

**MOCK TEST PAPER**  
**PAPER 6C: INTERNATIONAL TAXATION**

**Solution to Case Study 1**

**I. Answers to MCQs**

Q. No.	Most Appropriate Answer
1.	(b)
2.	(c)
3.	(a)
4.	(c)
5.	(d)

**II. Answers to Descriptive Questions**

**1. Computation of total income and net tax liability of Ms. Nidhi for A.Y. 2023-24**

Particulars	₹	₹
<b>Profits and gains from business and profession</b>		
Income from sole proprietary concern in Pune	65,00,000	
Share of profit, ₹ 30 lakhs, from a partnership firm in Ranchi is exempt	<u>Nil</u>	
Business profit	65,00,000	
Less: Business Loss <sup>1</sup> in Country G (CGD 12,000 x ₹ 60/CGD)	<u>7,20,000</u>	57,80,000
<b>Income from Other Sources</b>		
Agricultural income from tea estate in Country G is taxable in India (CGD 30,000 x ₹ 60/CGD)		<u>18,00,000</u>
<b>Gross Total Income / Total Income</b>		<b>75,80,000</b>
<b>Tax on total income</b>		
Tax on ₹ 75,80,000 [30% x ₹ 65,80,000 plus ₹ 1,12,500]		20,86,500
Add: Surcharge@10%, since total income > ₹ 50 lakhs but ≤ ₹ 1 crore		<u>2,08,650</u>
		22,95,150
Add: HEC@4%		<u>91,806</u>
		23,86,956
Average rate of tax in India [i.e., ₹ 23,86,956/₹ 75,80,000 x 100]	31.49%	
Average rate of tax in Country G [i.e., CGD 6,000/CGD 30,000]	20%	
Doubly taxed income [₹ 18,00,000 – ₹ 7,20,000]	10,80,000	

<sup>1</sup> Since the eight year period from A.Y.2019-20, being the assessment year in which such business loss was incurred, has not expired, the business loss can be set-off against current year business income

Rebate under section 91 on ₹ 10,80,000 @20% [lower of average Indian tax rate and rate of tax in Country G]	<u>2,16,000</u>
<b>Net tax liability in India [₹ 23,86,956 – ₹ 2,16,000]</b>	<b><u>21,70,956</u></b>
<b>Net tax liability (rounded off)</b>	<b>21,70,960</b>

**Note:** Since Ms. Nidhi is resident in India for the P.Y.2022-23, her global income would be subject to tax in India. She would be allowed deduction under section 91 since all the following conditions are fulfilled:-

- (a) She is a resident in India during the relevant previous year.
  - (b) Agricultural income from tea estate accrues or arises to her outside India in Country G during that previous year.
  - (c) Such agricultural income is not deemed to accrue or arise in India during the previous year.
  - (d) Such agricultural income has been subjected to income-tax in Country G in her hands and she has paid tax on such income in Country G.
  - (e) There is no agreement under section 90 for the relief or avoidance of double taxation between India and Country G, where the income has accrued or arisen.
2. (a) In this case, Aravalli Ltd., the Indian company, and Andes Inc., a Country E company, are deemed to be associated enterprises as per section 92A(2) since Andes Inc. holds not less than 26% voting power in Aravalli Ltd.

On account of the primary adjustment of ₹ 168 lakhs made by the Assessing Officer, the total income of Aravalli Ltd. for A.Y.2021-22 would increase by ₹ 168 lakhs.

**I. If Aravalli Ltd. opts not to pay additional income-tax on such excess money not repatriated**

In this case, secondary adjustment has to be made under section 92CE, since –

- (1) The company has accepted the primary adjustment made by the Assessing Officer;
- (2) The primary adjustment is in respect of A.Y.2021-22; and
- (3) The primary adjustment exceeds ₹ 100 lakhs.

Accordingly, the excess money (i.e., ₹ 168 lakhs) available with the associated enterprise (i.e., Andes Inc., Country E) not repatriated to India within 90 days of the date of the order of the Assessing Officer would be deemed as an advance made by the Aravalli Ltd. to its associated enterprise, Andes Inc. Interest would be calculated on such advance at 11.75% [i.e., the rate of six month LIBOR as on 30th September, 2022 (i.e., 8.75% + 3%)], since the international transaction is denominated in foreign currency. Such interest computed from 31.5.2022 to 31.3.2023 amounting to ₹ 16,44,099 [i.e., 304/365 x 168 lakhs x 11.75%] would be added to his total income for A.Y.2023-24.

**II. If Aravalli Ltd. opts to pay additional income-tax on such excess money not repatriated**

In such a case, Aravalli Ltd. has to pay additional income-tax @20.9664% (tax @18% plus surcharge @12% plus cess@4%) on ₹ 168 lakhs, which amounts to ₹ 35,22,355. Where additional income-tax is so paid by Aravalli Ltd., it will not be required to make secondary adjustment and compute interest **from the date of payment of such tax**. The additional income-tax so paid by Aravalli Ltd. would be treated as the final payment of tax in respect of excess money not repatriated and no further credit would be allowed to Aravalli Ltd. or to any other person in respect of the amount of additional income-tax so paid.

- (b) If an Indian company, being the borrower, incurs any expenditure by way of interest in respect of any debt issued by its non-resident associated enterprise (AE) and such interest exceeds ₹ 1 crore, then, the interest paid or payable by such Indian company in excess of 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is lower, shall not be allowed as deduction as per section 94B.

Further, where the debt is issued by a lender which is not associated but an associated enterprise either provides an implicit or explicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by an associated enterprise and limitation of interest deduction would be applicable.

In the present case, since M/s Kingston Inc holds 35% of voting power i.e., not less than 26% of voting power in both Nilgris Ltd and M/s Swiggy Inc, Nilgris Ltd. and M/s Swiggy Inc are deemed to be associated enterprises.

Since loan of ₹ 60 crores taken by Nilgris Ltd., an Indian company from M/s Mississippi Inc, is guaranteed by M/s Swiggy Inc, an associated enterprise of Nilgris Ltd., such debt shall be deemed to have been issued by an associated enterprise and interest payable to M/s Mississippi Inc shall be considered for the purpose of limitation of interest deduction under section 94B.

**Computation of interest to be allowed in the computation of income under the head profits and gains of business or profession of M/s. Nilgris Ltd.**

Particulars	₹
Net profit	6,00,00,000
Add: Interest already debited (₹ 60 crores x 9%)	5,40,00,000
Depreciation	2,00,00,000
Income tax	<u>3,20,00,000</u>
<b>EBITDA</b>	<b><u>16,60,00,000</u></b>
Interest paid or payable by Nilgris Ltd.	5,40,00,000
Less: Excess interest – Lower of	
Interest paid or payable in excess of 30% of EBITDA	
- ₹ 5,40,00,000 (-) ₹ 4,98,00,000	₹ 42,00,000
Interest paid or payable to non-resident AE	₹ 5,40,00,000
	<u>42,00,000</u>
Interest allowable as deduction	<b><u>4,98,00,000</u></b>

**Note** – Since Kingston Inc., an associated enterprise of Nilgris Ltd., has deposited a matching amount of ₹ 60 crores with Mississippi Inc., the interest payable by Nilgris Ltd. to Mississippi Inc. on loan of ₹ 60 crores borrowed from Mississippi Inc. would be subject to limitation of interest deduction on the basis of this line of reasoning also.

**Solution to Case Study 2**

**I. Answers to MCQs**

Q. No.	Most Appropriate Answer
1	(d)
2	(c)
3	(a)
4	(d)
5	(c)

## II. Answers to Descriptive Questions

### Answer to Q.1

As per section 9(1)(i), business profits of a non-resident/foreign company would be deemed to accrue or arise in India, if such income accrues or arises through or from any business connection in India. In such a case, such income would be taxable in the hands of the non-resident/foreign company in India.

*Explanation 2A* to section 9(1)(i) provides that significant economic presence of a non-resident in India would also constitute business connection in India. In case of systematic and continuous soliciting of business activities or engaging in interaction with users in India, significant economic presence would be established if the number of users is atleast 3 lakhs.

Since LMN Inc., a foreign company based in New York, had only 2,95,000 users in India, business connection is **not** constituted through significant economic presence in India. Hence, no income would be deemed to accrue or arise in India in the hands of LMN Inc. for the F.Y.2022-23.

*Explanation 3A* to section 9(1)(i) provides that income attributable to operations in India for establishing business connection would include income from, *inter alia*, sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India.

Income arising to NZ Research Limited, a foreign company based in New Zealand, from sale of data to LMN Inc. would be deemed to accrue or arise in India through business connection, since the data is collected by it from A Ltd., an Indian company.

### Answer to Q.2

- (i) Memphis Depay, a Netherlands football player, is a non-resident, since he stayed in India only for 58 days in the P.Y.2022-23. He is a non-resident sportsman deriving income from participation in football tournaments in India and advertisement. Hence the provisions of section 115BBA would apply in this case.

#### Computation of total income and tax liability of Memphis Depay for A.Y.2023-24

Particulars	₹	₹
<b>Income taxable under section 115BBA</b>		
Income from participation in football tournament in India [No deduction is allowable for travel and stay expenses of ₹ 3 lakh]	18,00,000	
Advertisement	20,00,000	
	<b>38,00,000</b>	
<b>Income taxable under section 115BB</b>		
Income from game show on television	5,00,000	
<b>Total income</b>	<b>43,00,000</b>	
Tax@ 20% under section 115BBA on ₹ 38,00,000		7,60,000
Tax@ 30% under section 115BB on income of ₹ 5,00,000 from television game show		1,50,000
		9,10,000
Add: Health and Education cess@4%		36,400
<b>Total tax liability of Memphis Depay for the A.Y.2023-24</b>		<b>9,46,400</b>

(ii) Requirement for filing return of income for A.Y.2023-24

Section 115BBA provides that if the total income of the non-resident sportsman comprises of only income referred to in that section and tax deductible at source has been fully deducted, it shall not be necessary for him to file his return of income. However, in this case, Mr. Memphis Depay has income from television game show as well which is taxable under section 115BB. Therefore, he cannot avail the benefit of exemption from filing of return of income as contained in section 115BBA. Hence, he would be liable to file his return of income for A.Y.2023-24.

**Answer to Q.3**

As per section 92B, the transactions entered into between PQR Ltd., an Indian company, and LMN Inc., New York, being associated enterprises, for redistribution of air conditioners would be international transactions. As PQR Ltd. purchased air conditioners from LMN Inc., being an associated enterprise, for redistribution to independent parties and PQR Ltd. does not add substantial value to such goods, **resale price method** would be the most appropriate method to determine the ALP of the transactions between associated enterprises. Since PQR Ltd. purchased similar air conditioners from XYZ Ltd., UK, an unrelated entity, and sold the same to unrelated parties, this transaction can be considered as uncontrolled transaction and the gross profit margin of 18% earned on sale of such air conditioners can be considered for the purpose of determining the arm's length price of the transactions between PQR Ltd. and LMN Inc. However, functional adjustments need to be given effect to in arriving at the ALP.

<b>Computation of ALP of transaction between PQR Ltd. and LMN Inc.</b>	
<b>Particulars</b>	<b>Amount (in ₹)</b>
Resale price of goods purchased from LMN Inc.	75,00,00,000
Less: Profit margin with reference to uncontrolled transaction between PQR Ltd. and XYZ Ltd. (18% on sale)	<u>13,50,00,000</u>
	<b>61,50,00,000</b>
<b><u>Functional adjustments</u></b>	
Adjustment for benefit of brand value of LMN Inc. [LMN Inc. has its brand value internationally. Therefore, adjustment of benefit of brand value has to be carried out to arrive at ALP (2% of sale price)]	1,50,00,000
Adjustment for credit period [LMN Inc. provides credit period of 1 month whereas unrelated party, XYZ Ltd. provides credit period of 3 months. Therefore, adjustment for the credit period has to be carried out to arrive at arm's length price (1% x 2 months x ₹ 61,50,00,000)]	<u>(1,23,00,000)</u>
<b>Arm's length Price</b>	<b><u>61,77,00,000</u></b>

**Amount of arm's length adjustment**

<b>Particulars</b>	<b>Amount (in ₹)</b>
Resale price of goods purchased from LMN Inc.	75,00,00,000
Less: Profit margin (12% on sale)	<u>9,00,00,000</u>
Cost of goods purchased from LMN Inc. for redistribution	66,00,00,000
Arm's length purchase price (computed above)	<u>61,77,00,000</u>
<b>Arm's length adjustment</b>	<b><u>4,23,00,000</u></b>

**Solution to Case Study 3**

**I. Answers to MCQs**

Q. No.	Most Appropriate Answer
1.	(b)
2.	(b)
3.	(d)
4.	(b)
5.	(d)

**II. Answers to Descriptive Questions**

**Answer to Q.1**

HIG Ltd., an Indian company, and Andes. Inc., a Country A company, would be deemed to be associated enterprises, under any one or more of the following situations based on the conditions stipulated in section 92A(2) –

	Condition for Deemed Associated Enterprise (AE)	Fulfilment of condition in this case	
(i)	One enterprise appoints more than half of the Board of Directors of the other enterprise	Andes Inc. has the power to appoint 8 directors out of the 15 directors on the Board of HIG Ltd, which is more than half.	If this power is exercised by Andes, then, HIG Ltd. and Andes Inc. would be deemed AEs.
(ii)	90% or more of raw materials/ consumables required for manufacturing by one enterprise are supplied by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise	90% of purchases of HIG Ltd. are from Andes Inc. (i.e., ₹ 360 crores out of total ₹ 400 crores). The price for purchases is fixed in the agreement and conditions for supply are determined by Andes Inc.	Due to fulfillment of this condition, HIG Ltd. and Andes. would be deemed AEs
(iii)	One enterprise guarantees 10% or more of the total borrowings of the other enterprise.	Andes. guarantees 15% of the total borrowings of HIG Ltd. (i.e., ₹ 120 crores out of ₹ 800 crores).	Due to fulfillment of this condition, HIG Ltd. & Andes. would be deemed AEs

**Answer to Q.2**

Maxim Inc is incorporated in Country A, which has a DTAA with India in line with UN Model Convention. Accordingly, the relevant clauses of Article 5 of UN Model Convention have to be examined to determine whether a PE is constituted in India.

Relevant Clause of Article 5		Satisfaction or otherwise of condition for A.Y.2023-24
Article 5(3)	Furnishing of services through an employee engaged by the enterprise would constitute a PE, if activities of that nature continue in the	PE is <b>not</b> constituted, since Donald spends only 89 days in India in the P.Y.2022-23.

	other Contracting State for a period of more than 183 days in a fiscal year.	
Article 5(4)	PE shall be deemed not to include use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise.	PE is <b>not</b> constituted since facilities of airport space is used solely for display of Electric car.
Article 5(5)	PE shall be constituted by an enterprise, where a person is acting in a Contracting State on behalf of an enterprise, and that person habitually concludes contracts or plays the principal role in conclusion of contracts that are routinely concluded without material modification by the enterprise.	PE is <b>not</b> constituted, since Donald neither concludes contracts nor plays the principal role in conclusion of contracts on behalf of Maxim Inc.

### Answer to Q.3

		₹
<b>(a)</b>	<p>Tax to be deducted u/s 195 = 10% + cess@4% = 10.4%</p> <p>Fee for technical services (net) = USD 75,000 x ₹ 80 = ₹ 60,00,000</p> <p>Fee for technical services (gross) = ₹ 60,00,000 x 100/89.6 = ₹ 66,96,429</p> <p>TDS = 10.4% of ₹ 66,96,429</p> <p>Interest@1.5% per month on ₹ 6,96,400 (for delay in deposit of TDS) for 2 months (from 31<sup>st</sup> March, 2023 to 30<sup>th</sup> May, 2023)</p> <p>Total amount to be deposited (including interest)</p>	<p>6,96,429</p> <p><u>20,892</u></p> <p><b><u>7,17,321</u></b></p>
<b>(b)</b>	<p>Yes, the amount of TDS remitted is refundable, if contract is cancelled. Since HIG Ltd. has borne the TDS, it can claim refund.</p> <p>CBDT Circular No.7/2007 dated 23.10.2007 lays down the procedure for refund of TDS u/s 195 to the person deducting tax at source from the payment to a non-resident.</p> <p>The said Circular allows refund to the person making payment under section 195, after deposit of TDS u/s 195 to the Government account.</p> <p>The amount can be refunded subject to prior approval of the Chief Commissioner of Income-tax or the Director General of Income-tax concerned, to the person who deducted it from the payment to the non-resident, under section 195.</p> <p>In a case where remittance is made to the non-resident, but contract is cancelled, the remitted amount would be returned to the person responsible for deducting tax at source. Also, the Assessing Officer may, after giving intimation to the deductor, adjust the refund against any existing tax liability of the deductor under the Income-tax Act, 1961. The balance amount would be refunded to the deductor.</p> <p>A refund in terms of this Circular should be granted only after obtaining an undertaking that no certificate under section 203 has been issued to the non-resident.</p> <p>The amount deducted as tax and paid to the credit of the Government, therefore, belongs to the deductor. In this case, the deductor, HIG Ltd. has itself borne the TDS u/s 195, therefore, refund can be claimed by HIG Ltd.</p>	

## **Solution to Case Study 4**

### **I. Answers to MCQs**

<b>Q. No.</b>	<b>Most Appropriate Answer</b>
1.	(d)
2.	(b)
3.	(d)
4.	(a)
5.	(b)

### **II. Answers to Descriptive Questions**

1. Section 90(2) provides that where the Central Government has entered into an agreement with the Government of any other country for granting relief of tax or for avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of the Income-tax Act, 1961 shall apply to the extent they are more beneficial to that assessee. In effect, the provisions of the Income-tax Act, 1961 or the DTAA, whichever is more beneficial would be applicable.

First of all, we have to determine Mr. Sridhar's residential status under the provisions of the Income-tax Act, 1961 for the A.Y.2023-24. His stay in India is as follows –

<b>Previous Year</b>	<b>No. of days of stay in India</b>
2022-23	122
2021-22	122
2020-21	122
2019-20	122
2018-19	122
2017-18	122
2016-17	122
2015-16	122
2014-15	122
2013-14	122
2012-13	122

In the P.Y.2022-23, he stayed in India for 122 days and for 488 days (122 days x 4 years) in aggregate in the four immediately preceding previous years. Since he stays in India for a period of 60 days or more in the P.Y.2022-23 and a total period of 365 days or more during the four immediately preceding previous years, he is resident in India as per the provisions of section 6(1) of the Income-tax Act, 1961 for A.Y.2023-24.

Sridhar is resident in India in all the ten immediately preceding previous years (P.Y.2012-13 to P.Y. 2021-22) [Owing to satisfying the condition of  $\geq 60$  days in relevant P.Y. +  $\geq 365$  days in the four immediately preceding previous years]. Also, his stay in India in the seven immediately preceding previous years (i.e., from P.Y.2015-16 to P.Y.2021-22) is 854 days (122 days x 7 years). Accordingly, since he is resident in all the ten immediately preceding previous years and his stay in India in the seven immediately preceding previous years exceeds 729 days, Sridhar would be resident and ordinarily resident in India for A.Y.2023-24 under the provisions of the Income-tax Act, 1961.

Sridhar is also a resident in Country L in the P.Y.2022-23, since he has stayed there for 243 days in that previous year. Since his stay in Country L exceeds 240 days, he is a resident in Country L as per the domestic laws of that country. Thus, Sridhar is a resident of India as well as Country L in the P.Y.2022-23, as per the domestic laws of the respective countries.

India's DTAA with Country L is based on UN Model Convention. Article 4(2) of the India Country L DTAA provides that where an individual is a resident of both India and Country L, he shall be deemed to be resident of that country in which he has a permanent home and if he has a permanent home in both the countries, he shall be deemed to be resident of that country, which is the centre of his vital interests i.e., the country with which he has closer personal and economic relations.

Sridhar has residential houses both in India and in Country L. Thus, he has a permanent home in both the countries. Sridhar owns rubber estates in Country L from which he derives business income. He has no business or permanent establishment of his business in India. Therefore, his personal and economic relations with Country L are closer, since Country L is the place where –

- (a) the property is located and
- (b) the business of rubber estates is being carried on.

Therefore, he shall be deemed to be resident of Country L for A.Y. 2023-24.

The facts of the case and issues arising there from are similar to that of *CIT vs. P.V.A.L. Kulandagan Chettiar (2004) 267 ITR 654*, where the Supreme Court held that if an assessee is deemed to be a resident of a Contracting State where his personal and economic relations are closer, then in such a case, the fact that he is a resident in India to be taxed in terms of sections 4 and 5 of the Income-tax Act, 1961 would become irrelevant, since the DTAA prevails over sections 4 and 5.

However, as per section 90(4), in order to claim relief under the agreement, Sridhar has to obtain a certificate [Tax Residency Certificate (TRC)] declaring that he is a resident of Country L from the Government of Country L. Further, he also has to provide such other documents and information, as may be prescribed.

Therefore, in this case, Sridhar would not be liable to income tax in India for A.Y. 2023-24 in respect of business income and capital gains arising in Country L provided he furnishes the TRC and such other documents and information as may be prescribed.

2. (i) Himalaya Ltd, the Indian company and Randell Inc., the Country C company are deemed to be associated enterprises as per section 92A(2)(a), since Randell Inc. holds shares carrying 30% of voting power (which is not less than 26% of the voting power) in Himalaya Ltd.

As per *Explanation* to section 92B, the transactions entered into between two associated or deemed associated enterprises for sale of product, lending or guarantee and provision of services relating to market research are included within the meaning of "international transaction".

Accordingly, transfer pricing provisions would be attracted and the income arising from such international transactions have to be computed having regard to the arm's length price.

In this case, from the information given, the arm's length price has to be determined taking the comparable uncontrolled price (CUP) method to be the most appropriate method.

Particulars	₹ in lakhs
Amount by which total income of Himalaya Ltd. is enhanced on account of adjustment in the value of international transactions:	
(i) Difference in price of shirt @ \$ 4 each for 70,000 pieces sold to Randell Inc. [ $\$ 4 (\$ 11 - \$ 7) \times 70,000 \times ₹ 70$ ]	196.00
(ii) Difference for excess payment of guarantee fee to Randell Inc. for loan borrowed from foreign lender [ $\$ 5,000 (\$ 21,000 - \$ 16,000) \times ₹ 70$ ]	3.50

(iii) Difference for excess payment for services to Randell Inc. [\$ 4,000 (\$ 32,000 - \$ 28,000) x ₹ 70]	2.80
	<b>202.30</b>

- (ii) Himalaya Ltd. cannot claim deduction under section 10AA in respect of ₹ 202.30 lakhs, being the amount of income by which the total income is enhanced by virtue of the first proviso to section 92C(4), since the adjustments are made by the Assessing Officer to determine the arm's length price.

### **Solution to Case Study 5**

#### **I. Answers to MCQs**

Q. No.	Most Appropriate Answer
1	(c)
2	(d)
3	(d)
4	(c)
5	(d)

#### **II. Answers to Descriptive Questions**

##### **Answer to Q.1**

Ganesh would be a resident in India for A.Y. 2023-24 since he has stayed in India throughout the year and satisfied the basic condition of stay in India for 182 days or more during the P.Y. 2022-23.

Ganesh would be resident and ordinarily resident for A.Y. 2023-24 if he satisfies both the additional conditions given below -

- (i) he has during the 7 previous years preceding the relevant previous year been in India for a period of 730 days or more; **and**
- (ii) he has been resident in India at least 2 out of the 10 previous years preceding the relevant previous year

Both the conditions have to be satisfied for being a Resident and Ordinarily Resident. Since Ganesh has stayed in India only for 700 days in the preceding 7 previous years (100 days x 7 years), he does not satisfy the additional condition (i) and hence, he would be resident but not ordinarily resident (RNOR) in India for A.Y. 2023-24.

As per section 5(1), in case of a resident but not ordinarily resident,

- income which accrues or arises or which is deemed to accrue or arise to him in India or
- income which is received or is deemed to be received in India or
- income which accrues or arises to him outside India from a business controlled in or profession set up in India

would be includible in his total income.

All other income accruing or arising to him outside India which is not received in India or which is not deemed to accrue or arise in India would not be includible in his total income.

**Computation of total income and tax liability of Ganesh for A.Y. 2023-24**

Particulars	Amount (₹)
Salary from Alpha Ltd. (computed) [accrues and arises in India]	32,00,000
Consultancy income in India (computed) [accrues and arises in India]	8,00,000
Income from Property in Country "P" [neither accrues or arises nor is received in India]	-
Agricultural income in Country "P" [neither accrues or arises nor is received in India]	-
Business income/loss in Country "P" [neither accrues or arises nor is received in India]	-
Dividend from companies in Country "P" [neither accrues or arises nor is received in India]	-
<b>Total Income</b>	<b>40,00,000</b>
<b>Computation of tax liability</b>	
Tax on ₹ 30,00,000 [₹ 40,00,000 – ₹ 10,00,000] x 30% plus ₹ 1,12,500	10,12,500
Add: Health and education cess@4%	40,500
<b>Tax Liability</b>	<b>10,53,000</b>

**Answer to Q.2**

As per section 92D(1)(ii), every person, being constituent entity of an international group, has to keep and maintain the prescribed information and document in respect of the international group.

Rule 10DA provides that every person, being a constituent entity of an international group shall–

- (i) if the consolidated group revenue of the international group, of which such person is a constituent entity, as reflected in the consolidated financial statement of the international group for the accounting year, exceeds ₹ 500 crore; and
- (ii) the aggregate value of international transactions –
  - (A) during the accounting year, as per the books of accounts, exceeds ₹ 50 crore, or
  - (B) in respect of purchase, sale, transfer, lease or use of intangible property during the accounting year, as per the books of accounts, exceeds ₹ 10 crore

keep and maintain information and documents of the international group.

The rate of exchange for the calculation of the value in rupees of the consolidated group revenue in foreign currency would be the TTBR of such currency on the last day of the accounting year.

In the given case, Alpha, being the constituent entity, is required to keep and maintain information and documents since the consolidated group revenue for the accounting year 2022-23 exceeds the threshold of ₹ 500 crores (i.e., ₹ 4,000 crore, in this case) and the aggregate value of international transaction of Alpha Ltd. during the accounting year exceeds ₹ 50 crore (i.e., it is ₹ 120 crore, in this case).

Yes, it has to furnish report in Form No. 3CEAA to the Joint Director as may be designated by PDGIT (Systems) or DGIT (Systems) and it shall be furnished on or before the due date for furnishing the return of income specified under section 139(1) i.e., 30<sup>th</sup> November, 2023.

Where there is more than one constituent entity of an international group required to file the information and documents under sub-rule (2) of Rule 10DA, Form 3CEAA may be furnished by –

- i) any one constituent entity which has been designated for this purpose by the international group; and
- ii) the information has to be conveyed to the Joint Director as may be designated by PGIT (Systems) or DGIT (Systems), as the case may be, in Form 3CEAB atleast 30 days before the due date of furnishing Form 3CEAA i.e., before 31<sup>st</sup> October, 2023.

### Answer to Q.3

The arrangement of routing money through Gamma Co Ltd. results in a tax benefit. Since there is no business purpose in incorporating Gamma Co Ltd. in Country W, which is a low tax jurisdiction, it can be said that the main purpose of the arrangement is to obtain a tax benefit on account of capital gains being tax free in both Country Z and Country W as per the domestic laws of these countries. The alternate course available in this case is direct advance given by Delta (P) Ltd. to Phi Co. Ltd. However, in that case, it would be deemed as dividend under section 2(22)(e) and would be chargeable to tax in the hands of Phi Co. Ltd.

As per section 96, impermissible avoidance arrangement means an arrangement where the main purpose is to obtain tax benefit and it -

- i. Creates rights or obligations, which are not ordinarily created between persons dealing at arm's length;
- ii. Results directly or indirectly, in the misuse or abuse, of the provisions of the Act; or
- iii. lack commercial substance or is deemed to lack commercial substance under section 97, in whole or in part; or
- iv. is entered into or carried out, by means of, or in a manner, which are not ordinarily employed for *bona fide* purposes.

Hence, the arrangement may be deemed to lack commercial substance, GAAR may be invoked.

However, if the tax benefit in the relevant assessment year arising, in aggregate, to all the parties to the arrangement does not exceed ₹ 3 crore, then, GAAR provisions would not be invoked.