DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD

M.A. (International Taxation)

Academic Year: 2022-2023

Fourth Semester - End Semester Examination (June, 2023)

Paper III – 2.4.15. Most Favoured Nation Clause and Mutual Agreement Procedure

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) Chohung Bank was a banking company based in USA and had a branch in India, which was involved in regular banking activities.Chohung claimed that the tax rate applicable to Indian companies carrying on similar businesses (i.e. banking business) should be applied to it as well, instead of the tax rate applicable to foreign companies. It relied on Art. 26 of the tax treaty.

The tax authorities rejected the taxpayer's claim holding that Art. 26 of the tax treaty provided protection against discrimination on the basis of nationality, and that the non-discrimination clause could be invoked only when the foreign entity and Indian entity were carrying on the *same* activities and not when they were carrying on *similar* activities. The tax authorities further held that Indian banking companies carried many other activities such as lending to agriculture and to weaker sections of the society, which were not done by foreign banking companies. Also, Indian banking companies distributed dividends in India, whereas dividends were not payable in India by foreign banking companies and no arrangements for such payment of dividends were made.

Determine if the taxpayer will succeed in its invocation of non-discrimination clause.

(25 marks)

2) Comment on the recent controversy about application of MFN clause between India and OECD member states to a nation state who was a non-OECD member and later acquired OECD membership. **(20 marks)**

3) Write a brief note on Mutual Agreement Procedure. **(25 marks)**

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