

MOCK TEST PAPER 1
FINAL (OLD) COURSE: GROUP - II
PAPER – 7: DIRECT TAX LAWS

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 2021-22, 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

The following information pertains to Mr. Devansh an Indian citizen, non-resident in India for the previous year 2020-21:

	Particulars	₹	₹
(i)	Dividend from MNO Ltd., an Indian Company (Gross)	1,25,000	
	Less: Interest on loan taken for purchase of shares of MNO Ltd.	<u>30,000</u>	95,000
(ii)	Interest on debentures of TLP Pvt. Ltd. (subscribed in convertible foreign exchange)	1,20,000	
	Less: Interest on loan taken for purchase of debentures	<u>20,000</u>	1,00,000
(iii)	Long-term capital gains on sale of debentures of XYZ Ltd. subscribed in convertible foreign currency:		
	Sale on 15 th March 2021	16,25,000	
	Purchased on 10 th June, 2004	<u>4,50,000</u>	
		11,75,000	
	Less: Commission to brokers at the time of sale	<u>7,000</u>	11,68,000
(iv)	Re-invested the sale proceeds of debentures for purchase of listed shares of an Indian company ABC Ltd. on 30 th April, 2021		4,50,000

Cost Inflation Index: F.Y. 2004-05 - 113; F.Y.2020-21 – 301.

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

- What is the amount of dividend taxable in the hands of Mr. Devansh and at what rate MNO Ltd. is required to deduct tax at source on dividend income distributed to Mr. Devansh? Ignore surcharge and cess.
 - ₹ 95,000 and 10%
 - ₹ 1,00,000 and 10%
 - ₹ 95,000 and 20%
 - ₹ 1,25,000 and 20%

2. Assuming Mr. Devansh is a resident in India for the P.Y. 2020-21, determine the amount of dividend taxable in the hands of Mr. Devansh and at what rate MNO Ltd. is required to deduct tax at source on dividend income distributed to Mr. Devansh?
 - (a) ₹ 95,000 and 10%
 - (b) ₹ 1,00,000 and 10%
 - (c) ₹ 95,000 and 20%
 - (d) ₹ 1,25,000 and 20%
3. What is the amount of interest on debentures of TLP Pvt. Ltd. taxable in the hands of Mr. Devansh and at what rate? Ignore surcharge and cess.
 - (a) ₹ 1,20,000 taxable @20%
 - (b) ₹ 1,00,000 taxable @20%
 - (c) ₹ 1,00,000 taxable at normal rates of tax (slab rates)
 - (d) ₹ 1,20,000 taxable at normal rates of tax (slab rates)
4. What would be the amount of capital gains taxable in the hands of Mr. Devansh on sale of debentures of XYZ Ltd., if he opts for the provisions of Chapter XII-A of the Income-tax Act, 1961? Ignore the effect of first proviso to section 48.
 - (a) LTCG of ₹ 11,68,000
 - (b) LTCG of ₹ 8,43,155
 - (c) LTCG of ₹ 8,49,615
 - (d) LTCG of ₹ 8,44,554
5. Assuming that Mr. Devansh is a resident in India for the previous year 2020-21, what would be the amount of taxable capital gains on sale of debentures of XYZ Ltd. in the hands of Mr. Devansh?
 - (a) ₹ 11,68,000
 - (b) ₹ 4,19,327
 - (c) ₹ 8,43,155
 - (d) ₹ 8,44,554

(2 x 5 = 10 Marks)

Case Scenario II

The assessment of Shubh Associates, a partnership firm, for the assessment year 2018-19 was made under section 143(3) on 28th August, 2020. The Assessing Officer made two additions to the income of the assessee viz.

- (i) addition of ₹ 4 lacs under section 40(a)(ia) due to non-furnishing of evidence of payment of TDS and
- (ii) addition of ₹ 5.5 lacs on account of unexplained cash credit.

The assessee contested addition on account of unexplained cash credit in appeal to the Commissioner (Appeals). The appeal was decided in February, 2021 against the assessee.

On 12th April, 2021, the Assessing Officer issued a notice under section 142(1) calling upon Shubh Associates to file return of income for Assessment Year 2020-21. In response to the said notice, the Shubh Associates furnished a return of loss and claimed carry forward of business loss and unabsorbed depreciation in the return.

Shubh Associates pays interest on loan @14% to its partners Anil & Ajay from 1.4.2020, being the date of loan, which amount to ₹ 7 lakhs in total in the P.Y. 2020-21. The same was approved by modification of the partnership deed on 1.6.2020 w.r.e.f. 1.4.2020. Anil, a non-resident is a working partner but Ajay, who is

resident in India, is not a working partner.

Further, Shubh Associates furnished the following information pertaining to installments paid to a NBFC during the previous year 2020-21 towards loan borrowed for the business:

Month	Amount	Mode of Payment
30 th April	₹ 1,20,000	Cash
31 st May	₹ 1,50,000	Account payee cheque
30 th June	₹ 1,50,000	BHIM
31 st July	₹ 1,20,000	Cash
31 st August	Rs 50,000	Cash
30 th September	Rs 3,00,000	Cash

Based on the facts of the above case scenario, choose the most appropriate answer to Q. 6 to 10 below:

6. Would Shubh Associates be entitled to carry forward of business loss and unabsorbed depreciation claimed in the return?
 - (a) Yes, it can carry forward both business loss and unabsorbed depreciation
 - (b) No, it cannot carry forward the business loss and unabsorbed depreciation
 - (c) Yes, it can carry forward business loss but cannot carry forward unabsorbed depreciation
 - (d) Yes, it can carry forward unabsorbed depreciation but cannot carry forward business loss.
7. Can Shubh & associates apply for rectification under section 154 or revision under section 264 with respect to addition of ₹ 5.5 lacs on account of unexplained cash credit?
 - (a) It can either apply for revision before the Commissioner under section 264 or can make application for rectification under section 154
 - (b) It cannot apply for revision before the Commissioner under section 264 but can make application for rectification under section 154
 - (c) It can apply for revision before the Commissioner under section 264 but cannot make application for rectification under section 154
 - (d) It can neither apply for revision before the Commissioner under section 264 nor can make application for rectification under section 154
8. Would any penalty is leviable for installments received by NBFC? If yes, what would be amount of penalty and who can impose such penalty?
 - (a) No penalty is leviable
 - (b) Yes, penalty is leviable for ₹ 3,00,000 under section 271DA. It can be imposed by the Joint Commissioner.
 - (c) Yes, penalty is leviable for ₹ 5,90,000 under section 271DA. It can be imposed by the Joint Commissioner.
 - (d) Yes, penalty is leviable for ₹ 3,00,000 under section 271DA. It can be imposed by any Income-tax authority
9. Would tax required to be deducted at source on payment of interest to Mr. Ajay and Mr. Anil?
 - (a) No tax is required to be deducted at source in respect of interest payment to Mr. Anil & Mr. Ajay.
 - (b) Yes tax is required to be deducted at source in respect of payments to Mr. Anil & Mr. Ajay.
 - (c) No tax is required to be deducted in respect of payment to Mr. Anil but tax is required to be deducted in respect of payment to Ajay.

- (d) No tax is required to be deducted in respect of payment to Ajay but tax is required to be deducted in respect of payment to Anil.
10. What is the amount of interest to be allowed while computing business income of the firm for A.Y. 2021-22, assuming that the tax deductible at source, if any, has been deducted and deposited on time?
- ₹ 6 lakhs
 - ₹ 5 lakhs
 - ₹ 3 lakhs
 - ₹ 2.5 lakhs
- (2 x 5 = 10 Marks)**
11. Mr. Anish, a resident individual aged 45 years, sold a house property on 16.01.2021. On the said transaction, he earned a long-term capital gain of ₹ 1,25,50,000. He invested a sum of ₹ 50,00,000 in capital gains bonds specified in section 54EC on 15.03.2021. He further invested a sum of ₹ 50,00,000 in the same bonds on 14.06.2021. His total income (excluding LTCG on such house property) comprising of income from other sources only for the financial year 2020-21 was ₹ 1,50,00,000. He does not opt for section 115BAC. Compute the tax payable by him for the A.Y. 2021-22.
- ₹ 75,69,250
 - ₹ 69,63,710
 - ₹ 74,12,210
 - ₹ 57,67,710
- (2 Marks)**
12. Kunal & Co LLP engaged in manufacturing business withdrew from its bank account ₹ 70 lakhs by cash up to 31.08.2020 and ₹ 55 lakhs from 01-09-2020 to 31-03-2021. The purpose of withdrawal from bank was for buying agricultural produce, being raw material required for manufacture for finished products by it. Kunal & Co LLP always files its return of income before the due date. Are TDS provisions applicable on such withdrawals? If yes, determine the amount of TDS.
- No; TDS provisions are not attracted
 - Yes; TDS of ₹ 50,000 is required to be deducted
 - Yes; TDS of ₹ 1,25,000 is required to be deducted
 - Yes; TDS of ₹ 2,10,000 is required to be deducted
- (1 Mark)**
13. The tax assessment of Mr. Bimal was completed on 20-12-2020 and the tax due was determined as ₹ 125 lakhs. The assessee has the following (i) Bank fixed deposit with Canara Bank ₹ 25 lakhs; (ii) Receivable from Shridhar & Co Ltd ₹ 25 lakhs. He gifted a land to his son (aged 38 years) 3 years ago whose present market value is ₹ 22 lakhs. He gifted a diamond necklace to his son's wife evidenced by a gift deed dated 05.10.2016. He owns a residential apartment in London acquired 13 years ago. Which of the movable/immovable property can be attached by the Tax Recovery Officer for recovery of tax?
- bank fixed deposits,
 - receivables from Shridhar & Co. Ltd;
 - residential apartment in London.
 - diamond necklace gifted to his son's wife
 - land transferred to his son
- Choose the correct option
- (i), (ii), (iii), (iv) and (v)
 - (i), (ii), (iii) and (iv)
 - (i), (ii) and (iii)

- (d) (i), (iii) and (iv) (2 Marks)
14. Two tonnage tax companies X Ltd. and Y Ltd. are amalgamated to form a new tonnage company Z Ltd., a qualifying company and the option for tonnage tax scheme of X Ltd. has an unexpired period of 8 years and Y Ltd. has an unexpired period of 6 years. For what period the special provisions of Chapter XII-G relating taxation of income shipping companies would apply to the new company Z Ltd.?
- (a) 8 years.
(b) 6 years
(c) 4 years
(d) 10 years (1 Mark)
15. Mr. Suresh a retailer of spare parts, purchases goods from Petal LLP. He purchased goods worth ₹ 55 lakhs from Petal LLP on 1.11.2020. Petal LLP wishes to collect the TCS from Mr. Suresh on the given sale at the time of receipt of the consideration. In order to meet the compliances, it calls for the PAN of Mr. Suresh. However, Mr. Suresh provides only his Aadhar card. Even after continuous follow up, Mr. Suresh refuses to provide his PAN. What amount of TCS to be collected on the given sale assuming Petal LLP turnover for the F.Y. 2019-20 was ₹ 12 crores.
- (a) ₹ 5,000
(b) ₹ 500
(c) ₹ 375
(d) ₹ 25,000 (2 Marks)
16. XYZ Ltd., a domestic company not opting for the provisions of section 115BAA, has a total income of ₹ 10,01,00,000 for A.Y.2021-22. The gross receipts of XYZ Ltd. for P.Y.2018-19 is ₹ 260 crore. The tax liability of X Ltd. for A.Y.2021-22 is -
- (a) ₹ 2,76,55,500
(b) ₹ 2,79,24,000
(c) ₹ 3,46,42,610
(d) ₹ 3,49,78,940 (2 Marks)

Division B – Descriptive Questions

Question No. 1 is compulsory

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

1. Pure Ltd., engaged in the business of manufacturing, shows a net profit of ₹ 450 lakhs in its profit and loss account for the year ended 31-03-2021 after debiting and crediting the following items:
- (i) Depreciation provided in accounts as per straight line basis ₹ 30 lakhs.
- (ii) The company has made cash payments for purchases and expenditures as below:
- On 01-04-2020 ₹ 12 lakhs (a bank holiday)
On 20-07-2020 ₹ 5.5 lakhs (for purchase of agricultural produce)
On 17-01-2021 ₹ 6 lakhs (Due to cash demanded by the supplier)
- Cash payments made to transport operator for hiring of lorry are as follows:
10-06-2020 ₹ 25,000; 25-08-2020 ₹ 70,000; 10-02-2021 ₹ 40,000.
- (iii) It incurred revenue expenditure of ₹ 7.5 lakhs towards scientific research on in-house approved research and development facility under section 35(2AB).

- (iv) Dividend received from a foreign company ₹ 6 lakhs, in which Pure Ltd. holds 30% in nominal value of equity share capital of the company. ₹ 50,000 spent on earning this income.
- (v) Professional charges to a consultant including GST shown separately was ₹ 2,95,000. Tax was not deducted on the GST portion on the payment.
- (vi) The company has also purchased goods of ₹ 55 lakhs from M/s. ABC Ltd. in which Directors have substantial interest. The market value of the goods is ₹ 50 lakhs.
- (vii) Employer's contribution of ₹ 3.5 lakhs to the Provident Fund for the month of March, 2021 were remitted on 14th August, 2021. Employee's contribution for the whole year was deposited on or before the due date as per the specified Act.
- (viii) It paid ₹ 75,000 to an electoral trust by cash and ₹ 1,25,000 by cheque to a registered political party.

Additional information

- (1) Depreciation allowable as per the Income-tax Rules, 1962 is ₹ 48 lakhs.
- (2) There was a purchase of second hand machinery of ₹ 50 lakhs on 23.10.2020 by a bearer cheque in single payment. Depreciation on such plant and machinery has not been included in amount of depreciation provided in point no. (1) above.
- (3) Out of an amount of ₹ 3 lakhs written off in the F.Y. 2013-14 as irrevocable from a debtor; ₹ 1.5 lakhs was recovered on 19-9-2020 and credited to a reserve account.
- (4) The turnover of Pure Ltd. for the P.Y. 2018-19 was ₹ 250 crores.

Analyse, integrate and apply the relevant provisions of the Income-tax Act, 1961 to compute the total income and tax liability of Pure Ltd. for the Assessment Year 2021-22 indicating in brief, the reason for treatment of each item. Ignore the provisions relating to minimum alternate tax and section 115BAA.

(14 Marks)

2. (a) The accounts of Viraj Exports are prepared in accordance with the provisions of the Companies Act, 2013. Its Statement of Profit and Loss for the previous year ended 31st March, 2021 shows a net profit of ₹ 95 Lacs after debiting or crediting the following items:

Credits in Statement of Profit and Loss		₹
(1)	Profit from a new industrial undertaking qualifying for deduction under section 80-IA (Net)	17,00,000
(2)	Dividend received from Investment in Indian companies	2,50,000
(3)	Net agricultural income	5,00,000
Debits in Statement of Profit and Loss		
(1)	Depreciation	10,00,000
(2)	Penalty for infraction of law	1,00,000
(3)	Provision for GST	3,00,000
(4)	Provision for doubtful debts	2,00,000
(5)	Interest on financial institutions unpaid before due date of filing return of income	1,50,000
(6)	Reserves of currency foreign fluctuation	1,25,000

Other Information:

- (i) Depreciation admissible under the Income-tax Rules, 1962 for the previous year 2020-21 is ₹ 19,50,000.

- (ii) Depreciation (as per books) includes ₹ 1,90,000 on account of revaluation of assets.
- (iii) Interest on borrowed capital ₹ 1,00,000 payable to Y, not debited to Statement of profit and loss.
- (iv) GST provided in the accounts has been remitted before the due date for filing return of income.

Compute book profits and minimum alternate tax thereon, assuming that Viraj Exports is not required to comply with the Indian Accounting Standards (Ind AS). **(8 Marks)**

- (b) Compute the total income and tax liability of Mr. Kashyap for the assessment year 2021-22. Mr. Kashyap, aged 60 years, a citizen of India is a resident of both India and a foreign Country X. The following are the particulars of income earned by Mr. Kashyap for the previous year 2020-21:

	(Amount in ₹)
Income from Rifle Shooting in Country X	14,50,000
Tax paid in Country X	2,61,000
Income from Rifle Shooting in India	17,20,000
Life Insurance Premium paid	1,10,000
Deposit in Public Provident Fund	1,50,000
Medical Insurance Premium paid in India for his father aged 82 years (paid through credit card)	32,000

Note: There is no Double Taxation Avoidance Agreement between India and Country X. He does not opt for section 115BAC. **(6 Marks)**

3. (a) Satya is a charitable trust set up on 1.4.2011 with the object of providing relief of the poor. Later on, in April, 2013, it changed its object to "providing education to the under privileged". It applied for registration for the first time on the basis of its new object, i.e., "education to the under privileged", on 12.8.2013 and was granted registration on 15.3.2014.

On 1.4.2020, Satya got merged with M/s. Aadhaar (P) Ltd, a company not entitled for registration under section 12AA. All the assets and liabilities of the erstwhile trust became the assets and liabilities of M/s. Aadhaar (P) Ltd. The trust appointed a registered valuer for the valuation of its assets and liabilities.

(i) Land

Location	Date of purchase	Stamp duty value on 1.4.2020	Value which the land would fetch, if sold in the open market on 1.4.2020	Book Value on 1.4.2020
		₹	₹	₹
Gwalior	1.10.2011	42 lakhs	46 lakhs	40 lakhs
Indore	21.11.2014	90 lakhs	105 lakhs	100 lakhs

(ii) Shares

Type of shares	Date of purchase	Face value of each share	Purchase price of each share	Price at which each share is quoted on NSE as on 1.4.2020		Open market value as on 1.4.2020#
				Highest price	Lowest price	
		₹	₹	₹	₹	₹
3000 Quoted equity shares of XYZ Ltd.	4.4.2015	100	130	280	250	

1800 Preference shares of TLP Ltd.	21.8.2016	100	100	-	-	210
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on the basis of report of Merchant Banker

(iii) Liabilities

Book value of liabilities on 1.4.2020 = ₹ 112 lakhs. This includes –

- (a) Corpus fund ₹ 14 lakhs.
- (b) Provision for taxation ₹ 10 lakhs; and
- (c) Reserves and Surplus ₹ 21 lakhs

From the above information (including the valuation report), calculate the tax liability in the hands of the trust arising as a result of such merger: **(8 Marks)**

- (b) RIDA Inc., a German Company, holds 45% of equity in Info tech Ltd., an Indian Company. Info tech Ltd. is engaged in development of software and maintenance of the same for customers across the globe. Its clientele includes RIDA Inc.

During the financial year 2020-21, Info tech Ltd. had spent 1500 man hours for developing and maintaining software for RIDA Inc. with each hour being billed at ₹ 2,500. Cost incurred by Info tech Ltd. for executing work for RIDA Inc. amounts to ₹ 25 lakhs.

Info tech Ltd. had also undertaken developing software for Mira Industries, for which Info tech Ltd. had billed at ₹ 2,700 per man hour. The persons working for Mira Industries and RIDA Inc. were part of the same team and were of matching credentials and caliber. Info tech Ltd. made a gross profit of 50% on cost on Mira Industries work. Info tech Ltd.'s transactions with RIDA Inc. are comparable to transactions with Mira Industries, subject to the following differences:

- (i) RIDA Inc. gives technical knowhow support to Info tech Ltd., which can be valued at 10% of the normal gross profit. Mira Industries does not provide any such support.
- (ii) Since the work for RIDA Inc. involved huge number of man hours, a quantity discount of 15% of normal gross profits was given.
- (iii) Info tech Ltd. had offered 90 days credit to RIDA Inc., the cost of which is measured at 15% of the normal billing rate. No such credit was offered to Mira Industries.

Compute arm's length price as per Cost Plus Method and the amount of increase in total income of Info tech Ltd. **(6 Marks)**

4. (a) XYZ Airways Ltd. sold tickets to the travel agents in India at a minimum fixed commercial price. The agents were permitted to sell the tickets at a higher price but not exceeding the maximum published price. Tax was deducted at source under section 194H from commission paid/payable at the rate of 9% of minimum fixed commercial price by the company. The Assessing Officer contended that the liability for tax deduction at source is attracted on the difference between the minimum fixed commercial price and the maximum published price by treating it as "additional special commission" in the hands of the agents.

Is the contention of Assessing Officer tenable in law? **(4 Marks)**

- (b) Examine the applicability of the provisions relating to deduction of tax at source in the following transactions:
- I. On 15.5.2020, a commission of ₹ 65,000 was retained by the consignee 'Shine Packaging Ltd.' and not remitted to the consignor 'ABC Developers', while remitting the sale consideration.
 - II. X Ltd. credited ₹ 1,17,000 to the account of Y Ltd. being a resident contractor, in its books of accounts on 31.10.2020 under the contract dated 25th September, 2020, towards

manufacturing a product according to specification of X Ltd. by using materials purchased from X Ltd. **(4 Marks)**

- (c) Mayur Ltd., an Indian company declared income of ₹ 150 crores computed in accordance with Chapter IV-D before making any adjustments in respect of the following transaction for the year ended on 31.03.2021:

U Ltd., a "X" country company, advanced a loan of Euro 500 crores carrying interest @ 8% per annum during the F.Y. 2020-21 to Mayur Ltd. The total Book Value of assets of Mayur Ltd. on 31.03.2021 was ₹ 70,000 crores. The said "X" country Co. also advanced a loan of similar nature & amount to another Indian Co. @ 6% per annum during the F.Y. 2020-21. The total interest paid for the year was 40 crores Euros.

- You are required to make primary adjustments, if any, to the above income keeping in mind transfer pricing provisions contained in section 92 of Income-tax Act, 1961 for filing return of income for the A.Y. 2021-22.
- You have to elaborate on secondary adjustments required to be made, if any, under said provisions of Income-tax Act, 1961, assuming that the primary adjustment has been made by Mayur Ltd. *suo moto* while filing its return of income for A.Y.2021-22.
- If Mayur Ltd. opts for additional tax instead of repatriation of excess money by U Ltd., calculate additional tax liability required to be made.

Value for 1 Euro was ₹ 85, throughout the year.

(6 Marks)

5. (a) "Neerja", a resident of India, owned for the financial year ended on 31-03-2021, a house property in Australia purchased in July, 2010; a shop in London purchased in June, 2012 and space in a commercial complex in Dubai purchased in April, 2018. She is also having authority to operate the bank account (maintained with Citibank, Australia) of a company owned by her daughter and son-in-law since August, 2019.

She has been served in July, 2022 with the notices issued under section 148 of the Act for assessment years 2008-09 to 2021-22. She, for the reason of challenging the action of the Assessing Officer for issuing notices under section 148 for last 14 years, seeks your opinion. Advise her suitably.

(4 Marks)

- (b) The Assessing Officer issued notices under section 133 with the prior approval of Principal Director to four banks requiring particulars relating to a customer in a specific format duly verified in a prescribed manner. One of the banks refused to part with the information on the ground that the notice did not specify about any proceeding pending against the said customer under the Income-tax Act, 1961. Examine the correctness of action of the bank in refusing to furnish the particulars as required by the Assessing Officer.

(4 Marks)

- (c) What would be the penalty leviable under section 270A in case of the following assessee, if none of the additions or disallowances made in the assessment or reassessment qualify under section 270A(6) and the under-reported income is not on account of misreporting?

	Particulars of total income of A.Y.2021-22	M/s. PQR, a resident firm	Surya Ltd., an Indian company
		(₹)	(₹)
(1)	As per the return of income furnished u/s 139(1)	35,00,000	(12,00,000)
(2)	Determined under section 143(1)(a)	45,00,000	(6,00,000)
(3)	Assessed under section 143(3)	62,00,000	(2,00,000)
(4)	Reassessed under section 147	81,00,000	6,00,000

Note – Surya Ltd. is a trading company. The total turnover of Surya Ltd. for the P.Y.2018-19 was ₹ 401 crore and the company has not exercised option under section 115BAA. **(6 Marks)**

6. (a) 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.

(4 Marks)

- (b) I Pvt. Ltd. is a domestic company in India. D Pvt. Ltd. is a company incorporated in Country 'X' and it is a non-resident in India. D Pvt. Ltd. forms a company Z Pvt. Ltd, its 100% subsidiary, in Country 'Y'. Z Pvt. Ltd. and I Pvt. Ltd. form a joint venture company R (P) Ltd. in India on 10.04.2020. There is no other activity in Z Pvt. Ltd. As per the joint venture agreement, 49% of R (P) Ltd's equity is allotted to Z Pvt. Ltd. and 51% is allotted to I Pvt. Ltd. Z Pvt. Ltd. is also designated as a permitted transferee of D Pvt. Ltd. Permitted transferee means that though shares of R (P) Ltd. are held by Z Pvt. Ltd, all rights of voting, management, right to sell etc., are vested in D Pvt. Ltd. On 28.02.2021, the shares of R (P) Ltd. held by Z Pvt. Ltd. are sold to C Pvt. Ltd., a company connected to the I 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 Z 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) S Ltd. is a company incorporated in Malaysia. S Ltd. has its presence in India also. From the following details relating to S Ltd. for the P.Y.2020-21, determine its residential status for A.Y.2021-22, if during the F.Y.2020-21, nine board meetings were held – 4 in India and 5 in Malaysia:

Particulars	India	Malaysia
Fixed assets at depreciated values for tax purposes (₹ in crores)	120	80
Intangible assets (₹ in crores)	50	200
Other assets (value as per books of account) (₹ in crores)	40	120
Income from trading operations (₹ in crores)	25	50
The above figure includes:		
(i) Income from transactions where purchases are from associated enterprises	2	4
(ii) Income from transactions where sales are to associated enterprises	3	5
(iii) Income from transactions where both purchases and sales are from/to associated enterprises	5	10
Interest and dividend from investments (₹ in crores)	20	15
Number of employees (Residents in respective countries)	70	90
Payroll expenses on employees (₹ in crores)	8	12

(6 Marks)