

FINAL EXAMINATION

December 2023

P-15(DIT)
Syllabus 2022

DIRECT TAX LAWS AND INTERNATIONAL TAXATION

Time Allowed: 3 Hours

Full Marks: 100

*The figures in the margin on the right side indicate full marks.
Where considered necessary, suitable assumptions may be made and
clearly indicated in the answer.*

SECTION-A (Compulsory)

1. Choose the correct option.

2×15=30

- (i) AB Ltd. has debited a sum of ₹ 780 lakhs towards income-tax in its Statement of Profit and Loss for the year ended 31-3-2023. It includes ₹34 lakhs towards surcharge and ₹6 lakhs towards HEC. How much would be the amount of disallowance of income-tax under section 40(a)(ii)?
- (A) Nil
(B) ₹ 740 lakhs
(C) ₹ 774 lakhs
(D) ₹ 780 lakhs.
- (ii) For Doomsday Ltd. there was an outstanding interest payment due to a nationalized bank of ₹ 340 lakhs, which was converted into 8% Debentures on 12-03-2023. How much of interest due to the bank would be deemed as paid and allowable under section 43B by issue of 8% debentures?
- (A) Nil
(B) ₹ 85 lakhs
(C) ₹ 170 lakhs
(D) ₹ 340 lakhs
- (iii) Bala was found to be the owner of jewellery worth ₹ 22,60,000 during the financial year ending 31.03.2023 which was not recorded in his books of account and he could not offer satisfactory explanation of the source of income for acquiring the same. How much of income-tax is payable by Bala under section 115BBE (including surcharge and cess, if any) for the said jewellery?
- (A) ₹ 17,62,800
(B) ₹ 7,05,120
(C) ₹ 5,10,120
(D) ₹ 4,32,120

(iv) Ramesh & Co paid ₹ 5 lakhs to Wave Inc. a foreign company not having a PE in India towards online digital advertisement charges. How much is the amount payable by Ramesh & Co as equalisation levy for the payment made?

- (A) ₹ 30,000
- (B) ₹ 31,200
- (C) Nil
- (D) ₹ 12,000

(v) The total income of Minerals (P) Ltd. a trading company, computed as per the normal provisions of Income-tax Act is ₹ 8,40,000 for the year ended 31st March, 2023. The annual turnover of Minerals (P) Ltd. was always less than ₹ 10 crores. Book profit of the company computed as per the provisions of section 115 JB is ₹ 18,40,000. What would be the final tax liability of the company for the assessment year 2023-24?

Note: Ignore surcharge and cess.

- (A) ₹ 2,52,000
- (B) ₹ 2,76,000
- (C) ₹ 2,10,000
- (D) ₹ 2,25,000

(vi) During the course of assessment in the case of M & Co (firm) the Assessing Officer found out one accommodation entry (bogus purchase) for ₹ 7 lakh from another firm by name P & Co. Both M & Co and P & Co have admitted fake invoice and accommodation entry. What would be the penal consequence of the transaction? (Ignore HEC)

- (A) Penalty on M & Co @100% of tax being ₹ 2,10,000
- (B) Penalty on M & Co @200% of tax being ₹ 4,20,000
- (C) Penalty on M & Co @200% of transaction being ₹ 2,10,000 and amount equal to the transaction being ₹ 7,00,000.
- (D) Penalty on M & Co @200% of tax being ₹ 4,20,000 plus the amount equal to the transaction being ₹ 7,00,000. Also, penalty equal to the amount of transaction on P & Co being ₹ 7,00,000.

- (vii) Mr. A filed his return of income for the assessment year 2023-24 on 20th December, 2023. He noticed in January, 2024 that he has omitted to admit income from business of ₹ 4 lakhs in the ITR filed by him for the assessment year 2023-24. What is the maximum time limit available for Mr. A to file updated return?
- (A) 31.03.2024
(B) 31.03.2025
(C) 31.03.2026
(D) 31.03.2027
- (viii) Little Co. Ltd., Delhi, proposes to enter into a transaction for purchase of raw material from UK and sale of finished goods to its group company located in Australia. It has obtained advance ruling in respect of the transactions but it is aggrieved with the ruling given by Board for Advance Rulings. What is the legal remedy available to Little Co. Ltd?
- (A) File an appeal before Commissioner (Appeals) against the ruling.
(B) File an appeal before ITAT against the ruling.
(C) File an appeal before High Court against the ruling.
(D) File a revision petition under section 264 with Commissioner.
- (ix) Income-tax authority having jurisdiction of Azeem & Co conducted a survey under section 133A and seized the books of account and other documents on 10.10.2022. What is the maximum time limit that the books of account and other documents can be retained by the Income-tax authority without obtaining permission of higher authorities?
- (A) Up to 15 days exclusive of holidays
(B) Up to the end of the previous year i.e. 31.03.2023
(C) Up to 30 days exclusive of holidays
(D) Up to the date of completion of assessment under section 143(3)
- (x) Srinath (P) Ltd. filed its return of income with suo moto adjustment of ₹ 300 lakhs in respect of ALP of its transactions with its associated enterprise. Within how many days the amount of secondary adjustment must be repatriated to India in order to avoid interest under section 92 CE read with rule 10CB?
- (A) Within 90 days from the end of the assessment year
(B) Within 120 days from the date of filing ITR
(C) Within 90 days from the 'due date' specified in section 139(1)
(D) Within 30 days from the end of the assessment year

(xi) How much is the minimum tax effect that should be involved to invoke GAAR provisions?

(A) No minimum limit

(B) ₹ 3 crores

(C) ₹ 2 crores

(D) ₹ 50 lakhs

(xii) Which model of DTAA, does Government of India generally follow in its treaty with other countries?

(A) UK Model

(B) US Model

(C) UN Model

(D) OECD Model

(xiii) Mesne (P) Ltd. engaged in international transactions entered into APA on 1st June, 2022. Its appeal before CIT (Appeals) was pending for the assessment year 2021-22 and the ITAT has given decision in favour of the Revenue for the assessment year 2020-21. It wants to avail rollback benefit. Assume that the returns of income of all the assessment years were filed before the 'due date' specified in section 139(1). For which of the assessment years the rollback benefit would be available?

(A) Assessment year 2018-19 to assessment year 2021-22

(B) Assessment year 2019-20 to assessment year 2022-23

(C) Assessment years 2019-20, 2020-21 and 2022-23

(D) Assessment years 2019-20, 2021-22 and 2022-23

(xiv) Ramji Ltd. entered into international transactions during the previous year 2022-23 for a sum exceeding ₹ 10 crores. It has omitted to furnish report from an accountant as required under section 92E. What is the quantum of penalty leviable for the failure to furnish report from the accountant?

(A) ₹ 50,000

(B) ₹ 1,00,000

(C) ₹ 1,50,000

(D) 0.5% of the transactions being ₹ 5,00,000

- (xv) In the assessment of Amit (P) Ltd. there was increase in income by way of arm's length price adjustment of ₹ 200 lakhs. The assessee decided to pay additional income-tax instead of making secondary adjustment. What is the tax rate at which the additional income-tax is payable by the assessee?
- (A) 10.92%
 (B) 16.692%
 (C) 20.9664%
 (D) 23.296%

SECTION-B

Answer any five Questions out of seven questions given. Each question carries 14 marks.

14×5=70

2. Small (P) Ltd. engaged in various activities, reports a net profit of ₹ 20,60,000 after debit / credit of the following items to its Statement of Profit and Loss for the year ended 31st March, 2023:

Items debited to Statement of Profit and Loss:	₹
Interest paid to non-resident without deduction of tax at source	8,00,000
Proposed dividend	1,00,000
Bank term loan interest unpaid [because of dispute regarding rate of interest. It would be paid only after the 'due date' specified in section 139(1)]	1,20,000
Provision for bad and doubtful debts	2,00,000
Depreciation (includes ₹ 40,000 on account of revaluation of assets)	1,70,000
Items credited to Statement of Profit and Loss:	
Agricultural income	60,000
Long-term capital gain on sale of vacant land	2,10,000
Long-term capital gain on sale of shares (STT Paid)	95,000

Additional Information:

Depreciation allowable as per Income-tax Act	2,40,000		
	As per books (₹)	As per Income-tax Act (₹)	
Brought forward business loss	1,10,000	1,30,000	
Brought forward depreciation	90,000	1,50,000	

You are required to compute –

- (i) Income from business as per normal provisions; and
- (ii) Book profit under section 115JB.

Note: Give brief reasons for treatment of each item considered by you in your answer. 14

3. (a) In respect of the following independent transactions undertaken during the previous year 2022-23, state whether they are tax planning or tax management or tax evasion:

- (i) Filing ITR before the 'due date' in order to carry forward business loss.
- (ii) Setting up of a warehouse to avail tax benefit under section 35AD.
- (iii) Payment of medical insurance premium of ₹ 45,000 for a parent, aged 76.
- (iv) Collecting PAN Details of contractors to whom TDS as per section 194C is to be made.
- (v) Recording in the books of account, salary payment to J, who is not actually employed by the assessee.
- (vi) Paying advance tax instalments in accordance with section 211.
- (vii) Gifting a property to major son in order to divert rental income so that it is taxed at a lower slab rate. 7

(b) Tiger (P) Ltd. is engaged in manufacture of textile garments and automobile parts. It has been incurring losses in manufacture of automobile parts. The management of the company wants to divest automobile parts manufacture for a lump sum consideration of ₹ 500 lakhs. The net worth of the automobile division has been computed @ ₹ 340 lakhs. The automobile division was in existence for the past 10 years. The management has identified a potential buyer by name Lion Ltd. There are two options available to Tiger (P) Ltd. regarding divesting of automobile division viz. (i) slump sale; or (ii) demerger.

Briefly explain to the management of Tiger (P) Ltd. the comparative pros and cons of slump sale and demerger of automobile division. 7

4. (a) Moon Ltd. engaged in textile business got amalgamated with Sun Ltd. also engaged in similar business on 1st April, 2022, duly complying with the provisions of section 72A. Moon Ltd. has always been filing its ITR within "due date" specified in section 139(1). The following items remain unabsorbed in the hands of Moon Ltd. as on the above said date:

Nature of item	₹
Normal business loss for AY 2018-19	12,60,000
Speculative business loss for AY 2022-23	9,23,560
Unabsorbed depreciation of AY 2022-23	13,23,000
Loss from warehousing business eligible for deduction under section 35AD relating to assessment year 2021-22. Business discontinued w.e.f. 01.04.2021	3,00,000

For the previous year 2022-23, Sun Ltd. has earned profit of ₹ 24,10,000 after current depreciation, but before considering the above said items. With respect to machinery transferred from Moon Ltd. with WDV of ₹ 120 lakhs as on 31-03-2022, the book value adopted by Sun Ltd. is ₹ 100 lakhs as on 01-04-2022 and depreciation has been provided at 15% on this value. This block is entitled to depreciation at 15%.

Compute the total income of Sun Ltd. for the assessment year 2023-24. Note to be given for treatment of each of the item set off in the hands of Sun Ltd, duly considering the provisions of the Act. If any item remains unabsorbed, state the number of years for which the same can be carried forward by Sun Ltd.

- (b) Mr. Wesley a non-resident (age 56 years) furnishes the following information relating to the previous year 2022-23:

Particulars	₹
Interest on deposits with limited companies in India	2,10,000
Short-term capital gain from sale of shares in listed companies, (STT paid).	4,60,000
Long-term capital gain, from transfer of specified foreign exchange asset, sold on 01-06-2022. The long-term capital gain is a computed figure. Note: Expenditure incurred wholly and exclusively in connection with transfer ₹ 17,000 has not been deducted while computing the capital gain given above.	6,67,000
Investment in shares of public limited companies in India on 22-11-2022.	2,10,000

Compute total income and tax liability of Wesley as per Chapter XII-A of the Income-tax Act, 1961.

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5. (a) The income tax assessment of Murali (P) Ltd. was completed on 20th November, 2022. There were three additions to the returned income viz; ₹ 5 lakh; ₹ 4 lakh and ₹ 3 lakh respectively. The assessee filed appeal against first two additions. When the matter was pending in appeal, the CIT invoked section 263 in respect of the third addition. Is the action of CIT tenable in law? What would be your answer in case the assessee filed revision under section 264 in respect of the third addition made in the assessment after filing appeal in respect of the first two additions?
- (b) Mathi (age 55 years) is a resident individual having income from business of ₹ 14,00,000 (computed) for the year ended 31st March, 2023. He sold a vacant land on 15th February, 2023 in which his long-term capital gain (computed) amounts to ₹ 6,00,000. He has TDS credit of ₹ 30,000. He paid advance tax as under:

Date	Amount
13.06.2022	10,000
20.09.2022	50,000
10.12.2022	40,000
27.03.2023	20,000

Assume that he has opted for section 115BAC and compute interest under section 234C payable for the assessment year 2023-24.

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6. (a) Explain the meaning of the term “permanent establishment”; and state whether use of facilities for storage or display or delivery of goods or merchandize is a permanent establishment under OECD and under UN model. 7
- (b) Manoj (age 50 years), an Indian resident doing business in India and in Country X and Country Y, discloses the following information for the previous year 2022-23:

	₹
Income from automobile business in India	9,10,000
Income from rubber estate in Country X	5,00,000
Loss from textile business in Country Y	2,00,000
Income from property in Country Y	50,000
Income from authorship of book in Country Y (not eligible for deduction under section 80QQB)	3,00,000
Contribution to public provident fund	1,10,000
Housing loan interest in respect of self-occupied property in India	2,00,000
Housing loan principal in respect of self-occupied property	70,000
Health insurance premium for non-resident parents (senior citizens)	35,000

Tax rate in Country X 10% without basic exemption limit

Tax rate in Country Y 25% without basic exemption limit

India has no DTAA with both Country X and Country Y.

Note: Assume Manoj has not opted for section 115BAC.

Compute the total income and tax liability of Manoj for the assessment year 2023-24.

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7. (a) SD LLP, a foreign company, holds 32% of the voting powers in ZX Ltd, Mumbai, an Indian company. ZX Ltd. provides banking related software services to its clients. SD LLP is one of the major customers of ZX Ltd.

During the previous year 2022-23, ZX Ltd. has billed SD LLP for 30,000 man-hours at USD 36 per man hour. Direct costs may be taken as USD 18 per man hour and indirect costs at USD 12 per man hour. TY Inc. Colombo is also a client of ZX Ltd. to whom similar services are provided at 45% profit to operating costs. However, the following aspects may be noted as between the services rendered to SD LLP and TY Inc:

- (i) Since SD LLP gives huge volume of business, ZX Ltd. offered a special quantity discount as per market norms, which may be taken as 8% of the gross operating margin;
- (ii) SD LLP provides some technical support to ZX Ltd. because of its specialised knowledge in the banking domain; no such support is derived by the assessee from TY Inc. The value of the technical support of SD LLP to ZX Ltd. may be taken as 10% of the gross operating margin.
- (iii) SD LLP is given a credit period of 15 days, whilst the unrelated party TY Inc. is given a credit period of 45 days. The impact of the extra credit period provided may be taken as 5% of the gross operating margin.

Using Cost Plus Method (CPM), determine the ALP (in INR) and the amount, if any, to be added to the total income of ZX Ltd. for the assessment year 2023-24. (1 USD = ₹ 80).

Note: All calculations may be done up to 3 decimal places.

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- (b) Mithun (P) Ltd. is a subsidiary of Robert LLC of USA. On 1st June, 2022 Mithun (P) Ltd. borrowed ₹ 2500 lakhs from Robert LLC for which interest is payable at 6% per annum. There is no other borrowing made by Mithun (P) Ltd.

The net profit of Mithun (P) Ltd. for the year ended 31st March, 2023 was ₹ 95 lakhs after deduction of the following: (i) Depreciation ₹ 50 lakhs; (ii) Provision for Income-tax ₹ 20 lakhs; (iii) Amortisation of preliminary expenditure ₹ 10 lakhs; and (iv) Interest on loan borrowed from Robert LLC.

Explain thin capitalization's applicability and compute the amount of interest eligible for deduction and / or liable for disallowance in the case of Mithun (P) Ltd. Also state the consequence of interest disallowance.

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8. (a) Dhruv, a resident Indian, was served an intimation under section 143(1) relating to the assessment year 2023-24. He came to know only then that he has omitted to claim deduction under section 80-IA, which he is eligible to claim. He wants to file a revision petition before the Principal Commissioner of Income-tax (PCIT) under section 264 of the Income-tax Act, 1961. The Tax Manager of his concern opines that intimation is not an "order" eligible for a revision under section 264 by PCIT.

Is the opinion of the Tax Manager, correct?

You are required to answer under the following heads: (i) Issue involved, (ii) Provisions applicable (iii) Analysis of the issue, and (iv) Conclusion. 7

- (b) Mittal & Co Ltd, Delhi is engaged in manufacture of computer hardware. It has been exporting its goods to unrelated parties till 31st March, 2023. It is contemplating to sell only to its associated enterprises exceeding ₹ 100 crore in every financial year commencing from financial year 2023-24. As tax manager of the company, you are requested to explain briefly with reference to Advance Pricing Agreement (APA)
- (i) period of its validity; (ii) fees payable; (iii) on whom it is binding; and
 - (iv) determination of ALP after entering into APA. 7