DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD

M.A. (International Taxation)

Academic Year: 2023-2024

First Semester Repeat Examination (June, 2024)

Paper III - 1.1.3. Residence for Treaty Purposes

1.1.4. Residence for Treaty Purposes (Batches : 2021-2023 & 2022-2024)

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) The Microx Group is diversified technology, analytics and financial services company spread across the globe having its head office at New York. Microx Machinery Inc. (MMI), a tax resident of the US, is engaged in the business of manufacture and offshore sales of highly sophisticated financial analytic tools. MMI sells its products all over the globe on a principal to principal basis for further sale to the end customers, including to the customers in India. The title to the goods sold to the Indian customers is transferred outside India as the goods are loaded on the ship or a vessel. MMI set up a liaison office ("LO") in India in 2019 with the RBI's permission to act only as a communication channel and not to carry on any business activity.

Microx Financial Services Company ("MFSC"), part of the Microx group and a tax resident of China is involved in financial analytics business in China and Hogkong. Due to outbreak of 'coronavirus' in China, the MFSC was not able to access the office premises to provide its services. To stop the losses until situation is controlled, the directors of MFSC shifted the workforce of 60 employees out of the total strength of 100 employees to India on temporary basis on 25 January 2020. Since MMI (LO) already had a physical place, MFSC being part of same group company started using a portion of building with alternative arrangements, where the employees were using the physical place only to stay during working hours and they were using the remote server to access the data and other information situated in China office. By the end of March, since the situation was under control the employees moved to China and started operating from original place.

The Income Tax department (IT) issued a notice to MMI Liaison Office treating it as representative assesee of MFSC and charging the entire income earned by MFSC, on the basis of that the LO office and employees are satisfying 'POEM ' requirement.

In the light of the above fact scenario, determine the validity of notice sent by IT. Also comment if the POEM requirement is not fulfilled, can this income be taxed on the basis of Income deemed to accrue in India due business connection.

(25 Marks)

2) Sanam is a fashion designer based in Paris (France). She was born and brought up in Paris and is not a person of Indian origin. Ever since she was studying fashion designing, she was fascinated by Indian traditional handlooms and cotton textile. Sanam has been visiting India for the last ten years for minimum 150 days each whereby she takes tour of one state at a time understanding the textile and its technique from weavers. During the previous year 2023-24 she was in India for 150 days.

During her stay Sanam entered into a partnership with famous Indian designer Anita Dogre and together they launched a fashion brand 'Weaves of India' in Paris (France) to cater to international customers by sourcing authentic cotton textiles directly from Indian weavers. The partnership agreement is entered outside India and the entire business is carried on in Paris, London and Switzerland. The brand is yet to set up its shop in India. Both Anita Dogre and Sanam mutually decided that 40% of the profits of the said partnership will be dedicated to a trust which will be created for the benefit of the weavers in India.

Does Sanam have dual residency for tax purposes? Also determine whether income received by Sanam will be taxable in India. You may substantiate your conclusions by relevant sections, case laws and concepts. **(25 Marks)**

3) Write a short note on POEM v. Control and Management of the Affairs test. **(20 marks)**

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