

MAY 2016

Roll No.

Total No. of Questions – 7

FINAL
GROUP-II PAPER-7
DIRECT TAX LAWS

Total No. of Printed Pages – 15

Time Allowed – 3 Hours

Maximum Marks – 100

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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/her answers in Hindi will not be valued.

Question No. 1 is compulsory.

Answer any **five** questions from the remaining **six** questions. In case, any candidate answers extra question(s)/sub-question(s) over and above the required number, then only the requisite number of questions first answered in the answer book shall be valued and subsequent extra questions answered shall be ignored.

Wherever necessary suitable assumptions may be made and disclosed by way of note.

Working notes should form part of the respective answers.

All questions relate to **Assessment year 2016-17**, unless stated otherwise in the question.

Marks

1. (a) Sona Ltd., a resident company, earned a profit of ₹ 15 lakhs after debit/credit of the following items to its Statement of Profit and Loss for the year ended on 31/03/2016 :

- (i) Items debited to Statement of Profit and Loss :

No.	Particulars	₹
1.	Provision for the loss of subsidiary	70,000
2.	Provision for doubtful debts	75,000
3.	Provision for income tax	1,05,000
4.	Provision for gratuity based on actuarial valuation	2,00,000
5.	Depreciation	3,60,000
6.	Interest to financial institution (unpaid before filing of return)	1,00,000
7.	Penalty for infraction of law	50,000

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(ii) Items credited to Statement of Profit and Loss :

No.	Particulars	₹
1.	Profit from unit established in special economic zone	5,00,000
2.	Share in income of an AOP as a member	1,00,000
3.	Income from units of UTI	75,000
4.	Long term capital gains	3,00,000

Other Information :

- (i) Depreciation includes ₹ 1,50,000 on account of revaluation of fixed assets.
- (ii) Depreciation as per Income-tax Rules is ₹ 2,80,000.
- (iii) Balance of Statement of Profit and Loss shown in Balance Sheet at the asset side as at 31/03/2015 was ₹ 10 lakhs which includes unabsorbed depreciation of ₹ 4 lakhs.
- (iv) The capital gain has been invested in specified assets under Sec. 54EC.
- (v) The AOP, of which the Company is a member, has paid tax at maximum marginal rate.
- (vi) Provision for income-tax includes ₹ 45,000 of interest payable on income-tax.

Compute minimum alternate tax under Section 115JB of the Income Tax Act, 1961, for A.Y. 2016-17.

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- (b) K and Co. (firm) had sold all its assets and liabilities as a slump sale on 31-03-2016 to SVPC & Co.(firm) for a lump sum consideration of ₹ 600 lakhs.

The statement of affairs of K & Co. as on 31-03-2016 is as below :

Liabilities	₹ (in lakhs)	Assets	₹ (in lakhs)	
Capital	1,627	<u>Fixed Assets</u>		
Unsecured Loans	25	Plant & Machinery at WDV	250	
Bank Borrowing	500	Land (At Revalued figure)	1,200	1,450
Sundry Creditors	80	<u>Current Assets :</u>		
		Sundry Debtors	380	
		Cash & Bank Balances	2	
		Loans & Advances	150	
		Closing Stock	250	782
Total	2232	Total		2232

Additional Information :

- (1) Cost of land in March 2005 was ₹ 100 lakhs.
- (2) WDV of Plant & Machinery u/s 43(6) was ₹ 200 lakhs.
- (3) Cost Inflation Index for the financial year 2004-05 was 480 and for 2015-16 is 1081.
- (4) Stock is overvalued by 10%

Compute capital gain arising from slump sale and tax on such gain.

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P.T.O.

2. XYZ Ltd. engaged in the manufacture of fertilizers since 01-04-2009. Its **16**
Statement of Profit & Loss shows a net profit of ₹ 700 lakhs after debit/credit
of the following items :

- (1) Depreciation calculated on the basis of useful life of assets as per provisions of the Companies Act, 2013 is ₹ 50 lakhs.
- (2) Normal Depreciation calculated as per Income Tax Rules is ₹ 80 lakhs.
- (3) Employer's contribution to EPF of ₹ 2 lakhs together with the Employees' contribution of ₹ 2 lakhs for the month of March, 2016 was remitted on 8th May, 2016.
- (4) The Company appended a note to its Income Statement that industrial power tariff concession of ₹ 2.5 lakhs was received from the State Government and treated the same as capital receipt.
- (5) The Company had provided an amount of ₹ 25 lakhs being sum estimated as payable to workers based on agreement to be entered with the workers' union towards periodical wage revision once in 3 years. The provision is based on a fair estimation on wage and probable revision.
- (6) The Company had made a provision of 10% of its debtors towards bad and doubtful debts. Total sundry debtors of the Company as on 31-03-2016 was ₹ 200 lakhs.
- (7) A debtor who owed the Company an amount of 40 crores was declared insolvent and hence was written off.

- (8) Sundry creditors include an amount of ₹ 50 lakhs payable to A & Co, towards supply of raw materials, which remained unpaid due to quality issues. An agreement has been made on 31-03-2016, to settle the amount at a discount of 75% of the outstanding.
- (9) The opening and closing stock for the year were ₹ 200 lakhs and ₹ 250 lakhs respectively. They were overvalued by 10%.
- (10) Provision for gratuity based on actuarial valuation was ₹ 5 crores. Actual gratuity paid was ₹ 3 crores.
- (11) Commission of ₹ 1 lakhs paid to a recovery agent for realization of a debt. Tax has been deducted and remitted as per Chapter XVIIB of the Act.
- (12) The Company has purchased 500 tons of industrial paper as packing material at a price of ₹ 30,000/ton from PQR, a firm in which majority of the directors are partners. PQR's normal selling price in the market for the same material is ₹ 28,000/ton.

Additional Information :

- (1) There was an addition to Plant & Machinery amounting to ₹ 50 lakhs on 10-06-2015.
- (2) The Company had credited a subcontractor an amount of ₹ 8 lakhs on 31-03-2015 towards repairing a machinery component. The tax so deducted was remitted on 31-10-2015.

- (3) The Company has collected ₹ 10 lakhs as sales tax from its customers and paid the same on the due dates. However, on an appeal made, the High Court directed the Sales Tax Department to refund ₹ 3 lakhs to the Company. The Company in turn refunded ₹ 2 lakhs to the customers from whom the amount was collected and the balance of ₹ 1 lakh is still lying under the head current liabilities.

Compute total income and tax payable. Ignore MAT provisions.

3. (a) M/s. XYZ is commenced the business of manufacturing iron rods on 1st April, 2015. It had employed 200 workmen during the year which included the following :

Workman	No. of persons	Salary per month (in ₹)
Casual Labour	50	5,000
Workmen employed through contractor	25	7,500
Skilled labour	50	12,500
Semi-skilled labour	50	6,000
Skilled labour employed from 01-10-2015	25	12,500

Compute deduction available to M/s. XYZ if the profits derived during the financial year 2015-16 is ₹ 100 lakhs.

- (b) M/s. XYZ was subjected to search and seizure. During the course of search, sales, purchase ledgers and property documents pertaining to Mr. A was found in the premises of XYZ. What is the procedure to be adopted by the Assessing Officer of XYZ who has seized the records ? 4
- (c) Discuss the liability of the following receipts, during the year ended 31st March, 2016, in the hands of Ms. Jyoti under Income Tax Act, 1961. 4
- (i) Gift of ₹ 60,000 in cash from her father's sister on her birthday.
 - (ii) Acquired a vacant site from grandfather's younger brother. The stamp duty value of the land was ₹ 3 lakhs but the consideration paid was ₹ 2 lakhs.
 - (iii) Received a car from her friend on payment of ₹ 2,50,000, the market value of which was ₹ 3,00,000.
 - (iv) Interest on enhanced compensation on the order of court, from NHAI in respect of her land which was compulsorily acquired, was received ₹ 3,50,000 on 12-11-2015 which includes interest of ₹ 2,00,000 pertaining to previous year 2013-14.
 - (v) Received cash gift of ₹ 15,000 each from three of her friends.

- (d) State with reasons whether the provisions of Chapter XVII-B are attracted in the following case and what is the net amount receivable by the payee. 2

Mr. Sharma is an employee of M/s. ABC Ltd. since 01-04-2013. He has resigned on 31-03-2016 and has withdrawn the amount of ₹ 50,000/- being the balance in his EPF account.

4. Examine critically any **four** out of the following problems/issues/cases in the context of provisions contained in the Income Tax Act, 1961 relevant for Assessment Year 2016-17. Support the answers with relevant case laws and workings. 4×4=16

- (a) Mr. Janak is proprietor of M/s. Yash Texnit which is engaged in garment manufacturing business. The entire block of Plant & Machinery chargeable to depreciation @ 15%, has 15 different machinery items as at 31-03-2015. One of the machinery used for packing had become obsolete and was discarded by Mr. Janak in July' 13.

Assessee filed its return for A.Y. 2015-16 claiming total depreciation of ₹ 40 lacs which includes ₹ 4.00 lacs being the depreciation claimed on the machinery item discarded by Mr. Janak. The A.O. disallowed the claim of depreciation of ₹ 4.00 lacs during the course of scrutiny assessment.

Comment on the validity of action taken by A.O.

(b) X. Ltd. issued debentures in the previous year 2015-16, which were to be matured at the end of five years. The debenture holder were given an option of one time upfront payment of ₹ 60 per debenture on account of interest which was to be immediately paid by the Company. As per the option exercised by the debenture holders, Company paid interest upfront to them in the first year itself and the same was claimed as deduction in the Return of the Company. But in the accounts, the interest expenditure was shown as deferred expenditure to be written off over a period of five years. During the course of assessment, the AO spread the upfront interest paid over a period of five years term of debentures and allowed only one fifth of the amount in the previous year 2015-16. Examine the correctness of the action of Assessing Officer.

(c) An assessee deducted the tax at the time of making the payment of salaries. However, it delayed depositing the amounts of tax deducted with the revenue. The quantum of tax deducted was deposited with the revenue along with the interest by the assessee on its own before any notice determining the amount or declaring the assessee to be in default was made by the Revenue. The AO levied penalty u/s. 221 of the I.T. Act, 1961, for failure to pay tax deducted at source within the prescribed time. Is the action of A.O. justified ?

- (d) Ms. Ankisha had filed her return for the relevant A.Y. wherein her total income consisted of income from business and profession of ₹ 3.25 lacs and income from short term capital gain of ₹ 2 lacs. During the course of scrutiny, the A.O. interpreted the income of ₹ 2 lacs declared as short term capital gain (STCG) as income from her business having regard to the nature of transactions. A.O. completed the assessment and levied penalty u/s 271(1)(c) on the grounds that Ms. Ankisha had furnished inaccurate particulars of her income.

Is the action of A.O. justified in law ?

- (e) Bhola & Co., a firm, failed to pay the advance tax as required by the provisions of Income Tax Act, 1961. The assessment was done under sec 143(3) and the assessment order issued by the Assessing Officer stated that interest is payable u/s 234B of the Income-Tax Act. The order did not contain any direction for the payment of interest, it merely stated that interest is payable. The assessee's contention is that since the direction for payment of interest is absent in the assessment order, it could not be fastened with liability to interest u/s 234B. Examine the validity of assessee's contention.

5. (a) In the context of provisions contained in the Income Tax Act, 1961 3×2
=6
examine the correctness of the following :
- (i) Liaison Office maintained in India to explore the opportunity of business in India does not constitute business connection.
 - (ii) Transfer pricing rules shall have no implication where income is computed on the basis of book profits.
- (b) Discuss the correctness or otherwise of the following with reference to 4
the provisions of Income-tax Act, 1961.
- (i) The double taxation avoidance treaties entered into by the Government of India override the domestic law.
 - (ii) Assessing Officer can complete the assessment of income from international transaction in disregard of the order passed by the Transfer Pricing Officer by accepting the contention of assessee.
- (c) A non-resident aviation company flying an aircraft in India and paid tax 3
u/s 44BBA claims that the employees deputed for flying this aircraft shall not be subjected to tax on the remuneration to the extent paid out of such income. Is the claim justified ?
- (d) 'X' while making payment "*net of tax*" to a non-resident for providing 3
technical services on a world bank aided project had deducted tax out of such payments as per rates prescribed but says that the payee is not entitled for the TDS certificate. Examine.

6. (a) Mr. Shyam had e-filed his I.T. return for A.Y. 2015-16 within the due date declaring a total income of ₹ 9,50,000. Such total income inter alia includes dividend from Indian Companies of ₹ 50,000 and long term capital gains on sale of shares of ₹ 2,00,000. However, Mr. Shyam correctly disclosed both such incomes in the schedule of exempt income. Consequently, the said return got processed u/s 143(1) denying both the above exemptions and intimation was served on Mr. Shyam raising a demand of tax. After receipt of said intimation assessee filed a revised return but time limit of filing revised return u/s 139(5) had lapsed and such revised return was held invalid. Assessee filed for rectification u/s 154 which was also rejected by A.O.

Decide the correctness of action of the Assessing Officer.

- (b) M/s. A Ltd. has received a notice u/s 148 for the Assessment Year 2012-13 on 02-02-2016. They also anticipate similar notices for the Assessment Years 2010-11 and 2011-12 for which they have already furnished Return of Income. On examination of the Books of Account produced, you have noticed huge amounts of concealed income. As a consultant what is your advice to A Ltd. ?

- (c) Mr. Ravi has gifted his only house property to his wife Mrs. Ravi and his married daughter Mrs. Divya. The Assessing Officer (AO) has served a notice of demand on Mr. Ravi for payment of tax for the income derived from the said house property. Examine the validity of the AO's action. 2
- (d) Sachin settled $\frac{1}{4}$ th 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 assessed the income arising from $\frac{1}{4}$ th share of the property, settled for the benefit of Pallavi, in the hands of Sachin. 6

Can the A.O. do so ?

7. (a) State the rate at which the tax either is to be deducted or collected under the provisions of the Act in the following cases : 4
- (i) A partnership firm making sales of the timber which was procured and obtained under a forest lease.
- (ii) Payment of income on investments in the securities to the Foreign Institutional Investor.

(iii) A nationalized bank receiving professional services from a registered society made provision on 31-03-2016 of an amount of ₹ 25 lacs against the service charges bills to be received.

(iv) Payment of ₹ 5 lacs made to Mr. Phelps who is an athlete by a manufacturer of a swim wear for brand ambassador.

(b) Discuss the liability for tax deduction at source in the following cases 8
for the assessment year 2016-17 :

(i) Wings Ltd. has paid amount of ₹ 15 lacs during the year ended 31-3-2016 to Airports Authority of India towards landing and parking charges.

(ii) Omega Ltd., an event management company, organized a concert of international artists in India. In this connection it engaged the services of an overseas agent Mr. John from UK to bring artists to India. He contacted the artists and negotiated with them for performance in India in terms of the authority given by the Company. He did not took part in event organized in India. The Company made the payment of commission of ₹ one lac to the overseas agent.

- (iii) Ramesh gave a building on sub-lease to Mac Ltd. with effect from 1-7-2015 on a rent of ₹ 15,000 per month. The Company also took on hire machinery from Ramesh with effect from 1-11-2015 on hire charges of ₹ 10,000 per month. The rent of building and hire charges of machinery for the year 2015-16 were credited by the Company to the account of Ramesh in its books of account on 31-3-2016.
- (iv) ₹ 1,95,000 paid to Mr. X on 01-02-2015 by Karnataka State Government on compulsory acquisition of his urban land. What would be your answer if the land is agriculture land ?
- (c) Ravinder, a non-resident had maintained his permanent house both in U.A.E. and in India during the previous year ended on 31-3-2016 but was having his habitual abode in U.A.E. because of employment. He had income in India from dividend, interest and capital gains during the previous year ended on 31-3-2016 which are not subject to tax under any law in force in U.A.E. There exists a DTAA between India and U.A.E. Ravinder claims that none of the income earned by him in India shall be subject to tax in India because of the benefits available to him under DTAA.
- Is the contention of Ravinder correct ?

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