

MOCK TEST PAPER
FINAL COURSE: GROUP – II
PAPER – 6F: MULTIDISCIPLINARY CASE STUDY
SUGGESTED ANSWERS / HINTS

CASE STUDY 1

Answers & Reasoning to MCQ:

1. (a) Sitting fee paid to director

As per reverse charge notification, tax on services supplied by a director of a company/ body corporate to the said company/ body corporate, located in the taxable territory, is payable under reverse charge. Hence, in the present case, the sitting fee amounting to ₹ 25,000, payable to the directors by Upal Ltd., is liable to GST under reverse charge and thus, recipient of service - Upal Ltd. – is liable to pay GST on the same.

Salary paid to director

As per Circular No.140/10/2020 GST dated 10.06.2021, the part of director's remuneration which is declared as salary in the books of a company and subjected to TDS under section 192 of the Income-tax Act, are not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III. Therefore, in the given case, the salary paid to executive directors shall not be liable to GST.

- 2. (d)** In case of importation of service, the recipient of imported service who is located in India (other than non-taxable online recipient of OIDAR service) is the person who has to pay IGST on the service under reverse charge [Section 5(3) of the IGST Act read with serial number (1) of Notification No. 10/2017 IGST (R) dated 28.06.2017].

Here, Upal Ltd. shall be liable to pay GST under reverse charge and GST of ₹ 9,54,720 (i.e. $(52,00,000 + 1,04,000) \times 18\%$) shall be paid by Upal Ltd.

- 3. (c)** Rule 4 of the Companies (Appointment and Remuneration of Managerial personnel) Rules, 2014 as under:

- The sitting fees shall not exceed one lakh rupees per meeting of the Board or committee thereof. [As per Rule 4]
- The sitting fee payable to the Independent Directors and Women Directors shall not be less than that payable to other directors. [As per Proviso to Rule 4]

Accordingly, in the given case, the proposal of giving sitting fees to independent Directors as well as woman Director in excess of ₹ 40,000 can be accepted, as there are no legal restrictions in doing so, but such fees cannot exceed the maximum limit of ₹ 1,00,000 per meeting for each such Director.

- 4. (b)** Section 180(1) of the Companies Act, 2013, specifies the powers which the Board of Directors of a company shall exercise only with the consent of the company by a special resolution. Clause (a) of Section 180 (1) defines one such power as the power to sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company or where the company owns more than one undertaking of the whole or substantially the whole or any of such undertakings.

Therefore, the sale of the undertaking of a company can be made by the Board of Directors only with the consent of members of the company accorded by passing a special resolution.

Even if the power is given to the Board by the memorandum and articles of the company, the sale of the undertaking must be approved by the shareholders in general meeting by passing a special resolution.

5. (a) Rule 7 of the Companies (Appointment and Qualifications of Directors) Rules, 2014. These provisions are discussed below:

- (i) Strength of Small Shareholders required for appointment of their Director:

A listed company may, upon notice of not less than:

- (a) one thousand small shareholders; or
- (b) 1/10th of the total number of such shareholders, whichever is lower, have a small shareholders' director elected by the small shareholders.

- (ii) Serving of notice by small shareholders:

The small shareholders intending to propose a person as a candidate for the post of small shareholders' director shall give a notice of their intention with the company **at least fourteen days** before the meeting under their signature specifying the name, address, shares held and folio number of the person whose name is being proposed for the post of director and of the small shareholders who are proposing such person for the office of director.

Here, Upal Ltd., at present, is having 1000 small shareholders and accordingly, 1/10th of such small shareholders i.e. 100 or 1000, whichever is lower, i.e. minimum 100 small shareholders of Upal Ltd. are required to give notice to the company for appointment of Merumal as their Director and such notice needs to be given minimum 14 days before the meeting where the issue of appointment of small shareholders' Director shall be considered.

Answers to Descriptive questions:

1. In the instant case, Upal 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 Upal 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.

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 Upal 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. 2023-2024. Accordingly, the recovery of cost should be recognised in the financial year 2023-2024.

2. (i) Upal Ltd. will recognise a liability in its books to the extent of 5 days of PL for 300 employees and 10 days of PL for remaining 700 employees and 2 days of SL for 300 employees and 5 days of SL for remaining 700 employees in its books as an unused entitlement that has accumulated in 2022-2023

as short-term compensated absences.

- (ii) Upal Ltd. will recognize ₹ 63crores (1,800 x 3.5%) as a liability and expense in its books of account.
- (iii) When an employee has rendered service to an entity during a period, the entity shall recognise the contribution payable to a defined contribution plan in exchange for that service.

Under Ind AS 19, the amount of ₹ 80 crores will be recognised as a liability (accrued expense), after deducting any contribution already paid (100-20) and an expense in the statement of profit and loss.

- (iv) However, if the contribution already paid would have exceeded the contribution due for service before the end of the reporting period, an entity shall recognise that excess as an asset (prepaid expense).
- (v) Since the contributions are payable within 12 months from the end of the year in which the employees render the related service, they will not be discounted. However, where contributions to a defined contribution plan do not fall due wholly within twelve months after the end of the period in which the employees render the related service, they shall be discounted using the discount rate.

3. Controls at a Sub-Service Organization:

In accordance with SA 402 “Audit Considerations relating to an Entity Using a Service Organization”, a user entity may use a service organization that in turn uses a sub-service organization to provide some of the services provided to a user entity that are part of the user entity’s information system relevant to financial reporting. The sub-service organization may be a separate entity from the service organization or may be related to the service organization.

A user auditor may need to consider controls at the sub-service organization. In situations where one or more sub-service organizations are used, the interaction between the activities of the user entity and those of the service organization is expanded to include the interaction between the user entity, the service organization and the sub-service organizations. The degree of this interaction, as well as the nature and materiality of the transactions processed by the service organization and the sub-service organizations are the most important factors for the user auditor to consider in determining the significance of the service organization’s and sub-service organization’s controls to the user entity’s controls.

Further, the user auditor shall determine whether a sufficient understanding of the nature and significance of the services provided by the service organization and their effect on the user entity’s internal control relevant to the audit has been obtained to provide a basis for the identification and assessment of risks of material misstatement.

If the user auditor is unable to obtain a sufficient understanding from the user entity, the user auditor shall obtain that understanding by application of the following two methods of presenting description of internal controls i.e. (i) Type 1 report; or (ii) Type 2 report.

If a service organization uses a subservice organization, the service auditor’s report may either include or exclude the subservice organization’s relevant control objectives and related controls in the service organization’s description of its system and in the scope of the service auditor’s engagement. These two methods of reporting are known as the inclusive method and the carve-out method respectively.

In either method, the service organization includes in its description of controls a description of the functions and nature of the processing performed by the sub-service organization.

If the Type 1 or Type 2 report excludes the control at a subservice organization and the services provided by the subservice organization are relevant to the audit of the user entity’s financial statements, the user auditor is required to apply the requirements of the SA 402 in respect of the subservice organization.

The nature and extent of work to be performed by the user auditor regarding the services provided by a subservice organization depend on the nature and significance of those services to the user entity and relevance of those services to the audit.

CASE STUDY 2

Answers & Reasoning to MCQ:

1. (c) Since Mr. Soham's turnover for the F.Y.2021-22 was only ₹ 9crores, TDS provisions under section 194Q of the Income-tax Act, 1961 would not be attracted. However, TCS provisions under section 206C(1H) would be attracted in the hands of Mr. Nartan, since his turnover exceeds ₹ 10 crores in the F.Y.2021-22 and his receipts from Mr. Soham exceed ₹ 50 lakhs.

No, tax is to be collected u/s 206C(1H) on 8.5.2022 and 27.8.2022, since the aggregate receipts till that date i.e. ₹ 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs. Tax of @ 0.1% on ₹ 30 lakhs (₹ 15 lakhs on 18.10.2022 and ₹ 15 lakhs on 11.2.2023), being the balance unexhausted threshold limit, has to be collected.

2. (d) If PAN is not furnished by Mr. Soham to Mr. Nartan, then, Mr. Nartan has to collect tax @1% instead of 0.1%

The provisions of section 206CC require tax collection at the higher of the following two rates, in case of failure by the person paying any sum or amount on which tax is collectible at source to furnish PAN to the person responsible for collecting tax at source –

- at twice the rate specified in the relevant provision of the Act; or
- at 5% [1%, in case tax is required to be collected at source u/s 206C(1H)]

3. (a) Section 206C(1G) of the Income-tax Act, 1961, provides for collection of tax, *inter alia*, by every person, being a seller of an overseas tour programme package, who receives any amount from the buyer who purchases the package at the rate of 5% of such amount

Here, M/s. James Durbin, being a seller of an overseas tour programme package, i.e. seller of holiday package to Dubai to Mr. Nartan, a resident, it is required to collect tax at source @ 5% on receipt of ₹ 5 lakh i.e. ₹ 25,000.

4. (c) Section 206C(1G) of the Income-tax Act, 1961, provides for collection of tax by every person,
- being an authorized dealer, who receives amount, under the Liberalised Remittance Scheme of the RBI, for overseas remittance from a buyer, being a person remitting such amount out of India;
 - being a seller of an overseas tour programme package, who receives any amount from the buyer who purchases the package at the rate of 5% of such amount

Rate of TCS in case of collection by an authorized dealer would be 5% of the amt or agg. of amts in excess of ₹ 7 lakh where the amount is remitted for a purpose other than purchase of overseas tour programme package; and the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year.

Rate of TCS in case of collection by an authorized dealer would be 0.5% of the amt or agg. of amts in excess of ₹ 7 lakh where the amount being remitted out is a loan obtained from any financial institution as referred under section 80E, for the purpose of pursuing any education; and the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year.

Here, the amount of tax to be collected from Mr. Nartan in respect of the remittance of amounts overseas for his son's and daughter's education would be TCS @ 0.5% of ₹ 8 lakhs (i.e. ₹ 15 lakhs – ₹ 7 lakhs) as loan is taken from financial institution – SBI and TCS @ 5% of ₹ 5 lakhs (i.e. ₹ 12 lakhs

– ₹ 7 lakhs) as amount is remitted out of personal savings and not through loan obtained from financial institution, are attracted in respect of remittance for son's and daughter's education, respectively.

5. (d) Section 206C(1G) of the Income-tax Act, 1961, provides for collection of tax by every person,
- being an authorized dealer, who receives amount, under the Liberalised Remittance Scheme of the RBI, for overseas remittance from a buyer, being a person remitting such amount out of India;
 - being a seller of an overseas tour programme package, who receives any amount from the buyer who purchases the package at the rate of 5% of such amount

Rate of TCS in case of collection by an authorized dealer would be 5% of the amt or agg. Of amts in excess of ₹ 7 lakh where the amount is remitted for a purpose other than purchase of overseas tour programme package; and the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year.

In the given case, Mr. Nartan has already remitted ₹ 12 lakhs on 15.2.2023, out of his personal savings, through Bank of India for his daughter's education and accordingly, the limit of 7 lakhs is exhausted and so, the amount of tax to be collected from Mr. Nartan is ₹ 30,000 (i.e. 5% of ₹ 6 lakhs) on the amount remitted as gift to his sister.

Answers to Descriptive questions:

1. Since Mr. Soham's turnover from business was ₹9 crores in the immediately preceding financial year (i.e., F.Y.2021-22), he is liable to deduct tax at source under section 194H and 194C in the P.Y.2022-23.
- (i) Tax @5% has to be deducted under section 194H in respect of purchase commission of ₹ 25,000 to an agent for purchases made during the year, since the same exceeds the threshold limit of ₹ 15,000 for non-deduction of tax at source thereunder.
 - (ii) Tax has to be deducted under section 194C in case of payment to resident contractors. The rate of tax is 1% if the payee is an individual or HUF and 2% in case of payees, other than individuals and HUFs.

However, as per section 194C(4), no individual or Hindu undivided family shall be liable to deduct income tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of the Hindu undivided family. In such case, the provisions of section 194M attracted provided the aggregate payment to the contractor exceeds ₹ 50 lakhs.

In this case, since Mr. Soham, makes payment of ₹ 5 lakh to a civil engineer for construction of residential house for self use, he is not liable to deduct tax at source under section 194C and under section 194M from such sum.

2. (a) Under section 181 of the Companies Act, 2013, the Board of Directors of a company is authorized to contribute to bonafide charitable and other funds. However, in case the aggregate amount of such contribution in any financial year exceeds five per cent. of its average net profits for the three immediately preceding financial years, prior permission of the company in general meeting shall be required.

The section does not make it mandatory for the company to have a profit for making a charitable contribution in any financial year. As the amount of donation is restricted to the average of immediately previous 3 years' profits, it is possible for a company suffering a loss to make contribution provided it is made to a bonafide charitable fund and the average of the three immediately preceding financial years' profits (including current losses) is positive.

In the present case, even though the company has incurred a loss it can contribute to the charitable fund only if it is a bonafide charitable fund and the amount is up to 5% of the average of the immediately preceding three years' profits (including current losses). In case the contribution exceeds the limit, the prior approval of the members must be taken at a general meeting of the company.

- (b) If a Chartered Accountant in practice fails to keep moneys of his clients in a separate bank account or fails to use such moneys for purposes for which they are intended then his action would amount to professional misconduct under Clause (10) of Part I of Second Schedule to the Chartered Accountants Act, 1949. In the course of his engagement as a professional accountant, a member may be entrusted with moneys belonging to his client. If he should receive such funds, it would be his duty to deposit them in a separate banking account, and to utilise such funds only in accordance with the instructions of the client or for the purposes intended by the client.

Conclusion: In the given case by depositing the client's money by Mr. Matvar, in his father, Mr. Soham's saving bank account, he has committed a professional misconduct. Hence in the given case, Mr. Matvar can be held guilty of professional misconduct.

3. (i) As per Clause 22 of Form 3CD of the Income-tax Act, 1961, the tax auditor is required to state the amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006. Section 23 of the MSME Act lays down that an interest payable or paid by the buyer, in accordance with the provisions of this Act, shall not be allowed as a deduction for the purposes of the computation of income under the Income-tax Act, 1961.

Accordingly, CA Matvar is required to report the payment of interest of ₹ 60,000 to Vendor Mahesh who was registered under MSME Act, 2006 under clause 22 of Form 3CD of the Income-tax Act, 1961.

- (ii) As per Clause 21(h) of Form 3CD of the Income-tax Act, 1961, the tax auditor is required to report about the amount of deduction inadmissible in terms of section 14A Income-tax Act, 1961, in respect of the expenditure incurred in relation to income which does not form part of the total income.

Therefore, CA Matvar, the auditor is required to scrutinize expense accounts particularly interest account to check whether there is included any expense which is relatable to exempt income. He is also required to note down the amount and mention against the clause.

Thus, in the given situation, CA Matvar is required to report the same as per clause 21(h) of Form 3CD of the Income-tax Act, 1961.

- (iii) As per Clause 29A of Form 3CD of the Income-tax Act, 1961 of the Income-tax Act, 1961, the auditor is required to report,

- (a) whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (ix) of sub section (2) of section 56 the Income-tax Act, 1961.

- (b) If yes, to provide the nature of income and amount thereof.

The auditor is also required to obtain a certificate from the assessee regarding all such advances received towards transfer of capital assets which have forfeited during the year and examine whether any amount of such advances has been written back during the year and examine the basis of such write back to determine whether such write back was on account of an act of forfeiture. Further, the auditor is also required to verify the terms of contract to check the conditions to forfeit of such advance and such conditions have occurred, then should verify whether the amount has been actually forfeited.

Thus, same is required to be reported under clause 29A of Form 3CD of the Income-tax Act, 1961.

CASE STUDY 3

Answers & Reasoning to MCQ:

1. (c) Interest income of ₹10lakh from Liyak Ltd.:

The business trust has to deduct tax at source under section 194LBA - @ 10%, on interest component of income distributed to resident unit holders; and - @ 5%, on interest component of income distributed to non-corporate non-resident and foreign companies' unit holders.

Thus, tax is deductible @ 10% on ₹ 20,000 distributed to Mr. Raman, being a resident unit holder and @ 5.2% (i.e. 5% + HEC @ 4%) on ₹ 1 lakh distributed to Mr. Suketu, being a non-corporate non-resident

2. (d) Short-term capital gains of ₹5 lakh on sale of listed shares of Liyak Ltd.:

As per section 115UA(2), the business trust is liable to pay tax@15% under section 111A in respect of short-term capital gains on sale of listed shares of special purpose vehicle. There would, however, be no tax liability on the capital gain component of income distributed to unit holders, by virtue of the exemption contained in section 10(23FD).

Short-term capital gains of ₹ 8 lakh on sale of developmental properties:

It is taxable at maximum marginal rate of 42.744% in the hands of the business trust as per section 115UA(2). There would be no tax liability in the hands of the unit holders on the capital gain component of income distributed to them, by virtue of the exemption contained in section 10(23FD)

Thus, the business trust is liable to pay tax @15.6% (i.e. 15% + HEC @ 4%) and 42.744%, respectively.

3. (d) Dividend income of ₹ 6 lakh from Liyak Ltd.:

The dividend distributed by the SPV to the business trust is exempt by virtue of section 10(23FC).

Any distributed income referred to in section 115UA, which is in the nature of dividend income received or receivable from SPV, in a case where the SPV has exercised the option under section 115BAA, is taxable in the hands of unitholders by virtue of section 10(23FD).

However, since Liyak Ltd., being a SPV does not opt for section 115BAA, dividend component is exempt in the hands of the unitholders. Consequently, business trust is not required to deduct tax at source on the dividend component distributed to the unitholders.

Thus, the dividend component of income from Liyak Ltd., distributed to unit-holders Raman and Suketu is exempt in the hands of the business trust and in the hands of the unit holders.

4. (b) Any distributed income referred to in section 115UA, which is in the nature of dividend income received or receivable from SPV, in a case where the SPV has exercised the option under section 115BAA, is taxable in the hands of unitholders.

Thus, If Liyak Ltd. exercises option under section 115BAA, then, the dividend component of income from Liyak Ltd., distributed to unit holders Raman and Suketu-is exempt in the hands of the business trust, since the trust enjoys pass through status in respect of such income; such income is taxable in the hands of Raman and Suketu.

5. (c) Interest of ₹2 lakh received in respect of investment in unlisted debentures of real estate companies:

Such interest is taxable@42.744%, being the maximum marginal rate, in the hands of the business trust, as per section 115UA(2).

However, there would be no tax liability in the hands of the unit holders on the interest component of income distributed to them, by virtue of section 10(23FD).

Thus, interest received by the business trust from investments in unlisted debentures of real estate companies and distributed to unit holders would be subject to tax in the hands of the business trust @ 42.744%.

Answers to Descriptive questions:

1. CDT Hospitality has written an option, which if exercised by Mahishi Ltd. will result in CDT Hospitality selling equity shares of Liyak Ltd. for fixed price of ₹ 95 per share. Such option will be exercised by Mahishi Ltd. only if the market price of shares of Liyak Ltd. increases beyond ₹ 95, thereby resulting in contractual obligation over CDT Hospitality to settle the contract under potential unfavorable terms.

If the market price goes to ₹ 120 then option will be exercised by Mahishi Ltd. So, CDT Hospitality shall have to buy shares from the market at ₹ 120 per share and sell at ₹95, thereby resulting in a loss or exchange at unfavorable terms to CDT Hospitality. Hence, the written option will meet the definition of financial liability in the books of CDT Hospitality.

The additional question that arises here is the nature of this financial liability and whether it meets the definition of derivative. A derivative is a financial instrument that meets following conditions:

- (a) Its value changes in response to change in specified variable like interest rate, equity index, commodity price, etc. If the variable is non-financial, it is not specific to party to the contract
- (b) It requires no or little initial net investment
- (c) It is settled at a future date.

Evaluating the above instrument, CDT Hospitality has written an option whose value changes based on change in market price of equity share, it requires no initial net investment and is settled at a future date (anytime in 90 days). Hence, it meets definition of derivative financial liability in books of CDT Hospitality.

2. Ind AS 8 is applied in selecting and applying accounting policies, and accounting for changes in accounting policies, changes in accounting estimates and corrections of prior period errors.

A change in accounting estimate is an adjustment of the carrying amount of an asset or a liability, or the amount of the periodic consumption of an asset. This change in accounting estimate is an outcome of the assessment of the present status of, and expected future benefits and obligations associated with, assets and liabilities. Changes in accounting estimates result from new information or new developments and, accordingly, are not corrections of errors.

Further, the effect of change in an accounting estimate, shall be recognised prospectively by including it in profit or loss in: (a) the period of the change, if the change affects that period only; or (b) the period of the change and future periods, if the change affects both.

Prior period errors are omissions from, and misstatements in, the entity's financial statements for one or more prior periods arising from a failure to use, or misuse of, reliable information that:

- (a) was available when financial statements for those periods were approved for issue; and
- (b) could reasonably be expected to have been obtained and taken into account in the preparation and presentation of those financial statements.

Such errors include the effects of mathematical mistakes, mistakes in applying accounting policies, oversights or misinterpretations of facts, and fraud.

On the basis of above provisions, the given situation would be dealt as follows:

The defect was neither known nor reasonably possible to detect at 31 March 2022 or before the financial statements were approved for issue, so understatement of the warranty provision by ₹90,000 and overstatement of inventory ₹ 2,000 (Note 1) in the 31 March 2022 financial statements are not prior period errors.

The effects of the latent defect that relate to the entity's financial position at 31 March 2022 are changes in accounting estimates.

In preparing its financial statements for 31 March 2022, the entity made the warranty provision and inventory valuation appropriately using all reliable information that the entity could reasonably be expected to have obtained and had taken into account the same in the preparation and presentation of those financial statements.

Consequently, the additional costs are expensed in calculating profit or loss for 2022-23.

Working Note:

Inventory is measured at the lower of cost (ie ₹ 15,000) and fair value less costs to complete and sell (ie ₹ 19,000 originally estimated minus ₹6,000 costs to rectify latent defect) = ₹ 13,000.

3. M/s Digubatti & Associates are unable to obtain sufficient appropriate audit evidence about the financial information of a joint venture investment that represents over 80% of the entity's net assets. The possible effects of this inability to obtain sufficient appropriate audit evidence are both material and pervasive to the consolidated financial statements.

Therefore, the statutory auditor should issue a disclaimer of opinion.

The relevant extract of the Disclaimer of Opinion Paragraph and Basis for Disclaimer of Opinion paragraph is as under:

Disclaimer of Opinion

We do not express an opinion on the accompanying financial statements of Mahishi Ltd. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of our report, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

Basis for Disclaimer of Opinion

The Group's investment in its joint venture Mahim Ltd. is carried at ₹ 85 crores on the Group's consolidated balance sheet, which represents over 80% of the Group's net assets as at March 31, 2023. We were not allowed access to the management and the auditors of Mahim Ltd., including Mahim Ltd.'s auditors' audit documentation. As a result, we were unable to determine whether any adjustments were necessary in respect of the Group's proportional share of Mahim Ltd.'s assets that it controls jointly, its proportional share of Mahim Ltd.'s liabilities for which it is jointly responsible, its proportional share of XYZ's income and expenses for the year, (and the elements making up the consolidated statement of changes in equity) and the consolidated cash flow statement.

CASE STUDY 4

Answers & Reasoning to MCQ:

1. (a) Section 18(1)(a) of the CGST Act, provides that a person who has applied for registration within 30 days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

Here, the aggregate turnover of the XLL's Delhi unit crossed ₹ 20 lakh on 31st October and it applied for GST registration for Delhi on 25th November i.e. within 30 days from the date on which it becomes liable to registration.

GST component involved in stock of goods on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act at Delhi i.e. on 30th October was ₹ 45 lakh and accordingly, XLL can avail credit of ₹ 45 lakh on opening stock at the time of new registration.

2. (c) The threshold limit prescribed under section 22(1) of CGST Act for GST registration is ₹ 20 lakh in a FY, i.e. every supplier, whose aggregate turnover in a financial year exceeds ₹ 20 lakh, is liable to be registered under GST in the State/Union territory from where he makes the taxable supply of goods and/or services.

Here, XLL makes taxable supply from its units at Delhi, UP and Haryana and the aggregate turnover of the XLL's Delhi unit crossed ₹ 20 lakh on 31st October. Accordingly, XLL was liable for registration of units at Delhi, UP and Haryana.

3. (a) As per Rule 138(14)(h) of the CGST Rules, notwithstanding anything explained above, no e-way bill is required to be generated where the goods are being transported under customs bond **from an inland container depot** or a container freight station **to a customs port**, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port.

Accordingly, here, e-way bill was not required to be generated since goods were being transported from ICD (inland container depot) to seaport.

4. (b) As per Rule 33 of the CGST Rules, expense incurred by the supplier (XAVIERS Logistics Limited) as a pure agent of the recipient, it is not includible in the value of supply; if not incurred as pure agent, the same is includible in the value of supply.

XLL as a policy deposits green cess with the Government in the name of the customer and recovers such cess on actual basis from the customer by charging it separately in the invoice and accordingly it can be said that such expense is incurred as pure agent by XLL and thus, green cess is not includible in value of the taxable container handling services but the value of transportation cost is includible.

5. (c) As per Entry 9B of exemption notification, supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries) are exempt from GST.

Hence, GST is not payable on container handling services provided to Nepal/ Bhutan customers as the supply of services associated with transit cargo to Nepal and Bhutan are exempt services.

Answers to Descriptive questions:

1. (a) XLL has a single performance to ship the goods from one port to another. The following factors are critical for assessing how services performed by XLL are consumed by the customer –
- As the voyage is performed, the service undertaken by XLL is progressing, such that no other entity will need to re-perform the service till so far as the voyage has been performed, if XLL was to deliver only part-way.
 - The customer is directly benefitting from the performance of the voyage as & when it progresses.

Therefore, such performance obligation is said to be met over a period of time.

- (b) In the above case, lessee (ie, customers leasing the containers) make interest free deposits, which are refundable at the end of 3 years. Now, this money if it was to lent to a third party would fetch interest @ 7% per annum.

Hence, discounting all future cash flows (i.e., ₹ 20,000)

Fair value on initial recognition = $20,000 / (1+0.07)^3 = 16,326$. Differential on day 1 = $20,000 - 16,326 = 3,674$.

The differential on day 1 shall be treated as follows:

Scenario 1 – If fair valuation is determined using level 1 inputs or other observable inputs, difference on day 1 recognised in profit or loss.

Scenario 2 – If fair valuation is determined using other inputs, difference on day 1 shall be recognised in profit or loss unless it meets definition of an asset or liability.

However, in case of security deposits level 1 fair value is not available. Therefore, in the above case, the fair valuation is made based on unobservable inputs and hence applying scenario 2, difference can be recognised as an asset if it meets the definition. Now, since the lessee gets to use the containers in return for making an interest free deposit plus monthly charges, the lost interest representing day 1 difference between value of deposit and its fair value is like 'prepaid lease rent' and can be recognised as such. Prepaid rent (ROU Asset) shall be charged off to profit or loss in a straight lined manner as depreciation as per Ind AS 16.

2. The transaction price is ₹ 90 per container based on UCL's estimate of total sales volume for the year, since the estimated cumulative sales volume of 2 million containers would result in a price per container of ₹ 90. UCL concludes that based on a transaction price of ₹ 90 per container, it is highly probable that a significant reversal in the amount of cumulative revenue recognised will not occur when the uncertainty is resolved.

Revenue is therefore recognised at a selling price of ₹ 90 per container as each container is sold. UCL will recognise a liability for cash received in excess of the transaction price for the first 1 million containers sold at ₹ 100 per container (that is, ₹ 10 per container) until the cumulative sales volume is reached for the next pricing tier and the price is retroactively reduced.

For the quarter ended 31st March, 2023, UCL recognizes revenue of ₹ 54 million (600,000 containers x ₹ 90) and a liability of ₹ 6 million [600,000 containers x (₹ 100 - ₹ 90)].

UCL will update its estimate of the total sales volume at each reporting date until the uncertainty is resolved.

3. According to section 2(v) of the Foreign Exchange Management Act, 1999, 'Person resident in India' means a person residing in India for more than 182 days during the course of preceding financial year [Section 2(v)(i)]. However, it does not include a person who has gone out of India or who stays outside India for employment outside India or for any other purpose in such circumstances as would indicate his intention to stay outside India for an uncertain period. Generally, a student goes out of India for a certain period. In this case, Mr. Paresh who resided in India during the financial year 2021-22 left on 15.7.2022 for Switzerland for pursuing higher studies in Logistics Management for 2 years, he will be resident as he has gone to stay outside India for a 'certain period' RBI has however clarified in its AP circular no. 45 dated 8th December 2003, that students will be considered as non-residents. This is because usually students start working there to take care of their stay and cost of studies. Mr. Paresh will be treated as person resident in India for Financial Year 2022-23 as he resided in India in preceding FY 2021-22 but since he left India on 15th July, 2022 for pursuing higher studies in Logistics Management for 2 years, he will be treated as Person resident outside India for the financial year 2022-23.

However, during the Financial Year 2023-24, Mr. Paresh will not be considered as resident as he left India on 15th July 2022. He is determined to be person resident outside India from 16th July 2022 for the financial year 2023-24.

CASE STUDY 5

Answers & Reasoning to MCQ:

1. (c) In the hands of Tushnim, the provisions of section 43CA would be considered and not section 50C, since the building represents his stock-in-trade.

Under section 43CA of the Income Tax Act, 1961, the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received by way of account payee cheque or draft or by use of ECS through a bank account or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay on or before the date of agreement.

In this case, since the down payment of ₹15 lakh is received on the date of agreement by NEFT from Mr. Swairam, the option can be exercised and accordingly, actual consideration would be the full value of consideration since the stamp duty value on the date of agreement does not exceed 110% of the consideration. ₹ 50 lakh is taxable as business income in the hands of Mr. Tushnim, (i.e. ₹ 100 lakh – ₹ 50 lakh)

2. (a) Since Mr. Swairam is a dealer in automobile spare parts, the building purchased would be a capital asset in his hands. The provisions of section 56(2)(x) would not be attracted in the hands of Mr. Swairam who has received immovable property, being a capital asset, since the difference between stamp duty value on the date of agreement and actual consideration does not exceeds ₹ 10 lakhs, being higher of ₹ 50,000 or 10% of consideration.

Stamp duty value on the date of agreement can be exercised since part of the consideration has been received by NEFT on the date of agreement.

3. (c) Mr. Rusht, is a managing director in a company and not a property dealer, the building would represent his capital asset and not stock-in-trade. In such a case, the provisions of section 50C would be attracted in the hands of Mr. Rusht, since building is transferred for a consideration less than the stamp duty value; and the stamp duty value exceeds 110% of consideration.

Thus, ₹38 lakh, being the difference between the stamp duty value on the date of registration (i.e., ₹70 lakh) and the purchase price (i.e., ₹ 32 lakh) would be chargeable as short-term capital gains.

It may be noted that under section 50C, the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received by way of account payee cheque or draft or by use of ECS through a bank account or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay on or before the date of agreement.

In this case, since the down payment of ₹ 7 lakh has been received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.

4. (b) The provisions of section 56(2)(x) would be attracted in the hands of Mr. Vidhaay who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds ₹ 5,00,000, being the higher of ₹ 50,000 and 10% of consideration.

Therefore, ₹ 20 lakh, being the difference between the stamp duty value of the property on the date of registration (i.e., ₹ 70 lakh) and the actual consideration (i.e., ₹ 50 lakh) would be taxable under section 56(2)(x) in the hands of Mr. Vidhaay, since the payment on the date of agreement is made by crossed cheque and not account payee cheque/draft or ECS or through credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay.

5. (a) Since either the sale consideration or stamp duty value of the property in the both the cases exceeds ₹ 50 lakh, tax is deductible at source by both Mr. Swairam and Mr. Vidhaay under section 194-IA.

Answers to Descriptive questions:

1. Nishkantak Paths Limited, a listed company, being managed by a Managing Director proposes to pay the following managerial remuneration:

- (i) Commission at the rate of 5% of the net profits to its Managing Director, Mr. Rusht:

Part (i) of the Second Proviso to Section 197(1), provides that except with the approval of the company in general meeting by a special resolution, the remuneration payable to any one managing director or whole time director or manager shall not exceed 5% of the net profits of the company and if there is more than one such director then remuneration shall not exceed 10% of the net profits to all such directors and manager taken together.

In the present case, since the Nishkantak Paths Limited is being managed by a Managing Director, the commission at the rate of 5% of the net profit to Mr. Rusht, the Managing Director is allowed and no approval of company in general meeting is required.

- (ii) The directors other than the Managing Director are proposed to be paid monthly remuneration of ₹ 60,000 and also commission at the rate of 1 % of net profits of the company subject to the condition that overall remuneration payable to ordinary directors including monthly remuneration payable to each of them shall not exceed 2 % of the net profits of the company:

Part (ii) of the Second Proviso to Section 197(1) provides that except with the approval of the company in general meeting by a special resolution, the remuneration payable to directors who are neither managing directors nor whole time directors shall not exceed-

- (A) 1% of the net profits of the company, if there is a managing or whole-time director or manager;
- (B) 3% of the net profits in any other case.

In the present case, the maximum remuneration allowed to directors other than managing or whole-time director is 1% of the net profits of the company because the company is managed by a managing director. Hence, if the company wants to fix directors' remuneration at not more than 2% of the net profits of the company, the approval of the company in general meeting is required by passing a special resolution.

- (iii) The company also proposes to pay suitable additional remuneration to Mr. Shigram, a director, for professional services to be rendered by him as mechanical engineer, whenever such services are utilized by the company:
 - (1) According to section 197(4), the remuneration payable to the directors of a company, including any managing or whole-time director or manager, shall be determined, in accordance with and subject to the provisions of this section, either;
 - (i) by the articles of the company, or
 - (ii) by a resolution or,

- (iii) if the articles so require, by a special resolution, passed by the company in general meeting, and
- (2) the remuneration payable to a director determined aforesaid shall be inclusive of the remuneration payable to him for the services rendered by him in any other capacity.
- (3) Any remuneration for services rendered by any such director in other capacity shall not be so included if—
 - (i) the services rendered are of a professional nature; and
 - (ii) in the opinion of the Nomination and Remuneration Committee, if the company is covered under sub-section (1) of section 178, or the Board of Directors in other cases, the director possesses the requisite qualification for the practice of the profession.

Hence, in the present case, the additional remuneration payable to Mr. Shigram, a director, for professional services rendered by him as mechanical engineer will not be included in the maximum managerial remuneration. Accordingly, such additional remuneration shall be allowed but opinion of Nomination and Remuneration Committee needs to be obtained.

Also, the Nishkantak Paths Limited (a listed company) shall disclose in the Board's report, the ratio of the remuneration of each director to the median employee's remuneration and such other details as are prescribed under Rule 5 of the Companies (Appointment and Remuneration of Managerial personnel) Rules, 2014.

2. Aviskrutya Ltd. is a disposal group in accordance with Ind AS 105, Non-current Assets Held for Sale and Discontinued Operations. Disposal group can be defined as a group of assets to be disposed of, by sale or otherwise, together as a group in a single transaction, and liabilities directly associated with those assets that will be transferred in the transaction.

Para 6 of Ind AS 105 provides that a disposal group shall be classified as held for sale if its carrying amount will be recovered principally through a sale transaction rather than through continuing use. Ind AS 105 is particularly strict as far as the application of held for sale criteria is concerned, and often the decision to sell an asset or a disposal group is made well before the criteria are met.

Thus, as per Ind AS 105, for the asset (or disposal group) to be classified as held for sale, it must be available for immediate sale in its present condition subject only to terms that are usual and customary for sales of such assets (or disposal groups) and its sale must be highly probable.

For the sale to be highly probable:

- ♣ The appropriate level of management must be committed to a plan to sell the asset (or disposal group).
- ♣ An active programme to locate a buyer and complete the plan must have been initiated.
- ♣ The asset (or disposal group) must be actively marketed for sale at a price that is reasonable in relation to its current fair value.
- ♣ The sale should be expected to qualify for recognition as a completed sale within one year from the date of classification.
- ♣ It is unlikely that significant changes to the plan will be made or that the plan will be withdrawn.

In the given case, the draft agreements and correspondence with investment bankers are not specific enough to fit in the points above to prove that the criteria for held for sale was met at that date. Additional information would be needed to confirm that the subsidiary was available for immediate

sale, and that it was being actively marketed at an appropriate price so as to satisfy the criteria in the year to 31st March 2022.

Further, the organizational changes made by Nishkantak Paths Ltd. in the year 2022-23 are a good indicator that Aviskrutya Ltd. was not available for immediate sale in its present condition at the point of classification. The fact that additional activities have been given to Aviskrutya Ltd. indicate that the change wasn't insignificant. The shareholders had authorized for a year from 1 November 2021. There is no evidence that this authorization extended beyond 1st November 2022.

Conclusion:

Based on the information provided in the given case, it appears that Aviskrutya Ltd. should not be classified by Nishkantak Paths Ltd. as a subsidiary held for sale. Instead, the results of the subsidiary should be reported as a continuing operation in the financial statements for the year ending 31 March 2022 and 31 March 2023.

Evaluation of treatment in context of the Conceptual Framework

The Conceptual Framework states that the users need information to allow them to assess the amount, timing and uncertainty of the prospects for future net cash inflows. Highlighting the results of discontinued operations separately equips users with the information that is relevant to this assessment as the discontinued operation will not contribute to cash flows in the future.

If a company has made a firm decision to sell the subsidiary, it could be argued that the subsidiary should be classified as discontinued operation, even if the criteria to classify it as 'held for sale' as per Ind AS 105 have not been met, because this information would be more useful to users. However, Ind AS 105 criteria was developed with high degree of strictness on classification. Accordingly, this decision could be argued to be in conflict with the Conceptual Framework.