CASE STUDY 14

BASP & Co. Chartered Accountants are a firm of Chartered Accountants, having offices across major towns of South India. They provide consultancy in the field of GST, income-tax and corporate law . ABC Private Ltd is one of major clients of the firm having a dynamic and professional finance team., Tan & Kan, the Partners of BASP & Co, had regular meetings with Jay, the Director (Finance) of ABC Private Ltd and his team. During one of the meetings, Jay seemed to have quite some points for discussion with Tan & Kan. Having seen new members in the audit team, Jay gave a quick overview about the Company and its operations for their understanding. He explained that the Company manufactures and supplies air conditioners (AC), refrigerators, and other products.

He went on to explain the following points:

(A) The Company is expanding its business and establishing a new unit with an estimated budget of ₹ 250 Lakhs. The break-up of this expenditure is as follows:

Civil construction ₹ 120 Lakhs (excluding GST)

Plant and Machinery ₹ 130 Lakhs (excluding GST)

The civil construction cost of ₹ 120 Lakhs above includes construction of foundation for installation of Plant and Machinery. The cost of construction of foundation is ₹ 20 Lakhs. CGST and SGST for both civil construction and Plant and Machinery is 9% each i.e.18% in aggregate. The details of expenditure are as under:

Date	Details	Amount ₹ Lakhs
1st April 2023	Advance given for Plant & Machinery	40
	Advance to contractor for civil construction	10
15th April 2023	Work of construction begins	
30th April 2023	Civil construction work expenses	25
31st July 2023	Civil construction work expenses	25
1st October 2023	Payment made to suppliers of Plant and Machinery and delivery received	90
31st December 2023	Construction work expenses	20
31st March 2024	Final payment made (including outstanding GST)	40

(B) During the financial year 2023-24, in one of the Board meetings, the management sought an approval from the Board, for investing in equity shares of other Companies as per the provisions of the Companies Act, 2013. The Board approved the management's proposal, after due deliberations and discussions. The Company purchased 10,000 shares of Milaan Ltd. on 1st January 2023 at a price of ₹ 20 per share. Milaan Ltd.

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declared bonus of one share for every 2 shares held on 31st March 2023 as record date for issue of bonus. The Company sold 10,000 shares purchased on 1st January 2023 on 31st August 2023 at ₹ 15 per share.

(C) In addition to manufacture and supply of ACs, the Company also does installation for the same. It had received advance of ₹5 Lakhs for supply of 5 split air-conditioners to Bavana Ltd. for installation at their factory in Haryana on 15thFebruary 2024. The Company supplied the ACs and installed them on 28thFebruary 2024 and issued the invoice on the same date i.e. 28th February 2024. The supply was chargeable to tax@ 18% but was reduced to 12% from 25th February 2024. The Company charged GST @ 18% while the buyer Bavana Ltd. contended that GST should have been charged @ 12% as the supply was made after the change of rate.

(D) The Company had entered into an agreement with Hum log Enterprises, a proprietorship concern not registered under GST for providing transport services by road for carriage of air-conditioners to various parts of country. The said concern has a fleet of 50 vehicles for meeting requirements of its customers. During year 2023-24, company has made payment of around Rs.50.00 lakhs to Hum log Enterprises on account of above said services availed.

(E) Jay was happy to inform that the Company's operations were going on smoothly and they were on a growth trajectory. During the financial year 2022-23, the Company had a turnover of ₹ 100 Crores and there was Loan outstanding from a bank of ₹ 75 Crores and deposits of ₹ 30 Crores.

(F) After the audit discussions were over, Jay and Kan had a general discussion. During the conversation he mentions that Shahi, a shareholder and non- executive director of the Company has become the present Member of Parliament. His son, Abhir is studying abroad in US. As the present term of Parliament is coming to an end next year, his term also will come to an end. Shahi is willing to contest next election as an independent candidate. He has many friends and relatives in US and he asked his son to contact them, to collect fund for his election. Jay also told Ranga that Shahi's friend who is a contractor working for Ministry of Transport, Shipping and National Highways also accompanied Shahi on the US trip as part of government delegation.

(G) Jay asked Tan and Kan, if they could help his friend Merun, Partner Mahim& Co, Chartered Accountants. Jay and Merun were close friends and they often used to have professional and academic discussions. Tan and Kan gladly agreed to provide clarifications to Merun, if he had any technical query. Jay set up a zoom call between

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Merun and them. During the call, Merun said he would be more comfortable and confident, if some other Chartered Accountant reviews the financial statements and audit reports he is signing for purpose of quality control.

I. Multiple Choice Questions

1. Is ABC Private Ltd required to appoint an internal auditor during the financial year 2023-24 for complying with the provisions of Companies Act,2013?

   (a) The Company is required to appoint internal auditor as one of limits of appointment of internal auditor is met by the company.

   (b) The Company being a private company is not required to appoint internal auditors.

   (c) The Company is not required to appoint the internal auditors, as the appointment of internal auditor is a matter of Board's decision.

   (d) The Company is not required to appoint internal auditor because the thresholds prescribed under the Act, have not been met.

2. The Company will treat the loss on sale of shares as:

   (a) Loss of ₹ 50,000 on sale of 10,000 shares will be claimed as a loss.

   (b) There will be gain of ₹ 16,666.67 as the cost of shares will be spread across total 15,000 shares.

   (c) The Company cannot claim the loss of ₹ 50,000. However, this loss of ₹ 50,000 will become cost of acquisition of remaining 5000 shares received as bonus.

   (d) Loss of ₹ 50,000 cannot be claimed as loss and the cost of acquisition of bonus shares will be 'nil'.

3. In the background of the facts given above, the amount which ABC Private Ltd. is entitled to take credit for Input tax (ITC) of ₹

   (a) ₹ 45 Lakhs

   (b) ₹ 27 Lakhs

   (c) ₹ 23.40 Lakhs

   (d) ₹ 21.60 Lakhs

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4. Advise ABC Private Ltd, what is the correct position of law in the facts given in case study:

   (a) Since payment was received prior to change of rate of tax, old rate will be applicable.

   (b) Since provision of supply and issue of invoice is after the change in rate of tax, and only payment has been received before the change in rate, new rate shall be applicable.

   (c) Since the time of supply shall be earlier of date of receipt of payment and date of issue of invoice, old rate shall be applicable.

   (d) Since provision of service is after the change in rate of tax, new rate shall be applicable. Date of invoice is not relevant.

5. As regards discussion of Tan and Kan with Merun arranged by Jay, which of the following is most appropriate description of Engagement Quality Control Reviewer (EQCR) in accordance with professional standards?

   (a) He can be a partner or other person in the firm (member of ICAI) or partner or employee of another firm (member of ICAI) with appropriate experience.

   (b) He can be a partner of the firm or partner of another firm with appropriate experience.

   (c) He can be partner or employee of another firm (member of ICAI) with appropriate experience.

   (d) He can be partner of another firm with appropriate experience.

II. Descriptive Questions

6. Discuss implications, if any, in its hands, of payments made by ABC Private Limited to Hum log Enterprises under Income tax law and GST law.

7. Jay feels it is not appropriate for Shahi to seek funds for election in such a manner. With reference to the Foreign Contribution (Regulation) Act, 2010, explain who are prohibited from taking any contributions from a foreign source.

8. In background of Merun's discussion with Tan and Kan, answer the following:

   (i) Can the financial statements and audit report signed by Merun be reviewed by some other Chartered Accountant for quality control? Which issues should be addressed by Merun for appointment of such a person?

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(ii) What should be likely contents of such quality control review policy and procedures, if Merun's firm is required to establish such policy?

ANSWERS TO THE CASE STUDY 14

I. Answers to the Multiple Choice Questions

1. (d) Rule 13 of the Companies (Accounts) Rules 2014

The condition of deposit does not apply to a Private Company.

2. (c) According to section 94(8) of Income Tax Act,1961 where (a) any person buys or acquires any securities or units within a period of three months prior to the record date; (b) such person is allotted additional securities or units without any payment on the basis of holding such securities or units on such date; (c) such person sells or transfers all or any of the securities or units referred to in (a) above within a period of nine months after such date, while continuing to hold all or any of the additional securities or units referred to in (b), then –

(i) the loss on sale of original securities or units sold within a period of 9 months after the record date will be ignored for the purpose of computing his income chargeable to tax and

(ii) the amount of such loss so ignored will be deemed to be the cost of purchase or acquisition of the bonus securities or units referred to in (b) above, held by him on the date of such sale or transfer

The Company cannot claim the loss of` 50,000. However, this loss of ` 50,000 will become cost of acquisition of remaining 5000 shares received as bonus.

3. (b) On Foundation work = ₹ 20 Lakhs + Plant and Machinery ₹ 130 Lakhs = 150 Lakhs @ 18% = 27 Lakhs

4. (b) Section 14(b)(iii) of the CGST Act

5. (a) In accordance with SQC 1, Engagement Quality Control Reviewer is a partner, other person in the firm, suitably qualified external person, or a team made up of such individuals, with sufficient and appropriate experience and authority to objectively evaluate, before the report is issued, the significant judgments the engagement team made and the conclusions they reached in formulating the report.

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Further, suitably qualified external person means an individual outside the firm with the capabilities and competence to act as an engagement partner, for example a partner or an employee (with appropriate experience) of another firm.

In view of above, option (a) is appropriate description of EQCR.

II. Answers to the Descriptive Questions

6. **Implications under Income tax law:** Under Section 194 C of Income Tax Act, any person responsible for paying any sum to any resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to one per cent where the payment is being made or credit is being given to an individual or a HUF.

In the given scenario, ABC Private Limited has paid a sum of Rs.50.00 lacs during year 2023-24 on account of transport services under an agreement to Hum log Enterprises, a proprietorship concern. Section 194 C also states that meaning of work includes carriage of goods by any mode of transport other than by railways. The payment is beyond threshold limit for deduction of tax under section 194 C. Further, Hum log Enterprises has a fleet of 50 vehicles. Therefore, exemption from deduction under section 194(6) does not apply.

Keeping in view above, there is an obligation for ABC Private Limited to deduct tax at source @ 1% on payments made during year 2023.24. The deduction has to be made at time of crediting such sum to account of Hum log Enterprises or at time of payment whichever is earlier.

Implications under GST law

Hum log Enterprises is unregistered tax payer. However, for carriage of goods by road, recipient of service has to pay GST @ 5% in terms of notification numbers 10/2017-IT (rates) and 13/2017-CT (rates) both dated 28.6.17.

Therefore, keeping in view above, ABC Private Limited has to pay GST on services availed from transporter @ 5% on bills of Rs.50.00 lacs raised by transporter during year 2023-24. Further, it is also entitled to claim ITC of such tax paid on reverse charge basis.

7. As per **Section 3 of the Foreign Contribution (Regulation) Act** (FCRA),2010, certain prohibitions are imposed on acceptance of foreign contribution.

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Following are the categories of persons on whom directly/indirectly prohibitions are imposed on acceptance of foreign contribution:

(1) No foreign contribution shall be accepted by any:

(a) candidate for election;

(b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;

(c) public servant, Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;

(d) member of any Legislature;

(e) political party or office-bearer thereof;

(f) organization of a political nature as may be specified under Section 5(1) by the Central Government;

(g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any mode of mass communication

(h) correspondent or columnist, cartoonist, editor, owner of the association or Company referred to in clause (g).

(2) The Act also prohibits acceptance of foreign contribution by the following persons:

(a) Person, resident in India, and citizen of India resident outside India- shall not accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in (1) above, or both.

(b) Person, resident in India- shall not deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in (1) above, or both.

(c) Citizen of India resident outside India- shall not deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to—

(i) any political party or any person referred to in (1) above, or both; or

(ii) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to (1) above, or both.

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In the give case study, Shahi, who is Member of Parliament and willing to contest next election as an independent candidate. He is seeking funds for his election. He asked his son, Abhir to contact his friends and relatives in US to collect funds.

According to Section 3(1)(a) of the Foreign Contribution (Regulation) Act, 2010 provides that no foreign contribution shall be accepted by any candidate for election.

Therefore, Jay was correct that it is not appropriate for Shahi to seek funds for election in such stated manner.

8. (i) As per **SQC 1**, some sole practitioners or small firms may wish to use other firms to facilitate engagement quality control reviews. Accordingly, financial statements and audit report signed by Merun can be reviewed by some other Chartered Accountant.

The firm's policies and procedures should address the appointment of engagement quality control reviewers and establish their eligibility through:

(a) The technical qualifications required to perform the role, including the necessary experience and authority; and

(b) The degree to which an engagement quality control reviewer can be consulted on the engagement without compromising the reviewer's objectivity.

(ii) **Engagement Quality Control Review:** The firm should establish policies and procedures requiring, for appropriate engagements, an engagement quality control review that provides an objective evaluation of the significant judgments made by the engagement team and the conclusions reached in formulating the report. Such policies and procedures should:

(a) Require an engagement quality control review for all audits of financial statements of listed entities;

(b) Set out criteria against which all other audits and reviews of historical financial information, and other assurance and related services engagements should be evaluated to determine whether an engagement quality control review should be performed; and

(c) Require an engagement quality control review for all engagements meeting the criteria established in compliance with subparagraph (b).

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The firm's policies and procedures should require the completion of the engagement quality control review before the report is issued.

The firm should establish policies and procedures setting out:

(a) The nature, timing and extent of an engagement quality control review;

(b) Criteria for the eligibility of engagement quality control reviewers; and

(c) Documentation requirements for an engagement quality control review.

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