

Paper 16 - Direct Tax Laws and International Taxation

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Full Marks: 100

Time allowed: 3 hours

The figures in the margin on the right side indicate full marks.
Working notes should form part of the answer.

PART – I

Answer Question Number 1 which is compulsory

1. Choose the correct alternative and also provide your justification: [10×2=20]
- (i) A person whose total income does not exceed ₹ 5 lakhs, required to furnish a return of income u/s 139, failed to do so within the due date. How much fee he is required to pay?
- (a) ₹1,000
 - (b) ₹2,000
 - (c) ₹ 5,000
 - (d) ₹10,000.
- (ii) Intimation u/s 143(1) must be send within how many days / months / years from the end of financial year in which return of income is filed.
- (a) 30 days
 - (b) 180 days
 - (c) 9 months
 - (d) 3 years.
- (iii) What is the due date of installment for upto 45% of advance tax liability of the assessee other than the assessee in respect of an eligible business referred to in sec. 44AD or 44ADA is:
- (a) On or before March 15
 - (b) On or before June 15
 - (c) On or before September 15
 - (d) On or before December 15.
- (iv) When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may proceed to recover from such assessee the amount specified in the certificate by one or more of the modes available. Which of the following is/ are not incorrect?
- (a) attachment and sale of the assessee's movable property
 - (b) attachment and sale of the assessee's immovable property
 - (c) appointing a receiver for the management of the assessee's movable and immovable properties
 - (d) All of the above.
- (v) Who will be the appellate authority, for the 2nd appeal made by the assessee or the Commissioner (or Principal Commissioner) of Income tax against the order of Commissioner (Appeals)?
- (a) CBDT
 - (b) Income Tax Appellate Tribunal (ITAT)
 - (c) High Court
 - (d) Supreme Court

- (vi) As per ICDS VII, the treatment of government grants related to the depreciable fixed asset will be _____.
(a) The grant shall be deducted from the actual cost of the asset or from the written down value of block of assets
(b) The grant shall be recognised as income of the period in which it is receivable
(c) The grant shall be recognised as income over the periods necessary to match them with the related costs which they are intended to compensate
(d) The grant shall be added to the actual cost of the asset or from the written down value of assets.
- (vii) In case an assessee fails to furnish any information relating to a specified domestic transaction, what is the quantum of penalty as a percentage of value of the transaction ?
(a) 1%
(b) 2%
(c) 3%
(d) 5%
- (viii) As per section 178(3), the company's _____ has to intimate the tax authority before he parts with any of the assets of the company or the properties in his hands and has to set aside the amount if any intimated to him by the tax authorities.
(a) Chartered Accountant
(b) Liquidator
(c) Manager
(d) Managing Director
- (ix) As per sec. 94B, interest expenses claimed by an entity to its associated enterprises shall be restricted to ____ of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less.
a. 30%
b. 25%
c. 20%
d. 50%
- (x) If an assessee discovers any omission or wrong statement (bonafide in nature) in the return filed, he may file the revised return —
(a) on or before 31st December of the relevant assessment year
(b) before completion of regular assessment
(c) on or before 31st December of the relevant assessment year or before completion of regular assessment, whichever is earlier
(d) on or before 31st December of the relevant assessment year or before completion of regular assessment, whichever is later.

PART – II

Answer any five questions from question numbers 2 to 8. Each question carries 16 marks

[16x5= 80]

- 2.(a) Tax audit u/s 44AB is applicable to Mr. S, a businessman. For the assessment year 2022-23, the due date of submission of return of income is September 30, 2022. The return, is uploaded on September 25, 2022. Intimation u/s 143(1) is received by email on October 8, 2023. Date of intimation and date of grant of refund is October 6, 2023. The following information are related to how refund is calculated :

	₹
Tax on income assessed	2,92,430
Add: interest u/s 234C	18,000
Total	3,10,430
Less: Credit for prepaid tax -	
— TDS, TCS and tax paid in advance	4,70,000
— Self-assessment tax paid on August 18, 2022	9,000
Refund due	1,68,570

Compute the amount of interest payable by the Government u/s 244A. [8]

- (b) P Ltd. owns two undertakings. Undertaking-A is eligible for deduction u/s 80-IA and Undertaking-B is not eligible for such deduction. Date of commencement of operation in both the undertaking is 14th September, 2021. The profits earned by both the undertaking are as under:

Previous Year	Undertaking-A (₹ in Lakhs)	Undertaking-B (₹ in Lakhs)
2021-22	(-) 6	(-) 4
2022-23	(-) 4	10
2023-24	5	9
2024-25	8	6
2025-26	9	(-) 3

Calculate total income of P Ltd. for last three assessment years [8]

3. X Ltd. commences an operation of a warehousing facility for storage of agricultural produce in Andhra Pradesh. The records of the company reveals the following information:

Expenses incurred prior to April 1, 2021

	₹
Purchase of land for warehouse	50,00,000
Contribution cost	8,10,000
Purchase of know-how for warehouse	10,00,000
Salary paid to staff	68,000
These expenses are capitalized on March 31, 2021.	
Expenses incurred during 2021-22:	
Construction cost of warehouse	60,00,000
Purchase of old plant and machinery (from Germany)	4,00,000
Purchase of new plant and machinery	9,00,000
Purchase of old plant and machinery (from domestic market)	2,00,000
Purchase of goodwill	3,50,000

Profit and loss account for the year 2021-22:

	₹		₹
Depreciation of building (@ 5%)	3,40,000	Amount collected from persons using warehouse	78,00,000
Depreciation of machinery (@ 23.333%)	3,50,000		
Cost of know-how (amount written off)	10,00,000		
Other operating expenses	7,51,000		
Donation to a political party	10,000		
Net profit	53,49,000		
	78,00,000		78,00,000

A payment of ₹ 40,000 is made in cash out of other operating expenses. Other operating expenses are deductible under section 37. Compute the taxable income of X Ltd. for the assessment year 2022-23 on the assumption that X Ltd. has the following income from other sources –

- income from the commission agency business: ₹ 10,14,000 (computed under the provisions of the Income-tax Act) and
- dividend from a foreign company: ₹ 65,000. [16]

4. (a) Which are the appealable orders in case of appeals to Income Tax Appellate Tribunal (ITAT)? [7]

(b) on June 30, 2021, F Ltd. finds V Ltd. for amalgamation to expand the business. You are required to compute the tax implication in respect of the following losses/allowances of F Ltd. in the assessments of F Ltd. (i.e., amalgamating company) and V Ltd. (i.e., amalgamated company).

Unabsorbed depreciation allowance of the previous year 2002-2003: ₹ 34,000; brought forward business loss of the previous year 2018-19: ₹ 10,20,000; scientific research expenditure which is unabsorbed : ₹ 12,000; bad debts: ₹ 20,000 ; capital gain arising on transfer of assets to V Ltd. : ₹ 2,50,000 and brought forward capital loss ₹ 40,000. [9]

5.(a) The appellant is a Limited Company engaged in the business of manufacture and sale of various kinds of paints. A notice was issued by the A.O. to the appellant (assessee) u/S 143(2) of the Act which called upon the appellant to explain as to on what basis the appellant had claimed in the return a deduction under the head “preliminary expenses” amounting to ₹7,03,306/- being 2.5% of the “capital employed in the business of the company” u/S 35D of the Act. The appellant contended that it had issued shares on a premium which, according to them, was a part of the capital employed in their business and therefore, they are entitled to claim the same under Section 35D of the Act. The A.O. did not agree with such explanation . Justify. [8]

(b) The assessee had granted certain loans to its Associated Enterprises (AE) on which no interest was charged. The AO was of the opinion that the granting of loans to AE is an international transaction. The AO worked out interest income thereon to determine the Arm’s Length Price. The said order was affirmed by the Tribunal. Justify whether the contention of the A.O. is legally tenable or not. [8]

6.(a) Describe the term, ‘Permanent Establishment’ in the context of Double Taxation Avoidance Agreement. Which are the items excluded from the list of Permanent Establishment? [4+5=9]

(b) J Inc. of Korea and CD Ltd, an Indian Company are associated enterprises. CD Ltd manufactures Cell Phones and sells them to J.K. & F Inc., a Company based at Nepal. During the year CD Ltd. supplied 2,50,000 Cellular Phones to J Inc. Korea at a price of ₹3,000 per unit and 35,000 units to JK & F Inc. at a price of ₹5,800 per unit. The transactions of CD Ltd with JK & F Inc. are comparable subject to the following considerations: Sales to J Inc. are on FOB basis, sales to JK & F Inc. are CIF basis. The freight and insurance paid by J Inc. for each unit @ ₹700. Sales to JK & F Inc. are under a free warranty for Two Years whereas sales to J Inc. are without any such warranty. The estimated cost of executing such warranty is Rs.500. Since J Inc.’s order was huge in volume, quantity discount of ₹200 per unit was offered to it.

Compute the Arm’s Length Price and the subsequent amount of increase in the Total Income of CD Ltd, if any. [7]

7. (a) How Arm's Length price u/s 92C is determined by using resale price method? Which are the steps to be followed for application of this method? [5+5=10]
- (b) Mr. A, an individual, resident of India, receives the following payments after TDS during the previous year 2021-22:
- (i) Professional fees on 17.08.2021 2,40,000
 - (ii) Professional fees on 04.03.2022 1,60,000
- Both the above services were rendered in country X on which TDS of ₹50,000 and ₹30,000 respectively has been deducted. He had incurred an expenditure of ₹2,40,000 for earning both these receipts / income. His income from other sources in India is ₹5,00,000 and he has made payment of ₹70,000 towards LIC. Compute the tax liability of Mr. A and also the relief u/s 91, if any, for A.Y.2022-23. [6]
8. Write short note (any four): [4×4=16]
- (a) Advance Ruling
 - (b) Tax Authorities as per Black Money and Imposition of Tax Act.
 - (c) Disclosure requirement of ICDS X.
 - (d) Interest for failure to deduct and pay tax at source.
 - (e) Return of Loss.