

Roll No.

NOV 2013

FINAL

Total No. of Questions – 7

GROUP-II PAPER-7
DIRECT TAX LAWS

Total No. of Printed Pages – 11

Time Allowed – 3 Hours

Maximum Marks – 100

JFQ

Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate has not opted for Hindi medium, his answers in Hindi will not be valued.

Wherever appropriate, suitable assumption/s should be made and indicated in the answer by the candidate.

Working notes should form part of the answer.

Question No. 1 is compulsory.

Answer any five questions from the remaining six questions.

Marks

1. (a) "Rameshwarm" after purchase put to use on 15-12-2010 a machine worth ₹ 3,00,000 which is eligible for depreciation @ 15% under the Act. He sold this machine to "Ganesham" on 1-1-2012 for ₹ 3,20,000 (FMV on that date was ₹ 2,50,000), who after having used the machine for his business purposes again sold it back to "Rameshwarm" on 15-11-2012 for ₹ 3,10,000. 7

Compute the amount of allowable depreciation and of chargeable capital gain, if any, for assessment years 2011-12 to 2013-14 assuming that this was the only machine in the block of asset held by both the "Rameshwarm" and "Ganesham".

JFQ

P.T.O.

(2)

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Marks

- (b) How does the income of a person who is trying to alienate his assets with a view to avoid tax be dealt with under the Act ? 3
- (c) Mr. Kumar, a person of Indian origin was working in Singapore from 1990. He returned to India for permanent settlement in July 2011 when he remitted money into India. For the valuation date 31-03-2013, the following particulars are furnished. You are requested to compute the taxable wealth of Mr. Kumar for the AY 2013-14 giving justification for the inclusion or exclusion of each item : 10

Sr. No.	Particulars	Amount ₹
1.	(a) Jewellery purchased in May 2011 out of money remitted to India from Singapore	15 lacs
	(b) Jewellery purchased in July 2011 out of sale proceeds of motor car brought from abroad and sold	14 lacs
2.	(a) Land purchased for industrial purpose on 01-01-2010	5.5 lacs
	(b) Land purchased for industrial purpose on 25-03-2013	7.5 lacs
3.	(a) Loan against the purchase of land on 01-01-2010	2.75 lacs
	(b) Loan against the purchase of land on 25-03-2013	3.5 lacs

JFQ

(3)

JFQ

Marks

4.	Value of Assets held by Mrs. Kumar acquired out of the gifts from her husband	
	Shares and securities	2 lacs
	Residential HP at Mumbai	9 lacs
5.	Urban land purchased in January 2011 out of withdrawals from NRE account	25 lacs
6.	Cash in hand	1 lac
7.	Cash at Bank	2 lacs

2. (a) 'Sachin' settled 1/4th share of his property under a trust for the education and maintenance of his minor daughter, 'Pallavi'. Under the terms of the trust deed, the income accruing to the trust, after meeting the expenses of maintenance and education of 'Pallavi', was to be accumulated and paid over to her on attaining majority. The Assessing Officer has assessed the income arising from the 1/4th share of the property so settled for the benefits of 'Pallavi' in the hands of 'Sachin'.

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Is the Assessing Officer justified and correct in doing so ?

- (b) HSP Ltd., a company operating chain of hotels charges a nominal amount of ₹ 50 in each bill of the resident guests which is specifically earmarked only for the purpose of 'local charities'. This amount of ₹ 50 so collected in each bill is credited to a separate account named "Charity Account". The Assessing Officer doing assessment for A.Y. 2011-12 has issued a show cause notice to

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P.T.O.

tax this amount of charity as income of the company for the relevant assessment year. The company for objecting the stand of the Assessing Officer consults you and seeks your opinion.

- (c) "Nargis" a resident of India owned for the financial year ended on 31-03-2013 a house property in London purchased in July, 2002; a shop in Sydney purchased in June, 2004 and space in a commercial complex in New York purchased in April, 2010. She is also having authority to operate the bank account maintained with Citibank, London of a company owned by her daughter and son-in-law since July, 2011. 6

She has been served in July, 2013 with the notices issued under section 148 of the Act for assessment years 2001-02 to 2012-13. She for the reason of challenging the action of the Assessing Officer for issuing notices under section 148 for last 12 years, seeks your opinion. Advise her suitably.

3. (a) Examine the following statements in the context of provisions contained in the Act relevant for the previous year ended on 31.03.2013 : 6
- (i) The additions to income made by invoking provisions of section 68 are subject to normal rates of tax as applicable to the assessee.
 - (ii) Income received by certain foreign companies in Indian currency from sale of crude oil to any person in India is not taxable.
 - (iii) The provisions of AMT are applicable to all assesseees other than the companies.

(5)

JFQ

Marks

(b) Examine the correctness or otherwise of the following statements in the context of provisions contained in the Income Tax Act, 1961 and the decided case laws : 6

(i) The Assessing Officer is bound to allow the set-off of losses under section 72 even the assessee has not claimed the same in the return filed.

(ii) The application once made for obtaining the advance ruling cannot be withdrawn.

(c) Examine and explain in the context of provisions contained in the Act as to correctness of the action taken by the Assessing Officer of making adjustments for the following items while assessing the book profits of "Sonu Pvt. Ltd." for the year ended 31.03.2013 : 4

(i) Prior period expenses of ₹ 3 lacs debited in profit & loss account.

(ii) Depreciation @ 9.5% as per rates prescribed under schedule XIV of the Companies Act, 1956 charged for whole of the year on the car valuing Rs. 20 lacs purchased on 01-01-2013 in profit & loss account.

4. Examine critically any four out of the following problems/issues/cases in the context of provisions contained in the Act relevant for assessment year 2013-14. 4×4
=16

Support the answer with the case laws.

(i) A company received liquidated damages of ₹ 25 lacs from the suppliers of plant & machinery for failure to supply the plant and machinery within the stipulated time. The Assessing Officer treated the same as income chargeable to tax as against the claim of the company of treating as capital receipt.

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P.T.O.

- (ii) The information and details given in the return relating to a claim made is not incorrect but the claim so made has been found to be wrong and not allowable by the Assessing Officer and therefore added to income assessed for the relevant assessment year. The Assessing Officer for the reason of incorrect claim made in the return which was disallowed during the assessment by adding to income attracted the provisions of section 271(1)(c). Is the A.O. correct in doing so ?
- (iii) "Shanaz Ltd" engaged in manufacturing of different products was asked by the Central Excise Department to pay an amount of ₹ 25,00,000/- on certain goods manufactured by it, which was deposited during the year 2002 - 2003 and was claimed as deduction in the return of income filed for that assessment year. This levy of the excise duty was challenged in the High Court and the Court in June, 2012 held "that the same is not payable by the company". The Excise Department filed appeal challenging the order of the High Court before the Supreme Court. The Assessing Officer issued a show cause on the basis of the decision of the High Court to tax the benefit derived by the company in A.Y. 2013-2014.
- (iv) Interest under sections 234B and 234C is not be levied where the assessment of a company has been made by the Assessing Officer on the basis of book profits under section 115JB. What do you say ?
- (v) The proprietary firm of "Mr. Amolak" a practicing Chartered Accountant was converted into partnership on 01.09.2012 when his son joined him in the firm

for 50% share. All the assets and liabilities of the erstwhile proprietary firm were transferred into the newly constituted partnership firm.

“Mr. Amolak” was credited and paid an amount of ₹ 5 lacs in his account from the firm. Explain as to chargeability of this amount of ₹ 5 lacs in the hands of “Mr. Amolak” when it stands paid for :

- (i) transfer of business into partnership;
- (ii) goodwill by the incoming partner.

5. (a) The net profit as per P & L Account of ₹ 200 lacs of the “SIMRAN ENTERPRISES” having a partnership firm status engaged in running hotel business for the year ended 31-3-2013 arrived at after charge of the following :

- (i) Depreciation on the hotel building having WDV on 1-4-12 of ₹ 600 lacs was charged by treating the same as Plant and Machinery.
- (ii) Expenses of ₹ 2,00,000 incurred for the purpose of promoting family planning among its employees.
- (iii) Payment of ₹ 1,00,000 for an advertisement published in the souvenir released on 26th January by a political party approved by the Election Commission.
- (iv) Compensation of ₹ 2,00,000 paid to the suppliers of the automatic kitchen appliances because of termination of the contract.
- (v) Wine and liquor imported in the year 10-11 for ₹ 30 lacs and were available in the stocks on 1-4-12 of having value of ₹ 10 lacs were confiscated by the government authority and thus were written off.

- (vi) Expenses of ₹ 30 lacs incurred on the replacement of carpets in the lounge, dinning hall and at the reception desk areas.

The firm has also provided the following additional information and the details relating to the expenses charged in the P & L Account :

- (i) Amount of ₹ 4 lacs equal to US \$ 8,000 was remitted and paid to a travel agent of USA as commission for the booking of travellers from USA. Tax at source was not deducted out of such payment.
- (ii) Amount of ₹ 30,000 each was paid in cash to four suppliers of vegetable and milk products on 11-7-2012 due to suspension of the banking operations because of all India strike of bank employees.
- (iii) Amount of ₹ 6 lacs was written off in F.Y. 2010-11 as bad debt. However, with constant follow up and efforts an amount of ₹ 3 lacs got recovered on 18-3-2013 out of the total written off amount which was credited to the "Bad Debts Reserve" account.

Compute the total income of the firm for A.Y. 2013-14 and also give reasons in brief for the treatment given to each of the items.

- (b) "SVS Propcon" did not make a claim of ₹ 20 lacs in the return of income filed for A.Y. 2012-13 which was disallowed in the previous assessment year under section 43B. However, the said claim was also not considered by the A.O. during assessment proceedings on the ground that no revised return was filed. Can the assessee, now make such claim before the appellate authority ? 4
6. (a) "The penal provisions have been made more and more stringent for levy of penalty on undisclosed income found during the course of search initiated on or after 1st July, 2012." Explain.

- (b) The assessment for assessment year 2010-11 of XYZ Pvt. Ltd. was completed under section 143(3) by making additions and thus creating a demand. The company filed appeal against this order before the CIT(A) and was allowed relief. However, this order of CIT(A) was challenged by the department and was reversed by the ITAT. In this context, explain the liability of the company as to payment of interest charged by the AO from the date of order of CIT(A) till the date of order by the ITAT under section 220(2) in the following conditions:- 4
- (i) The tax demanded as per order was paid in full within the time allowed as per notice issued under section 156.
- (ii) The tax demanded as per order was not paid.
- (c) Peeyush, a Non-Resident Indian returned to India on 12th June, 2012 for permanently residing in India after a stay of about 20 years in U.K., provides the sources of his various income and seeks your opinion to know about his liability to income-tax thereon in India in assessment year 2013-2014 : 7
- (i) Income of rent of the flat in London which was deposited in a bank there. The flat was given on rent by him after his return to India since July, 2012.
- (ii) Dividends on the shares of three German Companies which are being collected in a bank account in London. He proposes to keep the dividend on shares in London with the permission of the Reserve Bank of India.
- (iii) He has got two sons, one of whom is of 12 years. Both the sons are staying in London and not returning to India with him. Each of both the sons is having income of ₹ 75,000 in U.K. (not received in India) and of ₹ 20,000 in India.

- (iv) During the preceding accounting year when he was a non-resident, he had sold 1000 shares which were acquired by him in British Pound Sterling and the sale proceeds were repatriated. The profit in terms of British Pound Sterling on sale of these 1000 shares was 175% of the cost at ₹ 37,500 while in terms of Indian Rupee it was ₹ 50,000.

7. (a) Explain in the context of provisions contained in Chapter XVII of the Act and also work out the amount of tax to be deducted by the payer of income in the following cases :
- (i) Payment of ₹ 5 lacs made by JCP & Co. to Pingu Events Co. Ltd. for organization of a debate competition on the subject "Preservation of Rural Heritage of Rajasthan".
- (ii) "Profit Commission" paid by a re-insurance company of ₹ 1 lac to the insurer company after the expiry of the term of insurance where there was no claim during the treaty.
- (iii) KD, a part time director of DAF Pvt. Ltd. was paid an amount of ₹ 2,25,000 as fees which was actually in the nature of commission on sales for the period 01-04-2013 to 30-06-2013.
- (b) Explain in brief, the treatment as to their taxability and/or allowability, under the provisions of the Income-tax Act, 1961, for the assessment year 2013-14, in the following cases :
- (i) Prem Ltd. decided to effect buy-back of share capital by purchase of shares in open market. During the year ended 31.03.2013, Prem Ltd. purchased its own 10,000 shares.

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2×5
=10

- (ii) S Ltd. receives a sum of ₹ 10 lakhs from K Ltd. for agreeing not to carry on any business relating to computer software in India for the next three years which was received on 3rd January, 2013.
- (iii) A company had an inventory of closing stock on 31.03.2013, the cost of manufacturing of which was ₹ 50 lakhs and the Excise duty payable was ₹ 6 lakhs. Since the Excise duty was eligible for deduction only on actual payment, the company valued the closing stock at ₹ 50 lakhs only. The company paid duty amounting to ₹ 4 lakhs on such stock on clearances upto the date of filing the return.
- (iv) P Ltd. paid ₹ 50 lakhs as sales commission for the year ended 31.03.2013, without deducting tax at source, to Mr. Rodrigues (non-resident) who acted as his agent for booking orders from various customers who are outside India.
- (v) Whether the following transaction can be covered u/s 43B for disallowance :
- (a) A bank guarantee given by a company towards disputed tax liabilities.
- (b) Interest payable to Sales Tax Department but not paid before filing of return.