Mock Test Paper - Series I: July, 2025

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FINAL COURSE: GROUP – II

PAPER – 4: DIRECT TAX LAWS & INTERNATIONAL TAXATION

SOLUTIONS

Division A – Multiple Choice Questions

MCQ No.	Most Appropriate Answer
1.	(b)
2.	(a)
3.	(a)
4.	(c)
5.	(d)
6.	(b)
7.	(a)
8.	(b)

MCQ No.	Most Appropriate Answer
9.	(b)
10.	(d)
11.	(c)
12.	(a)
13.	(b)
14.	(a)
15.	(c)

1. Computation of Total Income of Blue Cloths Ltd. for the A.Y. 2025-26

	Particulars	Amount (₹)	
I	**Profits and gains of business and profession**		
	Net profit as per the statement of profit and loss for manufacturing of fabric business		8,40,00,000
	Add: **Items debited but to be considered separately or items of expenditure to be disallowed**		
	(a) **Provision for wages payable to workers**	-	
	[Since the provision is based on a fair estimate of wages payable with reasonable certainty, the provision is allowable as deduction. ICDS X requires a reliable estimate of the amount of obligation and 'reasonable certainty' for recognition of a provision, which is present in this case.		

	(b)	**Expenses on foreign travel of two directors for a collaboration agreement which failed to materialize** [Where expenditure is incurred for a project not related to the existing business and the project was abandoned without creating a new asset, the expenses are capital in nature. Since the amount has been debited to the statement of profit and loss, the same has to be added back]	4,50,000	
	(c)	**Depreciation as per the Companies Act, 2013**	43,00,000	
	(d)	**Bad Debts Written off** [No adjustment is required in respect of debt of ₹ 29 lakhs written off owing to insolvency of the debtor, since bad debts written off in the books of account is fully allowable as deduction u/s 36(1)(vii). Since the said amount has already been debited to the statement of profit and loss, no further adjustment is required]	-	
	(f)	**Provision for gratuity** [Provision of ₹ 440 lakhs for gratuity based on actuarial valuation is not allowable as deduction. However, actual gratuity of ₹ 280 lakhs paid is allowable as deduction. Hence, the difference has to be added back to income [₹ 440 lakhs (-) ₹ 280 lakhs]	1,60,00,000	
	(h)	**Loss due to destruction of machinery by fire** [Loss of ₹ 21 lakhs due to destruction of machinery caused by fire is not deductible since it is capital in nature. Since the loss has been debited to statement of profit and loss, the same is required to added back while computing business income]	21,00,000	2,28,50,000
				10,68,50,000
	Al(iii)	**GST not refunded to customers out of GST refund received from State Govt.**		50,000

		[The amount of GST refunded to the company by the Government is a revenue receipt chargeable to tax. Out of the refunded amount of ₹ 2.5 lakhs, the amount of ₹ 2 lakhs stands refunded to customers would not be chargeable to tax.[1] The balance amount of ₹ 50,000 lying with the company would be chargeable to tax]		
				10,69,00,000
		***Less:* Items credited to statement of profit and loss, but not includible in business income/ permissible expenditure and allowances**		
	(g)	**Industrial power tariff concession received from State Government** [Any assistance in the form of, *inter alia*, concession received from the Central or State Government would be treated as income. Since the same has been credited to statement of profit and loss, no adjustment is required]	-	
	(h)	**Scrap value of machinery** [Scrap value of machinery, being capital in nature, has to be reduced from WDV of machinery. Since the same has been credited to the statement of profit and loss, it has to be deducted while computing business income]	5,50,000	
	(e)	**Long term capital gains on sale of equity shares** [The taxability or otherwise of long-term capital gain on sale of equity shares has to be considered while computing income under the head "Capital Gains". Since such capital gains has been credited to statement of profit and loss, the same has to be reduced to arrive at the business income.]	6,20,000	

[1] *CIT v. Thirumalaiswamy Naidu & Sons (1998) 230 ITR 534 (SC)*

	AI(i) **Depreciation as per Income-tax Rules, 1962**	78,00,000	89,70,000
	Profits and gains from manufacturing of fabric business		**9,79,30,000**
	Profit from business of developing and building rental housing projects		
	Net profit from business of developing and building rental housing projects.	38,00,000	
	Income from housing projects executed as a work contract	12,00,000	50,00,000
III	**Capital Gains**		
	Long term capital gain on sale of equity shares [Long term capital gains in excess of ₹ 1.25 lakhs taxable u/s 112A]		6,20,000
	Gross Total Income		**10,35,50,000**
	Less: Deduction under Chapter VI-A		
	Under section 80-IAB [100% of profits from business of developing and building rental housing projects. No deduction is allowed in respect of income from housing project executed as a work contractor]		38,00,000
Total Income			**9,97,50,000**

Computation of tax liability of Blue Cloths Ltd. for A.Y.2025-26

Particulars	₹
Tax @12.5% on long term capital gains in excess of ₹ 1.25 lakh (i.e., ₹ 4.95 lakh, being ₹ 6.2 lakh – ₹ 1.25 lakh)	61,875
Tax @30% on balance income of ₹ 9,91,30,000 (i.e., ₹ 9,97,50,000 - ₹ 6,20,000) (since the turnover exceeded ₹ 400 crores in the P.Y. 2022-23)	2,97,39,000
	2,98,00,875
Add: Surcharge @ 7% (since total income exceeds ₹ 1 crore but does not exceed 10 crores).	20,86,061
	3,18,86,936
Add: Health and Education cess @ 4%	12,75,477
Total tax liability	**3,31,62,413**
Total tax liability (Rounded off)	**3,31,62,410**

2. (a) Computation of Total Income of M/s Disha Darpan & Associates, a partnership firm, for the A.Y. 2025-26

	Particulars	Amount (in ₹)	
I	**Profits and gains of business and profession**		
	Net profit as per profit and loss account		95,00,000
	***Add:* Items debited but to be considered separately or to be disallowed**		
	(1) Interest to partners on capital [As per section 40(b), interest to partners authorized by the partnership deed is allowable as deduction subject to a maximum of 12% p.a.] [₹ 9,75,000 x 1%/13%]	75,000	
	(2) Interest on loan taken from partner [As per section 40(b), interest to partners authorized by the partnership deed is allowable as deduction subject to a maximum of 12% p.a., whether it is interest on partner's capital or loan] [₹ 2,55,000 x 5%/17%]	75,000	
	(3) Royalty paid to partner X [Any remuneration, by whatever name called, paid to a working partner is subject to the limits specified under section 40(b)(v). Therefore, the royalty of ₹ 5 lakhs paid to partner X must also adhere to these limits and should be added back while computing book profits.]	5,00,000	
	(4) Depreciation as per books of account	2,18,990	8,68,990
			1,03,68,990
	***Less:* Items credited but chargeable to tax under another head/expenses allowed but not debited**		
	1. Profit on sale of building [Capital gain on sale of building is taxable under the head "Capital Gains".	49,17,000	49,17,000

	Since such gains has been credited to profit and loss account, the same has to be deducted while computing business income]		
			54,51,990
	Less: **Depreciation as per the Income-tax Rules, 1962**	27,000	
	- Depreciation on Motor car [₹ 9,70,000 x 15%]	1,45,500	
	- Machinery [₹ 55,000 x 15% x 50%, since purchased and put to use for less than 180 days]	4,125	1,76,625
	Book Profit		52,75,365
	Less: Salary to working partners		
	(i) As per limits given under section 40(b)		
	On first ₹ 6,00,000 @90%	5,40,000	
	On the balance of ₹ 46,75,365 @ 60%	28,05,219	
		33,45,219	
	(ii) Salary actually paid to working partners [₹ 35,000 x 12 x 2]	8,40,000	
	Deduction allowed being (i) or (ii) whichever is less		8,40,000
			44,35,365
II	**Capital Gains**		
	Short term capital gain on sale of building forming part of block of asset [Since building was the only asset in the block]		
	Full value of consideration	87,00,000	
	Less: Cost of acquisition [WDV as on 1.4.2024]	37,83,000	
		49,17,000	
	Less: Exemption under section 54EC [Investment in bonds of NHAI]	26,00,000	23,17,000
	[Available against depreciable asset, being a building held for more than 24 months and the payment for bonds has been made within six months from the date of transfer,		

	exemption u/s 54EC would be available even if the allotment of bonds was made after the expiry of the six months[2]]		
	Gross Total Income		67,52,365
	***Less:* Deduction under section 10AA**		-
	[Deduction u/s 10AA is not available since approval was granted after 31.3.2020 and it started its operation after 31st March, 2021]		
	Total Income		**67,52,365**
	Total Income (Rounded off)		**67,52,370**

(b) (i) **Computation of tax liability of Gill for the A.Y.2025-26**

Particulars	₹	₹
Income taxable under section 115BBA		
Income from participation in matches in India	12,00,000	
Advertisement of product on TV	3,20,000	
Contribution of articles in newspaper	17,000	
Income taxable under section 115BB		
Income from horse races	54,000	
Total income	**15,91,000**	
Tax@ 20% under section 115BBA on ₹ 15,37,000		3,07,400
Tax@ 30% under section 115BB on income of ₹ 54,000 from horse races		16,200
		3,23,600
Add: Health and Education cess@4%		12,944
Tax liability		**3,36,544**
Tax liability (Rounded off)		**3,36,540**

(ii) Yes, the above income is subject to tax deduction at source.

Income referred to in section 115BBA (i.e., ₹ 15,37,000, in this case) is subject to tax deduction at source@ 20% under section 194E.

Income referred to in section 115BB (i.e. ₹ 54,000, in this case) is subject to tax deduction at source@30% under section 194BB.

[2] *Hindustan Unilever Ltd. v. DCIT (2010) 325 ITR 102 (Bom.)*

Since Gill is a non-resident, the amount of tax to be deducted calculated at the prescribed rates mentioned above, would be increased by health and education cess@4%.

(iii) Section 115BBA provides that if the total income of the non-resident sportsman comprises of only income referred to in that section and tax deductible at source has been fully deducted, he shall not be necessary for him to file his return of income. However, in this case, Mr. Gill has income from horse races as well. Therefore, he cannot avail the benefit of exemption from filing of return of income as contained in section 115BBA. Hence, he would be liable to file his return of income for A.Y.2025-26.

3. (a) Computation of total income in the hands of Wonder, REIT and Mr. Kartik (unitholder)

Particulars	Wonder (REIT)	Mr. Kartik (Unitholder)
(i) Interest income of ₹ 12 crores from Water Ltd. (SPV) Interest income from SPV would be exempt in the hands of REIT by virtue of section 10(23FC)(a). The component of such interest income distributed to unit holders would be deemed as income of the unit holders as per section 115UA(3). Accordingly, ₹ 8.4 crores being 70% of ₹ 12 crores is taxable in the hands of the unitholder Mr. Kartik.	Nil	8,40,00,000
(ii) Dividend income of ₹ 2 crores from Water Ltd. (SPV) The dividend distributed by the SPV to the REIT is exempt in the hands of REIT by virtue of section 10(23FC)(b). The component of such dividend income distributed to unitholders is taxable in the hands of unitholders by virtue of the exception contained in section 10(23FD), since Water Ltd. (SPV) has exercised the option u/s 115BAA. Accordingly, ₹ 1.40 crore, being 70% of ₹ 2 crores, would be	Nil	1,40,00,000

	taxable in the hands of the unitholder Mr. Kartik.		
(iii)	**Short-term capital gains of ₹ 1.2 crore on sale of developmental properties** STCG on sale of development properties is taxable at maximum marginal rate in the hands of the REIT 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 exemption contained in section 10(23FD).	1,20,00,000	Nil
(iv)	**Interest of ₹ 12 lakh received in respect of investment in unlisted debentures of companies** Such interest is taxable at maximum marginal rate in the hands of the REIT as per section 115UA(2). 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).	12,00,000	Nil
(v)	**Rental income of ₹ 2 crores from directly owned real estate assets** Income by way of renting or leasing or letting out any real estate asset owned directly by REIT is exempt in the hands of the REIT as per section 10(23FCA). However, the component of such rental income distributed to unitholders is deemed as income of the unit holders as per section 115UA(3). Accordingly, ₹ 1.4 crores, being 70% of ₹ 2 crores would be taxable in the hands of Mr. Kartik.	Nil	1,40,00,000
(vi)	**Other income distributed to unitholders**	-	37,60,000

As per section 115UA(3A), any sum other than interest and dividend received from SPV, rental income and income which are chargeable to tax in the hands of REIT, in the present case it is STCG on sale of developmental properties and interest on unlisted debentures, would be chargeable to tax under section 56(2)(xii) in the hands of unitholders as income from other sources. In the present case, ₹ 37,60,000 [₹ 1.876 crores, being 70% of ₹ 2.68 [₹ 20 crores – ₹ 17.32 (₹ 12 crores + ₹ 2 crores + ₹ 1.2 crores + ₹ 12 lakhs + ₹ 2 crores)] *Less* ₹ 1.5 crores, being the issue price of units held by Mr. Kartik] would be taxable as Income from other sources.		
Total income	**1,32,00,000**	**11,57,60,000**

(b) Mr. Varun is a resident in India for A.Y.2025-26, since his stay in India in the P.Y.2024-25 is for 304 days which exceeds the minimum required stay of 182 days in that previous year. Also, his stay in India must be more than 730 days in the immediately preceding seven years, and he must be resident in 8 years (P.Y. 2014-15-to P.Y.2021-22) out of 10 years immediately preceding P.Y. 2024-25, since he left India for the first time on 1st April, 2022.

Hence, he is resident and ordinarily resident in India for A.Y.2025-26. Accordingly, his global income would be subject to tax. He would, however, be entitled for deduction under section 91 in respect of doubly taxed income earned in Country 'B'.

Computation of total income of Mr. Varun for A.Y.2025-26

Particulars	₹	₹
Income from House Property [Residential property in Country 'B']		
Annual Value ($48,000 x ₹ 86, exchange rate on 31.3.2025, being the rate on the last day of the P.Y. as per Rule 115)	41,28,000	
Less: Deduction under section 24 – 30% of NAV	12,38,400	28,89,600

Profits and Gains of Business or Profession		
Income from business in India		9,40,000
Income from Other Sources		
Dividend from Indian company [₹ 3,37,500 x 100/90]	3,75,000	
Interest on savings bank account with PNB	19,800	
		3,94,800
Gross Total Income		**42,24,400**
Less: Deduction under Chapter VIA Under section 80TTA – (Not available under default tax regime as per 115BAC)		NIL
Total Income		**42,24,400**

Computation of net tax liability of Mr. Varun for A.Y.2025-26

Particulars	₹
Tax on total income [30% of ₹ 27,24,400 + ₹ 1,40,000]	9,57,320
Add: Health and Education cess@4%	38,293
	9,95,613
Less: Deduction under section 91 (See Working Note below)	3,97,320
Net Tax Liability	**5,98,293**
Net Tax liability (Rounded off)	**5,98,290**

Working Note: Calculation of deduction under section 91

Particulars	₹	₹
Average rate of tax in India [i.e., ₹ 9,95,613/₹ 42,24,400x100]	23.57%	
Average rate of tax in country 'B' [20% of $ 33,000 ($ 48,000 - $ 15,000) = $ 6,600; $ 6600/$ 48,000 x 100 = 13.75%	13.75%	
Doubly taxed income		
Income from house property	28,89,600	
Deduction u/s 91 on ₹28,89,600 @13.75% (being the lower of average Indian tax rate (23.57%) and foreign tax rate (13.75%)]		3,97,320

4. **(a)** (i) Where the payer is an individual or HUF whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 1 crore during the financial year immediately preceding financial year in which such rent was credited or paid, is liable to deduct tax at source under section 194-I. Since the turnover from business of Mr. Shivanand was ₹ 202 lakhs for the F.Y. 2023-24, he is liable to deduct tax at source under section 194-I in respect of rental payments during the financial year 2024-25. Section 194-I provides that rent includes any payment, by whatever name called, for the use of land or building together with furniture, fittings etc.

Therefore, in the given case, apart from monthly rent of ₹ 15,000 p.m., service charge of ₹ 6,000 p.m. for use of furniture and fixtures would also attract TDS under section 194-I. Since the aggregate rental payments of ₹ 2,52,000 to Mr. Sam during the financial year 2024-25 exceeds ₹ 2,40,000, Mr. Shivanand is liable to deduct tax at source @10% under section 194-I from rent paid to Mr. Sam. The amount of TDS u/s 194-I would be ₹ 25,200.

(ii) An individual who has total sales, gross receipts or turnover from the business carried on by him exceeding ₹ 1 crore in the immediately preceding financial year i.e., F.Y. 2023-24, is liable to deduct tax at source under section 194C for the financial year 2024-25 in respect of the payment made to contractor exceeding ₹ 30,000 in a single contract and ₹ 1,00,000 in aggregate of contracts during the financial year. Since, turnover of Mr. Jay was ₹ 2.20 crores in the financial year 2023-24 and as the payment during financial year 2024-25 to the contractor has exceeded the limits prescribed in section 194C, tax has to be deducted under section 194C.

The rate of tax deduction is 1% as the contractor is an individual. Accordingly, ₹ 9,000/- is required to be deducted at source u/s 194C by Mr. Jay.

(iii) The limit of ₹ 30,000 for non-deduction of tax under section 194J would apply separately for fees for professional services and fees for technical services. This means that if a person has rendered services falling under both the categories, tax need not be deducted if the fee for each category does not exceed ₹ 30,000, even though the aggregate of the amounts credited to the account of such person or paid to him for both the categories of services exceed ₹ 30,000. Therefore, Whiteblue Pvt. Ltd. is

not required to deduct tax at source in respect of the fees either at the time of credit or at the time of payment.

(iv) No, UVW Ltd. is not liable to deduct tax under section 194D on the insurance commission of ₹ 1,50,000 paid to XYZ Ltd. during the financial year 2024–25. As per Notification No. 28/2024 dated 7th March 2024, any specified payment, including insurance commission covered under section 194D, made to a qualifying IFSC unit is exempt from TDS, provided certain conditions are fulfilled. These conditions include the furnishing of a declaration by the IFSC unit indicating the ten consecutive assessment years for which the deduction under section 80LA is claimed. Since, as it was mentioned XYZ Ltd. has complied with all the requirements, UVW Ltd. is not required to deduct tax at source on the insurance commission paid to XYZ Ltd.

(b) Two enterprises are deemed to be associated enterprises where one enterprise, directly or indirectly, holds shares carrying not less than 26% of the voting power in the other enterprise.

In this case, since NeoVentures Ltd., a foreign company, holds 30% equity shares in Akshaya InfraTech Pvt Ltd., an Indian company, NeoVentures Ltd. and Akshaya InfraTech Pvt Ltd. are deemed to be associated enterprises. Since the transaction of developing software and providing related support service by Akshaya InfraTech Pvt Ltd. to NeoVentures Ltd. is an international transaction between associated enterprises, the provisions of transfer pricing would be attracted in this case.

Computation of Arm's Length Price as per Cost Plus Method

Particulars	%	%
Gross Profit mark-up on cost in case of Vedanta Ltd. [an unrelated party]		40%
Less: Adjustments for functional and other differences		
- Value of technology support [NeoVentures Ltd. provides technology support, but Vedanta Ltd. does not provide such support. Therefore, value of technology support shall be adjusted] [15% of 40%, being gross profit]	6%	
- Quantity discount to NeoVentures Ltd. [Quantity discount is allowed to NeoVentures Ltd. as it gives business in large volumes, but	4%	

the same is not provided to Vedanta Ltd. Therefore, it shall be adjusted] [10% of 40%, being gross profit]		
- Risk and cost associated with marketing [Akshaya InfraTech Pvt Ltd. has to bear all the risk and costs associated with the marketing function in case of Vedanta Ltd., while there is no such risk in case of services to NeoVentures Ltd. Therefore, market risk and cost shall be adjusted] [20% of 40%, being gross profit]	8%	18%
		22%
Add: Cost of credit to NeoVentures Ltd. [Akshaya InfraTech Pvt Ltd has provided credit of 1 month to NeoVentures Ltd. but not to the unrelated party. Therefore, adjustment for the cost of such credit has to be carried out to arrive at the ALP] [(5% of 40%, being gross profit]		2%
Arm's length gross profit mark up to cost		24%
Cost incurred by Akshaya InfraTech Pvt Ltd. for executing NeoVentures Ltd.'s work		4,52,000
Add: Adjusted gross profit (₹ 4,52,000 x 24%)		1,08,480
Arm's length billed value		5,60,480
Less: Actual Billed Income from NeoVentures Ltd. (₹ 2,700 x 150 man hours)		4,05,000
Total Income of Akshaya InfraTech Pvt Ltd to be increased by		**1,55,480**

5. **(a)** (i) Section 292B provides that no return of income, assessment, notice or summons furnished or made or issued or taken in pursuance of any of the provisions of the Income-tax Act, 1961 shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment or notice etc., if such return of income, assessment, notice, summons etc. is in substance and effect in conformity with or according to the intent and purpose of the Act.

Therefore, a clerical mistake cannot invalidate an otherwise valid assessment. Thus, the typographical error in the assessment order as to assessment year and previous year does not make the same invalid

unless established otherwise. Accordingly, the action of the CIT(Appeals) in not accepting the claim of the assessee is valid.

(ii) The action of the Commissioner in issuing the second notice is not justified. The term "record" has been defined in clause (b) of *Explanation 1* to section 263(1). According to this definition "record" shall include and shall be deemed always to have included all records relating to any proceeding under the Act available at the time of examination by the Commissioner. In other words, the information, material, report etc. which were not in existence at the time the assessment was made and came into existence afterwards can be taken into consideration by the Commissioner for the purpose of invoking his jurisdiction under section 263(1). However, at the same time, in view of the express provisions contained in clause (b) of the *Explanation 1* to section 263(1), such information, material, report etc. can be relied upon by the Commissioner only if the same forms part of record when the action under section 263 is taken by the Commissioner.

Issuance of a notice under section 263 succeeds the examination of record by Commissioner. In the present case, the Commissioner initially issued a notice under section 263, after the examination of the record available before him. The subsequent second notice was on the basis of material collected under section 133A, which was totally unrelated and irrelevant to the issues sought to be revised in the first notice. Accordingly, the material on the basis of which the second notice was issued could not be said to be "record" available at the time of examination as emphasized in *Explanation 1(b)* to section 263(1).

(iii) **Issue Involved:** The issue under consideration is whether the powers under section 254(2) can be exercised by the Tribunal to recall an order and rehear the entire appeal on merits.

Relevant provision of law: Section 254(1) empowers the Appellate Tribunal to pass such order thereon as it thinks fit, after giving both the parties to the appeal an opportunity of being heard. Under section 254(2), the Appellate Tribunal, may amend an order passed by it u/s 254(1) with a view to rectifying any mistake apparent from the record.

Analysis & Conclusion: The power u/s 254(2) is limited to rectification of a mistake apparent on record and therefore, the Tribunal must restrict itself within those parameters.

A detailed order was passed by the Tribunal upholding the order passed by the Assessing Officer. While allowing the application u/s 254(2) and recalling its earlier order, the Tribunal had reheard the entire appeal on the merits as if the Tribunal was deciding the appeal against the order passed by the Commissioner (Appeals).

The subsequent order passed by the Tribunal recalling its earlier order was beyond the scope and ambit of the powers u/s 254(2) and is not tenable in law.

Note – *The facts given in the question are similar to the facts in Reliance Telecom Ltd./Reliance Communications Ltd. (2022) 440 ITR 1 wherein the issue came up before the Supreme Court. The above answer is based on the rationale of the Supreme Court in the said case.*

(b) (i) Where in a situation a tax payer may believe that the treatment accorded by either or both Contracting States is not in accordance with the provisions of the tax treaty. In such a case, there is a need for dispute resolution which is addressed by the article named Mutual Agreement Procedure (MAP). This Article requires competent authorities of both countries to endeavor to resolve the conflict by engaging in bilateral negotiations.

The Mutual Agreement Procedures (MAP) provides for dispute resolution through bilateral negotiations between competent authorities of both the contracting states.

Key differences between the OECD Model Convention (Article 25) and UN Model Convention (Article 25B - Alternative B) are as follows:

- Article 25B(5) of the UN Model provides that an arbitration may be initiated if the competent authorities are unable to reach an agreement on a case within three years from the presentation of that case. However, Article 25(5) of the OECD Model provides a time limit of two years from the date when all the information required by the competent authorities in order to address the case need to be provided to both competent authorities.

- Article 25B(5) of the UN Model provides that arbitration must be requested by the competent authority of one of the Contracting States. Once such a request is made, the taxpayer will be notified. However, as per Article 25(5) of the OECD Model, arbitration must be requested in writing by the person who initiated the case.
- Article 25B(5) of the UN Model allows the competent authorities to depart from the arbitration decision if they agree to do so within six months after the decision has been communicated to them.

(ii) The Multilateral Instrument (MLI) was developed under Action 15 of the OECD-G20 BEPS Project to address Base Erosion and Profit Shifting (BEPS) by modifying existing bilateral tax treaties in a synchronized and efficient manner. Its primary purpose is to implement treaty-related anti-abuse measures—such as preventing treaty shopping, artificial avoidance of permanent establishment (PE), and hybrid mismatch arrangements—without the need for renegotiating each treaty separately.

The MLI applies to Covered Tax Agreements (CTAs), which are bilateral treaties notified by both parties. It does not replace existing treaties but modifies their application using the lex posterior (later in time) principle, meaning the newer rule prevails. This allows consistent implementation of BEPS measures across multiple treaties while respecting each country's policy choices through options, alternatives, and reservations.

6. (a) (i) 1. As per Section 245R, a resident assessee cannot pursue both the remedies, i.e., an appeal or revision before Income-tax Authority/Appellate Authority as well as an application for Advance Ruling to Board for Advance Rulings, in respect of an issue.

The Board shall not allow an application where the question raised in the application is already pending before any income-tax authority, or Appellate Tribunal or any court.

2. The applicant who is aggrieved by any ruling pronounced or order passed by the Board for Advance Rulings may appeal to the High Court against such ruling or order of the Board of Advance Rulings within 60 days from the date of communication of that ruling or order.

(ii) The original service provider Skyline Design Solution Ltd. is replaced by the partnership firm with nominal partnership of one of the director. It is

obvious that there was no commercial necessity to create a separate firm except to obtain the tax benefit. The firm was only on paper as the manpower was drawn from the company. The firm did not have any commercial substance. The contract, workforce and execution remain effectively under the control of the Skyline Design Solution Ltd.

The contract between the Sunrise Hospitality Pvt. Ltd and partnership firm lacks the commercial substance, as the actual service are rendered by the personnel of the Skyline Design Solution Ltd.

It is a case of treaty abuse (treaty shopping). Hence, GAAR may be invoked to disregard the firm and tax payment for architectural services as fee for technical services. However, the rate of tax on such payment shall be as applicable under the treaty, if more beneficial.

(b) As per section 44AB, every person, *inter alia,* carrying on profession is required to get his accounts audited before the "specified date" by an accountant, if total sales, turnover or gross receipts in profession exceeds ₹ 50 lakh in any previous year.

However, a person who declares profits and gains for the previous year as per section 44ADA is not required to get his account audited.

As per section 44ADA, resident individual or resident partnership firm (but not LLP) engaged in any profession specified u/s 4AA(1), such as legal, medical, engineering, architectural profession or profession of accountancy or technical consultancy or interior decoration or other notified whose gross receipt ≤ ₹ 50 lakhs in the P.Y. (where aggregate cash receipt does not exceed 5% of total gross receipts, higher threshold limit of ₹ 75 lakhs applicable) can declare 50% of total gross receipts or a sum higher than the aforesaid sum claimed to have been earned by the assessee.

For this purpose, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, would be deemed to be the receipt in cash.

In the present case, since Mr. Pradeep is carrying on the profession of interior decoration, he is eligible for the presumptive taxation under section 44ADA.

In this case, the turnover of Mr. Pradeep exceeds ₹ 50 lakhs but does not exceed ₹ 75 lakhs. Accordingly, it has to be seen whether cash receipts exceed 5% of aggregate receipts to determine whether tax audit is compulsory.

During the P.Y. 2024-25, his cash receipts are ₹ 1,12,000 plus ₹ 1,22,800 totaling 2,34,800, which is 3.61% of total receipts of ₹ 65,00,000. Since his cash receipts during the P.Y. 2024-25, does not exceed 5% of aggregate receipts, he is not required to get the accounts audited under section 44AB.

Hence, the contention of Mr. Pradeep is correct he can opt for presumptive taxation under section 44ADA and he is not required to get his accounts audited.