DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD

M.A. (International Taxation)

Academic Year: 2022-2023

First Semester - End Semester Examination (January, 2023)

Paper II - 1.1.2. Interpretation of Tax Treaty

Duration of the Examination: 2 ½ hours **Total Marks : 70 marks**

INSTRUCTIONS TO CANDIDATES

- **a) Read the instructions carefully and adhere to the same.**
- **b) Please mention your DDE ID No., date of the exam, name of the programme & subject on the Answer Sheet and the Additional Answer Sheets, if any.**
- **c) The questions to be interpreted as given and no clarification can be sought from the Invigilator.**
- **d) Clearly indicate the question numbers while answering them. Answers without question numbers / wrong question numbers will not be evaluated.**
- **e) Write the answers clearly and neatly. Answers in illegible handwriting will not be taken into consideration.**
- **f) Candidates are prohibited to carry phones or any other electronic devices, books, material etc. in the Examination Hall.**
- **g) Copying is strictly prohibited and is considered as a serious academic mis-conduct and the University will take action as it deems fit.**

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1) Since many countries suffered evasion or avoidance of tax by unscrupulous persons certain resolutions were adopted by the leaders of G20 Nations. In order to implement the resolution passed by the G20 Nations to take action against non cooperative jurisdictions, including tax havens, sec.94A was inserted to the Income tax Act. Accordingly, sec.94A provided a set of anti-avoidance measures to discourage transactions by a resident assessee with persons located in any country or jurisdiction, which does not effectively exchange information with India. Cyprus was notified as such a jurisdiction. Several other countries such as Australia, Belgium, Colombia had undertaken some such initiatives to ensure exchange of information on tax related matters.

Assesses who were relying on India-Cyprus DTAA challenged insertion of sec.94A as a breach of an important international law principle of Pacta Sunt Servanda. They argued that the State has an obligation under Article 51(c) of

The Constitution, which is part of the Directive Principles of the State Policy, to foster respect for Treaty obligations in the dealings of organized people with one another. The Treaty entered into by the Government is virtually a law under Article 253 of the Constitution and hence, neither the Parliament can make any law that would go contrary to the Treaty nor the Government can take any executive action to annul the effect of the Treaty so long as the Treaty is in force.

a) In view of this challenge, discuss whether India was in breach of pacta sunt servanda? **(25 marks)**

b) Would such insertion of sec.94A amount to unilateral treaty override by India? **(25 marks)**

2) What is the relevance of VCLT (Vienna Convention of Law Treaties) when India is not even a signatory. Discuss. **(20 marks)**

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