Test Series: October, 2023

MOCK TEST PAPER

FINAL COURSE: GROUP – II

PAPER – 6F: MULTIDISCIPLINARY CASE STUDY

SUGGESTED ANSWERS / HINTS

CASE STUDY 1

ANSWERS TO THE CASE STUDY 1

I. Answers to the Multiple Choice Questions

1. (b) The company is legally bound to raise a tax invoice in Indian Rupees as well as commercial invoice in foreign currency in accordance with relevant rules and procedures governing such transactions. Further, foreign currency amount is to be converted into Indian Rupees in tax invoice by using exchange rate in accordance with exchange rate notification issued by CBIC relevant in relation to date of invoice.

Reason: As per Rule 34 of CGST Rules, 2017, the rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act. The exchange rate notifications are issued by CBIC in exercise of powers conferred under section 14 of Customs Act on a periodic basis and value of taxable goods as reflected in tax invoice has to be arrived at in accordance with such notification. Further, commercial invoice in foreign currency amount is required to be raised for export transaction in accordance with procedures of customs.

2. (a) Opinion II is correct.

Reason: The IGST liability of company pertaining to zero-rated supplies (export) in October, 2022 is 5% of ₹ 5crores i.e. ₹ 0.25 crore. It is discharged by setting off eligible ITC of ₹ 0.20 crore. It is immaterial whether ITC is availed on inputs, capital goods or input services. The export supplies are zero-rated supplies and IGST paid of ₹ 0.25 crore would be refunded/refundable directly in bank account of the company by customs upon monthly filing of GSTR-3B and GSTR-1 for each tax period. Further, filing of GSTR-9 is an annual affair and hence nothing to do with refund of IGST.

The refund by customs is system generated upon filing of GSTR-3B and GSTR-1 for each tax period. The invoices transmitted to customs via GST network are matched with shipping bills and other details which are also system driven and refund scroll is generated. After scroll generation, refund is credited in bank account of exporter.

3. (a) Combination (1) and (i).

Reason: The TDS amount to be deducted during financial year 2022-23 is as under -

TDS to be deducted on clearing charges of ₹ 2.00 lakhs u/s 194 C is 2% in case of payment to companies.

TDS to be deducted on freight paid of ₹ 3.00 lakhs u/s 194 C is 1% in case of payment to individuals.

TDS to be deducted on payment made to building contractor company of ₹ 1.50 crore u/s 194 C is 2% in case of payment to companies.

Hence, total TDS to be deducted by company comes to ₹ 3,07,000/- (4,000 + 3,000 + 3,00,000).

It is to be remembered that TDS is not to be deducted on GST amount included in payments made to above service contractors in accordance with provisions of CBDT circular number 23/2017 dated 19.7.2017. Hence, for calculation of TDS, pre-GST amounts have to be arrived at.

Further, company has correctly availed IGST on services amounting to ₹ 51,000/-. The company is eligible to avail ITC on services for import of machinery amounting to ₹ 36,000/-. Further, credit of IGST paid on reverse charge basis by the company on freight services amounting to ₹ 15,000/- is also available to the company. The IGST on building contactor services is not eligible as amount would be capitalised under building and the same is blocked under section 17(5) of CGST Act.

4. **(d)** Bill of Entry is appropriate documentary evidence regarding evidence of import of machinery and its copy is required to be submitted to the concerned branch of bank through whom import transaction was channelised.

Reason: Under section 46 of Customs Act, the importer of goods has to present to the proper officer electronically bill of entry. Therefore, bill of entry is appropriate document establishing import of goods. The bill of entry has to be submitted to the concerned bank branch through whom remittance was made as evidence for import of goods. It is not required to be submitted to GST office.

Bill of lading is issued in case of export transactions evidencing that goods have finally left the country.

5. **(c)** The company can keep books of accounts and records at NOIDA by filing form AOC-5 within 7 days of passing board resolution.

Reason: Under section 128 of Companies act, 2013, books of accounts and records can be kept at place other than registered office of the company. The relevant form is AOC-5 which is to be filed on MCA portal in 7 days of passing board resolution.

II. Answers to the Descriptive Questions

6. In a major tax policy initiative, section 115BAB has been inserted w.e.f. A.Y. 2020-21 to provide an option to new manufacturing or electricity generating domestic companies set up and registered on or after 1.10.2019 and commences manufacturing or generating electricity on or before 31.3.2024 for availing concessional income tax rates subject to fulfilment of certain conditions contained thereunder like non-availability of profit-linked deductions and investment-linked tax deduction under the Act, non-availability of deduction for contribution to research and development, additional depreciation etc.

Section 115BAB provides for concessional rate of tax @15% (plus surcharge@10% plus HEC@4%).

The option for section 115BAB has to be exercised in the **very first year** in which the **eligible company is set up**, failing which it cannot exercise such option in the future years. However, once the company exercises such option under 115BAB, as the case may be, in a year, it would continue to be governed by the special provisions u/s 115BAB thereafter and cannot opt for regular provisions in any subsequent year.

It may be noted that companies exercising option under section 115BAB are not liable to minimum alternate tax under section 115JB.

The following are the conditions specified under section 115BAB:

(a) the company has been set-up and registered on or after the 1.10.2019, and has commenced manufacturing or production of an article or thing on or before the 31.3.2024 and, —

(i) the business is not formed by splitting up, or the reconstruction, of a business already in

existence:

(ii) does not use any machinery or plant previously used for any purpose.

Any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled -

(A) such machinery or plant was not, at any time previous to the date of the installation used in India;

(B) such machinery or plant is imported into India from any country outside India; and

(C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.

Further, where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of the machinery or plant or part so transferred does not exceed 20% of the total value of the machinery or plant used by the company, then, the condition specified that the company does not use any machinery or plant previously used for any purpose would be deemed to have been complied with.

(b) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

The business of manufacture or production of any article or thing referred to in clause (b) shall not include business of,—

(i) development of computer software in any form or in any media;

(ii) mining;

(iii) conversion of marble blocks or similar items into slabs;

(iv) bottling of gas into cylinder;

(v) printing of books or production of cinematograph film; or

(vi) any other business as may be notified by the Central Government in this behalf; and

(c) the total income of the company has to be computed -

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A other than the provisions of section 80JJAA or section 80M;

(ii) without set-off of any loss or allowance for unabsorbed depreciation deemed so under section 72A where such loss or depreciation is attributable to any of the deductions referred to in sub-clause (i).

(iii) by claiming the depreciation under the provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

In the present case, company is eligible to opt for concessional tax rate of 15% (plus surcharge@ 10% plus HEC @ 4%), since it satisfies the following condition -

(1) It is a company registered after 1.10.2019 and has started production on or before 31.3.2024.

(2) Its business is not formed by splitting or reconstruction of business already in existence.

(3) Although it has used plant and machinery previously used, it falls within overall cap of 20% stipulated u/s 115BAB. The total value of plant and machinery used by the company is ₹ 10.65 crores. However, value of machinery previously used is only ₹ 2.00 crore which is 18.78% of total value of plant and machinery. Hence, this newly set up domestic company satisfies this criterion also.

(4) The company is engaged in business of manufacturing of an article or thing and research in relation to it.

(4) The company's business does not fall into prohibited categories.

(5) The company has not taken benefit of other beneficial provisions as listed out under section 115BAB.

(6) The company has to exercise the option by filing Form 10-ID by due date of filing first return of income under section 139 for A.Y. 2024-25.

7. Under provisions of section 16(3) of IGST Act, 2017, a registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:––

(a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or

(b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.

It is to be noted that changes made in Section 16(3) by Finance Act, 2021 requiring person making zero rated supplies to claim of refund of unutilized ITC without payment of IGST under bond or LUT only are still to be notified.

Therefore, for the year under consideration, both routes as discussed above are available to exporter.

Therefore, under IGST Act, 2017, a taxpayer engaged in zero-rated supplies can make export without payment of tax under LUT or bond or alternatively, it can export on payment of IGST. In case of export under LUT/bond, refund of unutilised ITC would be refundable so that exports remain competitive. However, under Rule 89(4) of CGST Rules, 2017, net ITC means ITC on inputs and input services only. Hence, in case of export under LUT, ITC on capital goods is not refundable.

However, in case of export on payment of IGST, entire IGST paid would be refunded due to same reason. Hence, refund of ITC on input and input services is available under LUT route whereas refund of ITC on input, input services and capital goods is refundable on exports made on payment of IGST.

Export under LUT or bond

Tax liability	0
Refund of unutilized ITC	₹ 1.64 crore

Export on payment of IGST

Tax liability	₹ 2.50 crore
Set off by using ITC	₹ 2.00 crore
Set off by payment of cash	₹ 0.50 crore
Refund of IGST paid	₹ 2.50 crore

Hence, in export under LUT, ITC of input and input services amounting to ₹ 1.64 crore is refunded/refundable. In case of export on payment of IGST, entire ITC of ₹ 2.00 crore is refunded along with tax of ₹ 0.50 crore deposited by company in cash.

Therefore, under export via LUT route, refund of ITC of ₹ 1.64 crore would be available to the company. However, under export via payment of IGST, entire ITC of ₹ 2.00 crore is refundable.

In terms of procedural requirements, separate refund application has to be filed electronically for exports under LUT. However, for exports on payment of IGST, refund is automatically granted by customs on valid filing of GSTR-3B and GSTR-1 and validation of tax invoice data with shipping bills and other information.

Further, in case of export under LUT, no tax is to be deposited by the company and refund of ITC has to be applied by way of separate application. Therefore, it does not involve any cash outgo.

In case of export on payment of IGST, it involves cash out go of ₹ 50.00 lakhs which is refunded automatically in a few days. Therefore, it involves temporary blockage of working capital for certain period of time. However, since refund process is system driven and automated as provided in rules under this route, it results in quicker refunds including refund of entire ITC and cash deposited.

ANSWERS TO THE CASE STUDY 2

I. Answers to the Multiple Choice Questions

1. (b) Directorate General of Foreign trade under Ministry of Commerce and Industry

Is responsible for granting IEC.

2. (a) Firstly, modify the overall strategy and thereafter, prepare the audit plan in line with the strategy.

Reason: CA Krit should firstly modify the overall strategy and thereafter, prepare the audit plan in line with the strategy. This shows that the audit strategy and audit plan are closely inter-related as change in one is resulting into change in the other.

3. (b) Both the statements are Correct and independent of each other

Reason: GST is not leviable when goods deposited in customs bonded warehouse are sold before clearance; the same is leviable when ex-bond bill of entry is filed for clearing such warehoused goods for home consumption. GST is not leviable on high sea sales (the sales made to Panacea Pvt. Ltd.).

4. (a) Both the statements are Correct.

Reason: As per provisions of section 387 (1) of Companies Act, 2013, no person shall issue any prospectus offering to subscribe for securities of a company incorporated outside India unless the prospectus is dated and signed. Besides, it should also contain the date on which and the country in which company was incorporated.

5. (b) Both the Statements are Incorrect.

Reason: Third country shipments or triangular trade is a common practice in international trade whereby goods move from one country to another without touching India; only invoicing is done by the registered person in India. Paragraph 7 of the Schedule III to CGST Act provides that supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India (third country shipments) is treated neither as a supply of goods nor a supply of services. Thus, there is no GST liability on such sales. Further, value of such third country shipments is not included in the value of exempt supply for the purpose of reversal of ITC under rules 42 and 43 of CGST Rules [Explanation to section 17(3) of the CGST Act].

II. Answers to the Descriptive Questions

6. Accounting treatment in the books of ABCD Ltd (Functional Currency ₹)

ABCD Ltd will recognize sales of ₹ 1079 lakhs (13 lakhs Euro x 83)

Profit on sale of Inventory = 1079 lakhs – 936 lakhs = ₹ 143 lakhs.

On balance sheet date receivable from PQRS Ltd. will be translated at closing rate i.e. 1 Euro = ₹ 85. Therefore, unrealised forex gain will be recorded in standalone profit and loss of ₹ 26 lakhs. (i.e. (85 - 83) x 13 Lakhs)

Journal Entries

		₹ (in Lakhs)	₹ (in Lakhs)
PQRS Ltd. A/c	Dr.	1079	
To Sales			1079
(Being revenue recorded on initial recognition)			
PQRS Ltd. A/c	Dr.	26	
To Foreign exchange difference (unrealised)			26
(Being foreign exchange difference recorded at year end)			

Accounting treatment in the books of PQRS Ltd. (Functional currency EURO)

PQRS Ltd will recognize inventory on 1st January, 2023 of Euro 13 lakhs which will also be its closing stock at year end.

Accounting treatment in the consolidated financial statements

Receivable and payable in respect of above-mentioned sale / purchase between ABCD Ltd and PQRS Ltd will get eliminated.

The closing stock of PQRS Ltd will be recorded at lower of cost or NRV.

	Euro (in lakhs)	Rate	₹ (in lakhs)
Cost	13	83	**1079**
NRV (Assumed Same)	13	85	1105

Therefore, no write off is required. The amount of closing stock of ₹ 1079 includes two components–

Cost of inventory for ₹ 936 lakhs; and Profit element of ₹ 143 lakhs; and

At the time of consolidation, the second element amounting to ₹ 143 lakhs will be eliminated from the closing stock.

Journal Entry

		₹ (in Lakhs)	₹ (in Lakhs)
Consolidated P&L A/c	Dr.	143	143
To Inventory			
(Being profit element of intragroup transaction eliminated)			

7. (i) **According to section 2(42) of the Companies Act, 2013,** "Foreign company" means any company or body corporate incorporated outside India which-

(a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and

(b) conducts any business activity in India in any other manner.

Further, branch offices are generally considered as reflection of the Parent Company's office. Thus, branch offices of a company incorporated outside India are considered as a place of business for conducting business activity in India and will be required to follow provisions of Chapter XXII and such other provisions as may be specified elsewhere under Companies Act, 2013.

(ii) Under section 380(1) of the Companies Act, 2013 every foreign company shall, within 30 days of the establishment of place of business in India, deliver to the Registrar for registration the following documents:

(a) a certified copy of the charter, statutes or memorandum and articles, of the company or other instrument constituting or defining the constitution of the company. If the instruments are not in the English language, a certified translation thereof in the English language;

(b) the full address of the registered or principal office of the company;

(c) a list of the directors and secretary of the company containing such particulars as may be prescribed;

In relation to the nature of particulars to be provided as above, the *Companies (Registration of Foreign Companies) Rules, 2014*, provide that the list of directors and secretary or equivalent (by whatever name called) of the foreign company shall contain the following particulars, for each of the persons included in such list, namely:

(1) personal name and surname in full;

(2) any former name or names and surname or surnames in full;

(3) father's name or mother's name and spouse's name;

(4) date of birth;

(5) residential address;

(6) nationality;

(7) if the present nationality is not the nationality of origin, his nationality of origin;

(8) passport Number, date of issue and country of issue; (if a person holds more than one passport then details of all passports to be given)

(9) income-tax permanent account number (PAN), if applicable;

(10) occupation, if any;

(11) whether directorship in any other Indian company, (Director Identification Number (DIN), Name and Corporate Identity Number (CIN) of the company in case of holding directorship);

(12) other directorship or directorships held by him;

(13) Membership Number (for Secretary only); and

(14) e-mail ID.

(d) the name and address or the names and addresses of one or more persons resident in India authorised to accept on behalf of the company service of process and any notices or other documents required to be served on the company;

(e) the full address of the office of the company in India which is deemed to be its principal place of business in India;

(f) particulars of opening and closing of a place of business in India on earlier occasion or occasions;

(g) declaration that none of the directors of the company or the authorised representative in India has ever been convicted or debarred from formation of companies and management in India or abroad; and

(h) any other information as may be prescribed.

According to the Companies (Registration of Foreign Companies) Rules, 2014, any document which any foreign company is required to deliver to the Registrar shall be delivered to the Registrar having jurisdiction over New Delhi.

8. **Export of goods or services are treated as inter-State supply and zero rated.** This means that even if there is full exemption for the supply, ITC is still available to the exporter. The exporter will have an option to either pay IGST on the outward supply and claim refund of such IGST paid or export under Bond/LUT without payment of IGST and claim refund of ITC. The objective is to make Indian exports competitive in the international market. It may be noted that since exports are inter-State supplies, the tax associated with them will always be IGST.

(a) Rahul has purchased a license to put up a stall in the Textile Supermarket Global Fair to be held at Milan, Italy and he wishes to send his team to this fair along with their company's merchandise to displayed over there for promotional purposes.

= Sending/ taking goods out of India for exhibition or on consignment basis for export promotion: Circular No. 108/27/2019 GST dated 18.07.2019 has clarified that the activity of sending/ taking goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act, does not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a 'supply', the same cannot be **considered as "zero rated supply" as per the provisions contained in section 16 of the IGST Act.** Thus, activity of sending/ taking specified goods out of India is not a zero-rated supply. That being the case, execution of a bond or LUT, as required under section 16 of the IGST Act, is not required.

(b) He had heard from a dear friend that he could sell his company's products within India and these still can be categorized as exports..

It takes place in deemed exports. Deemed exports refers to supplies of goods manufactured in India **(and not services)** which are notified as deemed exports under section 147 of the CGST Act. Such supplies do not leave India and the payment for the same is received either in Indian rupees or in convertible foreign exchange.

Following categories of supply of goods have been notified as deemed exports by the Government vide Notification No. 48/2017 CT dated 18.10.2017, -

(a) Supply of goods by a registered person against Advance Authorisation (AA)

(b) Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation (EPCG)

(c) Supply of goods by a registered person to Export Oriented Unit (EOU)

(d) Supply of gold by a bank or Public sector Undertaking specified in Notification No. 50/2017 Cus dated 30.06.2017 (as amended) against AA

Taxability of deemed exports

Deemed exports are not zero-rated supplies by default, unlike the regular exports. Hence, all supplies notified as supply for deemed export are subject to levy of taxes, i.e. such supplies can be made on payment of tax and cannot be supplied under a Bond/LUT.

However, the refund of tax paid on the supply regarded as deemed export is admissible to either the supplier or the recipient. Thus, the application for refund has to be filed by the supplier or the recipient (subject to certain conditions) of deemed export supplies, as the case may be.

ANSWERS TO THE CASE STUDY 3

I. Answers to the Multiple Choice Questions

1. (b) No, as the Board can exercise this power with the consent of the shareholders by a special resolution and not on its own simply by passing of an ordinary resolution.

Reason: The powers of the Board of Directors of a company are not unrestricted or uncontrollable as Section 180 of the Companies Act 2013 portrays. This Section contains directive provisions which direct that the powers in respect of specified matters shall be exercised by the Board subject to the certain restrictions i.e. in such cases the exercise of powers by the Board shall be restricted as per law. Section 180 is not applicable to a private company.

(i) Matters in respect of which powers shall be exercised after obtaining consent by a special resolution: According to Section 180 (1), following are the matters in respect of which the Board shall exercise the powers with the consent of the company by a special resolution and not on its own simply by passing a Board resolution at a Board meeting:

(a) 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 of any of such undertakings. In other words, out of multiple undertakings of a company even if one is sold, leased or disposed of, either wholly or substantially, the consent by special resolution shall be required.

2. (b) Delhi

Reason: The place of supply of services,—

(a) directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or

(b) by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or

(c) by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or

(d) any services ancillary to the services referred to in clauses (a), (b) and (c),

shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:

Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

3. (b) Gurugram

Reason: The place of supply of following services-

(i) services provided by way of admission to following types of events: cultural, scientific, sporting, artistic, entertainment.

(ii) services provided by way of admission to amusement park or any other place.

(iii) services ancillary to the above-mentioned services.

is the place where the event is actually held or where the park or such other place is located.

4. (a) GST shall be payable by Luminous Ltd. under reverse charge mechanism.

Reason: 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 ₹ 35,000, payable to Mr. Baldev by Luminous Ltd., is liable to GST under reverse charge and thus, recipient of service – Luminous Ltd. – is liable to pay GST on the same.

5. (b) The management of Luminous Ltd. is correct in not transferring any percent of profits to reserves, as such transfer to reserves is optional.

Reason: Dividends out of current profits- Transfer to Reserves is optional –The first proviso to section 123(1) of the Companies Act, 2013 provides that a company **may**, before the declaration of any dividend in any financial year, transfer such percentage of its profit for that financial year as it may consider appropriate to the reserves of the company irrespective of the size of the declared dividend.

II. Answers to the Descriptive Questions

6. In accordance with the provision of the Companies Act, 2013, as contained in section 152(7)(a) which provides that if at the annual general meeting at which a director retires and the vacancy is not so filled up and the meeting has not expressly resolved not to fill the vacancy, the meeting shall stand adjourned to same day in the next week, at the same time and place, or if that day is a national holiday, till the next succeeding day which is not a holiday, at the same time and place.

Section 152(7)(b) further provides that if at the adjourned meeting also, the place of the retiring directors is not filled up and that meeting also has not expressly resolved not to fill the vacancy, the retiring director shall be deemed to have been re-appointed at the adjourned meeting, unless at the adjourned meeting or at the previous meeting a resolution for the re-appointment of such director was put and lost or he has given a notice in writing addressed to the company or the Board of Directors expressing his desire not to be re-elected or he is disqualified.

Therefore, in the given circumstances answers to the asked questions shall be as under:

(i) In the first case, applying the above provisions, the retiring directors shall be deemed to have been re-appointed.

(ii) In the second case, where the resolutions for the reappointment of the retiring directors were lost, the retiring directors shall not be deemed to have been re-appointed.

(iii) Section 152(6)(c) states that 1/3rd of the rotational directors shall retire at every AGM.

Accordingly, the directors will retire as soon as the AGM is held on its due date. Further, as per Section 96 (dealing with Annual General Meeting), every company other than a One Person Company is required to hold an Annual General Meeting in each year. Hence, it is necessary for the company to hold the AGM, where the directors liable to retire by rotation shall retire. In case AGM is not held till the last date

on which it should have been held, the term of retiring directors ends on this last date and it cannot be extended till the new date when the AGM shall be held. As the calling of the AGM is the duty and responsibility of the directors, they by omitting to call the AGM on its due date cannot take advantage of their own fault and by that means cannot extend their own continuance in the office for any period of their choice and as long as the holding of the next AGM does not take place.

7. Stock transfers or branch transfers qualify as supply: It is a common practice in business that one branch supplies services to another branch of same entity without consideration. Similarly, goods are transferred among different units of same entity free of cost, for instance, distribution of samples manufactured in a factory to different branches or transfer of goods from factory to depot/showroom for sale therefrom, from one warehouse to another warehouse, from one branch to another branch where the demand of the goods is higher. These transactions are termed as self-supplies.

Under GST, these transactions undertaken, even without consideration, will also qualify as supply, provided the transfer of goods or services is between

(i) different locations (with separate GST registrations) of same legal entity as these are transactions between distinct persons, or

(ii) establishments of distinct persons.

The establishments of a person with **separate registrations** whether within the same State/UT or in different States/UTs are considered as distinct persons as per section 25(4) of the CGST Act.

Therefore, transfer of solar panels from Ludhiana factory to showroom in Delhi will be considered as a supply under GST.

Also, since the company has obtained separate registrations for the Ludhiana factory and the showroom in Patiala, the transfer of solar panels will also constitute supply.

Service of Attorney taken by Luminous Limited:

In the given case, the service provider i.e. the attorney, is outside India, and the service recipient i.e. Luminous Limited, is based in Delhi, India. Thus, the place of supply will be determined on the basis of the provisions of section 13. Since the given service does not get covered under any of the specific provisions of section 13, the place of supply thereof will be governed by the general rule, i.e. place of supply of services will be the location of the recipient of service, which in this case is Delhi (India).

Further, the given case is import of service in terms of section 2(11) of the IGST Act, as the supplier of service is located outside India, the recipient of service is located in India and the place of supply of service is in India. Since the services are imported for a consideration from an unrelated person, the same tantamount to supply in terms of section 7(1)(b) of CGST Act and are liable to GST.

As per reverse charge *Notification No. 10/2017 Integrated tax(R) dated 28.06.2017*, if a service is supplied by a person located in a non-taxable territory to a person located in the taxable territory, other than non-taxable online recipient, the tax is payable by the recipient of service under reverse charge. Therefore, Luminous Limited will pay GST under reverse charge on AED 10000 paid by it to the attorney in Dubai.

8. Luminous Ltd. should recognise the government grants in its books of accounts in the following manner:

1. Entire grant amount of ₹ 30 lakhs should be recognised immediately in the profit & Loss account as there are no conditions attached to the grant.

2. ₹ 5 lakhs should be recognised as deferred income and will be transferred to profit and loss over the useful life of the asset. In this case, ₹ 1,00,000 [₹ 5 lakhs/5] should be credited to profit and loss each year over period of 5 years.

Alternatively, ₹ 5,00,000 may be deducted from the cost of the asset and depreciation shall be charged at ₹ 10,00,000 (₹ 15,00,000 – ₹ 5,00,000).

3. Land should be recognised at fair value of ₹ 20 lakhs and government grants should be presented in the balance sheet by setting up the grant as deferred income. Alternatively, deduct the amount of grant from the cost of the asset. In the given case, the land is granted at no cost. It will be presented in the books at nominal value.

4. As per paragraph 29 of Ind AS 20, Grants related to income are presented as part of profit or loss, either separately or under a general heading such as 'Other income'; alternatively, they are deducted in reporting the related expense.

In accordance with the above, presentation of grants related to income under both the methods are as follows:

Method 1: Credit in the statement of profit and loss: The entity can recognise the grant as income on a straight line basis i.e., ₹ 4,00,000 per year (₹ 20 lakhs / 5) in the statement of profit and loss either separately or under the head "Other Income".

Method 2: As a deduction in reporting the related expense:

Since the grant relates to environmental expenses incurred/to be incurred by the entity, it can present the grant by reducing the grant amount every year from the related expense i.e., environmental expense of ₹ 2,00,000 (i.e., net expense ₹ 6,00,000 – ₹ 4,00,000).

The Standard regards both the methods as acceptable for the presentation of grants related to income. However, method 2 may be more appropriate when the company can relate the grant to a specific expenditure. The Standard also provides that disclosure of the grant may be necessary for a proper understanding of the financial statements. Disclosure of the effect of the grants on any item of income or expense which is required to be separately disclosed is usually appropriate.

ANSWERS TO THE CASE STUDY 4

I. Answers to the Multiple Choice Questions

1. (c) Schemes framed by Coffee Board and Rubber Board enjoy similar deduction under section 33AB of Income Tax Act.

2. (d) Both the Statements are Incorrect.

Reason: STATEMENT 1 :- Such income does not reach the assessee-firm. Rather, such income stands diverted to the other person as such other person has a better title on such income than the title of the assessee. The firm might have received the said amount, but it so received for and on behalf of Mrs. Dayaa, who possesses the overriding title. Therefore, the amount payable to Mrs. Daya after the death of Mr. Babu Lal would be excluded from the income of the partnership firm in question.

STATEMENT 2 :- In this case, the amount of ₹ 10,000 per month is an obligation of Gautam to pay to his ex-wife out of his income and not an income in which she had over riding entitlement. In other words, this is the income of Gautam, which is applied by him to fulfill an obligation and hence, includible in his total income and a mere arrangement to pay a sum directly to his ex-wife would not make it a case of diversion of income.

3. (b) Tax payable by Bansuri Pvt. Ltd.

Reason: Here, sending of unprocessed tea by Bansuri Pvt Ltd to the job worker Mr. Shakti Puri in the first lot will be deemed as a supply and thus, tax would be payable on the same by the company.

4. (a) ITC-04.

Reason: ITC-04 is the prescribed return/form under GST Rules for giving account of goods sent on job work and received back.

5. (b) Invalid, as Bansuri Pvt Ltd is a Private Company.

Reason: According to the provisions of Section 180(1)(c) of the Companies Act, 2013, the powers of the Board are not uncontrolled and there are restrictions on the borrowing powers to be exercised by the Board of Directors. According to the said section, the borrowings should not exceed the aggregate of the paid-up share capital, free reserves and securities premium. While calculating the limit, the temporary loans obtained by the company from its bankers in the ordinary course of business will be excluded. However, from the figures available in the present case, the proposed borrowing of ₹ 20 crore will exceed the limit calculated as per the given information. Thus, the proposed borrowings are beyond the powers of the Board of Directors. In view of the above position, the management of any Company should take steps to pass a special resolution authorising to borrow the proposed amount of ₹ 20.00 crore, so that the requirement of Section 180(1)(c) is satisfied. Only thereafter, the proposed borrowing can be availed of.

However, Bansuri Private Limited is a Private Company and as per the MCA notification dated 5th June, 2015 which stated that this section shall not apply to private companies. Further on 4th January 2017, Specified IFSC public company would also not be required to comply with this section, unless the article of the company provides otherwise. Hence, they can avail the required Borrowing. As notified by the MCA, Section 180 of the Act (i.e. restrictions on the powers of the Board) shall not apply to a private company which has not committed a default in filing is financial statements under Section 137 or Annual Return under Section 92 with the Registrar. [Notification No. 464(E), dated 5thJune, 2015 as amended by Notification No. 583 (E), dated 13th June, 2017.]

II. Answers to the Descriptive Questions

6.

Activity	Whether in the scope of Ind AS 41?	Remarks
Managing animal- related recreational activities like Zoo	No	Since the primary purpose is to show the animals to public for recreational purposes, there is no management of biological transformation but simply control of the number of animals. Hence it will not fall in the purview of the definition of agricultural activity.
Fishing in the ocean	No	Fishing in ocean is harvesting biological assets from unmanaged sources. There is no management of biological transformation since fish grow naturally in the ocean. Hence, it will not fall in the scope of the definition of agricultural activity.
Fish farming	Yes	Managing the growth of fish and then harvest for sale is agricultural activity within the scope of Ind AS 41 since there is management of biological transformation of biological assets for sale or additional biological assets.
Development of living organisms such as cells, bacteria and viruses for research.	No	The development of living organisms for research purposes does not qualify as agricultural activity, as those organisms are not being developed for sale, or for conversion into agricultural produce or into additional biological assets. Hence, development of

		such organisms for the said purposes does not fall under the scope of Ind AS 41.
Growing of plants to be used in the production of drugs	Yes	If an entity grows plants for using it in production of drugs, the activity will be agricultural activity. Hence it will come under the scope of Ind AS 41.

7. Tax consequences for the A.Y. 2023-24

Particulars	(₹)
₹ 10,00,000 being the amount withdrawn from Tea Development Account has to be utilized in the prescribed manner, otherwise, the withdrawn amount would be chargeable to tax as business income. In the given case, the taxability of withdrawal amount based on their utilization is as follows: - ₹ 6,00,000, out of the amount withdrawn from the deposit account,utilised for purchase of non-depreciable asset as per the specified scheme. [As per section 33AB(6), no deduction would be allowed under section 33AB since amount is spent out of ₹ 10 lakh deposited in Tea Development Account, which has already been allowed as deduction in A.Y. 2023-24 **(See Working Note below)**].	Not taxable
- ₹ 3,00,000, being the amount utilized for purchase of machinery to be installed in the office premises is not a permissible utilization. Hence, the amount would be deemed as profits and gains of business of the previous year 2023-24 as per section 33AB(4).	3,00,000
- ₹ 1,00,000 was spent for the purpose of scheme on 05.04.2024. As per section 33AB(7), this amount would be taxable since the same is not utilized during the same previous year (i.e., P.Y. 2023-24) in which the amount is withdrawn from the deposit account.	1,00,000
When any part of withdrawal amount becomes taxable, the agricultural and non- agricultural portions of income must be segregated. Accordingly, ₹ 1,60,000, being 40% of ₹ 4,00,000 (₹ 3,00,000 + ₹ 1,00,000) would be chargeable to tax as business income and the balance ₹ 2,40,000, being 60% of ₹ 4,00,000 would be agricultural income exempt from tax.	

Working Note:

Computation of Business Income of Khetibaadi Ltd. for the A.Y. 2022-23

Particulars	(₹)
Composite business profits before allowing deduction under section 33AB	50,00,000
Less: Deduction under section 33AB(1) would be the lower of:	
- Amount deposited in Tea Development Account on or before 30.9.2022 [i.e., ₹ 10,00,000]	
- 40% of profits of such business [i.e., ₹ 20,00,000, being 40% of ₹ 50,00,000]	10,00,000
	40,00,000
Less: 60% of ₹ 40,00,000, being agricultural income **[as per Rule 8]**	24,00,000
Business income	16,00,000
Less: Brought forward business loss of A.Y. 2021-22 set-off as per section 72	15,00,000
Business income chargeable to tax	**1,00,000**

8. **Formulation of Audit Strategy:** While formulating the audit strategy for a company, following factors may be considered -

Specific Factors for Online Shopping: The auditor shall also obtain an understanding of the information system including the related business processes due to new venture of online shopping in the following areas:

(i) The classes of transactions in the entity's operations that are significant to the financial statements;

(ii) The procedures, within both information technology (IT) and manual systems, by which those transactions are initiated, recorded, processed, corrected as necessary, transferred to the general ledger and reported in the financial statements;

(iii) The related accounting records, supporting information and specific accounts in the financial statements that are used to initiate, record, process and report transactions; this includes the correction of incorrect information and how information is transferred to the general ledger. The records may be in either manual or electronic form;

(iv) How the information system captures events and conditions, other than transactions, that are significant to the financial statements;

(v) Controls surrounding journal entries, including non-standard journal entries used to record non-recurring, unusual transactions or adjustments.

ANSWERS TO THE CASE STUDY 5

I. Answers to the Multiple Choice Questions

1. (b) ₹ 4,94,500

Reason:

Particulars	Amount
Cost of machinery inclusive of accessory (FOB) (See note)	7,000
Total (in Indian ₹) FC 7000 * ₹ 70 (being Exchange Rate)	₹ 4,90,000
Add: Local Agency Commission	₹ 4,500
FOB Value as per Customs	**₹ 4,94,500**

Note:

1) As per Accessories (Conditions) Rules, 1963, accessories and spare parts compulsorily supplied with main implements are chargeable at the same rate applicable to main machine. Therefore, such accessories shall also be chargeable with duty at the rate applicable to the machinery i.e. 10% ad valorem

2) Agency Commission, which is incurred in India, is not regarded as Buying Commission and therefore will be added to determine customs FOB Value.

2. (a) ₹ 6,00,400

Reason:

Particulars	Amount
Cost of machinery inclusive of accessory (FOB) (See note)	7,000
Total (in Indian ₹) FC 7,000* ₹ 70 (being Exchange Rate)	₹ 4,90,000

Add: Agency Commission	₹ 4,500
FOB Value as per Customs	**₹ 4,94,500**
Add: Cost of insurance (FC 100 * ₹ 70)	₹ 7,000
Add: Air freight restricted to 20% of FOB Value as per customs	₹ 98,900
CIF Value/Assessable Value	**₹ 6,00,400**

Note: Actual Air freight is FC 2,000, it is limited to 20% of Custom FOB value of Goods as per Rule 10(2) of Custom Valuation Rules

3. (b) ₹ 1,46,017

Reason:

Particulars		**Amount (₹)**
Assessable Value	(A)	6,00,400
Add: Basic Custom Duty (10%)	(B)	60,040
Add: SWS @10% on BCD	(C)	6,004
Total for Integrated Tax u/s 3(7) CTA,1975	(D)	6,66,444
Integrated Tax @ 12% of ₹ 6,66,444 (rounded off)	(E)	79,973

Total Custom Duty Payable = (B) + (C) + (E) i.e. ₹ 1,46,017

4. (c) ₹ 2,00,000

Reason: Income from other sources- Difference between the aggregate fair market value of shares of a closely held company and the consideration paid for purchase of such shares is deemed as income in the hands of the purchasing company under section 56(2)(x). Since the difference exceeds ₹ 50,000, the entire sum is taxable.

10,000 shares * (60 - 40) = ₹ 2,00,000

5. (b) (i), (iii), (iv), (v)

Reason: While applying input method, a careful consideration should be given for events that do not depict a direct relationship between entity's inputs and transfer of control of goods or services. For example, when cost-based input method is used, an adjustment may be required when cost incurred is not proportionate to entity's progress in satisfying its performance obligation. In such cases, the best reflection is to adjust the input method to recognise revenue only to the extent of costs incurred. Such recognition of revenue to the extent of costs incurred is appropriate, if at contract inception, all the following conditions exist:

(i) The goods do not represent a distinct performance obligation;

(iii) Customer is expected to obtain control of the goods significantly before receiving the services;

(iv) Cost of such goods is significant relative to the total expected costs to complete the performance obligation; and

(v) The entity procures the goods from a third party and does not significantly involve in designing / manufacturing the goods (even if the entity is a principal in the arrangement between the entity and end customer).

II. Answers to the Descriptive Questions

6. Computation of total income of MVS Private Ltd. for A.Y. 2023-24

Particulars	Amount (₹)
Profits and gains of business or profession	
Net profit for the year as per profit and loss account	75,00,000
Add: Expenses debited to profit and loss account but not allowable	
Contribution to Employees' Welfare Trust disallowed under section 40A(9) Note: Alternatively, contribution to Employees Welfare Trust can be regarded as labour welfare expenditure and hence, can be allowed as deduction under section 37 as the payments were made on the ground of assessee's business exigencies [CIT v. Cheran Transport Corp. Ltd. (Mad.)]	2,00,000
Expenses on course fee and hostel expenses for MBA course of a close relative of a director, who is not in employment of MVS Private Ltd., is not deductible under section 37 [Enkay (India) Rubber Co. Ltd. V CIT] Such expenditure is not incurred wholly and exclusively for the purposes of business. Hence, it should be added back to compute business income.	7,80,000
Expenses on installation of traffic signal, to facilitate its employees to overcome traffic jam and be on time, is in the interest of the business so that the work gets completed on time, and is hence, an allowable expense under section 37(1) [Infosys Technologies Ltd. v. CIT (Bangalore)]	
Expenses on distribution of gift items to dealers under sales incentive scheme would promote goodwill and is made in the interest of business. Such gifts are prompted by commercial expediency and hence, the expenditure is allowable under section 37(1) [CIT v. Avery Cycle Industries Ltd. (Punjab & Haryana)]	
Expenses on travelling to Singapore of the wife of Managing Director on the invitation of Trade and Commerce Chamber, Singapore, is an allowable expense on the grounds of commercial expediency and business considerations. [Hero Honda Motors Ltd. v. CIT (Delhi)]	
Increase in liability due to change in currency rate and paid to the suppliers of machinery is to be added to cost of the asset as per section 43A. Hence, it should be added back to compute business income.	3,00,000
Payments to a contractor for repair work in a day by two separate vouchers in cash, is not an allowable expense as per section 40A(3), since the aggregate payments in a day exceeds the limit of ₹ 10,000	27,000
Interest of ₹ 2 lakhs paid in September 2022, on which tax deducted at source was remitted to the government before the due date of filling of income tax return, is allowable as per section 40(a)(ia).	
Total	88,07,000
Less: Expenditure allowable as deduction but not debited to profit and loss account	
Disallowed audit fees paid for the year ended 31.3.2022 for which tax was not deducted in the F.Y. 2021-22 but was deducted and paid in F.Y 2022-23, is allowable as deduction in the A.Y. 2023-24, as per the proviso to section 40(a)(ia)	1,80,000
Depreciation @15% on the amount of ₹ 3 lakhs added in cost of Machinery since it was put to use for more than 180 days	45,000

Income under the head Profits & Gains of Business or Profession	**85,82,000**
Income from other sources Difference between the aggregate fair market value of shares of a closely held company and the consideration paid for purchase of such shares is deemed as income in the hands of the purchasing company other section 56(2)(x). Since the difference exceeds ₹ 50,000, the entire sum is taxable.	2,00,000
Total Income	**87,82,000**

Computation of tax liability of MVS Private Ltd. For the A.Y. 2023-24

Particulars	Amount (₹)
Tax on ₹ 87,82,000 @ 25%	21,95,500
Add: Health & Education cess @ 4%	87,820
Total tax liability	**22,83,320**

7. Costs to be incurred comprise two major components – elevators and cost of construction service

(a) The elevators are part of the overall construction project and are not a distinct performance obligation.

(b) The cost of elevators is substantial to the overall project and are incurred well in advance.

(c) Upon delivery at site, customer acquires control of such elevators.

(d) There is no modification done to the elevators, which the company only procures and delivers at site. Nevertheless, as part of materials used in overall construction project, the company is a principal in the transaction with the customer for such elevators also.

Therefore, applying the guidance on input method as provided under Ind AS 115, 'Revenue from Contracts with Customers' –

- The measure of progress should be made based on percentage of costs incurred relative to the total budgeted costs.
- The cost of elevators should be excluded when measuring such progress and revenue for such elevators should be recognized to the extent of costs incurred.

The revenue to be recognized is measured as follows:

Particulars	Amount (₹)
Transaction price	60,00,000
Costs incurred:	
(a) Cost of elevators	10,00,000
(b) Other costs	7,00,000
Measure of progress:	7,00,000/35,00,000 = 20%
Revenue to be recognised:	
(a) For costs incurred (other than elevators)	Total attributable revenue = 50,00,000 % of work completed = 20%

	Revenue to be recognised = 10,00,000
(b) Revenue for elevators	10,00,000 (equal to costs incurred)
Total revenue to be recognised	10,00,000 + 10,00,000 = 20,00,000

Therefore, for the year ended 31st March, 2023, the company shall recognize revenue of ₹ 20,00,000 on the project.