

Paper 16- DIRECT TAX LAWS AND INTERNATIONAL TAXATION

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Full Marks: 100

Time allowed: 3 hours

Section - A

1. Multiple Choice Questions with Justification:

[10x2=20]

- (i) The Chief Executive Officer of every political party has to file the return of income of the party if the total income of the party without giving effect to the provisions of section _____ exceeds the maximum amount not chargeable to income-tax.
- (a) 11
 - (b) 12
 - (c) 13
 - (d) 13A
- (ii) What is the due date of filing the return of income in case of a company who is required to furnish a report in Form No. 3CEB under section 92E?
- (a) September 30 of the assessment year
 - (b) November 30 of the assessment the year
 - (c) July 31 of the assessment year
 - (d) June 30 of relevant assessment the year
- (iii) One of the following, can be carried forward even return of income is filed after due date:
- (a) Unabsorbed Depreciation
 - (b) Business Loss
 - (c) Short term capital loss
 - (d) Long term capital loss
- (iv) Assessment under following section is termed as scrutiny assessment
- (a) 143(3)
 - (b) 144
 - (c) Both of the above
 - (d) None of the above
- (v) The objective of carrying out assessment u/s 147 is to bring under the tax net _____:
- (a) Any money, bullion, jewellery, valuable article, etc. which are undisclosed
 - (b) Any income which has escaped assessment
 - (c) Any of the above
 - (d) Both of the above
- (vi) MAT shall not apply to any income accruing or arising to a company from
- (a) Life insurance business
 - (b) Banking business
 - (c) Business of transmission of electricity
 - (d) All of the above
- (vii) Any mistake which is apparent from the record in any order passed by the Assessing Officer can be rectified under section _____.
- (a) 154
 - (b) 147
 - (c) 143
 - (d) 254

- (viii) If a person fails to comply with the provisions relating to PAN (i.e. obtaining PAN, quoting PAN, etc.), then penalty can be levied under section _____
 (a) 270A
 (b) 272
 (c) 272A
 (d) 272B
- (ix) An appeal to the Commissioner of Income-tax (Appeals) shall be filed in Form No. _____.
 (a) 35
 (b) 36
 (c) 34C
 (d) 35B
- (x) An application (in quadruplicate) for advance ruling by a resident applicant for determination of his tax liability arising out of one or more transactions valuing ₹ 100 crore or more in total which has been undertaken or is proposed to be undertaken by him is to be made in Form No. _____.
 (a) 34D
 (b) 34DA
 (c) 34E
 (d) 34EA

Section-B
(Answer any five questions out of seven questions)

2.(a) Mr. Q, a non-resident, operates an aircraft between Singapore and Chennai. He received the following amounts in the course of the business of operation of aircraft during the previous year:

- (i) ₹ 2 crores in India on account of carriage of passengers from Chennai.
- (ii) ₹ 1 crore in India on account of carriage of goods from Chennai.
- (iii) ₹ 3 crores in India on account of carriage of passengers from Singapore.
- (iv) ₹ 1 crore in Singapore on account of carriage of passengers from Chennai.
- (v) The total expenditure incurred by Mr. Q for the purposes of the business during the year was ₹ 6.75 crores.

Compute income chargeable to tax of the foreign airlines. **[8]**

(b) Virat Ltd. is a widely held company. It is currently considering a major expansion of its production facilities and the following alternatives are available:

| Particulars | Alt-1 | Alt-2 | Alt-3 |
|--------------------|-----------|-----------|-----------|
| | (₹) | (₹) | (₹) |
| Share capital | 50,00,000 | 20,00,000 | 10,00,000 |
| 14% Debentures | — | 20,00,000 | 15,00,000 |
| 18% Loan from Bank | — | 10,00,000 | 25,00,000 |

Expected rate of return before tax is 30%. Rate of dividend of the company since 1995 has not been less than 22% and date of dividend declaration is 30th June every year. Which alternative should the company opt with reference to tax planning? **[8]**

3. Following is the profit and loss account of Z Ltd. for the year ended on 31-3-2018:

| Particulars | Amount | Particulars | Amount |
|-------------|--------|-------------|--------|
|-------------|--------|-------------|--------|

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| | | | |
|--------------------------------|-------------|-------------------------------------|-------------|
| To Raw material consumed | 23,25,000 | By Sale | 1,60,00,000 |
| To Rent | 3,50,000 | By Closing Stock | 10,00,000 |
| To Salary & Wages | 12,00,000 | By Revaluation Reserve | 25,000 |
| To Depreciation | 5,00,000 | By General Reserve | 65,000 |
| To Provision for contingencies | 75,000 | By Dividend from domestic companies | 35,000 |
| To Wealth Tax | 50,000 | | |
| To Provision for bad debts | 40,000 | | |
| To Proposed dividend | 1,00,000 | | |
| To Provision for Income tax | 1,05,000 | | |
| To Net Profit | 1,23,80,000 | | |
| | 1,71,25,000 | | 1,71,25,000 |

Additional Information:

- (1) Company is entitled to get exemption u/s 10(38) ₹ 1,00,000
- (2) The amount of depreciation includes depreciation on revaluation of assets ₹ 50,000. Further, for the purpose of Income tax, depreciation is ₹ 4,00,000.
- (3) Turnover of the company during the previous year was ₹ 53 crores.
- (4) In past few years, company had suffered losses, following balances are still unabsorbed:

| | As per Income tax Act | As per books of Accounts |
|--------------|-----------------------|--------------------------|
| Depreciation | ₹ 65,00,000 | Nil |
| Losses | ₹ 35,50,000 | Nil |

Compute tax liability of the company.

[16]

4.(a) DEF is a real estate investment trust (REIT). It owns house properties in different parts of Maharashtra. Besides, it holds controlling interest in A Ltd. (A Ltd., an Indian company, is SPV created by DEF for the purpose of owning commercial properties). Annual income of DEF for the previous year 2017-18 is calculated as under:

| | ₹ in crore |
|--|------------|
| Rental income from properties directly owned by DEF (computed) | 7 |
| Long-term capital gain on sale of land and buildings directly owned by DEF (computed) | 20 |
| Short term capital gain on sale of listed shares of A Ltd. | 2 |
| Short term capital gain on sale of land and buildings directly owned by DEF (computed) | 8 |
| Interest from A Ltd. | 13 |
| Dividend from A Ltd. | 10 |
| Total | 60 |

DEF distributes ₹ 50 crore to its unit holders. X is one of the unit holders. He holds 10% units in DEF. Compute income in hands of DEF and X.

[8]

(b) Critically comment with the help of a case law:

“Securities premium shall not be considered as a part of the capital employed for the purpose of sec. 35D.” **[8]**

5.(a) Critically comment with the help of a case law:

“An Adjustment with respect to transfer pricing has to be confined to transactions with Associated Enterprises and cannot be made with respect to transactions with unrelated third parties”. **[8]**

(b) Write brief note on ICDS – IX. **[8]**

6.(a) Mahesh, aged 64 years, is resident and ordinarily resident in India. His income is ₹ 16,80,000 from a business in India and ₹ 5,45,000 from a business in a foreign country with whom India has agreement for avoidance of double taxation (ADT). According to the ADT agreement, income is taxable in the country in which it is earned and not in other country. However, in the other country, such income can be included for computation of tax rate.

According to the tax laws of the foreign country, Mahesh has paid ₹ 32,000 as tax in that country. During the previous year, Mahesh has paid ₹ 28,000 as tuition fee for his daughter in India and ₹ 90,000 as tuition fee for his son outside India for full time education. Mahesh has also received an interest of ₹ 48,000 on Government securities. Find out the tax liability of Mahesh for the assessment year 2018-19. **[8]**

(b) What are the key factors used to determine whether a jurisdiction is a tax haven? **[8]**

7.(a) Brain Inc. London has 35% equity in Salem Ltd. The company Salem Ltd. is engaged in development of software and maintenance of customers across the globe, which includes Brain Inc.

During the year 2017-18, Salem Ltd. spent 2000 man hours for developing and maintaining a software for Brain Inc. and billed at ₹ 1,000 per hour. The cost incurred for executing maintenance work to Brain Inc. for Salem Ltd. amount to ₹ 15,00,000. Similar such work was done for unrelated party Try Ltd. in which the profit was at 50%.

Brain Inc. gives technical support to Salem Ltd. which can be valued at 8% of gross profit. There is no such functional relationship with try Ltd.

Salem Ltd. gives credit period of 90 days the cost of which is 3% of the normal billing rate which is not given to other parties.

Compute ALP under cost plus method in the hands of Salem Ltd. and the impact of the same on the total income. **[8]**

(b) Compute penalty leviable u/s 270A in case of X Ltd from the following details:

| Particulars | Total Income | Tax on Total Income | Book Profit | Tax on Book Profit |
|-------------|--------------|---------------------|-------------|--------------------|
| Return of | 80,00,000 | 24,72,000 | 2,00,00,000 | 40,77,770 |

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| | | | | |
|--------------------|-------------|-----------|-------------|-----------|
| income | | | | |
| Assessed income | 1,20,00,000 | 39,67,560 | 2,10,00,000 | 42,81,659 |

[8]

8. Write short note:

[4x4=16]

- (a) Demerger u/s 2(19AA)
- (b) Carry forward & Set off of losses on conversion into Limited Liability Partnership
- (c) Factor for determining Most Appropriate Method
- (d) Deduction of Head Office Expenditure in the case of Non-residents u/s 44C.