

**Paper 16 – Direct Tax Laws  
And  
International Taxation**

**Paper 16 – Direct Tax Laws and International Taxation**

**Time Allowed: 3 Hours**

**Full Marks: 100**

**Answer Question No. 1 which is compulsory and any FIVE from Question No 2 to 8.**

**Section-A**

**1. Choose the most appropriate alternative:**

**10 × 2 = 20**

- I. Assessment u/s 143(1) can be made within a period of:
  - (a) 4 years from the end of the month in which return is filed
  - (b) 4 years from the end of the financial year in which return is filed.
  - (c) 4 years from the end of the assessment year in which return is filed
  - (d) None of above
- II. Which of the following mistake is not rectifiable u/s 154:-
  - (a) Value of closing and opening stock
  - (b) Clerical mistake
  - (c) Double taxation relief
  - (d) None of above
- III. Levy of late filing fees u/s 234E is for delay in filling of:
  - (a) Return of income
  - (b) TDS/TCS return
  - (c) Annual information report
  - (d) None of above
- IV. The provisions of section 92 will apply only if the aggregate value of specified domestic transactions during the year exceeds:
  - (a) ₹ Twenty thousand
  - (b) ₹ Twenty lakhs
  - (c) ₹ Twenty crores
  - (d) None of above
- V. Income of disabled (physically) minor child is:
  - (a) Clubbed with parents total income
  - (b) Taxed in the hands of minor child
  - (c) Exempted
  - (d) None of above
- VI. Presumptive Taxation Scheme u/s 44AD is applicable, at the option of assessee if turnover is:
  - (a) Not more than ₹ One crore
  - (b) Not more than ₹ Two crores
  - (c) Not more than ₹ 50 lakhs
  - (d) None of above
- VII. Penalty u/s 271(1)(c) shall be levied at the rate of:
  - (a) 100% of tax sought to be evaded
  - (b) 300% of tax sought to be evaded
  - (c) 100% to 300% of tax sought to be evaded
  - (d) None of above
- VIII. Subsidy from the Government, received by a trust established by the government is:
  - (a) Not an income
  - (b) Part of income
  - (c) Exempted income
  - (d) None of above
- IX. Double Taxation Relief is allowed on the basis of:
  - (a) PAN
  - (b) TRC
  - (c) Aadhaar
  - (d) None of above

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- X. ICDS is applicable if assessee is maintaining the books of account under:
- Cash basis
  - Mercantile system
  - Hybrid system
  - None of above

**Answer:1.**

- d- Assessment u/s 143(1) can be made within one year from the end of the financial year in which return is filed.
- d- Any mistake which is apparent on the records can be rectified.
- b
- c
- b
- b
- c
- a
- b- Tax residency certificate is the basis of claiming double taxation relief u/s 90 or 90A.
- b- ICDS is applicable under the heads "PGBP" and "IOS" if assessee is maintaining the books under mercantile system.

### Section-B

(Answer any Five Questions out of seven questions)

(5 × 16= 80Marks)

**2(a)** An assessee has following incomes/losses for the year 2016-17:

**9 Marks**

- Income from house property (computed) ₹ 3,00,000
- Income from business (un adjusted) ₹ 4,00,000
- Unabsorbed depreciation ₹ 1,20,000.
- Current year depreciation ₹ 1,50,000
- Bought forward business loss ₹ 1,80,000
- Short term capital loss ₹ 3,00,000
- Short term capital gain ₹ 2,00,000
- Long term capital gain ₹ 4,00,000
- Income from growing and manufacturing of tea ₹ 5,00,000
- Donation to approved scientific research ₹ 2,00,000.

Compute taxable income of assessee for A.Y 2017-18 and also tax liability if assessee is a company.

**2(b)** An Indian citizen gives the following particulars:

**7 Marks**

- Business income (computed) ₹ 2,50,000.
- Long term capital gain ₹ 2,00,000.
- Short term capital gain u/s 111A ₹ 1,00,000.
- Other short term capital gain ₹ 50,000.
- Donation to GOI for promotion of family planning ₹ 25,000.
- Donation to approved institution ₹ 10,000
- Donation to National laboratory for research ₹ 50,000.
- Payment of medical insurance premium ₹ 30,000
- Contribution to National pension Scheme ₹ 17,000.
- House hold expenses ₹ 20,000

Calculate tax liability of assessee for A.Y 2017-18.

**Answer: 2.(a)**

#### Computation of taxable Income of a Company

	₹	₹
Income from house property	3,00,000	
(-) Unabsorbed depreciation	1,20,000	1,80,000

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PGBP		
Income from business	4,00,000	
(+) 40% of growing & manufacture of tea 5,00,000 × 40%	2,00,000	
	6,00,000	
(-) Weighted deduction u/s 35	2,00,000 × 175%	3,50,000
(-) Current depreciation	1,50,000	
(-) Brought forward loss	1,00,000	NIL
Capital Gain		
STCG	2,00,000	
(-) STCL	2,00,000	NIL
LTCG	4,00,000	
(-)STCL	1,00,000	3,00,000
Total Income		4,80,000

Calculation of Tax	
On LTCG @ 20.60% =	₹61,800
On Balance @ 30.90% =	₹55,620
Tax	1,17,420

Note: (1) Agricultural income ₹3,0,000 (i. e. 60% of ₹5,00,000) is exempted u/s 10(1).

(2) Remaining business loss of ₹ 80,000 (i. e. ₹1,80,000 – ₹1,00,000) is carry forward to next AY.

(3) Unabsorbed depreciation is adjusted from IHP as it is taxable @ 30%.

**Answer: 2.(b)**

### Calculation of tax liability of an Indian citizen

	₹
Business income	2,50,000
LTCG u/s 112	2,00,000
STCG u/s 111A	1,00,000
STCG	50,000
GTI	6,00,000
(-) Deductions under chapter VIA	
U/s 80D Medical Insurance (MAX)	25,000
U/s 80CCD (1) contribution to NPS 10% of GTI or ₹17,000 (WEL)	17,000
u/s 80G (WN1)	25,400
Total income	5,32,600

WN (1) Calculation of deduction u/s 80G

10% of AGTI = 10% [6,00,000 – 2,00,000- 1,00,000 – 25,000 – 17,000] = 2,58,000 × 10% = 25,800

Donation to GOI @ 100% = 25,000

Donation to approved institution @ 50%

[ 25,800 – 25,000] × 50% = 400

Calculation of tax liability

On LTCG @ 20% = 20% of ₹1,82,600 (i. e. 2,00,000 – 17,400) = ₹ 36,520 plus cess

On STCG u/s 111A @ 15% = 15% of 1,00,000 = ₹15,000 plus cess on balance at slab rates = Nil

Relief = BEL – TI (excl. income chargeable at fixed rates = 2,50,000 – 2,32,600 = ₹ 17,400

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3. The net profit of Santosh Fertilizers Ltd., for the year ended 31.3.2017 is ₹ 40 lakhs.

The following debits are found in P&L A/c:

- (i) Land Development charges paid to Government ₹ 80,000.
- (ii) Cost of stocks lost in fire ₹ 3,00,000.
- (iii) Design and development charges ₹ 60,000.
- (iv) Market survey and project report for setting up new factory as a part of expansion of existing unit ₹ 2,00,000.
- (v) Replacement of non-fire proof doors by fire proof doors ₹ 1,50,000.
- (vi) Developing and making of green trees in the factory premises ₹ 50,000.
- (vii) Income tax paid ₹ 20,000
- (viii) Depreciation as per IT Rules ₹ 1,25,000.

The following credits are found in P&L A/c:

- (i) Interest on units of notified mutual fund ₹ 30,000.
- (ii) Interest on income tax refund ₹ 5,000
- (iii) Rent from letting of part of godown building ₹ 2,00,000.
- (iv) Export incentives ₹ 40,000

The following additional information is available:

- (i) Unabsorbed depreciation ₹ 90,000 and brought forward business loss ₹ 70,000 as per books of account.
- (ii) Long term capital gain ₹ 10,00,000 on sale of land. Total sale consideration is ₹ 25,00,000 and 25% of the sale consideration is invested in the bonds specified in section 54EC.

Compute tax liability of Santosh Fertiliser Ltd., by applying MAT provisions.

**16 Marks**

**Answer: 3**

### Calculation of tax liability of Santosh Fertiliser Ltd.

	Business income ₹	Book Profit ₹
Net profit as per P & L A/c	40,00,000	40,00,000
(+) Land Development charges	80,000	-
(+) Material Survey charges	2,00,000	-
(-) Preliminary expenditure u/s 35D (1/5 of ₹2,00,000)	40,000	-
(+) Income Tax	20,000	20,000
(+) Depreciation	-	1,25,000
(-) Interest on units of NMF	30,000	30,000
(-) Interest on refund of income - tax	5,000	-
(-) unabsorbed depreciation or business loss whichever is lower	-	70,000
(-) Depreciation	-	1,25,000
Business income / Book profit	42,25,000	39,20,000
Long term capital gain (10,00,000 – 25% of 25,00,000)	3,75,000	
Income from other source:		
Interest on units u/s 10(35)	-	
Interest on refund	5,000	
<b>Total income</b>	<b>46,05,000</b>	
Regular Tax		
On LTCG @ 20.60% =	₹77,250	
On Balance @ 30.90% =	₹13,07,070	
	<b>13,84,320</b>	

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MAT u/s 115JB

On book profit @ 19.055% = ₹ 7,46,960

Tax liability being the higher is ₹ 13,84,320

**4.a.** X Ltd. is merged with Y Ltd. X Ltd. has the following losses as on date of merger:

- (i) Unabsorbed depreciation ₹ 10 lakhs.
- (ii) Unabsorbed business loss (non-speculation) ₹ 16 lakhs.
- (iii) Unabsorbed business loss (speculation) ₹ 3 lakhs

Discuss the benefits available to Y Ltd. if:

- (a) The merger is an "amalgamation" within the meaning of Sec. 2(1B)
- (b) The merger is an "amalgamation" within the meaning of Sec. 2(1B) but does not fulfil conditions of Sec. 72A.
- (c) The merger satisfied the conditions of Sec. 2(1B) and Sec. 72A. **10 Marks**

**4.b.** What do you understand by the expression Protective Assessment? Illustrate your answer with an example. **6 Marks**

**Answer: 4 (a)**

Treatment of unabsorbed loss/ allowance in case of amalgamation

Whether Y Ltd. can set off unabsorbed loss/ allowance of X Ltd.

	Situation (a)	Situation (b)	Situation (c)
Unabsorbed depreciation	Yes	No	Yes
Non- speculation loss	Yes	No	Yes
Speculations loss	No	No	No

Note: (1) If Y Ltd. is taken over by X Ltd all losses allowances can be set off by X Ltd. even if the conditions are not satisfied.

(2) It is assumed as all the conditions were satisfied under situation (a) [ i. e. Sec. 72A]

**Answer: 4 (b)**

A protective assessment is made in a case where there are doubts relating to the true ownership of the income. If there is an uncertainty about the taxing of an income in the hands of Mr. A or Mr. B, then at the discretion of the Assessing Officer, the same may be added in the hands of one of them on protective basis. This is to ensure that on finality, the addition may not be denied on the ground of limitation of time. Once finality regarding the identity of the tax payer to be taxed is established, the extra assessment is cancelled. But the Department cannot recover the tax from both the assesseees in respect of the same income. Penalty cannot be imposed on the strength of a protective assessment.

**5.**

(a) 'Sachin' settled 1/4<sup>th</sup> 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 1/4<sup>th</sup> share of the property so settled for the benefits of 'Pallavi' in the hands of 'Sachin'.

Is the Assessing Officer Justified and correct in doing so?

**8 Marks**

(b) Y Ltd. was amalgamated with X Ltd. in accordance with a scheme of amalgamation. Assets and liabilities were transferred and vested with X Ltd. X Ltd. is of the view that excess consideration paid by it over the value of net assets acquired from Y. Ltd. should be considered

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as goodwill arising on amalgamation. X Ltd. claimed depreciation on such goodwill, but the claim was rejected by the Assessing Officer on the ground that goodwill is not an asset falling under Explanation 3 to section 32(1) of the Income-tax Act, 1961. Is the action of the Assessing Officer valid? **8 Marks**

**Answer: 5 (a)**

Facts of the case: Whether trust created for the benefit of minor child attract clubbing provisions.

Case law: CIT Vs. M. R. Doshi

Verdict: Clubbing does not apply unless any amount is utilised/ applied for the necessities of such minor child.

**Answer: 5 (b)**

Facts of the case: whether goodwill included in the purchase consideration eligible for depreciation.

Case Law: CIT Vs. Smifs securities Ltd.

Verdict: Intangible asset as specified u/s 32 includes know, how patents and other such similar rights which includes the goodwill and hence goodwill is eligible for depreciation

**6.**

(a) X Ltd. an Indian company supplied certain goods to its holding company Y Ltd., a German company. X Ltd. also supplied similar goods to another German based company Z Ltd, an unrelated company. Selling price is Euro 500 per unit (FOB) and Euro 700 per unit (CIF) respectively. Insurance and freight amounts to Euro 200 per unit. No. of units supplied are 8000 and 7900 respectively. Compute the reasonable profit for the transaction with Y Ltd. by applying arm's length price. **9 Marks**

(b) Mr. X has earned the following incomes:

(i) Salary from X Ltd in India ₹ 8 lakhs.

(ii) Income from house property outside India ₹ 6 lakhs

He paid the following:

(i) Life insurance premium ₹ 1 lakh.

(ii) Tax outside India ₹ 2 lakhs

Calculate his tax liability if there is double tax avoidance agreement. **7 Marks**

**Answer: 6 (a)**

### Computation of reasonable profits of X Ltd.

	Supply to Y Ltd. (AE)	Supply to Z Ltd (UAE)
Selling Price in Euro:		
FOB value	500	-
(+) Insurance /Freight	200	
CIF Value		700

As the transaction is at Aries length price profits disclosed by X Ltd. Is considered as reasonable and requires no adjustment.

**Answer: 6 (b)**

### Calculation of tax liability

	Tax Exemption Method	Tax Credit Method
Indian Income	8,00,000	8,00,000
Foreign Income	-	6,00,000

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GTI	8,00,000	14,00,000
(-) Ded. u/s 80C	1,00,000	1,00,000
Nil	7,00,000	13,00,000
Tax payable : [Nil + 10% of 2,50,000 + 20% of 2,00,000] [Nil + 10% of 2,50,000 + 20% of 5,00,000]	65,000	2,15,000
(+) Cess @ 3%	1,950	6,450
	66,950	2,21,450
(-) Relief u/s 90	-	2,00,000
Net tax payable	66,950	21,450

**7. (a)** Mobeaux LLP of Poland and Vamsi Ltd of India are Associated Enterprises. Vamsi imports 1000 compressors Air Conditioners from Mobeaux at ₹ 7,500 per unit and these are sold to Winland Cooling Solutions Ltd at ₹ 11,000 per unit. Vamsi had also imported similar products from De-Heat Ltd and sold outside at a Gross profit 20% on Sales.

Mobeaux offered a Quantity Discount of ₹ 1,500 per unit. De-Heat could offer only ₹ 500 per unit as Quantity Discount. The Freight and Customs Duty paid for imports from Poland had cost Vamsi ₹ 1,200 apiece. In respect of purchase from De-Heat, Vamsi had to pay ₹ 200 only as Freight Charges.

Determine the Arm's Length Price and the amount of increase in Total Income of Vamsi Ltd. **8 Marks**

**7. (b)** Prabir is musician deriving income of ₹ 75,000 from concerts performed outside of India. Tax of ₹ 10,000 were deducted at source in the country where the concerts were performed. India does not have any double tax avoidance agreement with that country. His income in India amounted to ₹ 8,25,000. Computed tax liabilities of Prabir for the assessment year 2017-18 assuming he has deposited ₹ 1,00,000 in Public Provident Fund, ₹ 50,000 in LIC and Medical Insurance premium in respect of his father ₹ 20,000. **8 Marks**

**Answer: 7 (a)**

### Computation of ALP (Under re-sale price Method)

	₹
Re- sale price	11,000
(-) Normal GP 20% of ₹11,000	2,200
(-) Discount (1,500 – 500)	1,000
(-) Expenses (1,200 – 200)	1,000
ALP (purchase Price)	6,800
Recorded Price	7,500

Whichever is lower = ₹6,800

Difference in price = ₹700 (i.e ₹ 7,500 – ₹ 6,800)

Increase in total income = 700 × no. Of Units = 700 × 1,000 = ₹ 7,00,000

**Answer: 7 (b)**

### Calculation of tax liability of Mr. Prabir

	₹
Indian Income	8,25,000
Foreign Income	75,000
GTI	9,00,000
(-) Ded. u/s 80C (PPF + LIC)	1,50,000
Ded. u/s 80D	20,000
TI	7,30,000
Tax on ₹7,30,000 = Nil + 25,000 + 46,000 =	71,000
(+) cess @ 3%	2,130
	73,130



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(-) Relief u/s 91 [ 10% of ₹75,000]	7,500
Net tax Liability	65,630

Relief = Indian rate Or foreign rate WEL

$$\text{Indian rate} = \frac{73,130}{7,30,000} \times 100 = 10\%$$

$$\text{Foreign rate} = \frac{10,000}{75,000} \times 100 = 13.33\%$$

### 8. Answer any four questions.

**4×4=16 Marks**

- (a) Discuss the levels of appeal available to the assessee for grievances redressal.
- (b) Who is the competent authority of rectify any mistake apparent from record in an order passed u/s 154.
- (c) Explain the nature of revision of order u/s 264 and its time limit.
- (d) When can an application to settlement commission be made?
- (e) What is the basis of charge u/s 3 of Black Money and Imposition of Tax Act, 2015?

#### Answer:8.a

The Appellate hierarchy in Income Tax is described as under:

Nature of action	To whom it should be filed	Against whose order it can be preferred	Who can prefer
First Appeal	Commissioner (Appeal) [CIT(A)]	Against the order of Assessing Officer	Tax Payer
Second Appeal	The Income Tax Appellate Tribunal	Against the order of [CIT(A)]	Tax Payer or Commissioner of Income Tax
Appeal to high court	High Court	Substantial question of the [CIT(A)]	Tax Payer or Commissioner of Income Tax
Appeal to supreme court	Supreme Court	Judgment to High Court	Tax Payer or Commissioner of Income Tax

#### Answer:8.b

Competent Authority of rectify any mistake apparent from record in an order passed u/s 154: The Commissioner may either of his own motion or an application by the assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

The commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously.

In the case of an application for revision under this section by the assessee, the application must be made within one year from the date on which the order in question was communicate to him or the date on which he otherwise came to know of it, whichever is earlier.

The commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

**Answer:8.c**

Revision of orders not covered under section 263, can be made by the Principal Commissioner or Commissioner either on his own motion or on an application made by the assessee, provided orders have been passed by an authority subordinate to him. The application made by the assessee shall be accompanied by fees of ₹ 500. The Principal Commissioner or Commissioners may call for the record of any proceeding under this Act on the basis of which such order has been passed and make such enquiry or cause such inquiry to be made. He may pass such orders thereon as he thinks fit as are not prejudicial to the assessee. The Principal Commissioner or Commissioner, under this section can cancel the assessment and direct the A.O to make a fresh assessment but such direction shall not be prejudicial to the assessee.

The Principal Commissioner or Commissioner shall not revise any order under this section in the following cases:

- (a) Where the order has been made more than one year previously, the Principal Commissioner or Commissioner shall not, on his own motion, revise such an order; or
- (b) Where the application for revision by the assessee has been made after one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier. However if the Principal Commissioner or Commissioner is satisfied that the assessee was prevented by the sufficient cause from making the application within the prescribed period he may admit an application made after the expiry of that period.
- (c) Where an appeal against order lies to the Commissioner (Appeals) but it has not been made and the time within such appeal may be made has not expired; and the assessee has not waived his right of appeal; or
- (d) Where the order has been made the subject of an appeal to the Commissioner (Appeal) i.e. where an appeal has been filed to CIT (Appeal) on any issue relating to such order.

On application made by the assessee under this section, the Principal Commissioner or Commissioner shall pass an order within one year from the end of the financial year in which the application is made by the assessee.

**Answer:8.d**

An assessee may, at any stage of a case relating to him, make an application in such form (Form 34B) and in such manner as may be prescribed, to the Settlement Commission and have the case settled provided the following conditions are satisfied.

1. Such application should inter alia
  - (a) A full and true disclosure of his income which has not been disclosed before the Assessing Officer,
  - (b) The manner in which such income has been derived,
  - (c) The additional amount of income tax payable on such income, and
  - (d) Such other particulars as may be prescribed.

As per rule 5 of Income Tax Settlement Commission (Procedure) Rule, 1997, a settlement application shall be made by the applicant in person or his authorised representative, to the Secretary at the headquarters of the Commission at New Delhi or of the Bench within whose jurisdiction his case falls or to an officer authorised in this behalf by the Secretary, or shall be sent by registered post addressed to the Secretary, or to such officer.

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A settlement application sent by post shall be deemed to have been presented to the Secretary or the officer authorised by the Secretary on the day on which it is received in the office of the Commission.

The application shall be accompanied by a copy of self attested challans or other documents as evidence in respect of payment of tax and interest by the applicant.

2. As per proviso to section 245C (1), no application shall be made unless—

(i) in a case where proceedings for assessment or reassessment for search and seizure have been initiated the additional amount of income-tax payable on the income disclosed in the application exceeds ₹ 50,00,000.

(ii) in a case where

the applicant is related to the person (referred to in clause (i) above) in whose case proceedings have been initiated as a result of search and has filed an application (hereafter in this sub-section referred to as "specified person")

AND

the additional amount of income-tax payable on the income disclosed in the application by such related person exceeds ₹ 10,00,000.

(iii) In any other case (i.e where the assessment is pending u/s 143(3) or 144), the additional amount of income-tax payable on the income disclosed in the application exceeds ₹ 10,00,000.

AND

such tax and the interest thereon, which would have been paid under provisions of this Act had the income disclosed in the application be declared in the return of income before the Assessing Officer on the date application, has been paid on or before the date of making the application and the proof of such payment is attached with the application. The amount of additional tax payable may be summarized as under:

Situation	Additional amount of income tax payable
1. In case of a person referred to in section 153A or section 153C	It exceeds ₹ 50 Lakhs.
2. In case the applicant is related to the person referred to in 1	It should ₹ 10 Lakhs.
3. In any other case i.e where assessment is pending under section 143(2) or 144	It should ₹ 10 Lakhs.

3. Every application made under section 245C(1) shall be accompanied by such fee as may be prescribed.

4. An assessee shall, on the date on which he makes an application to Settlement Commission, also intimate the Assessing Officer in Form No 34BA of having made such application to the said Commission.

### Answer:8.e

Basis of charge under Section 3 of Black Money and Imposition of Tax Act, 2015:

1. The charge is for every assessment and hence this Act is permanent feature of our tax system and will act as a deterrence to accumulate income or assets abroad.
2. Tax on Undisclosed Income and Assets is @30% and charged to tax in the previous year in which it has come to the notice of the Assessing Officer.
3. No surcharge and education cess on Tax or Penalty.
4. Value of assets shall be taken at "Fair Market Value" determined as per Rules in the previous year in which such asset comes to the notice of Assessing Officer.