MOCK TEST PAPER

FINAL COURSE: GROUP – II

PAPER – 6F: MULTIDISCIPLINARY CASE STUDY

SUGGESTED ANSWERS / HINTS

CASE STUDY 1

Part A

1. (b) Waqt Ltd. should have passed a special resolution for filing such intimation and the Central Government was not bound to pass such order.

Reason: Section 210 of the Companies Act, 2013:

Investigation in the opinion of Central Government [Sub-section (1)]:

Where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company, it may order an investigation into the affairs of the company. Central Government may order to investigate, inter-alia, on intimation of a special resolution passed by a company that the affairs of the company ought to be investigated;

Thus, Waqt Ltd. should have passed a special resolution filing such intimation and the Central Government was not bound to pass such order of investigation.

2. (c) ₹ 15,000

Reason: According to the Companies (Inspection, investigation and inquiry) Rules, 2014:

The Central Government may before appointing an inspector under sub-section (3) of Section 210 of the Companies Act, 2013, require the applicant to give a security not exceeding 25,000 rupees for payment of the costs and expenses of investigation as per the criteria given in the said rule.

In case if turnover as per the previous year's balance sheet is more than ₹ 50 crore and up to ₹ 200 crore then the amount of security required is ₹ 15,000.

Waqt Ltd.'s turnover as per the previous year balance sheet was ₹ 198 crore and accordingly, the amount of security required to be paid was ₹ 15,000.

3. (c) ₹ 4,20,000

Reason: An earnings-based valuation of Waqt Ltd.'s holding of shares in Utpal Ltd. would be calculated as follows:

Particulars	Figures
Utpal Ltd.'s after-tax maintainable profits (A)	₹ 14,00,000
Price/Earnings ratio (B)	15
Adjusted discount factor (C) (1- 0.20)	0.80
Value of Utpal Ltd. (A) x (B) x (C)	₹ 1,68,00,000

Value of a share of Utpal Ltd. = ₹ 1,68,00,000 ÷ 20,000 shares = ₹ 840

The fair value of Waqt Ltd.'s investment in Utpal Ltd.'s shares is estimated at ₹ 4,20,000 (that is, 500 shares × ₹ 840 per share).

4. (a) ₹ 4,37,500

Reason: Share price = ₹ 1,75,00,000 ÷ 20,000 shares = ₹ 875 per share. The fair value of Waqt Ltd.'s investment in Utpal Ltd. shares is estimated to be ₹ 4,37,500 (500 shares × ₹ 875 per share).

5. (d) Approval of Central Government would have been taken and additional fees of ₹ 5 lakhs would have been paid by Waqt Ltd. for the request of rollback.

Reason: Section 92CC of the Income Tax Act, 1961, and Rule 10MA of the Income Tax Rules, 1962:

The Advance Pricing Agreement shall be entered into by the Board with the applicant after its approval by the Central Government.

Additional Fees for filling application for rollback provision: The applicant may furnish along with the application for Advance Pricing Agreement, the request for rollback provision in Form No. 3CEDA with proof of payment of an additional fee of ₹ 5 lakh.

Part B

6. Computation of Total Income of Waqt Ltd. for A.Y. 2022-23

Particulars	₹ (in lakhs)	₹ (in lakhs)
Income from House Property [House situated in Ireland]		
Gross Annual Value	500	
Less: Municipal Taxes	(25)	
Net Annual Value	475	
Less: Deduction under section 24 – 30% of NAV	(142.5)	332.5
Profits and Gains of Business or Profession		
Income from business carried on in India	3,500	
Income from supplies made to YT Corp., a UK based company	1,600	
Income from supplies made to Leon Co., a Japan based company	1,900	7,000
Income from Other Sources		
Dividend received from a Tim Inc. incorporated in Australia (Note)	400	400
Total Income		7,732.5

Computation of tax liability of Waqt Ltd. for A.Y. 2022-23

Particulars	₹ (in lakhs)
Tax on total income [25% of ₹ 7,732.5 lakhs]	1,933.125
Add: Surcharge @ 12%	231.975
Add: Health and Education cess @ 4% (on ₹ 2,165.1)	86.604
	2,251.704
Less: Deduction under section 91 (See Working Note below)	(66.5)
Tax Payable	2,185.204

Working Note: Calculation of Rebate under section 91 of the Income Tax Act, 1961

	₹ (in lakhs)
Average rate of tax in India [i.e., ₹ 2,251.704/ ₹ 7,732.5 x 100]	29.12%
Tax rate in Ireland	20%
Doubly taxed income pertaining to Ireland	
Rent Income from a house property	332.5
Deduction under section 91 on ₹ 332.5 lakhs @ 20% [being the lower of average Indian tax rate (29.12%) and foreign tax rate (20%)]	66.5

Note: It is assumed that the total turnover/gross receipts of the company during Previous Year 2019-2020 did not exceed ₹ 400 crores, so tax rate would be 25%

Note: As per Section 90(2) of the Income Tax Act, 1961, where the Central Government has entered into an agreement with the Government of any country outside India or specified territory outside India, as the case may be, under sub-section (1) for granting relief of tax, or as the case may be, avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.

Here, Dividend income was taxable at 40% as per DTAA but as per provisions of Income Tax Act, 1961, tax rate is lower, so accordingly rate as per DTAA is not applied in computing the tax liability.

7. Rule 10MA(3)(ii) of the Income Tax Rules, 1962 provides that rollback provision shall not be provided in respect of an international transaction for a rollback year if the application of rollback provision has the effect of reducing the total income or increasing the loss, as the case may be, of the applicant as declared in the return of income of the said year.

It is clarified that in case the terms of rollback provisions contain specific agreement between the Board and the applicant that the agreed determination of ALP or the agreed manner of determination of ALP is subject to the condition that the ALP would get modified to the extent that it does not result in reducing the total income or increasing the total loss, as the case may be, of the applicant as declared in the return of income of the said year, the rollback provisions could be applied.

For example, if the declared income is ` 100, the income as adjusted by the TPO is ` 120, and the application of the rollback provisions results in reducing the income to ₹ 90, then the rollback for that year would be determined in a manner that the declared income ₹ 100 would be treated as the final income for that year.

In the given case, the declared income is ₹ 6,600 lakhs, the income as adjusted by the TPO is ₹ 6,900 lakhs, and the application of the rollback provisions results in reducing the income to ₹ 6,300 lakhs, then as per the aforesaid legal provisions, rollback for P.Y. 2019-20 would be determined in a manner that the declared income i.e. ₹ 6,600 lakhs would be treated as the final income for that year.

CASE STUDY 2

Part A

1. (b) 25th September, 2022 and 25th October, 2022, respectively.

Reason: As given under Arbitration and Conciliation Act, 1996, timeline refers to by when a challenge against arbitral award can be raised. The law notes an initial time period of three months from when the award is received by party, with a maximum extension of thirty more days by the court.

Accordingly, the arbitral award was received on 25th June, 2022 by both the parties and so, by 25th September, 2022, the other party can file an application for setting aside the arbitral award

and if maximum extension is granted by the court, then such application needs to be filed till 25th October, 2022.

2. (d) Such award can be enforced after 25th September, 2022 and such award would be enforced in the same manner as if it were a decree of the court.

Reason: As given under Arbitration and Conciliation Act, 1996, where the time for making an application to set aside an award has expired, or when such application was made, but it was rejected, then the award can be enforced.

Enforcement of an arbitral award shall happen under the Code of Civil Procedure 1908 in the same manner as if it were a decree of the court.

Accordingly, the arbitral award was received on 25th June, 2022 by both the parties and so, by 25th September, 2022, the other party can file an application for setting aside the arbitral award as per section 34 and accordingly, such arbitral award be enforced by Vratam Ltd. after 25th September, 2022, if no application for setting aside the arbitral award has been filed by the other party, and such award would be enforced in the same manner as if it were a decree of the court.

3. (b) 31st December, 2024 and 1st November, 2024, respectively.

Reason: Section 153(4) and Section 92CA(3A) of the Income Tax Act, 1961, respectively:

Relevant A.Y. is 2022-23, as reference has been made to TPO, time limit will extend by 12 months, so time limit available will be 21 months from the end of relevant A.Y. i.e. 31st December, 2024.

At least 60 days prior to time of limitation u/s 153, TPO shall pass order, i.e. 60 days before 31st December, 2024 i.e. 1st November, 2024.

4. (b) 12th December, 2024 and 30th September, 2025, respectively.

Reason: Section 144C of the Income Tax Act, 1961:

The A.O. made the draft order of assessment which was forwarded to Vratam Ltd. on 12th November, 2024.

So, time period for filing objections by Vratam Ltd. would expire on 30 days from there, which will be 12th December, 2024.

DRP has to issue direction within nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

Here, the A.O. made the draft order of assessment which was forwarded to Vratam Ltd. on 12th November, 2024 and nine months from the end of the month in which the draft order is forwarded to the eligible assesse would be 31st August, 2025

Further, upon receipt of such direction, the Assessing Officer has to complete the assessment in accordance with the same, within one month from the end of the month in which the direction is received. This is notwithstanding anything contained in section 153 or section 153B.

Here, the period of receipt of such direction expires on 31st August, 2025, so, one month from the end of August month would be 30th September, 2025.

5. (a) 31st August, 2025 and such directions of DRP are binding on the Assessing Officer.

Reason: Section 144C of the Income Tax Act, 1961:

DRP has to issue direction within nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

Here, the A.O. made the draft order of assessment which was forwarded to Vratam Ltd. on 12th November, 2024 and nine months from the end of the month in which the draft order is forwarded to the eligible assesse would be 31st August, 2025.

Further, every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.

Part B

6. Determination of Enterprise Value of Kiyat Ltd.

Particulars	₹ in crore
EBITDA as on the measurement date	80
EV/EBITDA multiple as on the date of valuation	8
Enterprise value of Kiyat Ltd.	640

Determination of subsequent measurement of Kiyat Ltd.

Particulars	₹ in crore
Enterprise Value of Kiyat Ltd.	640
Vratam Ltd.'s share based on percentage of holding (5% of 640)	32
Less: Liquidity discount & Non-controlling stake discount (5%+5%=10%)	(3.2)
Fair value of Vratam Ltd.'s investment in Kiyat Ltd.	28.8

7. (i) In the instant case, Vratam Ltd. approached the arbitrator before the end of the reporting period, who decided the award after the end of the reporting period but before approval of the financial statements for issue. Accordingly, the conditions were existing at the end of the reporting date because Vratam Ltd. had approached the arbitrator before the end of the reporting period whose outcome has been confirmed by the award of the arbitrator. Therefore, it is an adjusting event as per Ind AS 10.

Accordingly, the measurement of the provision is required to be adjusted for the event occurring after the reporting period. As far as the recovery of the cost by Vratam Ltd. from the other party is concerned, this right to recover was a contingent asset as at the end of the reporting period.

As per para 35 of Ind AS 37, contingent assets are assessed continually to ensure that developments are appropriately reflected in the financial statements. If it has become virtually certain that an inflow of economic benefits will arise, the asset and the related income are recognised in the financial statements of the period in which the change occurs. If an inflow of economic benefits has become probable, an entity discloses the contingent asset.

On the basis of the above, a contingent asset should be recognised in the financial statements of the period in which the realisation of asset and the related income becomes virtually certain. In the instant case, the recovery of cost became certain when the arbitrator decided the award during F.Y. 2022-23.

Accordingly, the recovery of cost should be recognised in the financial year 2022-2023.

(ii) There are two basic types of arbitration agreement. These are:

(a) Arbitration clause - a clause contained within a principal contract. The parties undertake to submit disputes in relation to or in connection with the principal contract that may arise in future to arbitration.

(b) Submission agreement - an agreement to refer disputes that already exist to arbitration. Such an agreement is entered into after the disputes have arisen.

In first case, the agreement already carries the term that all disputes shall be arbitrated in New Delhi at the time of entering into the contract. This would be an arbitration clause as it is contained in the principal contract.

In the second case, the Principal contract does not have any term relating to arbitration.

However, to resolve the dispute that has arisen, if parties later on enter into an agreement "That all disputes shall be submitted to arbitration. The parties hereby agree to abide by the decision of the arbitrator." Such an agreement that is made after the disputes have arisen would be called a submission agreement.

CASE STUDY 3

Part A

1. (b) By 1st September, 2022, such vacancy was required to be filled and in other case, there was no requirement to fill such vacancy.

Reason: Filling of Vacancy of Key Managerial Personnel (KMP)

Section 203(4) of the Companies Act, 2013: If the office of any whole-time KMP is vacated, the resulting vacancy shall be filled-up by the Board at a meeting of the Board within a period of six months from the date of such vacancy.

In case of Government companies, sub-section (4A) sates that the provisions of sub-section (1), (2), (3) and (4) of this section shall not apply to a managing director or Chief Executive Officer or manager and in their absence, a wholetime director of the Government company.

The sub-section (4A) will be applicable on the Government company only if it has not committed a default in filing its financial statements under section 137 or annual returns under section 92 with the Registrar.

Thus, by 1st September, 2022, such vacancy was required to be filled i.e. 6 months from 1st March, 2022, and in other case, there was no requirement to fill such vacancy as provisions relating to casual vacancy of a managing director do not apply to a Government company if it is regular in filing its returns with the Registrar.

2. (d) ₹ 36,000

Reason: For the purpose of section 52 of the CGST Act, 2017, TCS is required to be collected, on the net value of taxable supplies (other than services notified under section 9(5) of CGST Act, 2017) made through E-commerce operator by other suppliers where the consideration is to be collected by the ECO, at the rate of 1%.

Carpentering service is a service notified under section 9(5) of CGST Act, 2017.

During the month of December, 2021, Apsflon Ltd. made following supplies using the platform provided by Fsell Inc.:-

(i) Supply of goods valued ₹ 35 lakhs out of which goods valued ₹ 3 lakhs were returned in the same month and 2 lakhs in the next month

(ii) Supply of repairing services valued ₹ 4 lakhs and;

(iii) Supply of carpentering services valued ₹ 2 lakhs.

Accordingly, TCS @ 1% on net value of taxable supplies made by Apsflon Ltd. = 1% of (₹ 35 lakhs - ₹ 3 lakhs + ₹ 4 lakhs) = 1% of ₹ 36 lakhs = ₹ 36,000.

3. (a) Two separate registrations would have been taken i.e. as a regular tax payer and as a person required to collect tax at source, respectively.

Reason: As per Section 24 of the CGST Act, 2017, a person is liable for mandatory registration under GST, iner-alia, if:-

(i) Every ECO (Electronic Commerce Operator) who is required to collect tax at source under section 52,

(ii) persons who are required to pay tax under section 9(5).

Here, it is given, Apsflon Ltd. uses e-commerce platform of Fsell Inc. to provide carpentering service which is one of the services notified under section 9(5) of CGST Act, 2017 and for which Fsell Inc. shall be liable to pay GST as per 9(5) of CGST Act, 2017.

Accordingly, Fsell Inc. would be registered under GST by obtaining two separate registrations i.e. as a regular tax payer and as a person required to collect tax at source, respectively.

4. (a) ₹ 6,411

Reason: As per Section 52(6) of the CGST Act, 2017:-

If after submission of GSTR-8, the ECO discovers any discrepancy therein on his own - not being the result of any scrutiny, audit, inspection or enforcement proceedings - he should rectify such discrepancy in GSTR-8 to be filed for the month during which such discrepancy is noticed, subject to payment of interest under section 50..

Here, at the time of filing GSTR-8 by Fsell Inc. for the month of December, 2021, its accountant discovered that there was a discrepancy in the GSTR-8 filed for the month of November, 2021 on 10th December, 2021, due to which there was a shortfall in the TCS credited by it to the Government by ₹ 5,00,000.

The GSTR-8 of Fsell Inc. for the month of December, 2021, was filed on 5th January, 2022 by rectifying the error made during the month of November, 2021.

Accordingly, interest paid would be ₹ 5,00,000 * 26 days / 365 days (i.e. from 10th December to 5th January) * 18% = ₹ 6411.

5. (c) Fsell Inc. was required to deposit the amount of equalisation levy and interest payable shall be ₹ 24,000.

Reason: As per section 165A of the Finance Act, 2016:-

The amount of equalisation levy to be deposited by Fsell Inc. is ₹ 12 crores × 2% = ₹ 24,00,000. Such amount is to be deposited by 7th January, 2022, with the credit of the Central Government as per Section 166A of the Finance Act, 2016 which was deposited on 31st January, 2022.

Thus, interest payable shall be: ₹ 24 lakhs * 1% = ₹ 24,000

Part B

6. Resolution passed at the meeting of board of directors of Apsflon Limited held at its Registered Office situated at …….. on ……..(day), the___ (date) at …….. A.M

   "Resolved that consent of all the directors present at the meeting be and is hereby accorded to the appointment of Mr. Himanshu, who fulfils the conditions as specified in Schedule V of the Companies Act, 2013, as the Managing Director of the company for a period of 3 years effective from 1st May, 2021 subject to approval by a resolution of shareholders in a general meeting and that Mr. Himanshu may be paid remuneration as follows:

   (i) Salary of ₹ 40,000 per month

   (ii) Commission

   (iii) Perquisites: Free Housing, Medical reimbursement upto ₹2,000 per month, Leave Travel Concession for the family, Club membership fee, Personal Accident Insurance of ₹ 5 Lakhs, Gratuity, Provident Fund etc.

   Resolved further that in the event of loss or inadequacy of profits, the salary payable to him shall be subject to the limits specified in Schedule V.

   Resolved further that the Secretary of the company be and is hereby authorize to prepare and file with the Registrar of Companies necessary forms and returns in respect of the above appointment."

   Sd/

   Board of Directors

   Apsflon Limited

7. According to Section 202 of the Companies Act, 2013, compensation can be paid only to a Managing Director, Whole-time Director or Manager. The amount of compensation cannot exceed the remuneration which he would have earned if he would have been in the office for the unexpired term of his office or for 3 years whichever is shorter. No compensation shall be paid, if the director has been found guilty of fraud or breach of trust or gross negligence in the conduct of the affairs of the company.

   In light of the above provisions of law, the company is not liable to pay any compensation to Mr. Himanshu, if he has been found guilty of fraud or breach of trust or gross negligence in the conduct of affairs of the company. But it is not proper on the part of the company to withhold the payment of compensation on the basis of mere allegations.

   The compensation payable by the company to Mr. Himanshu would be ₹ 13 lakhs calculated at the rate of ₹ 50,000 per month for unexpired term of 26 months.

   Regarding ad-hoc payment of 4 Lakhs, it will not be possible for the company to recover the amount from Mr. Himanshu in view of the decision in case of Bell vs. Lever Bros. (1932) AC 161 where it was observed that a director was not legally bound to disclose any breach of his fiduciary obligations so as to give the company an opportunity to dismiss him. In that case the Managing Director was initially removed by paying him compensation and later on it was discovered that he had been guilty of breaches of duty and corrupt practices and that he could have been removed without compensation.

8. As per Section 165A of the Finance Act, 2016, there shall be charged an equalisation levy at the rate of two per cent of the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated by it—

   (i) to a person resident in India; or

   (ii) to a non-resident in the specified circumstances as referred to in sub-section (3); or

(iii) to a person who buys such goods or services or both using internet protocol address located in India.

The equalisation levy under sub-section (1) shall not be charged—

(i) where the e-commerce operator making or providing or facilitating e-commerce supply or services has a permanent establishment in India and such e-commerce supply or services is effectively connected with such permanent establishment;

(ii) where the equalisation levy is leviable under section 165; or

(iii) sales, turnover or gross receipts, as the case may be, of the e-commerce operator from the e-commerce supply or services made or provided or facilitated as referred to in sub-section (1) is less than two crore rupees during the previous year.

(i) Fsell Inc. has a PE in India

Equalisation levy would not be attracted assuming the supply of online advertisement services Fsell Inc. to Apsflon Ltd. is effectively connected with the P.E. of Fsell Inc. in India.

(ii) Fsell Inc. does not have a PE in India

Fsell Inc. has provided services in form of an online platform for sale of goods to the persons resident in India for which the consideration charged in form of commission is ₹ 12 crores for December' 2021 Quarter i.e. the gross receipt of Fsell Inc. in the P.Y. 2021-22 exceeds ₹ 2 crores.

Accordingly, the amount of equalisation levy to be deposited by Fsell Inc. is ₹ 12 crores × 2% = ₹ 24,00,000. Such amount is to be deposited by 7th January, 2022, with the credit of the Central Government as per Section 166A of the Finance Act, 2016.

CASE STUDY 4

Part A

1. (b) ₹ 10,71,866

Reason: Lessor recognise assets held under a finance lease in the balance sheet and present them as a receivable at an amount equal to the net investment in the lease under Ind AS 116.

Here, Asayam Ltd. shall recognise the building floor held under a finance lease in the balance sheet because the sum of the present value of lease payments amounts to substantially all of the fair value of the underlying asset and present it as a receivable at an amount equal to the net investment in the lease under Ind AS 116 at the end of year 1 at ₹ 10,71,866, calculated as follows:

Year	Annual Rental Payment	Annual Interest Income	Net investment at the end of the year
Initial net investment	-	-	11,10,000
1	1,50,000	1,11,866 (11,10,000*10.078%)	10,71,866 (11,10,000-1,50,000+1,11,866)

2. (c) The said property cannot be classified as an 'Investment property' by Asayam Ltd. and Havanti Ltd. shall not be considered to be deemed owner of the said property for the purpose of the provisions of the Income Tax Act, 1961.

Reason: (i) As per Ind AS 40: The property leased to another entity under a finance lease is not an investment property and are therefore is outside the scope of this Standard.

Accordingly, the said property cannot be classified as an 'Investment property' by Asayam Ltd. as Ind AS 40 is not applicable when the lease has been classified as finance lease by Asayam Ltd. as the sum of the present value of lease payments amounts to substantially all of the fair value of the underlying asset.

(ii) As per Section 27(iiib) of the Income Tax Act, 1961,

A person who acquires any rights in or with respect to any building or part thereof, by virtue of any transaction as is referred to in section 269UA(f) i.e. transfer by way of lease for not less than 12 years, shall be deemed to be the owner of that building or part thereof.

Here, Havanti Ltd. shall not be considered to be deemed owner of the said property as per provisions of the Income Tax Act, 1961, as the office floor has been leased for period of 10 years i.e. for less than 12 years.

3. (c) ₹ 17,520

Reason: As per section 194-I dealing with deduction of tax at source from payment of rent, the rate of TDS applicable is 2% for machinery hire charges and 10% for building lease rent. The scope of the section includes within its ambit, rent for machinery, plant and equipment. Tax is required to be deducted at source from payment of rent, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of building and machinery, irrespective of whether such assets are owned or not by the payee.

The limit of ₹ 2,40,000 for tax deduction at source will apply to the aggregate rent of all the assets. Even if two separate agreements are entered into, one for lease of building and another for hiring of machinery, rent and hire charges under the two agreements have to be aggregated for the purpose of application of the threshold limit of ₹ 2,40,000.

In this case, since the payment for lease rent and hire charges credited to the account of Asayam Ltd., the payee, aggregates to ₹ 2,76,000 (₹ 1,50,000 + ₹ 1,26,000 (18,000 x 7), tax is deductible at source under section 194-I. Tax is deductible @10% on ₹ 1,50,000 (lease rent of building) = ₹ 15,000 and @ 2% on ₹ 1,26,000 (hire charges of machinery) = ₹ 2,520 i.e. ₹ 17,520, in total.

4. (b) Grandfathering would not be available to Asayam Ltd. and GAAR provisions would not apply in case of Havanti Ltd.

Reason: (i) As per Clarifications on certain queries about implementation of General Anti-Avoidance Rules (GAAR) [Circular No.7 of 2017 dated 27-1-2017]:

Grandfathering is available in respect of income from transfer of investments made before 1st April, 2017. As per Accounting Standards, 'investments' are assets held by an enterprise for earning income by way of dividends, interest, rentals and for capital appreciation. Lease contracts and loan arrangements are, by themselves, not 'investments' and hence grandfathering is not available.

(ii) GAAR provisions would not apply in case of lease rental payments by Havanti Ltd. as it merely makes a selection out of the options available to it.

5. (d) Mr. Jayprakash cannot be considered as a director liable to retire by rotation and Mr. Rajveer can be removed by the company by passing of special resolution.

Reason: (i) Nominee director on the Board of a company cannot be considered as a director liable to retire by rotation.

Here, Mr. Jayprakash Sharma being appointed as the nominee director by the board of Asayam Ltd. cannot be considered as a director liable to retire by rotation.

(ii) Also, it was proposed to remove Mr. Rajveer Sena, an independent director, who was currently holding such office for the 8th consecutive year.

As per section 169 of the Companies Act, 2013,

An independent director re-appointed for second term under Section 149(10) shall be removed by the company only by passing a special resolution.

Here, it is given that Mr. Rajveer Sena, an independent director, was currently holding such office for the 8th consecutive year and accordingly, it can be understood that he was re-appointed for second term, so, he can be removed by the company only by passing a special resolution.

The Director to be removed shall be given a reasonable opportunity of being heard before his removal.

Part B

6. Asayam Ltd. shall classify the lease as a FINANCE LEASE because the sum of the present value of lease payments amounts to substantially all of the fair value of the underlying asset.

At lease commencement, Asayam Ltd. accounts for the finance lease, as follows:

Net investment in the lease	Dr.	₹ 11,10,000 (a)	
Cost of goods sold	Dr.	₹ 9,23,400 (b)	
To Revenue			₹ 10,33,400 (c)
To Property held for lease			₹ 10,00,000 (d)

To record the net investment in the finance lease and derecognise the underlying asset.

(a) The net investment in the lease consists of:

(1) the present value of 10 annual payments of ₹ 1,50,000 plus the guaranteed residual value of ₹ 3,00,000, both discounted at the interest rate implicit in the lease, which equals ₹ 10,33,400 (i.e., the lease payment) (Refer note 1) AND

(2) the present value of unguaranteed residual asset of ₹ 2,00,000, which equals ₹ 76,600 (Refer note 2).

Note that the net investment in the lease is subject to the same considerations as other assets in classification as current or non-current assets in a classified balance sheet.

(b) Cost of goods sold is the carrying amount of the building floor of ₹ 10,00,000 (less) the present value of the unguaranteed residual asset of ₹ 76,600.

(c) Revenue equals the lease receivable.

(d) The carrying amount of the underlying asset

At lease commencement, Lessor recognises selling profit of ₹ 1,10,000 which is calculated as = lease payment of ₹ 10,33,400 – [carrying amount of the asset (₹ 10,00,000) – net of any unguaranteed residual asset (₹ 76,600), which equals ₹ 9,23,400]

Year 1 Journal entry for a finance lease

Cash	Dr.	₹ 1,50,000 (e)	
To Net investment in the lease			₹ 38,134 (f)
To Interest income			₹ 1,11,866 (g)

(e) Receipt of annual lease payments at the end of the year.

(f) Reduction of the net investment in the lease for lease payments received of ₹ 1,50,000, net of interest income of ₹ 1,11,866

(g) Interest income is the amount that produces a constant periodic discount rate on the remaining balance of the net investment in the lease. Please refer the computation below:

Year	Annual Rental Payment	Annual Interest Income (h)	Net investment at the end of the year
Initial net investment	-	-	11,10,000
1	1,50,000	1,11,866	10,71,866
2	1,50,000	1,08,023	10,29,888
3	1,50,000	1,03,792	9,83,681
4	1,50,000	99,135	9,32,816
5	1,50,000	94,009	8,76,825
6	1,50,000	88,366	8,15,192
7	1,50,000	82,155	7,47,347
8	1,50,000	75,318	6,72,664
9	1,50,000	67,791	5,90,455
10	1,50,000	59,545*	5,00,000(i)

* Figure has been rounded off for equalization

(h) Interest income equals 10.078% of the net investment in the lease at the beginning of each year. For e.g., Year 1 annual interest income is calculated as ₹ 11,10,000 (initial net investment) x 10.078%.

(i) The estimated residual value of the building floor at the end of the lease term.

Working Notes:

1 Calculation of net investment in lease:

Year	Lease Payment (A)	Present value factor @ 10.078% (B)	Present value of lease payments (A x B = C)
1	1,50,000	0.908	1,36,200
2	1,50,000	0.825	1,23,750
3	1,50,000	0.750	1,12,500
4	1,50,000	0.681	1,02,150
5	1,50,000	0.619	92,850
6	1,50,000	0.562	84,300
7	1,50,000	0.511	76,650
8	1,50,000	0.464	69,600
9	1,50,000	0.421	63,150
10	1,50,000	0.383	57,450
10	3,00,000	0.383	1,14,800*
			10,33,400

* Figure has been rounded off for equalization of journal entry

2 Calculation of present value of unguaranteed residual asset

Year	Lease Payment (A)	Present value factor @ 10.078% (B)	Present value of lease payments (A x B = C)
10	2,00,000	0.383	76,600

7. (i) Mr. Shyam:

Since the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, the maturity proceeds of ₹ 3.50 lakhs due on 31.3.2022 are not exempt under section 10(10D) in the hands of Mr. Shyam.

Therefore, tax is required to be deducted @ 5% under section 194DA on the amount of income comprised therein i.e., on ₹ 1,10,000 (₹ 3,50,000, being maturity proceeds - ₹ 2,40,000, being the aggregate amount of insurance premium paid).

(ii) Mr. Rahul:

Since the annual premium is less than 20% of sum assured in respect of a policy taken before 1.4.2012, the sum of ₹ 4.20 lakhs due to Mr. Rahul would be exempt under section 10(10D) in his hands.

Hence, no tax is required to be deducted at source under section 194DA on such sum payable to Mr. Rahul.

(iii) Mr. Kalpesh:

Since the annual premium is less than 10% of sum assured in respect of a policy taken after 1.4.2012, the sum of ₹ 3.70 lakhs due to Mr. Kalpesh would be exempt under section 10(10D) in his hands.

Hence, no tax is required to be deducted at source under section 194DA on such sum payable to Mr. Kalpesh.

(iv) Mr. Daman:

Even though the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, and consequently, the maturity proceeds of ₹ 90,000 due on 1.2.2022 would not be exempt under section 10(10D) in the hands of Mr. Daman, the tax deduction provisions under section 194DA are not attracted since the maturity proceeds are less than ₹ 1 lakh.

CASE STUDY 5

Part A

1. (b) (₹ 5,24,250)

Reason: Reconciliation of Plan assets and Defined benefit obligation

	Plan Assets	Defined benefit obligation
	₹	₹
Fair value/present value as at 1st April 2021	21,20,000	22,05,000
Interest @ 5%	1,06,000	1,10,250
Current service cost		5,20,000
Contributions received	5,05,000	-
Benefits paid	(3,35,000)	(3,35,000)

Return on gain (assets) (bal. fig.)	64,000	-
Actuarial Loss (bal. fig.)	-	2,99,750
Closing balance as at March 31, 2022	24,60,000	28,00,000

In the Statement of Profit and loss, the following will be recognised:

	₹
Current service cost	(5,20,000)
Net interest on net defined liability (₹1,10,250 – ₹1,06,000)	(4,250)
	(5,24,250)

2. (a) (₹ 2,35,750))

Reason: Reconciliation of Plan assets and Defined benefit obligation

	Plan Assets	Defined benefit obligation
	₹	₹
Fair value/present value as at 1st April 2021	21,20,000	22,05,000
Interest @ 5%	1,06,000	1,10,250
Current service cost		5,20,000
Contributions received	5,05,000	-
Benefits paid	(3,35,000)	(3,35,000)
Return on gain (assets) (bal. fig.)	64,000	-
Actuarial Loss (bal. fig.)	-	2,99,750
Closing balance as at March 31, 2022	24,60,000	28,00,000

Defined benefit re-measurements recognised in Other Comprehensive Income:

	₹
Loss on defined benefit obligation	(2,99,750)
Gain on plan assets	64,000
	(2,35,750)

3. (c) ₹ 13,000

Reason: As per rule 32(3) of CGST Rules, the value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent is 5% of the basic fare in case of domestic bookings, and 10% of the basic fare in case of international bookings.

Here, the value of taxable supply for Disha Travels in respect of tickets sold to Mr. Prasidh will be 10% of basic fare contained in international booking i.e. 10% of (65% of ₹ 2 lakhs) = ₹ 13,000.

4. (d) Mr. Prasidh has brought in excess ₹ 25,000 in India and in case of USD currency notes brought into India, he needs to provide declaration to the Custom Authorities.

Reason: As per General Guidelines for Imports under FEMA, 1999:

Import of Foreign Exchange into India: A person may–

(i) Send into India, without limit, foreign exchange in any form (other than currency notes, bank notes and travelers cheques);

(ii) Bring into India from any place outside India, without limit, foreign exchange (other than unissued notes), subject to the condition that such person makes, on arrival in India, a declaration to the Custom Authorities at the Airport in the Currency Declaration Form (CDF) annexed to these Regulations;

Provided further that it shall not be necessary to make such declaration where the aggregate value of the foreign exchange in the form of currency notes, bank notes or travelers cheques brought in by such person at any one time does not exceed USD 10,000 (US Dollars ten thousand) or its equivalent and/or the aggregate value of foreign currency notes (cash portion) alone brought in by such person at any one time does not exceed USD 5,000 (US Dollars five thousand) or its equivalent.

Thus, in case of USD currency notes of $ 6,000 brought into India, Mr. Prasidh needs to provide declaration to the Custom Authorities, as aforesaid.

Import of Indian Currency and Currency Notes

(i) Any person resident in India who had gone out of India on a temporary visit, may bring into India at the time of his return from any place outside India (other than from Nepal and Bhutan), currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding ₹ 25,000 (Rupees twenty five thousand only).

(ii) A person may bring into India from Nepal or Bhutan, currency notes of Government of India and Reserve Bank of India for any amount in denominations up to ₹ 100/-

Mr. Prasidh has brought in excess ₹ 25,000 in India as he was allowed to import only ₹ 25,000 but he brought ₹ 50,000 in India.

5. (b) An amount in INR equivalent to $ 15,000

Reason: Under the Liberalised Remittance Scheme (LRS), all resident individuals, including minors, are allowed to freely remit up to USD 250,000 per financial year (April – March) for any permissible current or capital account transaction or a combination of both.

No approval is required where any remittance has to be made from an RFC account.

During the F.Y. 2021-22, Mr. Jatin had remitted an amount in pounds equivalent to 2,55,000 US $, in parts, for maintenance of his close relatives (i.e. a permissible current account transaction) in UK through his normal bank account in India.

Thus, Mr. Jatin has drawn $ 5,000 in excess of the prescribed limit of $ 2,50,000 for which penalty leviable would be upto three times of the sum involved, as it is quantifiable and if it is a continuing offence, further penalty upto ₹ 5,000 per day after first day during which the contravention continues .As per Section 13 of the FEMA, 1999 i.e. maximum penalty that can be levied would be an amount in INR equivalent to $ 15,000 ($ 5,000 × 3).

Part B

6. Rule 32(2) of the CGST Rules prescribes the provisions for determining the value of supply of services in relation to the purchase or sale of foreign currency, including money changing.

Determination of value under rule 32(2)(a)

(i) When the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money. Thus, value of supply is:

= 1% of the gross amount of Indian Rupees received = 1% of (74.50 × 16,000) = ₹ 11,920/-

(ii) Value of supply of services for a currency, when exchanged from, or to, Indian Rupees, shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

Thus, value of supply is:

= (RBI reference for US $ - Buying rate of US $) × Total number of units of US $ bought

= (74.6 – 74) × 8,000 = ₹ 4,800/-

Determination of value under rule 32(2)(b)

Rule 32(2)(b) of the CGST Rules provides that value in relation to the supply of foreign currency, including money changing shall be deemed to be –

Sr. No.	Currency exchanged	Value of supply
1	Upto ₹ 1,00,000	1% of the gross amount of currency exchanged OR ₹ 250 whichever is higher
2	Exceeding ₹ 1,00,000 and upto ₹ 10,00,000	₹ 1,000 + 0.50% of the (gross amount of currency exchanged - 1,00,000)
3	Exceeding ₹ 10,00,000	₹ 5,500 + 0.1% of the (gross amount of currency exchanged - 10,00,000) OR ₹ 60,000 whichever is lower

Thus, the value of supply in the given cases would be computed as under:

(i) Gross amount of currency exchanged = ₹ 74.50 × 16,000 = ₹ 11,92,000. Since the gross amount of currency exchanged exceeds ₹ 10,00,000, value of supply is ₹ 5,500 + 0.1% of the (gross amount of currency exchanged - 10,00,000) = ₹ 5,692 OR ₹ 60,000 whichever is lower, i.e. ₹ 5,692/-

(ii) Gross amount of currency exchanged = ₹ 74 × 8,000 = ₹ 5,92,000.

Since the gross amount of currency exchanged is more than ₹ 1,00,000 but less than ₹ 10,00,000, value of supply is ₹ 1,000 + 0.50% of the (gross amount of currency exchanged - 1,00,000), i.e. = ₹ 3,460/-

7. (a) The authorised officer being DDI, Kolkata is not having any jurisdiction over Deshavart Ltd., Jaipur, and therefore, as per section 132(9A) of the Income tax Act, 1961, the papers seized relating to this company shall be handed over by him to the Assessing Officer having jurisdiction over Deshavart Ltd., Jaipur, within a period of 60 days from the date on which the last of the authorisations for search was executed for taking further necessary action thereon.

(b) The contention raised by Mr. Prasidh will not be acceptable because as per the provisions of sub-section (4A)(i) of section 132 of the said Act, where any books of account, other documents, money, bullion, jewellery or other valuables are found in the possession or control of any person in the course of search, then, in respect thereof, it may be presumed that the same belongs to that person.

(c) As per section 132(4A) of the Income Tax Act, 1961, the presumptions in respect of the papers, indicating transactions not recorded in the books but having direct nexus with the business of the company, are that the same belong to the company, contents of such papers are true and the handwriting in which the same are written is/are of the persons(s) whose premises have been searched.

8. As per section 148 of the Income Tax Act, 1961, the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after 01.04.2021, for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person. Further, no inquiry has to be conducted in such cases as per the provisions of section 148A before issue of notice under section 148. In this case, the three assessment years would be A.Y. 2019-20, A.Y. 2020-21 and A.Y. 2021-22.

   Thus, in this case, the Assessing Officer can issue notice for A.Y. 2019-20, A.Y. 2020-21 and A.Y. 2021-22 and cannot issue notice for A.Y. 2016-17 to A.Y. 2018-19. Hence, the notice issued by the Assessing Officer for A.Y. 2019-20, A.Y. 2020-21 and A.Y. 2021-22 is only valid.