

Roll No. FINAL
GROUP-II PAPER-7
DIRECT TAX LAWS

MAY 2014

Total No. of Questions – 7

Total No. of Printed Pages – 11

Time Allowed – 3 Hours

Maximum Marks – 100

SMP

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 assumptions may be made by the candidate and stated clearly in the answer.

Working notes should form part of the answer.

Question No. 1 is compulsory.

Answer any five questions from the remaining six questions.

All questions relate to the assessment year 2014-15, unless stated otherwise in the question.

Marks

1. (a) Victory Polyfibres, a partnership firm, has earned a gross total income of ₹ 300 lacs for the year ended 31-3-2014. There are no international transactions. **10**

The above includes a profit of ₹ 220 lacs from an industrial undertaking having a turnover of ₹ 80 crores. This is the fifth year and deduction under section 80-IB of the Income Tax Act, 1961 is available to the extent of ₹ 200 lacs.

SMP

P.T.O.

There are some grey areas in the taxation workings and hence, the assessee is contemplating to file the return of income on 7-12-2014, after seeking clarifications from tax experts.

Advise the assessee-company by working out the total income and tax payable, where the return is filed on 31-10-2014 and when the same is filed on 7-12-2014.

What is the practical solution as regards obtaining clarifications, which might or might not have an impact on the total income ?

- (b) Examine with brief reason whether following are to be regarded as assets while calculating the net wealth as on 31-03-2014 : 1×10
=10

- (i) House given to a part-time employee of a company who has substantial interest in the company and whose gross salary is 50 lakhs per annum.
- (ii) Commercial property let out for 300 days.
- (iii) Jeep of the company given to the Director for official use.
- (iv) Land held as stock in trade. (Acquired on 30-04-2005)
- (v) Urban land lying vacant with incomplete building.
- (vi) Yachts owned by a political party.
- (vii) Bullions held by the Reserve Bank of India.
- (viii) Gold deposit bonds held by the company, not being a company registered u/s 25 of the Companies Act, 1956.
- (ix) ₹ 49,999 unrecorded cash held by a company.
- (x) Helicopter owned by the assessee and used exclusively for business purposes.

[Mere conclusion, without any brief reasoning, will not receive any credit.]

Status may be taken as individual, unless indicated otherwise in the sub-division.

2. XYZ Ltd. is engaged in the business of manufacturing fertilizers. Its Profit and Loss A/c. shows a net profit of ₹ 500 lakhs for the year ended 31-03-2014 after debiting and crediting the following items :

- Depreciation provided in accounts as per straight line basis is ₹ 30 lakhs.
- Normal depreciation allowable is ₹ 28 lakhs. The company has made addition to machinery during the year to the extent of ₹ 100 lakhs, in June, 2013.
- The company has made cash payments for purchases and expenditure as below :
 On 04-06-2013 ₹ 5 lakhs (Due to strike by bank staff)
 On 05-06-2013 ₹ 7 lakhs (Due to cash demanded by the supplier)
 On 30-09-2013 ₹ 10 lakhs (Half yearly closing for bank; a bank holiday)
 Payment made to transport operator for hiring of lorry as follows :
 07-05-2013 ₹ 50,000; 08-01-2014 ₹ 75,000; 02-03-2014 ₹ 32,000.
- ₹ 5 lakhs contribution to a University approved and notified u/s 35(1) (ii).
- Sales tax of ₹ 1.45 lakhs, pertaining to the year ended 31-03-2013 was paid on 10-12-2013.
- Rent paid and professional charges to a consultant including Service Tax was ₹ 5,61,800 and ₹ 2,24,720 respectively. TDS was not deducted on the Service Tax portion for both the payments.
- The company has imported 1000 Kgs raw materials from a supplier in US at the rate \$75/kg on 29-03-2013. The exchange rate was ₹ 59/\$ when the imports were made. The payment to the supplier was made on 20-01-2014 when the exchange rate was ₹ 62/\$. The company had not entered into a forward contract to hedge the risk.

(4)

SMP

Marks

- The company has also purchased goods of ₹ 55 lakhs from M/s ABC Ltd. in which Directors have substantial interest. The market value of the goods is ₹ 54 lakhs.
- The company has incurred legal expenses for the following :
 - Issue of Bonus shares ₹ 10 lakhs.
 - Alteration of Memorandum of Association ₹ 2 lakhs (in connection with increase of authorised capital).
- Donation paid to a political party is ₹ 25 lakhs.

Compute the total income and tax payable by the company for the assessment year 2014-15. Ignore MAT provisions.

3. (a) VKS Internationals Ltd., the assessee, has sold goods on 12-1-2014 to L Ltd., located in a notified jurisdictional area (NJA), for ₹ 10.5 crores. The sale price of identical goods sold to an unfamiliar customer in New York during the year was ₹ 11.5 crores. While the second sale was on CIF basis, the sale to L Ltd., was on F.O.B. basis. Ocean freight and insurance amount to ₹ 20 lacs. 8
- India has a Double Taxation Avoidance Agreement with the U.S.A.
- The assessee has a policy of providing after-sales support services to the tune of ₹ 14 lacs to all customers except L Ltd.
- The ALP worked out as per Cost plus method for identical goods is ₹ 12.1 crores.
- You are required to compute the ALP for the sales made to L Ltd., and the amount of consequent increase, if any, in profits of the assessee-company.

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- (b) Vishwa Textiles Ltd. has convened a meeting of top management in which the Taxation Manager and Finance Manager are also present. As Tax Auditor, you have also been convened to the meeting for the session relating to tax audit under section 44AB of the Income Tax Act, 1961.

The company plans to start a subsidiary for doing Chit Fund business.

The Managing Director asked the Taxation Manager, "How are gross receipts/turnover calculated for the purposes of section 44AB, relating to Chit Fund business? " The Taxation Manager replied that it was based on the total chit collections during the year in question.

The Sales Manager pointed out in the meeting that sales return relating to a sale effected in March, 2013 had been debited to the sales account in the current year. He wanted to know how this should be dealt with, in the particulars to be furnished in Form No. 3CD of the current year, i.e. assessment year 2014-15.

The Finance Manager had a different view relating to an item in Tax Audit Report of the assessment year 2013-14 and wanted some changes in Form No. 3CA of that year.

The company has received a subsidy of ₹ 10 lakhs from the State Government during the year for a machinery purchased in 2010-11. The WDV of the block as on 1-4-2013 was ₹ 12 lakhs. The Chairman asked the forum "How will this subsidy be reported in Form No. 3 CD ?".

As Tax Auditor of the Company, you are required to

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| (i) Identify the various issues raised relating to section 44AB and requirements of particulars for Form No. 3CD, and | 2 |
| (ii) Suggest your views relating to the said issues. | 6 |

4. Answer any **four** from the following five sub-divisions :

- (a) X & Co. Diagnostic Centre P Ltd. has claimed referral fee paid to doctors as revenue expenditure for the assessment year 2014-15. However TDS has been deducted u/s 194 H of the Income Tax Act, 1961 for the said payments. The Assessing Officer proposes to disallow such expenditure. Examine the correctness of the action of the Assessing Officer. 4
- (b) Discuss whether tax has to be deducted at source under the provisions of the Income Tax Act, 1961 in the following situations, which have taken place during the year ended 31-3-2014 : 2×2
=4
- (i) M/s. Jiva & Co., a partnership firm, pays a sum of ₹ 43,000 as interest on loan borrowed from Indian branch of a foreign bank.
- (ii) Above firm has paid ₹ 14,000 as interest on capital to partner Mr. A, a resident in India and ₹ 22,000 as interest on capital to partner Mr. B, a non-resident.
- (c) Mrs. Priya, a resident individual, sold on 30-6-2013, depreciable assets held for more than 36 months and invested the proceeds on 30-9-2013 in a residential house property to claim exemption from capital gains. Examine the validity of the order of the Assessing Officer in denying her the exemption under section 54F of the Income Tax Act, 1961. Mrs. Priya does not own any other residential house. 4

- (d) X & Co Ltd. had made an application to the Settlement Commission. 4

The issue in the said application related to cash credits in the books of account. The Commission passed an order making addition to the income on the basis of difference in gross profit rate adopted, which was neither an issue in the application nor in the report of the Commissioner of Income Tax. Discuss the validity of the order of the Settlement Commission.

- (e) A foreign company seconded some employees to the assessee, an 4

Indian collaborator. The assessee had not deducted tax at source on the home salary/special allowance/s (education allowance or retention allowance) payments made by foreign company/HO to its employees (expatriated to India) outside India in foreign currency. The Revenue authorities, holding the assessee as an 'assessee-in-default' under section 201 of the Income Tax Act, 1961, levied interest and penalty on it. Is the same justified ?

5. (a) The regular assessment of MNO Ltd. for the assessment year 2012-13 was completed under Section 143(3) on 13th April, 2013. There was an audit objection by the Revenue Audit team that interest on loan should be partly disallowed as there was diversion of borrowed fund to sister concern without charge of interest.

Based on the above facts :

- (i) State, with reasons, whether the Assessing Officer can issue notice under section 148 (on 12th March, 2014) on the basis of audit objection of the Revenue Audit team. 4
- (ii) If the action stated in (i) above is not permitted, what is the option open to the Revenue Department to deal with the said audit objection ? 4
- (b) An assessee, who is aggrieved by all or any of the following orders, is desirous to know the available remedial measures and the time limit against each, under the Income Tax Act, 1961 : 2×4 =8
- (i) Passed under Section 143(3) by Assessing Officer,
- (ii) Passed under Section 263 by the Commissioner of Income Tax,
- (iii) Passed under Section 272A by the Director General, and
- (iv) Passed under Section 254 by the Income Tax Appellate Tribunal.

Advise him suitably.

6. (a) Compute the quantum of depreciation available under section 32 of the Income Tax Act, 1961 and any other benefit available in respect of the following items of Plant and Machinery purchased by PQR Textile Ltd., which is engaged in the manufacture of textile fabrics, during the year ended 31-3-2014 :

(₹ in crores)

New machinery installed on 1-5-2013	84
New Windmill purchased and installed on 18-6-2013	22
Items purchased after 30th November 2013 :	
Lorries for transporting goods to sales depots	3
Fork-lift-trucks, used inside factory	4
Computers installed in office premises	1
Computers installed in factory	2
New imported machinery	12

The new imported machinery arrived at Chennai port on 30-3-2014 and was installed on 03-4-2014.

All other items were installed during the year ended 31-3-2014.

The company was newly started during the year.

Also compute the WDV of the various blocks of assets.

Will your answer be different if the above assessee were a partnership firm ?

- (b) Examine the taxability or allowability or otherwise in the following cases while computing income under the head "Profits and Gains from Business or Profession" to be declared in the return of income for the assessment year 2014-15 : 8

- (i) Amount received towards power subsidy with a stipulation that the same is to be adjusted in the electricity bills.
- (ii) Donations received by a person in the course of carrying on vocation, from his followers.
- (iii) Profit derived by an assessee engaged in carrying the business as dealers in shares, on exchange of the shares held as stock in trade of one company with the shares of other company.
- (iv) The amount of Margin money forfeited by a bank on the failure of its constituents of not taking the delivery of the shares purchased by such bank on their behalf.

7. (a) The following are the particulars of income earned by Miss Vivitha, a resident Indian aged 25, for the assessment year 2014-15 : 8

	(₹ in lacs)
Income from playing snooker matches in country L	12
Tax paid in country L	1.8
Income from playing snooker tournaments in India	19.2
Life Insurance Premium paid	1.2
Medical Insurance Premium paid for her father aged 62 years (paid through credit card)	0.25

Compute her total income and tax payable by her for the assessment year 2014-15. There is no Double Taxation Avoidance Agreement between India and country L.

- (b) "Come Air Ltd." has paid a sum of ₹ 12 lacs during the year ended 31-3-2014 to Airport Authority of India towards landing and parking charges. Is the company required to deduct any tax at source from such payment? If so, what is the rate of TDS? 4
- (c) Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14-6-2013. On 12-7-2013, his brother gifted a sum of ₹ 5 lakhs to Mr. Vasudevan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and wife of Mrs. Vasudevan's brother on 01-8-2013 at 9% interest. Discuss the consequences of the above under the provisions of the Income Tax Act, 1961 in the hands of Mr. Vasudevan and his brother. 4
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