Roll No……

Total No. of questions – **5** Total number of printed pages - **30**

Time allowed – **4** Hours Maximum marks – **100**

Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi medium. If a candidate who has not opted for Hindi medium, his / her answers in Hindi will not be valued.

The Question Paper comprises five case study questions. The candidates are required to answer any four case study questions out of five.

Answers in respect of Multiple Choice Questions are to be marked on the OMR Answer Sheet only.

Answers to other questions are to be written on the descriptive type answer book.

Answers to Multiple Choice Questions, if written in the descriptive type answer book will not be evaluated.

Candidates may use calculator.

All questions related to Assessment Year 2021-22, unless stated otherwise in the questions / case studies.

Case Study 1

Rocks & Logs Limited

The assessee, Rocks & Logs Limited, is an Indian company and part of Gokhru group of companies. The assessee is in the manufacture of Mango phones. It

was found that an entity by the name of Parimal Limited, which is also a part of the same group, and the assessee jointly planned an event in Dubai for launch of Mango phones. The purpose of this event was launch of a new model of Mango phones, known as A-8L, for the Indian market. The launch event took place, on 3rd May 2020, at the Pavilion, Armani Hotel, Dubai. Kim Productions Inc, a company incorporated in the USA, agreed to facilitate the appearance of Nicholas Cage (hereinafter referred to as ***'the international celebrity'***) for three consecutive hours, and it was a consideration of this appearance, that the assessee paid US $ 4,40,000, plus other incidentals such as costs of two return first class airline tickets from Los Angeles, costs of stay and local transportation in Dubai, and costs of hair and make-up of the celebrity.

As a part of this appearance, the celebrity was to be seen using the new mango phone in the venue as a part of the unveil process, engage with the Mango phone India Director in a short Q&A session, join the Mango phone India director in socializing with the guests at the event, including meet and greet photographs and autographs- as reasonably required, and interact with select members of the Indian media.

The assessee had made a payment of US $ 4,40,000, in respect of a celebrity appearance at Dubai, and the assessee did not withhold any tax from the said remittance.

The Assessing Officer (TDS) probed the matter in some detail. The assessee and Parimal Limited were, as a part of this arrangement, had full rights to use "free non-exclusive promotional (e.g, not in connection with paid advertising, including, without limitation, in TV commercials, bill boards, and paid advertising etc) usage of all the event footage/ material/ films/ stills/ interviews etc of the above mentioned launch event capturing celebrity's

presence across all platform for below the line publicity on internet, in press releases, news reports, social media, Magazine etc for a period of 6 months from the date of launch event, and for an unlimited period of time only for internal usage with the Gokhru Group".

However, on the ground that the event took place in Dubai, UAE, and the celebrity made his appearance at the event in Dubai, it was claimed that this event did not rise to any tax implications in India so far as the event and the celebrity appearance was concerned. The stand of the assessee was that no tax was deductible from this payment as the celebrity or his agent were not carrying out any activities in India, in relation to the appearance fees received from the assessee, and as such the appearance fee could not be treated as accruing go or arising in India, or deemed to be accruing or arising in India. It was also claimed that as the income was not taxable under the Income Tax Act, 1961, there was no occasion to claim any treaty benefits. The Assessing Officer, unimpressed with these arguments, proceeded to hold that the payment made to the celebrity was taxable in India, more particularly as royalty under section 9(1)(vi) of the Income Tax Act, 1961. The assessee appealed in the matter to CIT(A). The CIT(A) not only confirmed the action of the Assessing Officer but also proceeded to hold that the whole purpose of organizing an India centric event at Dubai was to **avoid "attraction of clause regarding income accruing or arising in India"**, and referred to the provisions of Section 9(1)(i). [Assume $ 1 = INR 70]

Choose the correct alternative for the following MCQs: (2X5=10 Marks)

1.1 In case it is established that payment to Nicolas Cage attracts withholding tax in India and the rate at which tax is chargeable as per

DTAA is 10 per cent, then Rocks & Logs would have to withhold tax at ___ %:

(A) 20.80 per cent

(B) 26 per cent;

(C) 10 per cent;

(D) 10.40 per cent

1.2 Assume that Nicolas Cage participated in a music concert in India. Which of the following statements would be true in such a case?

(1) Payments made to Nicolas Cage would attract withholding tax at rates mentioned in Section 194E;

(2) Nicolas Cage would have to furnish return of income in India in case he earns additional income from horse racing;

(3) As per 6th proviso to section 139(1) in case income of Nicolas Cage does not exceed Basic Exemption Limit, then there would be no requirement to furnish a return of income in India;

(4) Nicolas Cage would be eligible for deduction under Chapter VI – A;

The correct option is:

(A) 1, 2, 4

(B) 1, 2, 3

(C) 1, 2

(D) None of the above

1.3 Mr. Alex being a resident of UK, visited India during November 2020 and he ordered certain apparel of brand Ujay [belonging to Ujay International AG, a company incorporated in Switzerland] worth Rs. 10,000 from online website Ujayinternational.com during his stay in India. His apparels were delivered via readymade garments showroom located in Connaught Place, Delhi. Which of the following statements is correct? [Assume that the gross receipts of Ujay International AG from e-commerce supply and services is ` 8 crore during the P.Y. 2020-21]

(A) Mr. Alex is required to withhold equalization levy of ` 200 and deposit the same with Indian tax authorities

(B) Ujay International AG is not required to charge equalization levy on such transaction since sale is made to Mr. Alex who is not a resident in India

(C) Ujay International AG is not required to charge equalization levy on such transaction since it a non-resident not having any PE in India

(D) Ujay International AG is required to charge equalization levy of ` 200 and deposit the same with Indian tax authorities;

1.4 Analyse the facts provided below and answer the question:

Mr. B is an interior decorator by profession. He also delivers online lectures on interior decoration via an e-commerce platform – Indeco-Academy. The relevant information from Mr. B's Indeco-Academy account is given hereunder:

Date of Credit of services to account of Mr. B	Date of Payment to Mr. B	Value of Services Provided (₹)
31.05.2020	10.06.2020	2,00,000
31.10.2020	10.10.2020	1,50,000
31.03.2021	10.04.2021	1,40,000

In addition to the above, Mr. B received ₹ 20,000 on 18.02.2021 directly from a student instead of through the Indeco-Academy payment portal. Mr. B has not furnished his PAN or Aadhar number to Indeco-Academy but has furnished his driving license for KYC requirements.

Is Indeco Academy required to deduct tax at source on amount received / receivable by Mr. B? If so, what is the amount of tax to be deducted?

(A) No tax is required to be deducted at source;

(B) Yes, Rs. 2,325

(C) Yes, Rs. 15,500

(D) Yes, Rs. 25,500

1.5 Mr. Harish and Mr. Bharish, both citizens of India, are residents in UK and USA respectively. They are appointed as ambassadors of UK and USA respectively to India. UK taxes the income of Indian ambassadors in its country. Which of the following statement is true?

(A) Income of Harish as an ambassador is taxable in India;

(B) Income of Bharish as an ambassador is taxable in India;

(C) Income of both Harish and Bharish as an ambassador is taxable in India;

(D) Income of neither Harish and Bharish as an ambassador is taxable in India;

You are required to answer the following issues:

1.6 Whether the income accruing to the international celebrity, on account of participation in Mango Phone launch event hosted in Dubai, has accrued or arisen, whether directly or indirectly, through or from any business connection in India [5 Marks]

1.7 Can the Assessing Officer invoke provisions of Section 115BBA to tax the income of Mr. Nicolas Cage in India? If not, then can Nicolas Cage claim exemption from application of provisions of Indian Income-tax Act?

[5 Marks]

1.8 Can Rocks & Logs Limited be treated as assessee in default for non-deduction of tax at source on payment to Nicolas Cage? If yes, then can Rocks & Logs claim benefit of proviso to section 201(1)?

[5 Marks]

Case Study 2.

2.1 The assessee, Trump Limited, is a company based in Singapore and is engaged in the business of marketing and sale of software. The assessee sold software licences to Indian customers and in connection with sale of software also provided certain ancillary services to the Indian customers. The assessee showed turnover on sale of software licences and ancillary services at USD 1,02,15,762/-, out of which 95% of software licences were sold to authorized distributors viz., INGRAM Micro India Pvt. Ltd. and M/s Tech Pacific India Limited. Thus, sales to the tune of $ 100,52,271 was made to the authorized distributors. The Assessing Officer on examination of the agreements and documents supplied by the assessee inter alia held that software supplied is chargeable to income tax from royalty and technical services. The assessee agreed with the contention of the Assessing Officer but dispute arose regarding the rate of taxation to be levied. For FY 2020-21, the rate of tax provided in Article 12 of India – Singapore DTAA in respect of royalty and fees for technical services was 12 per cent. However, the same was substituted w.e.f. 1 August 2020 and reduced to 10 per cent. It is contention of the assessee that rate of 10 per cent shall apply for the entire year and not just period after 1 August 2020.

2.2 Micheal Limited is a company incorporated under the laws of Australia and is a tax-resident of that country. It is engaged in the business of developing and providing customized software enabled solutions and annual maintenance services. The solutions provided by Micheal Limited are used by the oil and gas industry in relation to excavation, extraction, production activities and seismic analysis. Micheal Limited

opted to be taxed on presumptive basis under section 44BB(1) of the Act, whereby 10% of the aggregate of receipts is deemed to be profits and gains of business and is subjected to tax. Micheal Limited filed its return of for the assessment year 2018-2019, declaring a total income of Rs. 1,97,16,140/- arising *inter alia*, from the business of providing services or facilities in connection with extraction or production of mineral oils. The case was picked up for scrutiny and notice under Section 143(2)/142(1) was issued by the Assessing Officer (hereinafter, "AO"). Eventually, the AO held that in accordance with terms of the contract, the nature of services provided by the Petitioner fell within the purview of Royalty / Fees for Technical Services and is liable to be taxed under section 44DA instead of section 44BB, and proposed to compute the total income of Petitioner at Rs. 4,92,90,360/- as against total income of Rs. 1,97,16,140/-

Choose the correct alternative for the following MCQs: (2X5=10 Marks)

2.1 In case A Limited, Singapore acquires shares in an Indian company from B Limited, Netherlands without consideration for better coordination and control of the group, then the following statement(s) is/are true:

(A) A Limited will have to withhold tax on the actual consideration paid to B Limited;

(B) A Limited will be liable to pay tax on income chargeable under section 56(2)(x);

(C) B Limited will not liable to capital gains since the consideration is indeterminate;

(D) None of the above

2.2 In respect of section 195 of the Income-tax Act, following statement is false:

(A) An Individual is required to withhold tax irrespective of his / her turnover in the preceding financial year;

(B) Payer has to withhold tax in India irrespective of whether he has a business connection / permanent establishment in India or not;

(C) Payee is eligible for credit of TDS even if payer has grossed up the tax;

(D) None of the above

2.3 In respect of a non-resident Indian, the following benefit / taxation is not available / applicable to him under Income-tax Act –

(A) Benefit of Indexation;

(B) Taxation under section 68

(C) Taxation under section 56(2)(viib)

(D) Provisions of section 50C

2.4 X Limited made payment of Rs. 1 crore to Maria Carie, an international pop-star for making performance in India. In respect thereof, X Limited failed to withhold tax at source under section 194E. In respect thereof,

what is the quantum of penalty to be levied under section 271C of the Income-tax Act, 1961:

(A) Rs. 20,80,000

(B) Rs. 22,88,000

(C) Rs. 23,92,000

(D) Rs. NIL

2.5 In respect of payment of royalty of Rs. 80,00,000 paid to X Limited, USA, what will be the quantum of tax deduction to be made under section 195–

(A) Rs. 8,00,000

(B) Rs. 8,32,000;

(C) Rs. 32,00,000 plus cess;

(D) Inadequate data provided in question

You are required to answer the following issues:

2.6 You are required to discuss as to what rate of tax shall apply on income earned by Trump Limited during FY 2020-21 by way of royalty and fees for technical services?

[5 Marks]

2.7 In case of Micheal Limited is covered under section 44BB(1), then what is the gross turnover/receipts of Micheal Limited, from facts provided in the question. [2 Marks]

2.8 Discuss treatment of mobilisation advance received under section 44BB of the Income-tax Act, 1961? [3 Marks]

2.9 Do you think case of Micheal Limited is covered under section 44BB or under Section 44DA? Support your answer with logical assumptions

[5 Marks]

Case Study 3.

The assessee, Sky Bank Limited, a major Indian bank, has several branches abroad - a few in the treaty partner jurisdictions, i.e., the countries with which India has entered into Double Taxation Avoidance Agreements under section 90, and remaining in the non-treaty partner jurisdictions. The assessee has also invested, as a shareholder, in two foreign banks, namely PT Bank Swadeshi (Indonesia) and Indo Zambia Bank Limited (Zambia). The assessee has earned business profits from its branches outside India, namely in UK, USA, France, Belgium, Kenya, Japan, Singapore, China, Hong Kong, Cambodia, and Jersey. During the relevant previous year, the assessee earned profits in these jurisdictions, and, in accordance with the domestic tax laws in the respective tax jurisdictions, the assessee bank paid income tax aggregating to Rs 165.96 crores in treaty partner jurisdictions (on taxable income aggregating to Rs 200.90 crores in these jurisdictions) and Rs 15.79 crores in non-treaty partner jurisdictions (on taxable income aggregating to Rs 635.19 crores in these jurisdictions), in addition to income tax amounting to Rs 87,54,656 having been withheld from the foreign dividend income aggregating to Rs 8,46,61,252 received by the assessee. However, while the assessee did earn profits from these foreign operations and by way of foreign dividend income, the computation of the assessee's global income, which is taxable in India, resulted

in a net loss of Rs 191,38,89,912. This is the loss computed by the Assessing Officer and the assessee does not, therefore, have any tax liability in India in respect of its income. Since the assessee does not have any Indian tax liability in respect of the profits earned by the assessee abroad, the assessee was not given any credit for the taxes paid abroad. The assessee is not satisfied. The claim of the assessee is that the taxes so paid by the assessee to the overseas tax jurisdictions, where the related profits are earned, should be given due credit in the computation of refund due to the assessee, and, accordingly, the income tax paid by the assessee to foreign tax jurisdictions should be refunded to the assessee by the Indian tax authorities. This claim was rejected by the Assessing Officer. Aggrieved, assessee carried the matter in appeal before the CIT(A) but without any success. Learned CIT(A) rejected the claim of the assessee. The assessee claims that it must be allowed credit for taxes paid outside India. Alternatively, the assessee bank claims that the taxes paid outside India must be allowed as deduction while computing its total income.

Choose the correct alternative for the following MCQs: (2X5=10 Marks)

3.1 In case the assessee has paid tax at the rate of 10% outside India on its income of Rs. 70,00,000 outside India and its total income in India [including foreign income] is Rs. 3,00,000 and book profits as per section 115JB is Rs. 1,60,00,000, then the amount of MAT credit which can be carried forward by the assessee is [Assume Turnover of FY 2018-19 is Rs. 405 crores]–

(A) 19,70,720

(B) 0

(C) 19,22,200

(D) Inadequate data to compute answer

3.2 While computing time threshold under service PE, we consider -

(A) Calendar days

(B) Solar days

(C) Man days

(D) Number of days

3.3 In respect of remittance towards family maintenance outside India, the following statement is true:

(A) Tax is required to deducted under section 195;

(B) Assessee is required to furnish Form 15CA;

(C) Assessee is also required to furnish Form 15CB through CA;

(D) None of the above

3.4 In respect of payment made towards offshore services and supply of goods, following was held by Supreme Court in the case of Ishikajiwama Harima Heavy Industries:

(A) The Contract shall be treated as indivisible and tax is required to be accordingly deducted;

(B) The contact shall be treated as divisible and the portion of offshore supply shall suffer tax at source;

(C) The Contract shall be divisible and the portion of offshore service shall suffer tax at source;

(D) The Contract shall be divisible and the portion of offshore service shall suffer tax at source and the offshore supply shall not suffer tax at source in case it is made on FOB basis;

3.5 In case of divergence of provisions of DTAA and IT Act, the following statement is false:

(A) The assessee is allowed to follow pick and choose approach;

(B) The assessee is allowed to get credit of foreign taxes paid irrespective of whether assessee follows DTAA or IT Act;

(C) If assessee follows DTAA, then the rate of tax shall not increased by surcharge and cess;

(D) None of the above

You are required to answer the following issues:

3.6 In respect of taxes paid outside India by Sky Bank Limited in countries with which India **does not** have DTAA, will assessee be entitled for credit of taxes paid outside India? [4 Marks]

3.7 In respect of taxes paid outside India by Sky Bank Limited in countries with which India **does** have DTAA, will assessee be entitled for credit of

taxes paid outside India? [Consider relevant article of OECD Model for your analysis] [4 Marks]

3.8 You are required to analyse implications of ruling provided by Supreme Court in the case of PILCOM Limited vs. CIT in the light of amendment made under provisions of section 40(a)(i) and 201(1) by Finance [No.2] Act, 2019? [3 Marks]

3.9 Techno Engineering, GMBH, a German foreign company entered into an agreement for the execution of electrical work in India for Super Thermal Power Ltd. Separate payments were made towards drawings and designs by Super Thermal Power Ltd. to the German Company which were termed as "Engineering Fee".

The German Company is not having any permanent establishment (PE) in India for doing the business and operates from Germany only.

Will the payment made towards drawings and designs by Super Thermal Power Ltd. to Techno Engineering be subject to tax in India, and if so, why?

[4 Marks]

Case Study 4.

Mr. Radhakrishnan is an employee of HDFC Bank Limited, Mumbai, and currently on deputation to HDFC Bank Representative Office in Dubai. He is stated to be working in Dubai, U.A.E., since 1st October 2018. During the FY 2020-21, he exercised the options granted by the HDFC Bank Limited on 27th June 2017, which vested on 27th June 2018 (50%) and on 27th June 2019 (50%). These options were exercised in respect of 18,500 shares. The grant price of these options was Rs 219.74 per share, whereas the market price, as on the date on exercising the option, ranged from Rs 507.40 to Rs 659. The perquisite value of these options, being the difference in the market value of the shares vis-à-vis grant price of the shares, aggregated to Rs 72,77,320.

HDFC Bank Limited deducted tax at source of Rs 22,48,685 on the said perquisite value in respect of exercise of options. However, while filing the return of income the assessee claims refund of these taxes withheld by HDFC Bank. When the income tax return was picked up for scrutiny and this claim was probed further, assessee submitted that "though the income from ESOP perquisite was not taxable in India", on account of limitations in reporting and disclosure of said income in the return of income, "the assessee had to report and disclose the said income in its form, as reflected in the return of income filed by the assessee, and seek refund of tax deducted at source by the employer i.e. HDFC Bank". It was then explained by the assessee that under section 5(2) of the Act, what can be taxed in the hands of a non-resident assessee is only the income which "accrues or arises, or is deemed to accrue or arise, in India", and the income which "is received or is deemed to be received in India by such year by or on behalf of such a person". The case of the assessee was that the ESOP benefits received by the assessee did not fall in any

of these categories. It was contended that "ESOP perquisite are in the nature of salary income (and) the right to receive salary income arises only upon rendering of services". In substances, thus, it was contended that "the ESOP benefits are received by the assessee on account of services rendered in connection to employment with Dubai representative office of HDFC Bank in U.A.E. over the years from F.Y. 2017-18 to FY 2019-20. So the ESOP perquisites are received for employment services rendered in U.A.E., and, therefore, shall not accrue or arise in India". The assessee alternatively claims treaty protection under the India - U.A.E. Double Taxation Avoidance Agreement.

Based on the above data, you are required to answer the following:

Choose the correct alternative for the following MCQs: (2X5=10 Marks)

4.1 While deciding residential status on tie-breaker rule, the following factor is irrelevant:

(A) Place of Effective Management;
(B) Habitual Abode;
(C) Citizenship of Individual;
(D) None of the above;

4.2 As per Section 17, perquisite taxation arises in case of ESOP when the shares are _____:

(a) Granted
(b) Exercised
(c) Transferred
(d) Redeemed

4.3 Following presumptive taxation provisions may apply to a resident -

(1) Section 44AD

(2) Section 44ADA

(3) Section 44B

(4) Section 44BBB;

The correct answer is:

(A) 1, 2, 4

(B) 1, 2

(C) 1, 2, 3

(D) None of the above

4.4 In case of Business Trust distributing dividend to its non-resident unit holders, which it had received from a Special Purpose Vehicle, the rate of TDS u/s. 194LBA shall be _____

(A) 5%;

(B) 10%.

(C) Inadequate data in question

(D) TDS shall be deducted u/s. 195 and not u/s. 194LBA.

4.5 In case of Alternate Investment Fund, the following statement is incorrect –

(i) All losses accumulated as on 31 March 2019 by AIF, shall be passed through to the unit holders;

(ii) All losses accumulated as on 31 March 2019, shall not be passed through to unitholders who were holding units for less than 12 months as on such date;

(iii) All unit holders shall be passed through losses other than under the head PGBP

(iv) All unitholders shall be passed through losses under the head PGBP

The most appropriate answer in this case would be:

(A) (iii) and (ii) above.

(B) (i) and (iii) above

(C) (i), (ii) and (iv) above

(D) (i), (iii) and (iv) above.

You are required to answer the following issues:

4.6 Assuming that Mr. Radhakrishnan was a resident on the date of grant of option of ESOP, but a non-resident on the date when the same were exercised, you are required to determine whether the same is taxable as perquisite in his hands [Ignore DTAA]?

[5 Marks]

4.7 Assuming that the perquisite Income is taxable in the hands of Unnikrishnan in the year of exercise of option of ESOP, would the same be considered taxable as per DTAA? The relevant article is provided hereunder:

"Subject to the provisions of Articles 16, 17, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State

[6 Marks]

4.8 Suppose Mr. Radhakrishnan is a unitholder in XYZ Business Trust. You are required to determine taxation of each of the following items provided below:

- Rental Income passed through by Business Trust

- Dividend Income from SPV passed through by Business Trust

- Capital Gains on sale of development properties

[4 Marks]

Case Study 5

Buy Back conducted by Maharashtra Limited

5.1 Maharashtra Limited, a company in which public is not substantially interested, is mulling the option of conducting buy back of its shares. The said company has got 4 shareholders:

Name of shareholder	% holding	Number of shares
Rajasthan Limited, Resident	25	2,50,000
Newyork Limited, Non-resident	30	3,00,000
London Limited, Non-resident	35	3,50,000
Goa Limited	10	1,00,000
Total	**100**	**10,00,000**

5.2 On 10.06.2006, Maharashtra Limited had issued shares 1,00,000 originally at the rate of Rs. 12/- per share [Rs. 10 face value and Rs. 2 share premium]. On 10.03.2010, Maharashtra Limited issued 10,000

rights shares, which were subscribed to by all shareholders in the ratio of their shareholding. The rights shares were issued at premium of Rs. 30 per share. Later, on 15.05.2015, the company also provided bonus in the ratio of 5 shares for every share held.

5.3 Newyork Limited claims that instead of Maharashtra Limited paying Buy Back Distribution tax currently, it be allowed to pay taxes on the capital gains arising thereon so that the said taxes paid shall be available as foreign tax credit in its country of residence, i.e. USA.

5.4 Maharashtra Limited seeks your opinion on whether contention of Newyork Limited can be accepted.

5.5 **In this background, kindly answer the following questions:**

Choose the correct alternative for the following MCQs: (2X5=10 Marks)

5.1 Suppose 3,00,000 shares are bought back by Maharashtra Limited at the rate of Rs. 300 per share the buy-back distribution tax payable shall be:

(a) 1,97,55,008

(b) 1,95,44,008

(c) 1,69,60,000

(d) None of the above

5.2 Buy back distribution tax in case of non-resident Newyork Limited results in -

(a) Jurisdictional Double Taxation

(b) Economic Double Taxation

(c) No double taxation

(d) Exemption

5.3 Which of the following statement is false in the context of Article 7 of UN Model Convention -

(a) This article contains Force of Attraction Rule;

(b) Article 7 can be applied only when a non-resident has Permanent Establishment in India

(c) Article 7 can be used to apply MAT to a PE of non-resident in India

(d) Article 7 restricts rights of residence state to apply CFC regulations;

5.4 Assuming Maharashtra Limited is an e-commerce operator which has facilitated sale of goods of e-commerce participant M/s. New York Limited on its digital platform, for which purpose an amount of Rs. 6,00,000 is paid on 30.04.2020, then TDS u/s. 194-O shall be _____

(a) 60,000

(b) 0

(c) No TDS since equalisation levy shall apply

(d) None of the above

5.5 When a term used in a tax treaty is not defined in the tax treaty or in the Act, but the same is defined subsequently through a notification in the Official Gazette by the Central Government, then, in such a case:

(a) The notification shall take effect from the date of its publication in the Official Gazette

(b) The notification shall be deemed to be effective from the date when the tax treaty came into force

(c) The notification shall be deemed to be effective from the date when the tax treaty was last modified

(d) The notification shall take effect from 1st April and be effective from the current assessment year.

You are required to answer the following issues:

5.6 You are required to advise Maharashtra Limited whether contentions of New York Limited can accepted as stated in para 5.3 in the facts above? Further, you are also required to discuss whether taxes paid in India in respect of Buy back distribution shall be available as foreign tax credit for New York Limited in USA [Consider only provisions of IT Act]? [6 Marks]

5.7 New York Limited furnished a return of income reflecting the income from buy-back as capital gains. The Income-tax processing centre Bangalore raised a demand on this amount of capital gains. The assessee claims before the AO that such capital gains is exempt under section 10(34A) and therefore, not taxable in its hands. However, the officer relying on decision of Goetze India (SC) claims that since assessee has himself offered the gains to tax, there is no question of not taxing the same now. Further, assessee has not furnished revised return. You are

required to advise New York Limited regarding future course of action? [4 Marks]

5.8 In case in question 5.7 above, it is held that Capital Gains is taxable in the hands of New York Limited [since the same is offered to tax by it in its return of income], then can New York Limited seek credit for BBDT paid against the tax liability? [2 1/2 Marks]

5.9 As per DTAA, in principle, should New York Limited be allowed credit for BBDT in its home country? [2 1/2 Marks]