 263 ITR 706 (SC)*, the Apex Court observed that 'the preamble to the Indo-Mauritius Double Tax Avoidance Convention recites that it is for the 'encouragement of mutual trade and investment' and this aspect of the matter cannot be lost sight of while interpreting the treaty'. These observations are very significant whereby the Apex Court has upheld 'economic considerations' as one of the objectives of a Tax Treaty.

25. A hybrid mismatch is an arrangement that exploits a difference in the tax treatment of an entity or an instrument under the laws of two or more tax jurisdictions to achieve double non-taxation.

Branch mismatches arise where the ordinary rules for allocating income and expenditure between the branch and head office result in a portion of the net income of the taxpayer escaping the charge to taxation in both the branch and residence jurisdiction. Unlike hybrid mismatches, which result from conflicts in the legal treatment of entities or instruments, branch mismatches are the result of differences in the way the branch and head office account for a payment made by or to the branch.

Hybrid mismatch arrangements arise due to -

- (i) Creation of two deductions for a single borrowal
- (ii) Generation of deductions without corresponding income inclusions
- (iii) Misuse of foreign tax credit
- (iv) Participation exemption regimes

Specific country laws that allow taxpayers to opt for the tax treatment of certain domestic and foreign entities may aid hybrid mismatches.

BEPS Action Plan 2 gives recommendations to neutralise the effects of hybrid mismatch arrangements, which include general changes to domestic law followed by a set of dedicated anti-hybrid rules. Treaty changes are also recommended. The 2017 report includes specific recommendations for improvements to domestic law intended to reduce the frequency of branch mismatches as well as targeted branch mismatch rules which adjust the tax consequences in either the residence or branch jurisdiction in order to neutralise the hybrid mismatch without disturbing any of the other tax, commercial or regulatory outcomes.

## PAPER – 8 : INDIRECT TAX LAWS

### QUESTIONS

- (1) All questions should be answered on the basis of the position of GST law as amended up to 31.10.2017 and customs law as amended by the Finance Act, 2017 and notifications and circulars issued till 31.10.2017.
- (2) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

1. Power Engineering Pvt. Ltd., a registered supplier, is engaged in providing expert maintenance and repair services for large power plants that are in the nature of immovable property, situated all over India. The company has its Head Office at Bangalore, Karnataka and branch offices in other States. The work is done in the following manner.
- The company has self-contained mobile workshops, which are container trucks fitted out for carrying out the repairs. The trucks are equipped with items like repair equipments, consumables, tools, parts etc. to handle a wide variety of repair work.
  - The truck is sent to the client location for carrying out the repair work. Depending upon the repairs to be done, the equipment, consumables, tools, parts etc. are used from the stock of such items carried in the truck.
  - In some cases, a stand-alone machine is also sent to the client's premises in such truck for carrying out the repair work.
  - The customer is billed after the completion of the repair work depending upon the nature of the work and the actual quantity of consumables, parts etc. used in the repair work.
  - Sometimes the truck is sent to the company's own location in other State(s) from where it is further sent to client locations for repairs.

Work out the GST liability [CGST & SGST or IGST, as the case may be] of Power Engineering Pvt. Ltd., Bangalore on the basis of the facts as described, read with the following data for the month of November 20XX.

S. No.	Particulars	₹
A.	Truck sent to own location in Tamil Nadu	
	(i) Value of items contained in the truck - ₹ 3,00,000	
	(ii) Value of truck - ₹ 25,00,000	

B.	Truck sent to a client location in Tamil Nadu for carrying out repairs. Stand- alone machine is also sent in the truck to client location for repairs (i) Value of items contained in the truck – ₹ 2,85,000 (ii) Value of stand-alone machine - ₹ 4,00,000 (iii) Value of truck - ₹ 20,00,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
C.	Truck sent to a client location in Karnataka for carrying out repairs (i) Value of items contained in the truck - ₹ 1,06,000 (ii) Value of truck - ₹ 20,00,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
D.	Invoices raised for repair work carried out in Tamil Nadu [including the invoice for repair work done in 'B'] -	70,00,000
E.	Invoices raised for repair work carried out in Karnataka [including the invoice for repair work done in 'C']	12,00,000

Also, specify the document(s), if any, which need to be issued by Power Engineering Pvt. Ltd., Bangalore for the above transactions.

All the given amounts are exclusive of GST, wherever applicable. Assume the rates of taxes to be as under:

Items used for repairs		
CGST – 6%	SGST – 6%	IGST – 12%
Container truck, Stand-alone machines		
CGST – 2.5%	SGST – 2.5%	IGST – 5%
Works contract for repairs and maintenance of immovable property		
CGST – 9%	SGST – 9%	IGST – 18%

You are required to make suitable assumptions, wherever necessary.

2. ABC Ltd., Noida (Uttar Pradesh) is a supplier of machinery used for making bottle caps. The supply of machinery is effected as under:
  - The wholesale price of the machinery (excluding all taxes and other expenses) at which it is supplied in the ordinary course of the business to various customers is ₹ 42,00,000. However, the actual price at which the machinery is supplied to an

individual customer varies within a range of  $\pm 10\%$  depending upon the terms of contract of supply with the particular customer.

- Apart from the price of the machinery, ABC Ltd. charges from the customer the following incidental expenses:
  - o associated handling and loading charges of ₹ 10,000
  - o installation and commissioning charges of ₹ 1,00,000

The machinery can be dismantled and erected at another site, if required. The above charges are compulsorily levied in every case of supply of machinery.
- Transportation of machinery to the customer's premises is arranged by ABC Ltd. through a third-party service provider [Goods Transport Agency (GTA)]. The customer enters into a separate service contract with the GTA and pays the freight directly to it.
- The company provides one year free warranty for the machinery. However, the company also provides an extended two-year warranty on payment of additional charge of ₹ 3,00,000.
- A cash discount of 2% on the price of the machinery is offered at the time of supply, if the customer agrees to make the payment within 15 days of the receipt of the machinery at his premises. In the event of failure to make the payment within the stipulated time, the company-
  - o recovers the discount given; and
  - o charges interest @ 1% per month or part of the month on the total amount due from the customer (towards the machinery supplied) from the date of making the supply till the date of payment. However, no interest is charged on the tax dues.
- For every machinery supplied, ABC Ltd. receives a grant of ₹ 2,00,000 from its holding company DEF Ltd.

ABC Ltd. has supplied a machinery to D Pvt. Ltd. on August 1, 20XX at a price of ₹ 40,00,000 (excluding all taxes). D Pvt. Ltd has its corporate office in New Delhi. However, the machinery has been installed at its manufacturing unit located in Gurugram (Haryana). D Pvt. Ltd. has paid the freight directly to the GTA and opted for two year warranty. Discount @ 2% was given to D Pvt. Ltd. as it agreed to make the payment within 15 days. However, D Pvt. Ltd. paid the consideration on 31<sup>st</sup> October, 20XX.

Assume the rates of taxes to be as under:

Bottle cap making machine		
CGST – 6%	SGST – 6%	IGST – 12%

Service of transportation of goods		
CGST – 2.5%	SGST – 2.5%	IGST – 5%
Other services involved in the above supply		
CGST – 9%	CGST – 9%	CGST – 9%

Calculate the GST payable [CGST & SGST or IGST, as the case may be] on the machinery and support your conclusions with legal provisions in the form of explanatory notes.

Make suitable assumptions, wherever needed.

3. M/s XYZ, a registered supplier, supplies the following goods and services for construction of buildings and complexes -
- excavators for required period at a per hour rate
  - manpower for operation of the excavators at a per day rate
  - soil-testing and seismic evaluation at a per sample rate.

The excavators are invariably hired out along with operators. Similarly, excavator operators are supplied only when the excavator is hired out.

M/s XYZ receives the following services:

- Annual maintenance services for excavators;
- Health insurance for operators of the excavators;
- Scientific and technical consultancy for soil testing and seismic evaluation.

For a given month, the receipts (exclusive of GST) of M/s XYZ are as follows:

- Hire charges for excavators - ₹ 18,00,000
- Service charges for supply of manpower for operation of the excavator - ₹ 20,000
- Service charges for soil testing and seismic evaluation at three sites - ₹ 2,50,000

The GST paid during the said month on services received by M/s XYZ is as follows:

- Annual maintenance for excavators - ₹ 1,00,000
- Health insurance for excavator operators - ₹ 11,000
- Scientific and technical consultancy for soil testing and seismic evaluation - ₹ 1,00,000

Compute the net GST payable by M/s XYZ for the given month.

Assume the rates of GST to be as under:

Hiring out of excavators – 12%

Supply of manpower services and soil-testing and seismic evaluation services – 18%

*Note: - Opening balance of input tax credit of GST is nil.*

4. Bansal and Chandiook is a partnership firm of Chartered Accountants in Jaipur (Rajasthan). The firm specialises in bank audits providing services to banks across India. It has an annual turnover of ₹ 110 lakh in the preceding financial year.

With reference to the provisions of the CGST Act, 2017, examine whether the firm can opt for the composition scheme. Will your answer change, if-

- (a) the turnover of the firm is ₹ 90 lakhs?
  - (b) Bansal and Chandiook is not a partnership firm of Chartered Accountants but a partnership firm providing support services to restaurants like booking tables, advertisement etc.?
5. (i) Mr. Z, a supplier registered in Hyderabad (Telangana), procures goods from China and directly supplies the same to a customer in US. With reference to the provisions of GST law, examine whether the supply of goods by Mr. Z to customer in US is an inter-State supply?
- (ii) RST Inc., a corn chips manufacturing company based in USA, intends to launch its products in India. However, the company wishes to know the taste and sensibilities of Indians before launching its products in India. For this purpose, RST Inc. has approached ABC Consultants, Mumbai, (Maharashtra) to carry out a survey in India to enable it to make changes, if any, in its products to suit Indian taste.

The survey is to be solely based on the oral replies of the surveyees; they will not be provided any sample by RST Inc. to taste. ABC Consultants will be paid in convertible foreign exchange for the assignment.

With reference to the provisions of GST law, determine the place of supply of the service. Also, explain whether the said supply will amount to export of service?

6. Krishna Motors is a car dealer selling cars of an international car company. It also provides maintenance and repair services of the cars sold by it as also of other cars. It seeks your advice on availability of input tax credit in respect of the following expenses incurred by it during the course of its business operations:
- (i) Cars purchased from the manufacturer for making further supply of such cars. Two of such cars are destroyed in accidents while being used for test drive by potential customers.
  - (ii) Works contract services availed for constructing a car shed in its premises.



7. ABC Pvt. Ltd., New Delhi, provides support services to foreign customers in relation to procuring goods from India. The company identifies the prospective vendor, reviews product quality and pricing and then shares the vendor details with the foreign customer.

The foreign customer then directly places purchase order on the Indian vendor for purchase of the specified goods. ABC Pvt. Ltd. charges its foreign customer cost plus 10% mark up for services provided by it.

For the month of December, 20XX, the company has charged US \$ 1,00,000 (exclusive of GST) to its foreign customer. With reference to the provisions of GST law, examine whether the company is liable to pay IGST or CGST and SGST.

*Note: GST @ 18% is applicable on supply of the support services provided by ABC Pvt. Ltd. Rate of exchange is ₹ 65 per US \$.*

8. SNP Pvt. Ltd., Coimbatore exclusively manufactures and sells product 'Z' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells 'Z' only within Tamil Nadu. The turnover of the company in the previous year was ₹ 55 lakh. The company expects the sales to grow by 20% in the current year. Owing to the growing demand for the product, the company decided to increase its production capacity and purchased additional machinery for manufacturing 'Z' on 01.07.20XX. The purchase price of the capital goods was ₹ 20 lakh exclusive of GST @ 18%.

However, effective from 01.11.20XX, exemption available on 'Z' was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30.09.20XX was ₹ 40 lakh.

- (a) The Board of Directors of SNP Pvt. Ltd. wants to know whether they have to register under GST?
- (b) In case in the above question, SNP Pvt. Ltd. is already registered with respect to certain taxable supplies being made by it along with manufacture of exempt product 'Z', other facts remaining the same, can it take input tax credit on additional machinery purchased exclusively for manufacturing 'Z'? If yes, then how much credit can be availed?

Advice SNP Pvt. Ltd. on the above issues with reference to the provisions of GST law.

9. Rishabh Enterprises – a sole proprietorship firm – started an air-conditioned restaurant in Virar, Maharashtra in the month of February wherein the customers are served cooked food as well as cold drinks/non-alcoholic beverages. In March, the firm opened a liquor shop in Raipur, Uttarakhand for trading of alcoholic liquor for human consumption.

Determine whether Rishabh Enterprises is liable to be registered under GST law with the help of the following information:

Particulars	February	March
	(₹)*	(₹)*
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	6,50,000
Sale of alcoholic liquor for human consumption in Uttarakhand		5,00,000
Interest received from banks on the fixed deposits	1,00,000	1,00,000
Supply of packed food items from restaurant in Maharashtra	1,50,000	2,00,000

\* excluding GST

You are required to provide reasons for treatment of various items given above.

10. Answer the following questions:

- (i) Shagun started supply of goods in Vasai, Maharashtra from 01.01.20XX. Her turnover exceeded ₹ 20 lakh on 25.01.20XX. However, she didn't apply for registration. Determine the amount of penalty, if any, that may be imposed on Shagun on 31.03.20XX, if the tax evaded by her, as on said date, on account of failure to obtain registration is ₹ 1,26,000.
- (ii) Sagar, managing director of Telecom Solutions Ltd., is issued a summon to appear before the central tax officer to produce the books of accounts of Telecom Solutions Ltd. in an inquiry conducted on said company. Determine the amount of penalty, if any, that may be imposed on Sagar, if he fails to appear before the central tax officer.

11. Rajul has been issued a show cause notice (SCN) on 31.12.2021 under section 73(1) of the CGST Act, 2017 on account of short payment of tax during the period between 01.07.2017 and 31.12.2017. He has been given an opportunity of personal hearing on 15.01.2022.

Advice Rajul as to what should be the written submissions in the reply to the show cause notice issued to him.

12. Mr. A had filed an appeal before the Appellate Tribunal against an order of the Appellate Authority where the issue involved related to place of supply. The order of Appellate Tribunal is also in favour of the Department. Mr. A now wants to file an appeal against the decision of the Appellate Authority as he feels the stand taken by him is correct.

You are required to advise him suitably with regard to filing of an appeal before the appellate forum higher than the Appellate Tribunal.

13. Elaborate the duties of Anti-profiteering Authority.

14. With reference to section 54(3) of the CGST Act, 2017, mention the cases where refund of unutilised input tax credit is allowed.

15. Ranjan intends to start selling certain goods in Delhi. However, he is not able to determine (i) the classification of the goods proposed to be supplied by him [as the classification of said goods has been contentious] and (ii) the place of supply if he supplies said goods from Delhi to buyers in U.S.

Ranjan's tax advisor has advised him to apply for the advance ruling in respect of these issues. He told Ranjan that the advance ruling would bring him certainty and transparency in respect of the said issues and would avoid litigation later. Ranjan agreed with his view, but has some apprehensions.

In view of the information given above, you are required to advise Ranjan with respect to following:

- (i) The tax advisor asks Ranjan to get registered under GST law before applying for the advance ruling as only a registered person can apply for the same. Whether Ranjan needs to get registered?
- (ii) Can Ranjan seek advance ruling to determine (a) the classification of the goods proposed to be supplied by him and (b) the place of supply, if he supplies said goods from Delhi to buyers in U.S?
- (iii) Ranjan is apprehensive that if at all advance ruling is permitted to be sought, he has to seek it every year. Whether Ranjan's apprehension is correct?
- (iv) The tax advisor is of the view that the order of Authority for Advance Ruling (AAR) is final and is not appealable. Whether the tax advisor's view is correct?
- (v) Sambhav - Ranjan's friend - is a supplier registered in Delhi. He is engaged in supply of the goods, which Ranjan proposes to supply at the same commercial level that Ranjan proposes to adopt.

He intends to apply the classification of the goods as decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi. Whether Sambhav can do so?

16. Product 'Z' was imported by Mr. X by air. The details of the import transaction are as follows:

Particulars	US \$
Price of 'Z' at exporter's factory	8,500
Freight from factory of the exporter to load airport (airport in the country of exporter)	250
Loading and handling charges at the load airport	250
Freight from load airport to the airport of importation in India	4,500
Insurance charges	2,000

Though the aircraft arrived on 22.08.20XX, the bill of entry for home consumption was presented by Mr. X on 20.08.20XX.

The other details furnished by Mr. X are:

	20.08.20XX	22.08.20XX
Rate of basic customs duty	20%	10%
Exchange rate notified by CBEC	₹ 60 per US\$	₹ 63 per US\$
Exchange rate prescribed by RBI	₹ 61 per US\$	₹ 62 per US\$
Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975	18%	12%

Compute-

- (i) value of product 'Z' for the purpose of levying customs duty
  - (ii) customs duty and tax payable
17. An importer from Cochin imports goods from an exporter in US. The vessel carrying the goods reaches Mumbai port first and from there goods are transhipped to Cochin port. Determine the assessable value of the imported goods under the Customs Act, 1962 from the following particulars:

S.No.	Particulars	Amount
(i)	Cost of the machine at the factory of the exporter	US \$ 20,000
(ii)	Transport charges from the factory of exporter to the port for shipment	US \$ 1,000
(iii)	Handling charges paid for loading the machine in the ship	US \$ 100
(iv)	Buying commission paid by the importer	US \$ 100
(v)	Freight charges from exporting country to India	US \$ 2,000
(vi)	Actual insurance charges paid are not ascertainable	---
(vii)	Charges for design and engineering work undertaken for the machine in US	US \$ 5,000
(viii)	Unloading and handling charges paid at the place of importation	₹ 1,500
(ix)	Transport charges from Mumbai to Cochin port	₹ 25,000
(x)	Exchange rate to be considered: 1\$ = ₹ 60	

18. Determine the assessable value of imported goods in the following cases:

**Case I**

Particulars	US \$
FOB value	1,000
Freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	Not known
Insurance charges	10

**Case II**

Particulars	US \$
FOB value plus insurance charges	1,010
Freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	Not known

**Case III**

Particulars	US \$
FOB value	1,000
Sea freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	60
Insurance charges	Not known

**Case IV**

Particulars	US \$
FOB value plus sea freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	1,060
Insurance charges	Not known

**Case V**

Particulars	US \$
FOB value	1,000
Air freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	250
Insurance charges	10

19. With reference to the recent amendments made in the Customs Act, 1962, examine the validity of the following statements:
- (a) A beneficial owner of imported goods is a person on whose behalf the goods are being imported.

- (b) Customs area does not include a warehouse.
- (c) Customs station includes international courier terminal.
20. With reference to the recent facility, 'Clear first-Pay later' extended to importers under the customs law, answer the following questions:
- (i) What is the objective of the facility?
- (ii) Who is eligible to avail this scheme?
- (iii) What are the due dates for payment of duty under this facility?
- (iv) What are the circumstances when the deferred payment facility will not be available?

### SUGGESTED ANSWERS

1. **Computation of GST Liability of Power Engineering Pvt. Ltd., Bangalore for the month of November 20XX**

S.No.	Particulars	₹
A.	Items sent in container truck to own location in Tamil Nadu - IGST @ 12% [Note 1]	36,000
	Container truck sent to own location in Tamil Nadu [Note 2]	-
B.	Stand-alone machine sent in container truck to client location in Tamil Nadu, for carrying out repairs [Note 3]	-
	Container truck sent to client location in Tamil Nadu [Note 3]	-
	Items sent in container truck to client location in Tamil Nadu, for carrying out repairs [Note 4]	-
C.	Container truck sent to client location in Karnataka [Note 3]	-
	Items sent in container truck to client location in Karnataka, for carrying out repairs [Note 4]	-
D.	Invoices raised for repair work carried out in Tamil Nadu: IGST @ 18% [Note 5 and Note 6]	12,60,000
E.	Invoices raised for repair work carried out in Karnataka: CGST 9% + SGST 9% [Note 5 and Note 7]	2,16,000
<b>Total GST liability</b>		<b>15,12,000</b>

**Notes:**

- (1) Movement of goods without any consideration to a 'distinct person' as specified in section 25(4) of the CGST Act, 2017 is deemed to be a supply in terms of Schedule

I of the said Act. The purchase value is taken as taxable value, being the open market value in terms of rule 28(a) of the CGST Rules 2017. (However, if the regional office is eligible to take full input tax credit, any value may be declared in the tax invoice and that will be taken to be the open market value in terms of the second proviso to the same rule.)

In the given case-

- the location of the supplier is in Bangalore (Karnataka); and
- the place of supply of items contained in the truck is the location of such goods at the time at which the movement of goods terminates for delivery to the recipient i.e., Tamil Nadu in terms of section 10(1)(a) of the IGST Act, 2017.

Therefore, the given supply of items is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply is leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

Since the activity is a supply, a tax invoice is to be issued by Power Engineering Pvt. Ltd. in terms of section 31(1)(a) of the CGST Act, 2017 for sending the items to its own location in Tamil Nadu.

- (2) As per section 25(4) of the CGST Act, 2017, a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as 'distinct persons'.

Schedule I to the CGST Act, 2017 specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons' as specified in section 25 of the CGST Act, 2017, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

However, in view of the GST Council's recommendation, it has been clarified that the inter-State movement of various modes of conveyance between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, including trucks carrying goods or passengers or both; or for repairs and maintenance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST. Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance [*Circular No. 1/1/2017 IGST dated 07.07.2017*].

Since the activity is not a supply, tax invoice is not required to be issued by Power Engineering Pvt. Ltd. However, a delivery challan is to be issued by the company in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the truck to its own location in Tamil Nadu.

- (3) Supply of goods without consideration is deemed to be a supply *inter alia* when the goods are supplied to a 'distinct person'. However, in this case, stand-alone machine and container truck are moved to client location and not between 'distinct persons'. Hence, the same will fall outside the scope of definition of supply and will not be leviable to GST.

Here again, a delivery challan is to be issued in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the stand-alone machines and container truck to client location.

- (4) As per section 2(119) of the CGST Act, 2017, 'works contract' means a contract for, *inter alia*, repair, maintenance of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

In this case, the supplier provides maintenance and repair services for power plants that are in the nature of immovable property and uses consumables and parts, wherever necessary, for the repairs. Hence, the contract is that of a works contract.

Further, as per section 2(30) of the CGST Act, 2017, a works contract is a 'composite supply' as it consists of taxable supplies of both goods and services which are naturally bundled and supplied in conjunction with each other. The composite supply of works contract is treated as supply of service in terms of para 6(a) of Schedule II to the CGST Act, 2017.

The items used in relation to the repair and maintenance work could be consumables or could be identifiable items/parts. In either case, the transfer of property in goods is incidental to a composite supply of works contract service. Thus, the value of the items actually used in the repairs will be included in the invoice raised for the service and will be charged to tax at that point of time.

Here again, a delivery challan is to be issued in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the items for carrying out the repairs.

- (5) The activity is a composite supply of works contract, which is treated as supply of service. As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly.

Since the activity is a supply of service, a tax invoice is to be issued by Power Engineering Pvt. Ltd. in terms of section 31(2) of the CGST Act, 2017.

- (6) In the given case-

- the location of the supplier is in Bangalore (Karnataka); and
- the place of supply of works contract services relating to the power plant (immovable property) is the location at which the immovable property is located i.e., Tamil Nadu in terms of section 12(3)(a) of the IGST Act, 2017.



Therefore, the given supply is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

- (7) In the given case, the location of the supplier and the place of supply of works contract services are within the same State. Therefore, the given supply is an intra-State supply in terms of section 8(1) of IGST Act, 2017 and thus, chargeable to CGST and SGST.

## 2. Computation of GST liability of ABC Ltd.

Particulars	(₹)
Price of machine [Note 1]	40,00,000
Handling and loading charges [Note 2]	10,000
Installation and commissioning charges [Note 3]	1,00,000
Transportation cost [Note 4]	Nil
Additional warranty cost [Note 5]	3,00,000
Grant from DEF Ltd. [Note 6]	<u>2,00,000</u>
Total price of the machine	46,10,000
Less: 2% cash discount on price of machinery = Rs.40,00,000 × 2% [Note 7]	<u>80,000</u>
Taxable value of supply	45,30,000
<b>Tax liability for the month of August 20XX [Note 11]</b>	
IGST @ 12% [Note 8 and Note 9]	5,43,600
<b>Tax liability for the month of October 20XX [Note 11]</b>	
Interest collected @ 3% on ₹ 44,10,000 [Note 10]	1,32,300
Cash discount recovered [Note 10]	<u>80,000</u>
Cum-tax value of interest and cash discount	2,12,300
IGST = (₹ 2,12,300/112) × 12%	22,746
<b>Total IGST payable on the machinery</b>	<b>5,66,346</b>

### Notes:

- (1) As per section 15(1) of the CGST Act, 2017, the value of a supply is the transaction value i.e., the price actually paid or payable for the said supply when the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. It is assumed that ABC Ltd. and D Pvt. Ltd are not related and the price is the sole consideration for the supply.

- (2) All incidental expenses charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- (3) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.

- (4) Transportation cost has not been included in the value of supply of the machinery as it is a separate service contract between the customer and the third-party service provider. The customer pays the freight directly to the service provider.

The supplier (ABC Ltd), in this case, merely arranges for the transport and does not provide the transport service on its own account. Tax will be separately levied on the supply of service of transportation of goods under reverse charge.

- (5) Warranty cost is includible in the value of the supply since transaction value includes all elements of the price excluding those that can be specifically excluded as per section 15 of the CGST Act.
- (6) Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments are includible in the value of supply in terms of section 15(2)(e) of the CGST Act, 2017.
- (7) Cash discount was deducted by ABC Ltd. upfront at the time of supply on August 1, 20XX and hence, the same is excluded from the value of supply as it did not form part of the transaction value.
- (8) In the given case-

- the location of the supplier is in Noida (UP); and
- the place of supply of machinery is the place of installation of the machinery i.e., Gurugram (Haryana) in terms of section 10(1)(d) of the IGST Act, 2017.

Therefore, the given supply is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

- (9) The given supply is a composite supply involving supply of goods (machinery) **and** services (handling and loading and installation and commissioning) where the principal supply is the supply of goods.

As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate applicable to the goods (machinery) has been considered.

- (10) Interest for the delayed payment of any consideration for any supply is includible in the value of supply in terms of section 15(2)(d) of the CGST Act, 2017. Further, cash discount recovered will also be includible in the value of supply as now the

transaction value i.e., the price actually paid for the machinery is devoid of any discount.

The cash discount not allowed and interest have to be considered as cum tax value and tax payable thereon has to be computed by making back calculations in terms of rule 35 of CGST Rules, 2017.

- (11) It has been assumed that the invoice for the supply has been issued on August 1, 20XX, the date on which the supply is made. Thus, the time of supply of goods is August 1, 20XX in terms of section 12(1)(a) of the CGST Act, 2017.

As per section 12(6) of the CGST Act, 2017, the time of supply in case of addition in value by way of interest, late fee, penalty etc. for delayed payment of consideration for goods is the date on which the supplier receives such addition in value. Thus, the time of supply of interest received and cash discount recovered on account of delayed payment of consideration is 31<sup>st</sup> October, 20XX, the date when the full payment was made. The supplier may issue a debit note for such interest and cash discount recovered.

### 3. Computation of net GST payable by M/s XYZ

Particulars	GST payable (₹)
Gross GST liability [Refer Working Note 1 below]	2,63,400
Less: Input tax credit [Refer Working Note 2 below]	2,00,000
<b>Net GST liability</b>	<b>63,400</b>

#### Working Notes

##### (1) Computation of gross GST liability

Particulars	Value received (₹)	Rate of GST	GST payable (₹)
Hiring charges for excavators	18,00,000	12%	2,16,000
Service charges for supply of manpower for operation of excavators [Refer Note 1]	20,000	12%	2,400
Service charges for soil testing and seismic evaluation [Refer Note 2]	2,50,000	18%	45,000
<b>Gross GST liability</b>			<b>2,63,400</b>

**Notes:**

- (i) Since the excavators are invariably hired out along with operators and excavator operators are supplied only when the excavator is hired out, it is a case of composite supply under section 2(30) of the CGST Act, 2017 wherein the principal supply is the hiring out of the excavator. As per section 8(a) of the CGST Act, 2017, the composite supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators will also be taxed at the rate applicable for hiring out of the excavator (principal supply), which is 12%.
- (ii) Soil testing and seismic evaluation services being independent of the hiring out of excavator will be taxed at the rate applicable to them, which is 18%.

(2) **Computation of input tax credit available for set off**

Particulars	GST paid (₹)	ITC available (₹)
Annual maintenance services for excavators [Refer Note 1]	1,00,000	1,00,000
Health insurance for excavator operators [Refer Note 2]	11,000	-
Scientific and technical consultancy [Refer Note 1]	1,00,000	1,00,000
<b>Total input tax credit available</b>		<b>2,00,000</b>

**Notes:**

- (i) Section 17(5)(d) of the CGST Act, 2017 blocks credit on goods and/or services received by a taxable person for construction of an immovable property on his own account. Here, though the excavators are used for building projects, the same are not used by M/s XYZ on its own account for construction of immovable property; instead they are used for outward taxable supply of hiring out of machinery. Therefore, the annual maintenance service for the excavators does not get covered by the bar under section 17 of the CGST Act, 2017 and the credit thereon will be available. The same applies for scientific & technical consultancy for construction projects because in this case also, the service is used for providing the outward taxable supply of soil testing and seismic evaluation service and not for construction of immovable property.
- (ii) Section 17(5)(b)(iii) of the CGST Act, 2017 allows input tax credit on health

insurance only when:

- (a) the Government notifies the services as obligatory for an employer to provide to its employees under any law for the time being in force; or
- (b) the said service is used for making an outward taxable supply of the same category of service or as part of a taxable composite or mixed supply.

Since, in the given case, the health insurance service does not fall under any of the above two categories, the credit thereon will not be allowed.

4. As per section 10(1) of the CGST Act, 2017, a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1 crore, may opt to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not exceeding,—

- (a) 1% of the turnover in State/ Union territory in case of a manufacturer,
- (b) 2.5% of the turnover in State/ Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II (restaurant services), and
- (c) 0.5% of the turnover in State/ Union territory in case of other suppliers.

Further, sub-section (2) of section 10 lays down that the registered person shall be eligible to opt for composition levy if:—

- (a) he is not engaged in the supply of services other than restaurant services;
- (b) he is not engaged in making any supply of goods which are not leviable to tax under CGST Act; 2017
- (c) he is not engaged in making any inter-State outward supplies of goods;
- (d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
- (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council.

Basis above provisions, a firm of Chartered Accountants, being a supplier of professional services (other than restaurant services) is not eligible to apply for composition scheme. Therefore, it has to discharge its tax liability under regular provisions at the applicable rates.

- (a) The answer will not change even if the turnover of the firm had been ₹ 90 lakh since the ineligibility of the firm to opt for composition scheme is not linked with the turnover of the firm, but with the nature of the services supplied by the firm.

Therefore, since even with turnover of ₹ 90 lakh the ineligibility in respect of nature of services supplied by firm exists i.e., the firm provides professional services and not restaurant services; it will not be eligible for composition scheme.

- (b) The answer will not change even if the firm is providing support services to restaurants as only the supplier providing restaurant services *per se* are eligible for composition scheme.
5. (i) The transaction undertaken by Mr. Z is neither import nor export of goods in terms of Customs Act, 1962. However, it is an inter-State supply in terms of provisions of section 7(5)(a) of the IGST Act, 2017 which provides that when the supplier is located in India and the place of supply is outside India, supply of goods or services or both, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.
- (ii) As per section 13(2) of the IGST Act, 2017, in case where the location of the supplier of services or the location of the recipient of services is outside India, the place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services. Sub-sections (3) to (13) provide the mechanism to determine the place of supply in certain specific situations.

The given case does not fall under any of such specific situations and thus, the place of supply in this case will be determined under sub-section (2) of section 13. Thus, the place of supply of services in this case is the location of recipient of services i.e., USA.

As per section 2(6) of the IGST Act, 2017, export of services means the supply of any service when,—

- (a) the supplier of service is located in India;
- (b) the recipient of service is located outside India;
- (c) the place of supply of service is outside India;
- (d) the payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (e) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Since all the above five conditions are fulfilled in the given case, the same will be considered as an export of service.

6. As per section 16(1) of the CGST Act, 2017, every registered person can take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business. However, section 17(5) of CGST Act, 2017 specifies certain goods and services on which the input tax credit is not available.

In the light of the foregoing provisions, the availability of input tax credit (ITC) in respect of the various expenses incurred by Krishna Motors is discussed below:

- (i) Section 17(5)(a) specifically blocks ITC on motor vehicles and other conveyances. However, the same is allowed when the motor vehicles and other conveyances are used, *inter alia*, for further supply of such vehicles or conveyances. Thus, ITC on cars purchased from the manufacturer for making further supply of such cars will be allowed.

However, ITC on the cars destroyed in accident will not be allowed as the ITC on goods destroyed for whichever reason is specifically blocked under section 17(5)(h) of CGST Act.

- (ii) Section 17(5)(c) specifically blocks ITC on works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service. Since, in this case the car shed is not a plant and machinery and the works contract service is not used for further supply of works contract service, ITC thereon will not be allowed.

7. Section 2(13) of the IGST Act, 2017 defines “intermediary” to mean a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

In this case, since ABC Pvt. Ltd. is arranging or facilitating supply of goods between the foreign customer and the Indian vendor, the said services can be classified as intermediary services.

If the location of the supplier of services or the location of the recipient of service is outside India, the place of supply is determined in terms of section 13 of the IGST Act, 2017. Since, in the given case, the recipient of supply is located outside India, the provisions of supply of intermediary services will be determined in terms of section 13 of the IGST Act, 2017.

As per section 13(8)(b), the place of supply in case of intermediary services is the location of the supplier i.e., the location of ABC Pvt. Ltd. which is New Delhi. Further, as per section 8(2) of the IGST Act, 2017, supply of services where the location of the supplier and the place of supply of services are in the same State is treated as intra-State supply.

Therefore, since in the given case, both the location of ABC Pvt. Ltd. and the place of supply of the service provided by it are in New Delhi, the supply of service will be an intra-State supply leviable to CGST & SGST.

Assuming that the given rate of exchange is prevailing on the date of time of supply of services, the CGST and SGST liability will be worked out as under:

CGST = ₹ 5,85,000 (1,00,000 x 65 x 9%)

SGST = ₹ 5,85,000 (1,00,000 x 65 x 9%)

8. (a) Section 22(1) of the CGST Act, 2017 *inter alia* provides that every supplier, whose aggregate turnover in a financial year exceeds ₹ 20,00,000, is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods and/or services.

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

In the given case, the turnover of the company for the half year ended on 30.09.20XX is ₹ Rs 40 lakh which is more than the threshold limit of ₹ 20 lakh. Therefore, as per section 22 of CGST Act 2017, the company will be liable to registration. However, since SNP Pvt. Ltd. supplied exempted goods till 31.10.20XX, it was not required to be registered till that day; though voluntary registration was allowed under section 25(3) of the CGST Act, 2017.

However, the position will change from 01.11.20XX as the supply of goods become taxable from that day and the turnover of company is above ₹ 20 lakh. It is important to note here that in terms of section 2(6) of the CGST Act, 2017, the aggregate turnover limit of ₹ 20 lakh includes exempt turnover also.

Therefore, turnover of 'Z' will be considered for determining the limit of ₹ 20 lakh even though the same was exempt from GST. Therefore, the company needs to register within 30 days from 01.11.20XX (the date on which it becomes liable to registration) in terms of section 25(1) of the CGST Act, 2017.

Further, the company cannot avail exemption of ₹ 20 lakh from 01.11.20XX as the GST law does not provide any threshold exemption from payment of tax but threshold exemption from obtaining registration (which in this case had been crossed).

- (b) Rule 43(1)(a) of the CGST Rules, 2017 disallows input tax credit on capital goods used or intended to be used exclusively for effecting exempt supplies.

However, as per section 18(1)(d) of the CGST Act, 2017, where an exempt supply of goods and/or services by a registered person becomes a taxable supply, such person gets entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.



Rule 40(1)(a) of the CGST Rules, 2017 lays down that the credit on capital goods can be claimed after reducing the tax paid on such capital goods by 5% per quarter of a year or part thereof from the date of the invoice.

Therefore, in the given case, SNP Pvt. Ltd. could not claim credit on machinery till the time the supply of product 'Z' for which said machinery was being used was exempt. However, it can claim credit from 31.10.20XX - the day immediately preceding the date from which the supply of product 'Z' became taxable (01.11.20XX).

The credit will be available for the remaining useful life of the machinery and will be computed as follows:

Date of purchase of machinery	01.07.20XX
Date on which credit becomes eligible	31.10.20XX
Number of quarters for which credit is to be reduced	2 (including part of quarter)
GST paid on machinery [₹ 20,00,000 x 18%]	₹ 3,60,000
Credit to be reduced [₹ 3,60,000 x 5% x 2]	₹ 36,000
<b>Amount of credit that can be taken [₹ 3,60,000 – ₹ 36,000]</b>	<b>₹ 3,18,000</b>

9. As per section 22 of the CGST Act, 2017, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds ₹ 20 lakh.

However, if such taxable supplies are made from any of the specified special category States, namely, States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ₹ 10 lakh.

In the given question, since Rishabh Enterprises is engaged in making taxable supplies from Maharashtra which is not a specified Special Category State, the threshold limit for obtaining registration is ₹ 20 lakh.

The threshold limit is not reduced to ₹ 10 lakh in this case, as sale of alcoholic liquor for human consumption from Uttarakhand (one of the specified Special Category States) are non-taxable supplies in terms of section 9(1) of CGST Act, 2017.

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

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) exports of goods and/or services and

(iv) all inter-State supplies of persons having the same PAN.

The above is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

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

**Computation of aggregate turnover of Rishabh Enterprises**

Particulars	Turnover of February (₹)	Cumulative turnover of February & March (₹)
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	12,00,000 [₹ 5,50,000 + ₹ 6,50,000]
Add: Sale of alcoholic liquor for human consumption in Uttarakhand [Note-1]		5,00,000
Add: Interest received from banks on the Fixed Deposits [Note-2]	1,00,000	2,00,000 [₹ 1,00,000 + ₹ 1,00,000]
Add: Supply of packed food items from restaurant in Maharashtra	1,50,000	3,50,000 [₹ 1,50,000 + ₹ 2,00,000]
Aggregate Turnover	8,00,000	22,50,000

**Notes:**

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

**Rishabh Enterprises was not liable to be registered in the month of February since its aggregate turnover did not exceed ₹ 20 lakh in that month. However, since its**

**aggregate turnover exceeds ₹ 20 lakh in the month of March, it should apply for registration within 30 days from the date on which it becomes liable to registration.**

10. (i) Where the aggregate turnover of a supplier making supplies from a State/UT exceeds ₹20 lakh in a financial year, he is liable to be registered in the said State/UT. The said supplier must apply for registration within 30 days from the date on which he becomes liable to registration. However, in the given case, although Shagun became liable to registration on 25.01.20XX, she didn't apply for registration within 30 days of becoming liable to registration.

Section 122(1)(xi) of the CGST Act, 2017 stipulates that a taxable person who is liable to be registered under the CGST Act, 2017 but fails to obtain registration shall be liable to pay a penalty of:

(a) ₹ 10,000

or

(b) an amount equivalent to the tax evaded [₹ 1,26,000 in the given case], whichever is higher.

Thus, the amount of penalty that can be imposed on Shagun is ₹ 1,26,000.

- (ii) Section 122(3)(d) of the CGST Act, 2017 stipulates that any person who fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry is liable to a penalty which may extend to ₹ 25,000. Therefore, penalty upto ₹ 25,000 can be imposed on Sagar, in the given case.

11. The written submissions in reply to SCN issued to Rajul are as follows:

- i. The show cause notice (SCN) issued for normal period of limitation under section 73(1) of the CGST Act, 2017 is not sustainable.
- ii. The SCN under section 73(1) of the CGST Act, 2017 can be issued at least 3 months prior to the time limit specified for issuance of order under section 73(10) of the CGST Act, 2017. The adjudication order under section 73(10) of the CGST Act, 2017 has to be issued within 3 years from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to.

The due date for furnishing annual return for a financial year is on or before the 31<sup>st</sup> day of December following the end of such financial year [Section 44 of the CGST Act, 2017]. Thus, SCN under section 73(1) of the CGST Act, 2017 can be issued within 2 years and 9 months from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to.

- iii. The SCN has been issued for the period between 01.07.2017 to 31.12.2017 which falls in the financial year (FY) 2017-18. Due date for furnishing annual return for the FY 2017-18 is 31.12.2018 and 3 years' period from due date of filing annual return

lapses on 31.12.2021. Thus, SCN under section 73(1) ought to have been issued latest by 30.09.2021.

- iv. Since the notice has been issued after 30.09.2021, the entire proceeding is barred by limitation and deemed to be concluded under section 75(10) of the CGST Act, 2017.

12. As per section 117(1) of the CGST Act, 2017, an appeal against orders passed by the State Bench or Area Benches of the Tribunal lies to the High Court if the High Court is satisfied that such an appeal involves a substantial question of law.

However, appeal against orders passed by the National Bench or Regional Benches of the Tribunal lies to the Supreme Court and not High Court. As per section 109(5) of the Act, only the National Bench or Regional Benches of the Tribunal can decide appeals where one of the issues involved relates to the place of supply.

Since the issue involved in Mr. A's case relates to place of supply, the appeal in his case would have been decided by the National Bench or Regional Bench of the Tribunal. Thus, Mr. A will have to file an appeal with the Supreme Court and not with the High Court.

13. The duties of the Anti-profiteering Authority are:

(i) to determine whether the reduction in tax rate or the benefit of input tax credit has been passed on by the seller to the buyer (hereinafter collectively referred to as 'benefit') by reducing the prices

(ii) to identify the taxpayer who has not passed on the benefit

(iii) to order

(a) reduction in prices

(b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of 18% from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be.

If the eligible person does not claim return of the amount or is not identifiable, the amount must be deposited in the Consumer Welfare Fund;

(c) imposition of penalty

(d) cancellation of registration

(iv) to furnish a performance report to the GST Council by the 10<sup>th</sup> of the month succeeding each quarter [Rule 127 of the CGST Rules, 2017].

14. As per section 54(3) of the CGST Act, 2017, a registered person may claim refund of unutilised input tax credit at the end of any tax period in the following cases:

- (i) **Zero rated supplies:** Supply of goods/services/both to an SEZ developer/unit or export of goods or services or both. However, refund of unutilized input tax credit shall not be allowed if:
- the goods exported out of India are subjected to export duty;
  - the supplier of goods or services or both avails of drawback in respect of CGST or claims refund of the IGST paid on such supplies.
- (ii) **Accumulated ITC on account of inverted duty structure:** Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.
15. (i) Advance ruling under GST can be sought by a registered person or a person desirous of obtaining registration under GST law [Section 95(c) of the CGST Act, 2017]. Therefore, it is not mandatory for a person seeking advance ruling to be registered.
- (ii) Section 97(2) of the CGST Act, 2017 stipulates the questions/matters on which advance ruling can be sought. It provides that advance ruling can be sought for, *inter alia*, determining the classification of any goods or services or both. Therefore, Ranjan can seek the advance ruling for determining the classification of the goods proposed to be supplied by him.

Determination of place of supply is not one of the specified questions/matters on which advance ruling can be sought under section 97(2). Further, section 96 of the CGST Act, 2017 provides that AAR constituted under the provisions of an SGST Act/UTGST Act shall be deemed to be the AAR in respect of that State/Union territory under CGST Act also.

Thus, AAR is constituted under the respective State/Union Territory Act and not the central Act. This implies that ruling given by AAR will be applicable only within the jurisdiction of the concerned State/Union territory.

It is also for this reason that the questions on determination of place of supply cannot be raised with the AAR. Hence, Ranjan cannot seek the advance ruling for determining the place of supply of the goods proposed to be supplied by him.

*Note: The above answer is based on the view taken by the CBEC in its e-flier issued on the subject of advance ruling. The e-flier is available on the CBEC's website. However, it can be also be argued that the question relating to determination of the liability to pay tax on goods and/or services as provided under section 96(2)(e) of the CGST Act, 2017 encompasses within its ambit the question relating to place of supply. This is so because place of supply is one of the factor to determine as to whether the supply is leviable to CGST & SGST or IGST.*

- (iii) Section 103(2) of the CGST Act, 2017 stipulates that the advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed. Therefore, once Ranjan has sought the advance ruling with respect to an eligible matter/question, it will be binding till the time the law, facts and circumstances supporting the original advance ruling remain same.
- (iv) No, the tax advisor's view is not correct. As per section 100 of the CGST Act, 2017, if the applicant is aggrieved with the finding of the AAR, he can file an appeal with Appellate Authority for Advance Ruling (AAAR). Similarly, if the concerned/jurisdictional officer of CGST/SGST does not agree with the findings of AAR, he can also file an appeal with AAAR.

Such appeal must be filed within 30 days from the receipt of the advance ruling. The Appellate Authority may allow additional 30 days for filing the appeal, if it is satisfied that there was a sufficient cause for delay in presenting the appeal.

- (v) Section 103 of the CGST Act provides that an advance ruling pronounced by AAR is binding only on the applicant who had sought it and on the concerned officer or the jurisdictional officer in respect of the applicant. This implies that an advance ruling is not applicable to similarly placed other taxable persons in the State. It is only limited to the person who has applied for an advance ruling.

Thus, Sambhav will not be able to apply the classification of the goods that will be decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi.

16.

**Computation of assessable value of product 'Z'**

Particulars		Amount
Ex-factory price of the goods		8,500 US \$
Freight from factory of the exporter to load airport (airport in the country of exporter)	250 US \$	
Loading and handling charges at the load airport	250 US \$	
Freight from load airport to the airport of importation in India	<u>4,500 US \$</u>	
Total cost of transport, loading and handling charges associated with the delivery of the imported goods to the place of importation	5,000 US \$	
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation (restricted to 20% of FOB value) [Note 1]		1,800 US \$
Insurance (actual)		2,000 US \$
CIF for customs purpose		12,300 US \$

Value for customs purpose	12,300 US \$
Exchange rate as per CBEC [Note 2]	₹ 60 per US \$
	<b>Amount (₹)</b>
<b>Assessable value (₹ 60 x 12,300 US \$)</b>	<b>7,38,000</b>
Add: Basic customs duty @ 10% [Note 3]	73,800
Add: Education cess @ 2% & Secondary & Higher Education Cess @ 1% of custom duty [3% of ₹ 73,800]	2,214
Value for the purpose of levying integrated tax [Note 4]	8,14,014
Add: Integrated tax leviable under section 3(7) @ 12%	97,681.68
<b>Total duty &amp; tax payable (rounded off)</b>	<b>1,73,696</b>

**Notes:**

- (1) In the case of goods imported by air, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation shall not exceed 20% of the FOB value of the goods. [Fifth proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].

FOB value in this case is the ex-factory price of the goods (8,500 US \$) plus the cost of transport from factory to load airport (250 US \$) plus loading and handling charges at the load airport (250 US \$) which is 9,000 US \$.

- (2) Rate of exchange determined by CBEC is to be considered [Clause (a) of the explanation to section 14 of the Customs Act, 1962].
- (3) Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or the rate in force on the date of arrival of aircraft, whichever is later.
- (4) Integrated tax is levied on the sum total of the assessable value of the imported goods and customs duties [Section 3(8) of the Customs Tariff Act, 1962]. Education Cess and Secondary Higher Education Cess leviable on integrated tax have been exempted vide *Notification Nos. 54 & 55 Cus both dated 30.06.2017*.
- (5) No landing charges are to be added to the CIF value in view of the amendment in rule 10(2) of the CVR vide *Notification No. 91/2017 – Cus. (NT) dated 26.09.2017*.

17. **Computation of assessable value of imported goods**

Particulars	Amount (US \$)
Price of the machine at the factory of the exporter	20,000
Add: Transport charges up to the port in the country of the exporter	1,000

[Note 1]	
Handling charges at the port in the country of the exporter [Note 1]	100
Charges for design and engineering work undertaken for the machine in US [Note 2]	5,000
Buying commission [Note 3]	<u>Nil</u>
FOB value	26,100.00
Add: Freight charges up to India	2,000.00
Insurance charges @ 1.125% of FOB [Note 4]	293.63
Transport charges from Mumbai to Cochin port [Note 5]	<u>Nil</u>
CIF value	28,393.63
Add: Unloading and handling charges paid at the place of importation [Note 6]	<u>Nil</u>
Assessable value	28,393.63
Assessable value in Indian rupees @ ₹ 60/ per \$	₹ 17,03,617.80
<b>Assessable value (rounded off)</b>	<b>₹ 17,03,618</b>

**Notes:**

- (1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value [Rule 10(2)(a) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].
- (2) Design and engineering work undertaken elsewhere than in India and necessary for the production of the imported goods is includible in the assessable value [Rule 10(1)(b)(iv) of the CVR].
- (3) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the CVR].
- (4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Third proviso to rule 10(2) of the CVR].
- (5) Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value [Sixth proviso to rule 10(2) of the CVR].
- (6) By virtue of the amendment carried out in rule 10(2) of the CVR vide *Notification No. 91/2017Cus. (NT) dated 26.09.2017*, only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value.



The loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the CIF value of the goods. [Circular No. 39 / 2017 Cus. dated 26.09.2017].

18. Rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007 (CVR) has been substituted by a new sub-rule. The new sub-rule provides that for the purposes of sub-section (1) of section 14 of the Customs Act, 1962 and these rules, the value of the imported goods shall be the value of such goods, and shall include -

- (a) the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation;
- (b) the cost of insurance to the place of importation:

Provided that where the cost referred to in clause (a) is not ascertainable, such cost shall be 20% of the free on board value of the goods.

Provided further that where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost referred to in clause (b) is ascertainable, the cost referred to in clause (a) shall be 20% of such sum:

Provided also that where the cost referred to in clause (b) is not ascertainable, such cost shall be 1.125% of free on board value of the goods.

Provided also that where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost referred to in clause (a) is ascertainable, the cost referred to in clause (b) shall be 1.125% of such sum.

Provided also that in the case of goods imported by air, where the cost referred to in clause (a) is ascertainable, such cost shall not exceed 20% of free on board value of the goods.

Provided also that in the case of goods imported by sea or air and transshipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transshipment shall be excluded.

Explanation-

The cost of transport of the imported goods referred to in clause (a) includes the ship demurrage charges on chartered vessels, lighterage or barge charges.

In the backdrop of the above provisions, the assessable value in the various cases will be computed as under:

**Case I** **Computation of assessable value**

<b>Particulars</b>	<b>US \$</b>
FOB value	1,000
<i>Add:</i> Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [20% of FOB value in terms of first proviso to rule 10(2) of CVR]	200
Cost of insurance [Includible in terms of rule 10(2)(b) of CVR]	<u>10</u>
<b>Assessable value [CIF value]</b>	<b>1,210</b>

**Case II**

<b>Particulars</b>	<b>US \$</b>
FOB value plus insurance charges	1,010
<i>Add:</i> Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [20% of sum of FOB value of the goods and the cost of insurance in terms of second proviso to rule 10(2) of CVR]	202
<b>Assessable value [CIF value]</b>	<b>1,212</b>

**Case III**

<b>Particulars</b>	<b>US \$</b>
FOB value	1,000
<i>Add:</i> Cost of sea transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [Includible in terms of rule 10(2)(a) of CVR]	60
Insurance [1.125% of sum of FOB value of the goods in terms of third proviso to rule 10(2) of CVR]	11.25
Assessable value [CIF value]	1,071.25
<b>Assessable value rounded off</b>	<b>1,071</b>

**Case IV**

<b>Particulars</b>	<b>US \$</b>
FOB value plus sea freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	1,060
<i>Add:</i> Insurance [1.125% of sum of FOB value of the goods and sea	11.925

freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation in terms of fourth proviso to rule 10(2) of CVR]	
Assessable value CIF value	1071.925
<b>Assessable value rounded off</b>	<b>1,072</b>

**Case V**

Particulars	US \$
FOB value	1,000
Add: Cost of air transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation is restricted to 20% of FOB value when transportation of goods is through air [Fifth proviso to rule 10(2) of CVR]	200
Cost of insurance	10
<b>Assessable value [CIF value]</b>	<b>1,210</b>

19. (a) **The statement is valid.** A new section 2(3A) has been inserted in the Customs Act, 1962 vide the Finance Act, 2017 to define beneficial owner to mean any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported.
- (b) **The statement is not valid.** The definition of customs area as provided under section 2(11) of the Customs Act, 1962 has been amended vide the Taxation Laws (Amendment) Act, 2017 to include within its ambit a warehouse too.
- The customs area is now defined to mean the area of a customs station **or a warehouse** and includes any area in which imported goods or export goods are ordinarily kept before clearance by customs authorities.
- (c) **The statement is valid.** The Finance Act, 2017 has included international courier terminal and foreign post office within the scope of customs station as defined under section 2(13) of the Customs Act, 1962.
- As per the amended section 2(13), a customs station means any customs port, customs airport, international courier terminal, foreign post office or land customs station.
20. (i) 'Clear first-Pay later' i.e., deferred duty payment is a mechanism for delinking duty payment and customs clearance. The aim is to have a seamless wharf to warehouse transit in order to facilitate just-in-time manufacturing. This scheme is in force w.e.f. 16<sup>th</sup> November, 2016.

- (ii) Central Government has permitted importers certified under Authorized Economic Operator programme as AEO (Tier-Two) and AEO (Tier-Three) to make deferred payment of import duty (eligible importers).

As a part of the ease of doing business focus of the Government of India, the CBEC has rolled out the AEO (Authorized Economic Operator) programme.

It is a trade facilitation move wherein benefits are extended to the entities who have demonstrated strong internal control systems and willingness to comply with the laws administered by the CBEC.

- (iii) The due dates for payment of deferred duty are -

S. No.	Goods corresponding to bill of entry returned for payment from	Due date of payment of duty, inclusive of the period (excluding holidays) as mentioned in section 47(2)
1.	1 <sup>st</sup> day to 15 <sup>th</sup> day of any month	16 <sup>th</sup> day of that month
2.	16 <sup>th</sup> day till the last day of any month other than March	1 <sup>st</sup> day of the following month
3.	16 <sup>th</sup> day till the 31 <sup>st</sup> day of March	31 <sup>st</sup> March

- (iv) If there is default in payment of duty by due date more than once in three consecutive months, the facility of deferred payment will not be allowed unless the duty with interest has been paid in full.

The benefit of deferred payment of duty will not be available in respect of the goods which have not been assessed or not declared by the importer in the bill of entry.

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

**Applicability of Finance Act, Legislative Amendments etc.  
for May, 2018 – Final (New) Examination**

**Paper 7 : Direct Tax Laws and International Taxation**

**Applicability of Finance Act, Assessment Year etc. for May 2018 Examination**

The provisions of direct tax laws, as amended by the **Finance Act, 2017**, including significant notifications and circulars issued and other legislative amendments made up to 31<sup>st</sup> October, 2017, are applicable for May, 2018 examination. The relevant assessment year is **A.Y.2018-19**.

**Paper 8: Indirect Tax Laws**

**Applicability of provisions of indirect tax laws for May, 2018 Examination**

The following are applicable for May, 2018 examination:

- (i) The provisions of CGST Act, 2017 and IGST Act, 2017, including significant circulars and notifications issued and other legislative amendments made upto 31<sup>st</sup> October, 2017.
- (ii) The provisions of the Customs Act, 1962, as amended by the Finance Act, 2017, including significant notifications and circulars issued and other legislative amendments made up to 31<sup>st</sup> October, 2017.

The Study Guidelines containing the list of topic-wise exclusions from the syllabus is attached as **Annexure I**.

### Study Guidelines

#### Final (New) Course Paper 8: Indirect Tax Laws

##### List of topic-wise exclusions from the syllabus

(1)	(2)	(3)
S. No. in the syllabus	Topics of the syllabus	Exclusions (Provisions which are excluded from the corresponding topic of the syllabus)
1(ii)	Levy and collection of CGST and IGST – Application of CGST/IGST law; Concept of supply including composite and mixed supplies, inter-State supply, intra-State supply, supplies in territorial waters; Charge of tax; Exemption from tax; Composition levy	<b>CGST Act, 2017 &amp; IGST Act, 2017</b> (i) Rate of tax prescribed for supply of <b>goods</b> * (ii) Rate of tax prescribed for supply of <b>services</b> * (ii) Exemptions for supply of goods
1(vii)	Procedures under GST – All procedures including registration, tax invoice, credit and debit notes, electronic way bill, accounts and records, returns, payment of tax including reverse charge, refund, job work	<b>CGST Act, 2017 and CGST Rules, 2017</b> (i) Tax deduction at source except the provisions made effective vide <i>Notification No. 33/2017 CT dated 15.09.2017</i> (ii) Collection of tax at source (iii) Registration of persons required to collect tax at source (iv) Filing of return by a person required to deduct tax at source (v) Submission of statement of supplies through an e-commerce operator (vi) Categories of supply of goods, tax on which is payable on reverse charge basis under section 9(3)

		(vii) Chapter XVI: E-Way Rules [Rules 138-138D] of CGST Rules, 2017 <b>IGST Act, 2017</b> Categories of supply of goods, tax on which is payable on reverse charge basis under section 5(3)
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**\*Rates specified for computing the amount payable under composition levy are included in the syllabus.**

**Notes:**

- (1) In the above table, in respect of the topics of the syllabus specified in column (2) the related exclusion is given in column (3). Where an exclusion has been so specified in any topic of the syllabus, the provisions corresponding to such exclusions, covered in other topic(s) forming part of the syllabus, shall also be excluded.
- (2) August 2017 edition of the Study Material is relevant for May, 2018 and November, 2018 examinations. The amendments - made after the issuance of this Study Material - to the extent covered in the Statutory Updates for May, 2018 and November, 2018 examinations alone shall be relevant for the said examinations. The Statutory Updates shall be hosted on the BoS Knowledge Portal.
- (3) Except the exclusions mentioned at point (ii) under topic no. 1(ii) of the syllabus and points (i) to (v) and (vii) under topic number 1(vii) of the syllabus, the entire content included in the August 2017 edition of the Study Material and the Statutory Updates for May, 2018 and November, 2018 examinations shall be relevant for the said examinations.