

INTERMEDIATE EXAMINATION

GROUP I

(SYLLABUS 2012)

SUGGESTED ANSWERS TO QUESTIONS

DECEMBER 2016

Paper- 7: DIRECT TAXATION

Time Allowed : 3 Hours

Full Marks : 100

The figures in the margin on the right side indicate full marks.

Wherever required, the candidates may take suitable assumption(s)

and state the same clearly in the answer

Working notes should form party of the relevant answer.

All the questions relate to Assessment Year 2016-17, unless otherwise stated.

SECTION A

Answer Question No. 1, which is compulsory and any four from Question Nos. 2 to 6.

1. (a) Fill up the blanks: 1×5=5

- (i) The maximum amount deductible under section 80 TTA in respect of interest on savings bank account is ₹ _____.
- (ii) Monetary limit for exemption in the case of encashment of earned leave on superannuation received by private sector employees is ₹ _____.
- (iii) When unrealized rent of ₹ 50,000 in respect of a let-out property is realized subsequently, the amount liable to tax would be ₹ _____.
- (iv) Interest on enhanced compensation received by Mr. A, a resident individual is ₹ 4,00,000 of which 75% pertains to earlier financial years. The amount of such interest to be included in the total income under the head 'income from other sources' is ₹ _____.
- (v) Medical expenditure of ₹ 40,000 was incurred by Mr. A on his mother (being a senior citizen). The amount eligible for deduction under section 80D would be ₹ _____.

(b) Choose the most appropriate alternative: 1×5= 5

- (i) When a person having agricultural lands sells the seeds taken from such lands in a nursery, which is part of the said lands, the income from such sale is treated as
 - (A) Business income
 - (B) Agricultural income
 - (C) Income from other sources
 - (D) None of the above
- (ii) An employer has paid medical insurance premium of ₹ 12,000 in respect of a salaried employee drawing annual salary of ₹ 6 lakhs. The amount of perquisite charged in the

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- hands of employee is
- (A) Nil
 (B) ₹ 6,000
 (C) ₹ 12,000
 (D) None of the above
- (iii) The rate of depreciation for a block of assets consisting of buildings used as factory is
- (A) 2.5%
 (B) 5%
 (C) 10%
 (D) None of the above
- (iv) In case of a Hindu Undivided Family, where the return of income cannot be signed by the Karta, the same can be signed by
- (A) the next senior-most male member.
 (B) Karta's wife.
 (C) any male member of the family.
 (D) any adult member of the family.
- (v) In case of an individual or HUF, to determine whether certain TDS provisions are attracted, what has to be seen is whether the person is subject to tax audit under section 44AB in
- (A) the immediately preceding financial year.
 (B) current year.
 (C) last two continuous financial years.
 (D) None of the above

(c) Match the following:

1×5=5

(i)	Securities Transaction Tax	(a)	Maximum limit ₹ 50 lakhs
(ii)	Contribution of Employer to Pension Fund of Central Government	(b)	Includible as Salary income of employee
(iii)	Donation in kind	(c)	Not deductible while computing income from property
(iv)	Ground rent	(d)	Deductible as business expenditure
(v)	Bonds specified in section 54EC	(e)	Not eligible for deduction under section 80G

(d) Answer the following questions with brief reasons / working:

- (i) Mr. Rao sold a vacant site to Mr. Jain in August, 2014 for ₹ 5 lakhs. The stamp duty valuation of the site at the time of sale was ₹ 8 lakhs. The difference of ₹ 3 lakhs was taxed as income in the hands of Mr. Jain under the head 'other sources'. Now in March, 2016 Mr. Jain sold the vacant site for ₹12 lakhs. What is the cost of acquisition of site to be adopted by Mr. Jain?
- (ii) Mr. Ajit is employed with XY Co. Ltd. at Mumbai from 01.04.2015. The company took accommodation on lease basis which cost ₹ 3 lakhs per annum. Mr. Ajit is eligible for salary plus DA of ₹ 1 lakh per month. The employer's annual contribution to the recognized provident fund account of Mr. Ajit is ₹ 1,20,000. What is the perquisite value of accommodation liable to tax in the hands of Mr. Ajit?
- (iii) Balaji Ltd, a textile manufacturing company paid ₹ 15 lakhs as contract payments to M/s. Ramesh Engineers (a partnership firm) for construction of godown building. At what rate the tax is deductible at source on such contract payment? 2+2+1= 5

Answer:

1. (a) (i) ₹ 10,000
 (ii) ₹ 3,00,000

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- (iii) ₹ 50,000
- (iv) ₹ 2,00,000
- (v) ₹ 30,000

- (b) (i) (B) Agricultural income
 (ii) (A) Nil
 (iii) (C) 10%
 (iv) (D) Any adult member of the family
 (v) (A) The immediately preceding financial year

(c)

(i)	Securities Transaction Tax	(d)	Deductible as business expenditure
(ii)	Contribution of Employer to Pension Fund of Central Government	(b)	Includible as Salary income of employee
(iii)	Donation in kind	(e)	Not eligible for deduction under section 80G
(iv)	Ground rent	(c)	Not deductible while computing income from property
(v)	Bonds specified in section 54EC	(a)	Maximum limit ₹ 50 lakhs

- (d) (i) While computing the capital gain arising on transfer of a property, the value which has been subjected to income-tax under section 56(2)(vii) shall deemed to be forming part of the cost of acquisition of the property. [Section 49(4)]

The difference between stamp duty value and the sale price of ₹ 3 lakhs was subjected to tax in the hands of Mr. Jain for the assessment year 2015-16 as per section 56(2)(vii).

Therefore the cost of acquisition would be ₹ 8 lakhs for Mr. Jain consisting of ₹ 5 lakhs paid as consideration to Mr. Rao and ₹ 3 lakhs which was taxed as deemed income under section 56(2)(vii).

- (ii) The perquisite value of accommodation taken on lease by the employer and provided to the employee is (a) actual amount of lease rent paid or payable or (ii) 15% of salary, whichever is lower.
 Contribution to provident fund is not to be considered for computing 15% salary. Total salary ₹12 lakhs. 15% thereon ₹ 1,80,000 or the actual lease rent ₹ 3,00,000, whichever is less to be adopted as perquisite value of accommodation provided.

Perquisite value of leased accommodation being ₹1,80,000.

- (iii) Since the payment is made to a person other than an individual or HUF, the rate of tax deduction under section 194C would be 2%.

2. (a) **VKS Yoga Charities was formed on 14.04.2015, for the purpose of spreading the yoga culture. The charitable trust has received the following amounts during the year ended 31.03.2016:**

Particulars	₹ in lakhs
Voluntary donations (non-corporus donations)	5
Donations received towards corpus	3
Agricultural income	2
Dividend from listed shares	1

Will this trust formed for the above purpose, be regarded as carrying on "charitable

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purpose" and entitled to registration under section 12AA of the Income-tax Act, 1961?

Assuming that no accumulation is planned, what is the minimum amount to be applied for charitable purposes for availing the benefit of exemption as per section 11? 4

(b) Mr. Ashok owns two buildings which are let out during the financial year 2015-16. The relevant details are as under:

Particulars	House-I	House-II
	Residential	Commercial
	₹	₹
Municipal valuation	1,80,000	3,60,000
Standard rent	1,50,000	3,00,000
Actual rent	2,40,000	6,00,000
Municipal taxes - paid	20,000	30,000
Municipal taxes - outstanding	10,000	15,000
Interest on moneys borrowed - paid	60,000	20,000
Interest on moneys borrowed - outstanding	1,00,000	60,000
Housing loan principal repaid to bank	50,000	30,000

You are requested to compute income of Mr. Ashok under the head "Income from House property" for the assessment year 2016-17. 9

(c) An employee has been given a laptop purchased on 01.04.2015 for ₹ 40,000, which he is allowed to take home and use. What is the value to be treated as perquisite while computing income under the head 'salaries'? 2

Answer:

2. (a) "Yoga" has been included as a specific category in the definition of "charitable purpose" in section 2(15). Hence the present trust will be entitled to registration under section 12AA, if the prescribed formalities are complied with.

Minimum amount to be applied for charitable purposes

Particulars	Amount (Rs in lakhs)
Voluntary donations (non-corporus donations)	5
Donations received towards corpus 3 lakhs, not to be considered	Nil
Agricultural income, ₹ 2 lakhs not to be considered as per section 11(7)	Nil
Dividend from listed shares [to be considered as per section 11(7)]	1
Total receipts for application	6
Minimum amount to be applied - 85%	5.1

(b)

Compute the total income of Mr. Ashok for the assessment year 2016-17

Particulars	House-1	House-1	House-II	House-II
	₹	₹	₹	₹
Gross annual value		2,40,000		6,00,000
Less: Municipal tax - paid		20,000		30,000
Municipal tax -outstanding		Nil		Nil
Net Annual Value		2,20,000		5,70,000

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Less: Deduction U/s.24				
30% of net annual value	66,000		1,71,000	
Interest on moneys borrowed-paid	60,000		20,000	
Interest on moneys borrowed-outstanding	1,00,000		60,000	
		2,26,000		2,51,000
Income from Property		(6,000)		3,19,000
Income from house property 3,19,000 - ₹6,000				3,13,000
Less: Principal amount repaid for residential building				50,000
Principal repaid for commercial building-not eligible				Nil
Total Income				2,63,000

(c) Perquisite

Use of a laptop is not treated as perquisite.

Hence the perquisite value will be taken as Nil.

3. (a) Mr. Nitin is the marketing manager of M&M Ltd., Mumbai. From the following details compute the salary income of Mr. Nitin for the assessment year 2016-17: 8

(i) Basic salary (per month) ₹ 60,000.

(ii) Dearness allowance = 50% of basic salary.

(iii) Motor car owned by employer given to employee. Entire running expenses are met by the employer and the car is used for both official and personal purpose by the employee. The engine cubic capacity is above 1.6 litres.

(iv) Provident fund contribution of both employer and employee at 15% of basic salary.

(v) Accommodation owned by the employer is given to the employee. A sum of ₹ 5,000 per month is deducted towards accommodation from the salary of employee.

(vi) Life insurance premium on policy taken by employee paid by the employer during the year ₹ 45,000.

(vii) The employer provides free education facility for Mr. Nitin's daughter in a school maintained by the employer. Cost of education in similar school is ₹ 800 per month.

viii) Cost of lunch provided by the employer during office hours ₹ 18,000.

(b) Mrs. Kiruthika sold a residential house at Mumbai for a consideration of ₹ 70,00,000 on 14.02.2016. She had bought land in May, 2005 for ₹ 8,00,000. Registration and other expenses incurred were 10% of the same. The construction of the house was completed in November, 2007 at a cost of ₹ 10,00,000.

The sale was made to a stranger. She had taken an advance of ₹ 2,00,000 in cash on 10.04.2015, for which clear evidence is available. At that time stamp duty valuation was ₹ 70,00,000. At the time of registration in February, 2016, there was 10% increase in stamp duty valuation. She received the balance consideration of ₹ 68,00,000 in February, 2016 by cheque. Brokerage paid for sale was 1% on sale consideration received.

She purchased the following residential houses in March, 2016:

(i) House at Delhi for ₹ 11,00,000.

(ii) House at London for ₹ 19,00,000.

He also purchased bonds of National Highway Authority of India approved for the purpose of section 54EC on the following dates: 7

29/03/2016	₹ 4,50,000
22/05/2016	₹ 5,00,000

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Compute income chargeable under the head 'Capital Gains' in the hands of Mrs. Kiruthika for Assessment Year 2016-17.

Cost Inflation Indices (CII) are as under:

Financial Year	CII
2005-06	497
2007-08	551
2015-16	1081

Answer:

3. (a) Computation of income of Mr. Nitin under the head "salaries" for the assessment year 2016-17:

	₹
Basic salary (per month) ₹60,000 × 12	7,20,000
Dearness allowance = 50% of basic salary	3,60,000
Motor car owned by employer given to employee. Entire running expenses met by the employer and the car is used for both official and personal purpose by the employee. The engine cubic capacity is above 1.6 litres = ₹2,400 × 12 as per rule 3(2)	28,800
Provident fund contribution of employer at 15% of basic salary. Excess over 12% to be taxed as perquisite ₹7,20,00 × 3%	21,600
Accommodation owned by the employer is given to the employee. A sum of ₹5,000 per month is deducted towards accommodation from the salary of employee = Perquisite value 15% of basic pay = ₹1,08,000 less amount recovered from the employee ₹60,000	48,000
Life insurance premium on policy taken by employee paid by the employer during the year is a taxable perquisite	45,000
As cost of education in similar school is less than ₹ 1,000, free education facility provided for Mr. Nitin's daughter is not a taxable perquisite	Nil
Cost of lunch provided by the employer during office hours - not a taxable perquisite.	Nil
Taxable Salary Income	12,23,400

- (b) Computation of income under the head "Capital Gains" in the hands of Mrs. Kiruthika for Assessment Year 2016-17:

Particulars	₹	₹
Full value of consideration (Note 1)		77,00,000
Less: Brokerage 1% of actual consideration		70,000
Net consideration		76,30,000
Less: Cost of acquisition		
Land portion: Original cost (₹ 8,00,000 + ₹ 80,000)	8,80,000	
Indexed cost of acquisition (₹ 8,80,000 × 1081/497)	1,914,044	
Indexed cost of house construction (₹10,00,000 × 1081 /551)	1,961,887	3,875,931
Long-term capital gain		37,54,069
Less: Exemption under section 54 (Note 2)	11,00,000	
Exemption under section 54EC	9,50,000	20,50,000
Long-term capital gain chargeable to tax		17,04,069

Notes:

- As per section 50C, where the stamp duty value is more than the actual sale consideration, the former is to be adopted for computing capital gain.

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- The value prevailing on the date of getting advance will not apply, because the advance had been obtained in cash.
2. Under section 54, exemption is available in respect of only one residential house located in India. He cannot, therefore, claim exemption in respect of house bought at London.
4. (a) Discuss, with brief reasons, the taxability or otherwise of the following under the Income-tax Act: 2×3=6
- (i) Agricultural income of ₹1,50,000 earned from land situated in Bihar by Mrs. Bhagyashree, a non-resident.
 - (ii) Mr. Ram kumar, a citizen of India employed by the Government of India, left India for the first time on 10.02.2015 to USA for foreign assignment. He did not visit India during previous year 2015-16. He has been paid ₹ 5,00,000 towards allowances in USA.
 - (iii) An amount of ₹ 4,00,000 withdrawn by Mr. Prakash, a resident individual from Public Provident Fund as per relevant rule.
- (b) Mr. Praveen Kumar (aged 59 years) having gross total income of ₹ 27,50,000 during previous year 2015-16 incurred expenditure of ₹ 1,30,000 during the said year on medical treatment of his dependant father (aged 80 years) who is suffering from chronic disease specified in section 80DDB of the Income-tax Act and also paid medical insurance premium of ₹ 26,000. Determine total income of Mr. Praveen Kumar for Assessment Year 2016-17. 4
- (c) State, with reasons, whether the following items are allowable as deduction in computation of income of Tyagi Aluminium Limited under the head 'profits and gains from business or profession' or otherwise: 1×5=5
- (i) Contribution of ₹ 1,20,000 to political party on the occasion of its silver jubilee.
 - (ii) Interest of ₹ 80,000 paid to bank on loan taken and utilised for payment of dividend.
 - (iii) Fees of ₹ 75,000 paid to independent director for attending board meetings without deduction of tax at source under section 194J.
 - (iv) Interest of ₹ 40,000 on bank overdraft utilised for payment of dividend.
 - (v) Few customers are irregular in payment of dues against sale proceeds, for which provision for bad and doubtful debts has been created by debiting Statement of Profit & Loss.

Answer:

4. (a) (i) Income from agricultural operation carried out on land situated in India is exempt under section 10(1) of the Income-tax Act both in case of residents and non-residents. In view of above, agricultural income of ₹ 1,50,000 from land situated in Bihar will not be liable to tax.
- (ii) Allowances and perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt under section 10(7). Accordingly, allowance of ₹ 5,00,000 paid outside for rendering services there would not be liable to tax.
- (iii) Amount withdrawn from Public Provident Fund is exempt under section 10(11) of the Income-tax Act.
Hence, withdrawal of ₹ 4,00,000 by Mr. Prakash from Public Provident Fund as per relevant rule would not be chargeable to tax in his hands.

- (b) Computation of total income of Mr. Praveen Kumar for Assessment Year 2016-17

Particulars	₹	₹
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Gross Total Income		27,50,000
Deductions under Chapter VI-A		
For medical insurance premium for self under section 80D-maximum allowable is ₹ 25,000	25,000	
For expenses of medical treatment of his father, who is a super senior citizen under section 80DDB- maximum allowable is ₹ 80,000	80,000	1,05,000
Total Income		26,45,000

- (c) (i) Contribution to a political party on the occasion of its silver jubilee has no nexus with the business of the assessee company. Hence the same is to be disallowed under section 37(1).

However, the assessee company is entitled to claim the amount contributed to the political party from its gross total income under section 80 GGB.

- (ii) As per section 36(1)(iii) interest on borrowed capital shall be allowed as deduction, if the borrowed capital is used for the purpose of business.

Payment of dividend is one of the objectives of the company. Hence, interest on loan of ₹ 80,000 is allowable.

- (iii) Fees paid to independent directors for attending board meeting without deduction of tax at source under section 194J shall attract disallowance to the extent of 30% as per section 40(a)(ia).

Hence a sum of ₹22,500, being 30% of ₹ 75,000 shall be disallowed.

- (iv) As per section 36(1)(iii) interest on borrowed capital shall be allowed as deduction, if the borrowed capital is used for the purpose of business.

Payment of dividend is one of the objectives of the company. Hence, interest of ₹40,000 on bank overdraft utilised for payment of dividend is allowable as deduction.

- (v) As per section 36(1)(vii), bad debts do not include provision for bad debts.

Hence, provision for bad debts is not allowable as deduction under section 36(1)(vii).

5. (a) Under section 43B of the Income-tax Act, certain items are allowed only on actual payment basis, regardless of the method of accounting followed by the assessee. Name four such items and the due date by which they can be paid to claim deduction in the current year itself. 5

- (b) What is the rate of tax and the amount of tax to be deducted at source from the following payments? 5

(i) Discount of ₹ 50,000 allowed to a customer.

(ii) Sales commission of ₹ 12,000.

(iii) House worth ₹ 60 lakhs given as prize in a TV show to a resident individual.

(iv) Purchase of rural agricultural land for ₹ 90 lakhs.

- (c) For the assessment year 2016-17, an individual assessee filed return of income on 30.11.2016. He has unabsorbed depreciation of ₹ 2 lakhs and business loss of ₹ 3 lakhs. Can these items be carried forward to subsequent assessment year? Can this return be

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revised upon discovery of any error?

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Answer:

5. (a) Following items are allowed only on actual payment basis as per the provision of section 43B:
- (i) Employer's contribution to provident fund
 - (ii) Any tax, duty, cess or fee like service tax, excise duty, market committee cess, etc.
 - (iii) Interest on loan to banks and financial institutions.
 - (iv) Bonus or commission to employees.
 - (v) Leave encashment.

If these amounts, when shown as provision in the books, are paid on or before the due date for filing of return of income, then the same can be claimed as deduction in the current year itself.

(b) Obligation to deduct tax at source

- (i) Discount of ₹ 50,000 allowed to a customer.

There will be no liability to deduct tax at source. Only if it is commission, there will be TDS obligation.

- (ii) Sales Commission of ₹ 12,000.

Tax is to be deducted at source under section 194-H at the rate of 10%. TDS amount will be ₹ 1,200.

- (iii) House worth ₹ 60 lakhs given as prize in a TV show to a resident individual. As per section 194B, tax is required to be deducted at 30% as the amount of winning exceeds ₹ 10,000. The amount TDS is ₹ 18 lakhs (i.e. 30% of ₹ 60 lakhs) and the same has to be recovered from the winner before the house is handed over to him.

- (iv) Purchase of rural agricultural land for ₹ 90 lakhs.

There is no obligation to deduct tax at source, where the property purchased from a resident is rural agricultural land.

- (c) It is clear that since the return of income has been filed on 30-11-2016, the same is not a return of income filed within the due date specified in section 139(1). It is a belated return.

As per section 139(3) read with section 80, certain losses which include business loss, can be carried forward only where the return has been filed within the due date. Here, the return of income was filed belatedly.

Therefore, business loss of ₹ 3 lakhs cannot be carried forward.

However, unabsorbed depreciation is not covered by the same. Hence, the same can be carried forward.

A belated return cannot be revised.

- 6. (a) Compute the amounts of advance tax installments payable in the financial year 2015-16 in respect of the following cases: 4**

- (i) A domestic company with tax liability of ₹ 3,90,000.**

- (iii) A super senior citizen (age above 80) having pension income of ₹ 3 lakhs and property income (computed) ₹ 5 lakhs.**

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- (b) Determine the total income of Mr. Raman from the following details for the Assessment Year 2016-17: 6

Particulars	₹ In lakhs
Loss from house property	3.20
Income from salary	2.20
Income from non-speculation business	1.60
Loss from speculation business	5.40
Long-term capital gain from sale of land	2.40
Long-term capital gain from sale of listed shares in recognised stock exchange	1.80
Short-term capital loss from sale of listed shares in recognised stock exchange	2.80
Family pension received	2.20
Lottery winnings (net of TDS)	2.10
Lottery tickets purchased	0.30

Show clearly the items to be carried forward and those which cannot be carried forward.

- (c) Express Shipping Inc., a foreign company operating its ships in Indian ports during the previous year 2015-16 had collected the revenue as follows: 5

Freight (including ₹ 40 lakhs collected in US dollar for the cargo booked for Pradeep Port from UK)	₹ 200 lakhs
Demurrages	₹ 40 lakhs
Handling charges	₹ 20 lakhs

The expenses of operating its fleet during the year for the Indian ports were ₹ 110 lakhs which includes an expense of ₹ 0.40 lakhs paid in cash to an agency. Compute income of the company under the head 'Profits and Gains from business or profession' for Assessment Year 2016-17.

Answer:

6. (a) (i) A domestic company with tax liability of ₹ 3,90,000

Due date on or before	%	Amount ₹
15.06.2015	15%	58,500
15.09.2015	45%	1,75,500 less amount paid in the previous installment
15.12.2015	75%	2,92,500 less amounts paid in the previous installments.
15.03.2016	100%	3,90,000

- (ii) A super senior citizen (age above 80) having pension income of ₹3 lakhs and property income (computed) ₹5 lakhs. In the case of senior citizens and super senior citizens as per section 207(2) no advance tax is payable where they do not have income chargeable under the head 'profits and gains of business or profession'. Thus advance tax liability = 'NIL'.

- (b) Computation of total income of Mr. Raman for Assessment Year 2016-17

Particulars	₹ In lakhs	₹ In lakhs
Income from salary	2.20	
Loss from house property	3.20	
Balance loss from house property	1.00	

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Income from non-speculation business	1.60	
House property loss set off	1.00	
Chargeable income from non-speculation business		0.60
Loss from speculation business (to be carried forward)	5.40	
Long-term capital gain from sale of land	2.40	
Short-term capital loss from sale of shares in recognised stock exchange set off against long-term capital gain	2.40	
Balance short-term capital to be carried forward	0.40	
Long-term capital gain from sale of listed shares in recognised stock exchange (This is exempt under section 10(38) and hence cannot be disturbed in any manner)	1.80	
Income from other sources		
Family pension received	2.20	
Less: Standard deduction	0.15	
Chargeable family pension		2.05
Lottery winnings (Gross) (No deduction is allowed from this income)		3.00
Total Income		5.65

- (c) Computation of Income from Shipping Business of Express Shipping Inc., a foreign company for Assessment Year 2016-17:

Particulars	₹ In lakhs
Total freight (including ₹ 40 lakhs collected in US \$ for the cargo booked for Paradeep Port from UK)	200
Demurrages	40
Handling Charges	20
Total amount received	260
Deemed income from operating ships in India at 7.5% (as per section 44B)	19.50

Notes:

- As per section 44B, if the assessee is non-resident and engaged in business of operating ships in India, then amount computed at 7.5% of the amount received or deemed to be received in India (which includes demurrage charges and handling charges) shall be deemed to be income from such business.
- Section 44B overrides the provisions of sections 28 to 43A and income from business is deemed to be 7.5% of the receipts, expenses of operating fleet in Indian ports are not separately allowable.
- As section 44B overrides the provisions of sections 28 to 43A, disallowance under section 40A (3) for payment of ₹ 0.40 in cash cannot be made.

Section B (International Taxation and Transfer pricing)

Answer Question No. 7 which is compulsory and any one from Question Nos. 8 and 9.

7. State whether true or false with reference to the following in the context of transfer pricing provisions: 1×5=5
- In case of an international transaction (not specified domestic transaction), one of the parties should necessarily be non-resident.
 - An advance pricing agreement shall be valid for a period of ten years.
 - All transactions entered into with entities in Notified Jurisdictional Areas (NJA) will be deemed to be international transactions.

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- (d) Whenever an enterprise has entered into international transactions, regardless of the amount, the audit report in the prescribed form should be obtained.
- (e) "Arm's length price" means a price which is applied or proposed to be applied in a transaction between two associated enterprises.

Answer:

7. (a) True
(b) False
(c) True
(d) False
(e) False
8. (a) In the context of Advance Pricing Agreements (APA) answer the following: 6
- (i) Assessee who are eligible for applying APA.
 - (ii) Time limit up to which the APA is valid.
 - (iii) Validity of APA where the return is filed before entering into an APA.
 - (iv) Binding force of APA.
 - (v) Validity of APA due to change of law or facts.
 - (vi) Binding nature of APA in respect of completed assessments.
- (b) Examine the validity of the following statements: 4
- (i) A Ltd., an Indian company having branches outside India transferred goods from India and there was inter se transfer of goods between branches outside India. Such transfer of goods would not fall in the category of international transaction.
 - (ii) B Co Ltd., being a branch at Mumbai of a foreign company X Co Ltd. exported and imported goods with its head office at London. Such transfer of goods would fall in the category of international transaction.
- (c) Explain in brief the meaning of the term 'specified domestic transaction'. 5

Answer:

8. (a) (i) Any tax payer involved in international transaction may enter into an advance pricing agreement with the taxing authority.
- (ii) The APA shall be valid for such period as specified in the agreement, but in no case its validity shall exceed 5 consecutive previous years.
- (iii) Within a period of 3 months from the end of the month in which the APA was entered into, the assessee has to furnish a modified return, notwithstanding any contrary provision contained in section 139.
- (iv) APA shall be binding on the person in respect of the transaction in relation to which it was entered into and also the Commissioner or Principal Commissioner and the Income-tax authorities subordinate to him, in respect of the said person and the said transaction.
- (v) APA shall not be binding and valid if there is any change in law or facts having bearing on such APA.
- (vi) If the assessment or reassessment has been completed before furnishing of modified

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return the AO shall proceed to assess or reassess or re-compute the total income within one year from the end of the financial year in which the modified return was filed. This shall be regardless of the time limitation contained in sections 153,153B or 144C.

(b) (i) True

Transactions between a resident assessee and its foreign branches or between the two foreign branches will not be considered as international transactions. Since the assessee A Ltd is resident in India, all its foreign branches will also be deemed to be resident in India.

Hence, the transfer of goods between head office in India to branches outside India or among branches inter se outside India will not be considered as international transaction.

(ii) True.

The Indian branch of a foreign company being a PE of the foreign company will liable to tax in respect of its Indian operations. Therefore any transaction between Indian branches of a foreign company with its head office or with any of the branches outside India will be considered as international transaction and it will have to establish that the transaction was at arm's length price.

(c) Section 92BA that 'term 'specified domestic transaction' means any of the following transaction not being an international transaction, viz,

- (i) any expenditure in respect of which payment has been made or is to be made to a person referred to in section 40A(2)(b);
- (ii) any transaction referred to in section 80A (i.e. inter-unit transfer of goods and services by an undertaking or unit or enterprise or eligible business to other business carried on by the assessee or vice versa, for a consideration not corresponding to the market value on the date of transfer);
- (iii) any transfer of goods or services referred to in section 80-IA(8) (i.e. inter unit transfer of goods or services between eligible business and other business, where the consideration for transfer does not correspond with the market value of goods and services);
- (iv) any business transacted between the assessee carrying on eligible business and other person referred to in section 80-IA(10);
- (vi) any transaction, referred to in any other section under Chapter VI-A or section 10AA, to which the provisions of section 80-IA(8) or section 80-IA(10) are applicable; or (vi) any other transaction as may be prescribed.

9. (a) State the requirements of section 92D of the Income-tax Act relating to maintenance and keeping of information and documents by persons entering into an international transaction or specified domestic transaction. **5**

(b) What are the methods recognised for determining Arm's Length Price as per section 92C of the Income-tax Act? **6**

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- (c) When can a non-resident Indian having income in India be eligible for not filing his return of income in India? 4

Answer:

9. (a) Maintenance and keeping of information and document by persons entering into an international transaction [or specified domestic transaction] [Sec 92D]
- (1) Every person who has entered into an international transaction & [or specified domestic transaction] shall keep and maintain such information and document in respect thereof, as may be prescribed'.
 - (2) Without prejudice to the provisions contained in sub-section (1), the Board may prescribe the period for which the information and document shall be kept and maintained under that subsection.
 - (3) The Assessing Officer or the Commissioner (Appeals) may, in the course of any proceeding under this Act, require any person who has entered into an international transaction to [or specified domestic transaction] to furnish any information or document in respect thereof, as may be prescribed under sub-section (1), within a period of thirty days from the date of receipt of a notice issued in this regard;

However, the Assessing Officer or the Commissioner (Appeals) may, on an application made by such person, extend the period of thirty days by a further period not exceeding thirty days.

Report from an accountant to be furnished by persons entering into international transaction [or specified domestic transaction].

(b) **Methods for determining Arm's Length Price**

As per Sec.92C of the Income Tax Act, 1961, the methods for determining Arm's Length Price may be represented as under:

- (1) Comparable Uncontrolled Price Method,
- (2) Resale Price Method,
- (3) Cost plus Method,
- (4) Profit Split Method,
- (5) Transactional Net Margin Method,
- (6) Such other method as may be prescribed by the Board.

- (c) Section 115-G provides that where the total income of non-resident Indian consists of income by way of investment income or long-term capital gain, such non-resident Indian need not file his return of income subject to the following conditions:
- (i) His total income assessable under the Act consisted only of investment income or income by way of long-term capital gain or both; and
 - (ii) The tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income.
 - (iii) Provisions of Chapter XII-A are optional and they would continue to apply if the assessee so chooses even after becoming resident in India.