

MOCK TEST PAPER 1

FINAL COURSE: GROUP - II

PAPER – 7: DIRECT TAX LAWS AND INTERNATIONAL TAXATION

Working Notes should form part of the answer. Wherever necessary, suitable assumptions may be made by the candidates and disclosed by way of a note. However, in answers to Questions in Division A, working notes are not required.

All questions relate to Assessment Year 2022-23, unless stated otherwise in the question.

Total Marks: 100 Marks

Time Allowed: 3 Hours

Division A – Multiple Choice Questions

Write the most appropriate answer to each of the following multiple-choice questions by choosing one of the four options given. All questions are compulsory.

Case Scenario I

Dhruv Limited has three Units – A, B and C. It transferred its Unit C to Paras Limited by way of slump sale on 1st April, 2021. The Balance Sheet of Dhruv Limited as on that date is given below:

Liabilities	₹ (in lakhs)	Assets	₹ (in lakhs)
Paid up capital	2,900	Fixed Assets:	
Reserve & Surplus	1280	Unit A	525
		Unit B	475
Liabilities:		Unit C	985
Unit A	160	Other Assets:	
Unit B	465	Unit A	920
Unit C	335	Unit B	1,550
		Unit C	685
Total	5,140	Total	5,140

Additional information:

- Lump sum consideration on transfer of Unit C is ₹ 1,340 lakhs.
- Fixed assets of Unit C include land which was purchased at ₹ 85 lakhs in February, 2020 and revalued at ₹ 150 lakhs as on March 31, 2021. The stamp duty value of land on 1st April, 2021 was ₹ 190 lakhs.
- Other fixed assets represent plant and machinery and furniture, which are reflected at ₹ 835 lakhs (i.e., ₹ 985 lakhs less value of land) which represents written down value of those assets as per books. The written down value of these assets u/s 43(6) of the Income-tax Act, 1961 is ₹ 725 lakhs.
- Other assets do not include jewellery, artistic work, shares and securities.
- Liabilities represent ascertained liabilities and does not include provision for taxation or proposed dividend.
- Unit C was set up by Dhruv Limited in February 2020.
- Assume that the turnover of Dhruv Ltd. for F.Y. 2019-20 is ₹ 1455 lakhs and Dhruv Ltd. has **not** opted for section 115BAA.
- Book profit of Dhruv Ltd. computed as per section 115JB is ₹ 320 lakhs

Based on the facts of the above case scenario, choose the most appropriate answer to Q.1 to Q. 5 below:

1. For computing capital gains on slump sale of Unit C, what would be the deemed cost of acquisition and improvement for the purposes of section 48 and 49 and the resultant capital gains?
 - (a) ₹ 1270 lakhs and ₹ 105 lakhs, respectively
 - (b) ₹ 1270 lakhs and ₹ 70 lakhs, respectively
 - (c) ₹ 1160 lakhs and ₹ 215 lakhs, respectively
 - (d) ₹ 1160 lakhs and ₹ 180 lakhs, respectively
2. What is the tax liability on capital gain arising on slump sale of Unit C? Assume for the purpose of answering this MCQ that this is the only source of income of Dhaval Ltd.
 - (a) ₹ 50,07,600
 - (b) ₹ 62,60,800
 - (c) ₹ 71,77,560
 - (d) ₹ 59,81,300
3. If Unit C was set up on April, 2009 instead of February 2020, and the sale consideration is ₹ 3500 lakhs instead of ₹ 1340 lakhs, what would be the capital gains arising to Dhruv Ltd. on slump sale and the resultant tax liability? The CII of F.Y.2009-10 is 148 and F.Y.2021-22 is 317. Assume that there is no change in any other information given in the case scenario.
 - (a) ₹ 1015.40 lakhs and ₹ 236.55 lakhs, respectively
 - (b) ₹ 1015.40 lakhs and ₹ 225.99 lakhs, respectively
 - (c) ₹ 2340 lakhs and ₹ 520.79 lakhs, respectively
 - (d) ₹ 2340 lakhs and ₹ 545.13 lakhs, respectively
4. What would be the minimum alternate tax computed under section 115JB for A.Y.2022-23, if Dhruv Ltd. is located in an IFSC and derives its income solely in convertible foreign exchange?
 - (a) ₹ 32,04,864
 - (b) ₹ 53,41,440
 - (c) ₹ 33,54,624
 - (d) ₹ 55,91,040
5. If Dhruv Ltd. is a company, being a unit of an IFSC, deriving income solely in convertible foreign exchange and has distributed dividend of ₹ 200 lakhs in the P.Y.2021-22, what would be the tax implications in the hands of Dhruv Ltd. and shareholders?
 - (a) No distribution tax in the hands of Dhruv Ltd. and no income-tax in the hands of the shareholders in respect of dividend so distributed
 - (b) Dhruv Ltd. is liable to pay distribution tax; income is exempt in the hands of shareholders
 - (c) No distribution tax in the hands of Dhruv Ltd.; shareholders liable to tax on dividend income
 - (d) No distribution tax in the hands of Dhruv Ltd.; shareholders liable to tax on aggregate dividend income in excess of ₹ 10 lakh.

(2 x 5 = 10 Marks)

Case Scenario II

Mittal Pvt. Ltd. ("M") files its return of income for the P.Y. 2021-22 on 30th September 2022 declaring loss of ₹ 18,00,000. The rate of income-tax applicable to the company is 25%.

The tax auditor of M, in his audit report submitted under section 44AB, has reported a disallowance of ₹ 1,60,000 towards personal expenditure of directors as no evidence was produced by M in support of this expenditure. However, M did not disallow the same in its computation and return of income.

The return of income was processed by the Centralised Processing Centre making an addition of ₹ 1,60,000 towards personal expenditure and the loss u/s 143(1) was computed at ₹ 16,40,000.

The return of income was selected for scrutiny assessment and by order passed u/s 143(3), the loss as per normal provisions was reduced to ₹ 12,20,000 by making an addition of ₹ 4,20,000.

The assessment was reopened u/s 147 and by order passed u/s 147, the loss as per preceding order u/s 143(3) was converted into income of ₹ 2,20,000.

From the information given above, choose the **most appropriate answer** to the following questions (Ignore MAT) –

6. Which of the following statements regarding penalty on addition of ₹ 1,60,000 towards personal expenditure is correct?
- (i) Since M has claimed deduction of amount incurred towards personal expenditure of directors, M shall be considered to have under-reported its income.
 - (ii) The under-reporting on account of claiming personal expenditure of directors as deduction can be construed as misreporting of income as it is a claim of expenditure not substantiated by any evidence.
 - (iii) Since addition of ₹ 1,60,000 is an adjustment referred to in section 143(1)(a), no penalty is leviable in respect of this addition.
 - (iv) No penalty is leviable if M offers an explanation and the Assessing Officer is satisfied that the explanation is *bona fide* and M has disclosed all the material facts to substantiate the explanation offered.
- (a) (i) and (iv)
(b) (ii) and (iv)
(c) (iv) only
(d) (iii) only
7. What is the penalty leviable u/s 270A as a consequence of assessment u/s 143(3), if the addition was not on account of misreporting?
- (a) ₹ 52,500
(b) ₹ 54,600
(c) ₹ 1,09,200
(d) ₹ 2,18,400
8. What is the penalty leviable u/s 270A at the time of passing of the order u/s 147 considering that all additions are on account of misreporting of income?
- (a) ₹ 7,48,800
(b) ₹ 5,20,000
(c) ₹ 1,87,200
(d) ₹ 3,74,400
9. Assuming that the additions made in the order u/s 147 are not on account of misreporting of income but only on account of under-reporting, M seeks to claim immunity from imposition of penalty u/s 270A and initiation of proceedings u/s 276C of the Act by filing an application in this regard before the Assessing Officer. What are the other conditions that need to be satisfied by M in this regard?
- (i) Pay the tax and interest payable as per the order u/s section 147 within the period specified in the notice of demand.

- (ii) Pay the tax as per the order u/s section 147 within the period specified in the notice of demand.
- (iii) Contest the additions made in the order, after payment of tax and interest, within the period specified in the notice of demand.
- (iv) No appeal should be or should have been filed against the order.

The correct answer is-

- (a) (ii) and (iv)
 - (b) (i) and (iv)
 - (c) (i) and (iii)
 - (d) (ii) and (iii)
10. Out of the addition of ₹ 4,20,000 made by order passed u/s 143(3), an amount of ₹ 1,80,000 is on account of a false entry deliberately made by M in its books of account. Apart from penalty under section 270A, what are the other prosecution and penal consequences, if any, that would be attracted in case of M?
- (a) Once penalty u/s 270A is levied, no other penalty will be levied but prosecution may be initiated u/s 276C
 - (b) Penalty of ₹ 54,000 u/s 271AAD and prosecution u/s 276C would be attracted
 - (c) Penalty of ₹ 1,80,000 u/s 271AAD and prosecution u/s 276C would be attracted
 - (d) Penalty u/s 271AAD may be levied but prosecution u/s 276C will not be initiated

(2 x 5 = 10 Marks)

11. M/s. Skyline Airlines, incorporated as a company in Country X, operated its flights to India and *vice versa* during the year 2021-22 and collected charges of ₹ 40 crores for carriage of passengers and cargo from Mumbai to Country X and ₹ 120 crores were received in US Dollars for the passenger fare from Country X to Mumbai. Out of ₹ 120 crores, US dollars equivalent to ₹ 40 crores is received in India. The total expenses for the year on operation of such flights were ₹ 78.8 crores. What would be the total income and tax liability of M/s. Skyline Airlines for A.Y. 2022-23?
- (a) ₹ 4 crores and ₹ 1,69,72,800
 - (b) ₹ 8 crores and ₹ 3,39,45,600
 - (c) ₹ 1,20,00,000 and ₹ 50,91,840
 - (d) ₹ 4 crores and ₹ 1,66,40,000

(2 Marks)

12. A notified infrastructure debt fund eligible for exemption under section 10(47) of the Income-tax Act, 1961 has to pay interest of ₹ 5.2 lakhs to a company incorporated in a foreign country. The foreign company incurred expenditure of ₹ 20,000 for earning such interest. The fund also has to pay interest of ₹ 3.2 lakhs to Mr. Peter, who is a resident of Country M, a notified jurisdictional area. Which of the following statements is correct?
- (a) No tax deduction at source is required in respect of both the payments
 - (b) No TDS is required in respect of ₹ 5.2 lakhs payable to the foreign company. However, payment of interest to Peter attracts TDS@31.2%
 - (c) TDS@5.20% is attracted on ₹ 5,00,000 payable to the foreign company. TDS@31.2% is attracted on interest payment of ₹ 3.2 lakhs to Mr. Peter
 - (d) TDS@5.20% is attracted on interest of ₹ 5.2 lakhs payable to the foreign company. TDS@31.2% is attracted on interest of ₹ 3.2 lakhs payable to Mr. Peter

(2 Mark)

13. Mr. Sahil has been holding 10% units in Real Estate Investment Trust, 7.5% units in Securitisation Trust and 5% units in Investment Fund for more than 18 months. The following incomes were earned by the Trust/Fund during the P.Y. 2021-22:

Particulars	Investment Fund (₹)	Real Estate Investment Trust (₹)	Securitisation Trust (₹)
Rental Income from directly held real estate property	-	12,00,000	-
Interest income from Special Purpose Vehicle	-	8,20,000	-
Profit from Business	5,50,000	-	6,30,000
Other Income (not in the nature of dividend)	3,20,000	1,20,000	-
Long-term capital loss	(11,50,000)	-	-

REIT, Investment Fund and Securitization trust distributed 90% of their income during the P.Y. 2021-22. What would be the total income of Mr. Sahil for P.Y. 2021-22, assuming that apart from share in above income, Mr. Sahil had only long-term capital gains of ₹ 3,80,000?

- (a) ₹ 5,87,750
(b) ₹ 5,67,550
(c) ₹ 5,66,975
(d) ₹ 5,62,825

(2 Marks)

14. Mr. Parth, a resident aged 63 years, and his brother Mr. Veer, a non-resident aged 65 years, earned dividend of ₹ 6.5 lakhs and ₹ 4.8 lakhs, respectively, from Atharv Ltd., an Indian company in December 2021. The interest expenditure incurred by them in the P.Y. 2021-22 on loan taken for investing in shares of Atharv Ltd. is ₹ 1.50 lakh and ₹ 80,000, respectively. What is the tax liability on such income, assuming it is the only source of income of Mr. Parth and Mr. Veer and they wish to make maximum tax savings?

- (a) ₹ 15,080 and ₹ 9,360, respectively
(b) ₹ 14,560 and ₹ 9,360, respectively
(c) ₹ 14,560 and ₹ 99,840, respectively
(d) ₹ 15,080 and ₹ 99,840, respectively

(2 Marks)

15. Mr. Suhash has to pay ₹ 4.2 lakhs on 4.2.2022 to "Go Trip", a travel agency, for a holiday package to Paris for himself and his wife. He obtained a loan of ₹ 12 lakhs for higher education of his son studying in ABC University, London, on 15.2.2022 from Bank of India, and remitted, under LRS of RBI, the said sum through the same bank, Bank of India, which is also an authorised dealer. Is tax required to be collected at source from Mr. Suhash by travel agency and the bank? If so, how much?

- (a) No tax is required to be collected by the travel agency since the payment for overseas tour programme package is less than ₹ 7 lakhs; tax has to be collected by Bank of India @5% of ₹ 5 lakhs, being the amount in excess of ₹ 7 lakhs
(b) No tax is required to be collected by the travel agency since the payment for overseas tour programme package is less than ₹ 7 lakhs; tax has to be collected by Bank of India @0.5% of ₹ 5 lakhs, being the amount in excess of ₹ 7 lakhs
(c) Tax has to be collected by the travel agency@5% on ₹ 4.2 lakhs; and by Bank of India @5% of ₹ 5 lakhs, being the amount in excess of ₹ 7 lakhs
(d) Tax has to be collected by the travel agency@5% on ₹ 4.2 lakhs; and by Bank of India @0.5% of ₹ 5 lakhs, being the amount in excess of ₹ 7 lakhs

(2 Marks)

Division B – Descriptive Questions

Question No. 1 is compulsory

Attempt any **four** questions from the remaining **five** questions

1. STP Construction Ltd., an Indian company is engaged in the business of executing civil contracts awarded by various companies in relation to infrastructure facility.

Statement of Profit & Loss for the year ended 31st March, 2022 reveals a net profit (before tax) amounting to ₹ 85,00,000 after debiting/crediting the following items:

- (a) Interest of ₹ 3,00,000 due to a public financial institution for the last quarter of the financial year 2021-22 paid on 20th December, 2022.
- (b) ₹ 6,00,000 to Mr. George, a non-resident, towards fee for technical services without deduction of tax at source. TDS was, however, deducted and paid on 30th December, 2022.
- (c) Damages amounting to ₹ 15,00,000 paid to the Government of Maharashtra as per the terms of contract for defects found in construction of a flyover after 5 years of its construction.
- (d) Depreciation charged ₹ 20,00,000.
- (e) Marked to market loss amounting to ₹ 6,00,000 in respect of an unsettled derivative contract. The contract was settled in May, 2022 with a gain of ₹ 1,00,000.
- (f) Profit of ₹ 10,00,000 on sale of land to Max Inc., U.S.A. which is a wholly owned subsidiary company.
- (g) Retention money amounting to ₹ 10,00,000 held by a public sector undertaking which can be released after expiry of two years on the satisfaction of certain performance criteria as per the terms of contract.
- (h) ₹ 3,00,000 being interest on fixed deposit made with a bank as margin money for obtaining a guarantee required by a State Government for a particular contract.
- (i) Income of ₹ 10,00,000 received from a Real Estate Investment Trust (REIT), the break-up of which is as follows:
 - Component of short-term capital gain on sale of development properties by the REIT ₹ 6,00,000.
 - Component of rental income from properties owned by the REIT ₹ 4,00,000.

Other Information:

- (i) Depreciation as per Income-tax Rules, 1962 ₹ 25,00,000.
- (ii) Land sold to Max Inc. was acquired at a cost of ₹ 30,00,000 on 25.05.2015. Value assessed by the Stamp Valuation Authority on the date of sale was ₹ 50,00,000 (Cost Inflation Index- Financial Year 2015-16 : 254; Financial Year 2021-22 : 317)
- (iii) 102 new employees employed during the P.Y. 2021-22, the details of whom are as follows –

	No. of employees	Date of employment	Regular/Casual	Total monthly emoluments per employee (₹)
(i)	15	1.4.2021	Regular	24,000
(ii)	35	1.5.2021	Regular	26,000
(iii)	42	1.8.2021	Casual	24,500
(iv)	10	1.9.2021	Regular	24,000

The regular employees participate in recognized provident fund while the casual employees do not.

The due date for filing of return of income for Assessment Year 2022-23 be taken as 30-11-2022.

Compute the total income and tax liability for the Assessment Year 2022-23 clearly stating the reasons for treatment of each item. The Company has opted for concessional rate of tax under section 115BAA. **(14 Marks)**

2. (a) (i) Mr. Adarsh sold his residential property on 22nd March, 2022 for ₹ 95 lakh and paid brokerage@1% of sale price. He had purchased the said property in August 2002 for ₹ 27,36,000. In July, 2022, he invested ₹ 78 lakh in equity of TMN (P) Ltd., an eligible start-up company (set up on 1st March, 2022), which constituted 29% of share capital of the said company. TMP(P) Ltd. utilized the said sum for the following purposes –

- (a) Purchase of new plant and machinery during August 2022 – ₹ 66 lakh
- (b) Included in (a) above is ₹ 8 lakh for purchase of cars.
- (c) Air-conditioners purchased for ₹ 1 lakh, included in the (a) above, were installed at the residence of Mr. Adarsh.
- (d) Amount deposited in specified bank on 18.9.2022 – ₹ 12 lakh

Compute the chargeable capital gain for the A.Y.2022-23. Assume that Mr. Adarsh is liable to file his return of income on or before 30th September, 2022 and he files his return on 25.09.2022.

Cost Inflation Index: 2002-03: 105, 2021-22: 317.

(4 Marks)

- (ii) Priyanshu, Managing Director of HE Pvt. Ltd. holds 72% of its paid up capital of ₹ 25 lakhs. The balance in General Reserve on 30.4.2021 was ₹ 8 lakhs. The company on 30.04.2021 gave an interest-free loan of ₹ 5.5 lakhs to its Supervisor having salary of ₹ 5,400 p.m., who in turn on 22.5.2021 advanced the said amount of loan so taken from the company to Shri Priyanshu. The Assessing Officer had treated the amount of advance as deemed dividend. Is the action of Assessing Officer correct?

(4 Marks)

- (b) Mr. Dinesh, aged 64 years, is a resident individual having income from the following sources:

- (i) Income from a sole-proprietary business in Pune = ₹ 50 lakhs.
- (ii) Share of profit from a partnership firm in Delhi = ₹ 30 lakhs.
- (iii) Agricultural Income (gross) from coffee estates in Country D, a foreign country with which India has no DTAA, CAD 32000. Tax deducted on the above income CAD 8,000
- (iv) Brought forward business loss of F.Y.2019-20 in Country D was CAD 4,000 which is not permitted to be set off against other income as per the laws of that country.
- (v) Mr. Dinesh has deposited ₹ 1,50,000 in public provident fund and paid medical insurance premium of ₹ 25,000 by account payee cheque to insure his health. He has also paid ₹ 55,000 as insurance premium to insure the health of his mother and father, who are resident Indians aged 83 years and 85 years, respectively. He also incurred ₹ 50,000 on the medical treatment of his dependent sister, who is a person with severe disability. His sister does not claim deduction under section 80U.

Compute total income and tax liability of Mr. Dinesh for the A.Y. 2022-23, assuming that 1 CAD = ₹ 60. Assume that Mr. Dinesh does not opt for section 115BAC. **(6 Marks)**

3. (a) Examine the tax consequences for A.Y.2022-23 in the case of the following charitable institution/trust, considering each case independently -
- (i) A charitable institution, having its main object as “any other object of general public utility”, carries on business in the course of actual carrying out of such advancement of any other object of general public utility and maintains separate books of account in respect of business. The gross receipts during the P.Y.2021-22 is ₹ 2.10 crore, which comprises of receipts of

₹ 52 lakh from such business and ₹ 1.58 crore by way of voluntary contributions (not being corpus donations). It has applied 85% of its gross receipts for charitable purposes.

- (ii) A charitable trust paid annual rent of ₹ 18 lakh in the P.Y.2020-21 and ₹ 21 lakh in the P.Y.2021-22 in respect of a building used for charitable purposes, after deducting tax at source. However, tax deducted on such rent in the P.Y.2020-21 was remitted only in December, 2021; and tax deducted in the P.Y.2021-22 was remitted only in July, 2022.
- (iii) Social Welfare is a charitable institution registered under section 12AA. To continue claiming the benefits of the exemption provisions contained in sections 11 & 12 for the assessment year 2022-23, it wants to apply for re-registration under section 12AB. What would be the effective date for making the application for re-registration under section 12AB? The trust wants to confirm whether the registration granted under section 12AB has the same perpetual validity as granted under section 12AA. **(8 Marks)**

- (b) Finetune Ltd., an Indian company, declared total income of ₹ 1,900 crores computed in accordance with Chapter IV-D before making primary adjustment, if required, in respect of the loan transaction with Iris Inc, a Country M company, for the year ended 31.03.2022. Iris Inc. had advanced a loan of Euro 380 crores carrying interest@9% p.a. on 1.4.2021 to Finetune Ltd. The total book value of assets of Finetune Ltd. was ₹ 58,420 crores. Assume that the amount of interest computed@9% p.a. and payable to Iris Inc. does not exceed 30% of EBITDA and that this is the only loan taken by Finetune Ltd.

Iris Inc also advanced a loan of similar nature and amount to Bigbumper Ltd., another Indian company@7% p.a. during the F.Y. 2021-22. The value of 1 Euro may be taken as ₹ 90. You are required to:

- (i) Examine whether transfer pricing provisions under the Income-tax Act, 1961 would be attracted in this case and if so, on what basis.
- (ii) Advise Finetune Ltd. regarding primary adjustments, if any, to be made to the above income keeping in mind the transfer pricing provisions contained in the Income-tax Act, 1961 and compute the total income for A.Y.2022-23.
- (iii) Elaborate on secondary adjustments, if any, required to be made under the provisions of Income-tax Act, 1961, assuming that Finetune Ltd. has made the primary adjustment *suo moto*.
- (iv) Calculate the additional income-tax liability, if Finetune Ltd. opts for payment of additional income-tax in lieu of making secondary adjustment. **(6 Marks)**

- 4. (a) An Indian company pays gross salary including allowances and monetary perquisites amounting to ₹ 7,30,000 to Mr. Arun, General Manager. Besides, the company provides non-monetary perquisites to him whose value is estimated at ₹ 1,20,000. Tax on non-monetary perquisite is paid by the company. General manager is opting for the provisions of section 115BAC. Examine the liability for tax deduction at source in the hands of Indian company. **(4 Marks)**
- (b) ABC Bank credited ₹ 83,60,000 towards interest on the deposits in a separate account for macro-monitoring purposes by using Core-branch Banking Solutions (CBS) software. No tax was deducted at source in respect of interest on deposits so credited even where the interest in respect of some depositors exceeded the limit of ₹ 40,000.

The Assessing Officer disallowed 30% of interest expenditure, where the interest on time deposits credited exceeded the limit of ₹ 40,000 and also levied penalty under section 271C.

Decide the correctness of action of the Assessing Officer. **(4 Marks)**

- (c) (i) M/s. Citax.com, an e-commerce operator, incorporated in Japan has no physical presence in India. It has no permanent establishment in India. It provided service to persons resident in India by way of sale of online advertisement during the previous year 2021-22. The bill (or

aggregate amount of bills) to a recipient of service during the financial year does not exceed ₹ 1 lakh per recipient of service (Gross amount of all bills is ₹ 2.10 crores). Discuss the implications of Equalisation levy on Citax.com for the Assessment year 2022-23. **(3 Marks)**

- (ii) SPO Ltd., a domestic company, applied for advance ruling on 1.5.2021 in relation to tax liability arising out of transactions valuing ₹122 crore which is proposed to be undertaken by it. The advance ruling was pronounced on 25.8.2021. Is the same binding on SPO Ltd.? Examine.

Would your answer change if the advance ruling was pronounced on 5.10.2021? What would be the remedy available to SPO Ltd. if it is aggrieved by the advance ruling pronounced on 5.10.2021? Examine. **(3 Marks)**

5. (a) A search under section 132 was initiated in the premises of Mr. X on 30.4.2021 and undisclosed money and jewellery belonging to Mr. X was found in his premises. Examine the penal provisions under the Income-tax Act which are attracted in this case, assuming that the undisclosed assets were acquired out of his undisclosed income of previous year 2020-21. **(4 Marks)**
- (b) Mr. Sahil and Mr. Rahul are two friends. Mr. Sahil is engaged in export of fabrics and his friend Mr. Rahul is engaged in trading of commodities. For A.Y.2017-18, A.Y.2018-19, A.Y. 2019-20 and A.Y.2020-21 information is flagged as per the risk management strategy formulated by the CBDT for Mr. Sahil. The income escaping assessment for these years aggregate to ₹ 38 lakhs.

A search was initiated u/s 132 in April, 2021, in the business premises of Mr. Rahul.

Can the Assessing Officer issue notice under section 148 to Mr. Sahil and Mr. Rahul in May, 2021? If so, in respect of which assessment years can notice be issued? Is it necessary that they be provided an opportunity of being heard before issuance of notice? Examine. **(4 Marks)**

- (c) What is the General Rule of Interpretation under Vienna Convention of Law of Treaties? **(6 Marks)**

6. (a) The directors of a private company are personally liable to pay the income tax due from the company but their liability does not extend towards interest and penalty payable by the company. Discuss? **(4 Marks)**

- (b) Ipse Pvt. Ltd. is a domestic company in India. Den Pvt. Ltd. is a company incorporated in Country 'X' and it is a non-resident in India. Den Pvt. Ltd. forms a company Zen Pvt. Ltd, its 100% subsidiary, in Country 'Y'. Zen Pvt. Ltd. and Ipse Pvt. Ltd. form a joint venture company Ren (P) Ltd. in India on 10.04.2021. There is no other activity in Zen Pvt. Ltd. As per the joint venture agreement, 49% of Ren (P) Ltd.'s equity is allotted to Zen Pvt. Ltd. and 51% is allotted to Ipse Pvt. Ltd. Zen Pvt. Ltd. is also designated as a permitted transferee of Den Pvt. Ltd. Permitted transferee means that though shares of Ren (P) Ltd. are held by Zen Pvt. Ltd, all rights of voting, management, right to sell etc., are vested in Den Pvt. Ltd. On 08.03.2022, the shares of Ren (P) Ltd. held by Zen Pvt. Ltd. are sold to CFL Pvt. Ltd., a company connected to the Ipse Pvt. Ltd. group. The India-Country 'Y' tax treaty provides for non-taxation of capital gains in the Source Country and Country 'Y' charges no capital gains tax in its domestic law. So, as per the tax treaty with Country 'Y', capital gains arising to Zen Pvt. Ltd. are not taxable in India. As per India-Country X tax treaties, capital gains is chargeable to tax in the source country.

Examine, whether General Anti-Avoidance Rules (GAAR) can be invoked to deny the treaty benefit, assuming that the prescribed conditions for application of GAAR are satisfied. **(4 Marks)**

- (c) Flax Ltd., a company incorporated in Country "F", has the following incomes in India during the year ended on 31.03.2022.
- (i) Dividend of ₹ 8,50,000 earned on Global Depository Receipts of MN Ltd., an Indian company, issued under a scheme of Central Government against the initial issue of shares of the company and purchased by Flax Ltd. in foreign currency through an approved intermediary.

- (ii) Dividend of ₹ 16,80,000 earned on equity shares of Indian companies.
- (iii) Royalty amounting to ₹ 8,76,000, received from Flip Ltd., an Indian company, in pursuance of an agreement entered between Flip Ltd. and Flax Ltd. The said agreement is not approved by the Central Government.
- (iv) Business Income of ₹ 9,50,000 from a unit established at Surat.
- (v) Interest of ₹ 2,88,000 earned on debentures of ₹ 32,00,000 issued on 1st July 2021, in consideration of providing technical knowhow to Sangita Ltd., an Indian Company, for the purpose of business carried out in India. Flax Ltd. received the consideration in pursuance to an agreement approved by the Central Government.

Compute the total income and tax liability of Flax Ltd. for the Assessment Year 2022-23, assuming that it does not have a PE in India and its POEM is outside India.

Note – No DTAA exists between India and Country “F”.

(6 Marks)