FINAL EXAMINATION — SET - 1

MODEL ANSWERS — TERM – DECEMBER 2023

PAPER – 15 — 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: **[15 x 2 =30]**

(i) Moon Ltd. has received ₹ 99 lakhs (net of TDS) as dividend from a domestic company on 31st Dec 2023. It has distributed ₹ 105 Lakhs as dividend to its shareholders on 31st July 2023. What is the amount of deduction available to Moon Ltd. in respect of such dividend?

(a) ₹ 99 Lakhs
(b) ₹ 105 Lakhs
(c) ₹ 110 Lakhs
(d) Nil

(ii) Star Ltd. set up a manufacturing unit in Chennai on 1st August 2022. It invested ₹ 30 lakhs in new plant and machinery on 1st August 2022. It invested ₹ 50 lakhs in new plant and machinery on 1st Dec 2022, out of which ₹ 10 lakhs was second hand assets. What is the amount of depreciation allowed u/s 32 for the AY 2023-24?

(a) ₹ 8,25,000
(b) ₹18,25,000
(c) ₹ 26,00,000
(d) ₹ 17,50,000

(iii) The book profit of Sun Ltd. is ₹ 40 lakhs and its total income is ₹ 18 lakhs. Calculate tax liability.

(a) ₹ 6,24,000
(b) ₹ 5,61,600
(c) ₹ 12,48,000
(d) ₹ 2,80,800

(iv) A domestic company discloses its taxable income as ₹ 101 lakhs. What is the tax liability?

(a) ₹ 32,24,000
(b) ₹ 33,71,780
(c) ₹ 31,51,200
(d) ₹34,49,680

(v) A firm, which do not have book profits, can claim deduction u/s 40(b) to the extent of:

(a) 100% of payment
(b) ₹ 1,50,000 or 100% of payment, whichever is lower

(c) ₹ 1,50,000 or 100% of payment, whichever is higher
(d) ₹ 1,50,000

(vi) Assessment order in response to notice u/s 143(2) shall be completed within a period of:
(a) 12 months from the end of relevant financial year
(b) 24 months from the end of relevant financial year
(c) 12 months from the end of relevant assessment year
(d) 24 months from the end of relevant assessment year

(vii) Rounding off of tax in respect of which interest is to be calculated to nearest multiple of:
(a) ₹100
(b) ₹10
(c) ₹ 1
(d) Not required

(viii) Income Tax Appellate Tribunal can rectify its own order if it is:
(a) Apparent mistake
(b) Any mistake
(c) Any mistake other than apparent mistake
(d) None of the above

(ix) Equalization levy is applicable if the aggregate amount of consideration for specified transactions exceeds:
(a) ₹ 10,000
(b) ₹ 1,00,000
(c) ₹ 10,00,000
(d) ₹ 1 crore

(x) The relief where there is no Avoidance of Double Taxation Agreement, is:
(a) Bilateral relief
(b) Specified relief
(c) Unilateral relief
(d) No relief

(xi) If income is taxed twice in more than one country but in the hands of different tax payers is called:
(a) Juridical Double Taxation
(b) Economic Double Taxation
(c) Treaty Double Taxation
(d) Deemed Double Taxation

(xii) Range concept principle is applied under Transfer Pricing if there is:
(a) One reasonable price
(b) more than one reasonable price but not more than five
(c) More than five reasonable prices

(d) None of the above

(xiii) Specified Domestic Transactions are covered under Transfer Pricing Provisions if aggregate value of such transactions exceeds:

(a) ₹5 Crores
(b) ₹ 10 crores
(c) ₹ 20 crores
(d) No limit

(xiv) The time limit for passing an order by Transfer pricing officer is within:

(a) 2 years from the end of financial year of reference made
(b) 1 year from the end of financial year of reference made
(c) No time limit
(d) None of the above

(xv) Yogi Ltd. of Varanasi, India exports "Product X" to YO Ltd of Tokyo, Japan an associated enterprise for ₹ 5,300 per product. Yogi Ltd. also exports similar product to Y Ltd and OY Ltd, who are unrelated for ₹ 5,350 and ₹ 5,550 respectively. What is the price considered to compute profits from transaction with YO Ltd?

(a) ₹ 5,400
(b) ₹ 5,300
(c) ₹ 5,450
(d) None of the above

Answer:

(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)	(x)	(xi)	(xii)	(xiii)	(xiv)	(xv)
b	b	a	a	b	c	a	a	b	c	b	c	c	a	b

SECTION – B

(Answer any five questions out of seven questions given. Each question carries 14 Marks)

2. Given below is the Profit and Loss A/C of Mitra Ltd.

Dr.	₹		Cr. ₹
Salaries	3,00,000	Gross Profit	10,00,000
Donation to charitable trust	40,000	Withdrawal from Reserve fund	24,000
Contribution to approved research	30,000	Withdrawal from Revaluation Reserve Fund	25,000
Staff welfare Fund	25,000	Agricultural income	40,000
Proposed dividend	75,000	Short term capital gain	36,000
Bad debts	5,000	Dividend	30,000
Provision for doubtful debts	15,000	Miscellaneous income	45,000

Provision for GST	35,000		
Provision for ascertained liability	10,000		
Income tax	50,000		
Penalty	4,000		
Depreciation	85,000		
Cultivation expenses	12,000		
General reserved	2,000		
Long term capital loss	16,000		
Net Profit	4,88,000		
	12,00,000		12,00,000

Other Information:

1. Depreciation includes ₹ 20,000 on account of revaluation
2. Dividend ₹ 50,000 paid on 30th September, 2023
3. GST ₹ 30,000 paid on 31st October, 2023
4. Brought forward items:

Relating for FY 2018-19	Tax Purpose	Accounts Purpose
(a) Brought forward business loss	25,000	30,000
(b) Unabsorbed depreciation	15,000	20,000

Calculate the tax liability of Mitra Ltd applying MAT u/s 115JB. [14]

Answer:

	(₹)	(₹)
	Book Profit	Business income
Net Profit	4,88,000	4,88,000
(+) Donation	-	40,000
(+) S.W.F	25,000	25,000
(+) Dividend	75,000	75,000
(+) PBD	15,000	15,000
(+) GST	-	5,000
(+) Ascertained	-	10,000
(+) Income Tax	50,000	50,000
(+) Penalty	-	4,000
(+) Cultivation	12,000	12,000
(+) Reserve	2,000	2,000
(+) LTCL	-	16,000
(-) BF Business Loss Or Unabsorbed depreciation (Lower)	20,000	-
(-) Withdrawal	24,000	24,000
(-) Revaluation Reserve (max up to. dep)	20,000	25,000
(-) Depreciation	65,000	-
(-) Agriculture	40,000	40,000
(-) STCG	-	36,000
(-) Dividend	-	30,000
Book Profit	5,83,000	6,07,000

(-) BF Loss/ Depreciation		40,000
Business Income		5,67,000

Calculation of Tax Liability of X Ltd.:

Summary	(₹)
Profits & Gains of Business & Profession	5,67, 000
Short Term Capital Gain	36,000
Income from Other Sources	30,000
Gross Total Income	6,33, 000
(-) Sec 80M (30,000 Or 50,000)	30,000
	6,03, 000

Normal Tax @ 30%	= 1,80,900
(+) HEC @4%	7,236
	1,88,136
MAT @ 15%	= 87,450
(+) HEC @4%	3,498
	90,948

Tax payable = ₹ 1,88,140

3. (a) Mr Gopal, is a salaried employee who submits his income particulars for two financial years:

Income	FY 2022-23 (₹)	FY 2021-22 (₹)
Basic Salary	**10,00,000**	**7,00,000**
Dearness allowance (3/4 is part of retirement benefits)	**2,00,000**	**1,80,000**
House Rent Allowance	**4,00,000**	**4,00,000**
Rent Paid by Gopal	**3,00,000**	**3,00,000**
Arrears of Salary	**3,00,000**	**-**
Life insurance Premium	**65,000**	**63,500**

You are required to calculate amount of exemption allowed in respect in HRA, amount of deduction in respect of life insurance premium and amount of relief in respect of arrears of salary u/s 10(13A), u/s 80C and u/s 89(1) respectively. [7]

(b) Smile Ltd. shifts its industry from urban area in Jaipur to a remote village in Rajasthan state. In the process of shifting the company sells the following assets and purchases new assets at its new place:

	Land (₹)	Building (₹)	Plants & Machinery (₹)
Cost of acquisition (as per section 50)	**NA**	**8,50,000**	**4,50,000**
Sale proceeds	**30,00,000**	**25,00,000**	**9,50,000**
Transfer expenses	**30,000**	**25,000**	**9,500**
Cost of new assets (acquired during April 2023)	**12,00,000**	**8,00,000**	**4,00,000**

Land is acquired during 2012-13 for ₹ 1,00,000 (CII:200). Compute capital gain and suggest a scheme of tax planning. [7]

Answer:

(a)

	2022-23 (₹)	2022-23 (₹)	2021-22 (₹)	2021-22 (₹)
B. Pay	10,00,000	10,00,000	7,00,000	7,00,000
DA(3/4)	2,00,000	2,00,000	1,80,000	1,80,000
HRA	2,15,000	2,15,000	1,83,500	1,83,500
Arrears	3,00,000	-	3,00,000	-
GSI	17,15,000	14,15,000	13,63,500	10,63,500
(-) S.D	5,0000	50000	50000	50000
NSI/GTI	16,65,000	13,65,000	13,13,500	10,13,500
(-) Sec. 80C	65,000	65,000	63,500	63,500
NIT	16,00,000	13,00,000	12,50,000	9,50,000
TAX	3,04,200	2,10,600	1,95,000	1,06,600

Relief = (₹3,04,200 - ₹2,10,600) - (₹1,95,000 - ₹1,06,600) = ₹5,200

Tax Payable = ₹304200 - ₹5200 = ₹2,99,000

Calculation of HRA:	(₹)	(₹)
(i) Actual HRA	4,00,000	4,00,000
(ii) Rent-10% of Salary	1,85,000	2,16,500
(iii) 40% of Salary	4,60,000	3,34,000
Taxable income	2,15,000	1,83,500
Salary for HRA	11,50,000	8,35,000

(b) Computation of Capital gain:

	Land (₹)	Building (₹)	Plant (₹)
Sale proceeds	30,00,000	25,00,000	9,50,000
(-) Transfer Expenses	30,000	25,000	9,500
Net Sales Consideration	29,70,000	24,75,000	9,41,500
(-) Indexed Cost of Acquisition $[1,00,000 \times \frac{331}{200}]$	1,65,500	-	-
(-) Cost of new asset	-	-	-
(-) OWDV	-	8,50,000	4,50,000
Long Term Capital Gain (LTCG)	28,04,500	16,25,000	4,91,500
(-) Sec 54G	2,83,500	16,25,000	4,91,500
Long Term Capital Gain (Net)	25,21,000	Nil	Nil

Tax Planning:

Purchase new assets within relevant financial year in such case, taxable LTCG will be ₹13,21,000.

4. (a) Examine how do you treat the following items when X Ltd. is merging with Y Ltd. on 1st January 2023 on the assumption:

A. Condition u/s 2(1B) and u/s 72A does not satisfy

B. Condition u/s 2(1B) satisfy but conditions u/s 72A not satisfy

C. Conditions u/s 2(1B) and u/s 72A are satisfied

Other Information of X Ltd.:

(i) Business Profits (before adjusting losses and expenses)	₹60,000
(ii) Expenses on merger	₹2,00,000
(iii) VRS Compensation (Paid during 2020-21)	₹4,00,000
(iv) Sale consideration of non-depreciable capital assets	₹20,00,00
(v) Indexed cost of acquisition of non-depreciable capital assets	₹12,00,000
(vi) Sale consideration of depreciable assets	₹10,00,000
(vii) WDV of depreciable assets	₹7,00,000
(viii) Non-speculation business loss relating to 1994-95	₹ 3,00,000
(ix) Unabsorbed depreciation relating to 2020-21	₹ 1,50,000
(x) Long term Capital loss relating to 2021-22	₹ 2,00,000

Business profits of Y Ltd. (before adjusting losses and expenses) ₹ 30,00,000 and long term capital gain of Y Ltd. (before adjusting losses) ₹ 3,00,000 [7]

(b) A non-resident having branch office in India submits the following information relating to the branch.

(i) Net total income ₹ 30,00,000

(ii) Deduction (Chapter VIA) ₹ 2,00,000

(iii) Brought forward business loss ₹ 1,00,000

(iv) Brought forward house property loss ₹ 30,000

(v) Unabsorbed depreciation ₹ 1,50,000

(vi) Expenses reimbursed by branch to Head office ₹ 3,00,000

You are required to compute total income of the branch after adjusting the amount of deduction allowed u/s 44C. [7]

Answer:

(a) (A) If both conditions not satisfied -

X Ltd: (₹)

Business income	60,000
(-) VRS (1/5)	80,000
Business Loss	(-) 20,000

Computation of Capital gain:

	Long Term (₹)	Short term (₹)
Full Value of Sales Consideration	20,00,000	10,00,000
(-) Indexed Cost of Acquisition/WDV	12,00,000	7,00,000
Long Term Capital Gain (LTCG)/ Short Term Capital Gain (STCG)	8,00,000	3,00,000
(-) Long Term Capital Loss / business loss/	2,00,000	20,000
Depreciation	-	1,50,000
	6,00,000	1,30,000

Y Ltd.: (₹)

Business income	30,00,000
(-) Depreciation [10,00,000 x 15% x ½]	75,000
Profits & Gains of Business & Profession (PGBP)	29,25,000
LTCG	3,00,000
TI	32,25,000

(B) If Condition u/s 72A does not satisfy -

X Ltd. (no capital gain) (₹)

Business income	60,000
(-) Merger (1/5)	40,000
(-) VRS	80,000
	(-) 60,000
Depreciation [70,00,000 x 15% x $\frac{275}{635}$]	79,110

Y Ltd. (₹)

Business income	30,00,000
(-) Depreciation [7,00,000 x 15% x $\frac{90}{365}$]	25,890
PGBP	29,74,110
LTCG	3,00,000
	32,74,110

(C) If both conditions satisfy -
X Ltd. (no capital gain) (₹)

Business income	60,000
(-) Merger (1/5)	40,000
(-) VRS	80,000
	(-) 60,000

Depreciation [70,00,000 x 15% x $\frac{275}{635}$]	79,110

Y Ltd. (₹)

Business income	30,00,000
(-) Depreciation	25,890
(-) business loss of X Ltd.	60,000
(-) Depreciation of X Ltd.	79110
(-) BF business loss of X Ltd.	3,00,000
(-) BF depreciation	1,50,000
PGBP	23,85,000
LTCG	3,00,000
	26,85,000

(b) Amount of Deduction u/s 44C:

Adjusted Total Income (ATI) = ₹ [30,00,000+2,00,000+1,00,000+1,50,000+3,00,000] = ₹ 37,50,000

Amount of deduction: @5% of ATI or actual expenses WEL i.e., 5% of ₹ 37,50,000 Or ₹ 3,00,000 whichever is lower.

Amount disallowed = ₹ (3,00,000-1,87,500) = 1,12,500

Total income = ₹ (30,00,000 + 1,12,500) = ₹ 31,12,500

5. (a) An assesse is aggrieved by the following orders:

(i) Order passed u/s 143(3) by the Assessing officer

(ii) Order passed u/s 263 by the commissioner of Income Tax

(iii) Order passed u/s 254 by the Tax Tribunal (ITAT)

The assessee is willing to know the remedies available and the time limit against each remedy under the Income-Tax Act, 1961. Explain. [7]

(b) The total income of an individual assesse is ₹ 8 lakhs. Tax deducted by various payers ₹ 30,000. Tax is paid by way of self-assessment. ROI (due date 31-07-2023) submitted on 31-10-23. Assessment completed on 31-12-2023. Discuss with reasons the interest payable under various provisions. [7]

Answer:

(a) Remedies and time limit:

(i) If an assessee is aggrieved against the orders passed u/s 143(3) by the Assessing officer, he may appeal to the Commissioner of Income Tax (Appeals) U/S 246A(1) within 30 days of the date of service of order.

(ii) If an assessee is aggrieved against the order passed u/s 263 by CIT, he may appeal to ITAT u/s 253(1)(c) within 60 days of the date of its communication to assessee.

(iii)If an assessee is aggrieved against the order passed u/s 254 by ITAI, he may appeal to High Court u/s 260A within 120 days of the date of receipt of order of assessee, only if it involved SQOL.

(b) Calculation of interest (₹)

Tax on ₹ 8,00,000 =	75,400
(-) TDS	30,000
	45,400

		(₹)
Interest u/s 234A =	45,400 x 1 % x 3 =	1362
Interest u/s 234B =	45,400 x 1% x 9 =	4086
Interest u/s 243C =	45,400 x 15% x 1% x 3 =	204.30
	45,400 x 45% x 1% x 3 =	612.90
	45,400 x 75% x 1% x 3 =	1,021.50
	45,400 x 100% x 1% x 1 =	454
	Total Interest	7,740

6. (a) Analyze the special provisions relating to Double Tax Avoidance Relief in case of specified associations in India. Explain with suitable example. [7]

(b) Mr. Prabhas, a resident has earned the following incomes for the year 2022-23.

(i) Income from house property in India but received in UK ₹ 7,00,000

(ii) Royalty on patents outside India ₹ 5,00,000

(iii) Past untaxed income brought into India ₹ 2,00,000

(iv) Tax paid in respect of income (i), (ii) and (iii) above ₹ 90,000, ₹ 75,000 and ₹ 20,000 respectively.

Calculate tax liability and relief if there is:

(A) DTAA under tax exemption method

(B) DTAA under tax credit method

(C) NO DTAA. [7]

Answer:

(a) Double Tax Avoidance Relief (DTAR) is case of specified association [Sec 90A]:

(i) If a specified association in India enters into an agreement with any specified association in a specified territory outside India, Government of India may make provisions for implementing such agreement for DTAR and exchange of information to prevent evasion Or avoidance of tax and recovery of Tax.

(ii) Provisions of Income-tax Act shall apply to the extent they are more beneficial to the assessee.

(iii) For example; if tax is paid of foreign income outside India, no tax is payable on such foreign income in India.

(b) Calculation of Tax Liability:

	Under tax exemption	Under tax credit	Under unilateral
Income from House Property	7,00,000	7,00,000	7,00,000
Income from Other Sources	-	5,00,000	5,00,000
	7,00,000	12,00,000	12,00,000
Tax	54,600	1,79,400	1,79,400
(-) Relief	-	75,000	74,750
		1,04,400	1,04,650

Notes: -

1. Average Tax Rate on total income = $\frac{75000}{5,00,000} \times 100 = 15\%$
2. Average Tax Rate on foreign income = $\frac{179400}{12,00,000} \times 100 = 14.95\%$
3. Relief = 5,00,000 X 14.95 % = 74750

7. (a) X Ltd, an Indian company, supplies 50,000 products to Y Ltd, a German company and which associated, at FOB price of ₹ 4000(after a discount of ₹ 200) per product. It also supplies 5000 products of Z Ltd which is not associated, at CIF price of ₹ 5800 (including warranty charges ₹300) per product. Insurance and freight charges are ₹ 600. Profit disclosed by X Ltd is ₹ 8 Crore. Calculate reasonable profits of X Ltd by applying ALP if X Ltd is covered u/s 10AA. [7]

(b) X Ltd, an Indian company has borrowed ₹ 50 crores from Y Ltd, an American company at an interest rate of 8% pa. X Ltd submits the following particulars:

(i) Net Profit after interest, income tax, depreciation and dividend ₹ 5 Crore

(ii) Income tax ₹ 1.5 crore

(iii) Depreciation ₹ 1 crore

(iv) Dividend ₹ 0.5 crore.

Compute taxable profits of X Ltd if book value of assets is ₹ 98 crores. Does it make any difference if book value of assets is ₹ 99 crores. [7]

Answer:

(a) Calculation of Reasonable Profit:

Arm's Length Price = ₹ (4,000+200+300+600) = ₹ 5,100 Or Recorded Price ₹ 5,800 [Whichever is higher]

Differential Price = ₹ 700

Exempted income = ₹ 8 Cr

Taxable income = 700 x 50,000= ₹ 3.5 Cr

(b) Disallowed interest u/s 94B.

(i) Interest paid – 30% of EBITDA

4,00,00,000 - 30 % of 12,00,00,000 = 40,00,000

(ii) Interest paid = 4,00,00,000

Disallowed interest = 40,00,000 (WEL)

Taxable income = 12,00,00,000-3,60,00,000-1,00,00000 = 7,40,00,000

Note:

No disallowances if interest is paid to unrelated

Person Taxable income = 12,00,00,000- 4,00,00,000-1,00,00,000=7,00,00,000

8. (a) **X Ltd. has two units, Unit A and Unit B engaged in operating a warehouse for storage of Computer Peripherals and mobile spares respectively, since the year 2017. Y Ltd. takes over Unit B of X Ltd. by way of Slump Sale for ₹ 350 lakhs on 01-10-2022. The expenses incurred for this transfer were ₹ 10,50,000.**

Balance sheet (Extract) of X Ltd. as on 30-09-2022

Liability	₹ (in lakhs)	Asset	₹ (in lakhs)
Paid up equity share capital	550	UNIT A	
		Fixed assets	160
General reserve	180	Debtors	250
Revaluation reserve(Unit B)	110	Inventories	270
Bank Loan(70% for unit B)	115	UNIT B	
		Fixed assets	280
Creditors (45% for unit B)	280	Debtors	175
		Inventories	100
	1235		1235

Other information:

(i) Fixed assets of unit B includes a land purchase at ₹50 lakhs during 2016 and revalued at ₹ 160 lakhs. Its stamp duty value is ₹ 150 lakhs

(ii) Fixed assets of unit B includes a plant and machinery acquired from unit A for ₹30 Lakhs

You are required to analyse and answer following questions:

(A) What is the profit on transfers from unit A to unit B?

(B) What is cost of acquisition for the purpose of computing capital gain?

(C) What is the tax liability on capital gain?

(D) What is the tax liability if above transaction is covered u/s 2(19AA) under demerger scheme? [7]

(b) Examine the consequences that would follow if the Assessing officer make adjustment to Arm's length price in international transactions of the assessee resulting in increase in taxable income. Discuss the remedies available to the assessee to dispute such adjustment. [7]

Answer:

(a) Case Study

(A) Profit on transfer = WDV of plant (if there is no slump sale)

(B) Cost of acquisition = Assets – Liabilities = 238,50,000

Assets = Book value of land + WDV of PM+ other fixed assets + Debtors + Inventories

= 50,00,000+30,00,000+90,00,000+175,00,000+100,00,000

= 445,00,000

Liabilities = 70% of loan + 45% of creditors

= 20650000

(C) Tax on Capital gain

Full value of sale consideration	350,00,000
(-) Transfer Expenses	10,50,000
(-) Net worth	238,50,000
LTCG	1,01,00,000

Tax @ 20% = 2020000

(D) If the above transaction is covered u/s 2(19AA).
Tax liability = Nil

(b) Consequences of adjustment of Arm's Length Price (ALP):

(i) No deduction under chapter VIA shall be allowed from the income so increased.
(ii) No exemption under section 10AA shall be allowed to the income so increased.
(iii) NO corresponding adjustment shall be made to the total income of the other associated enterprise.

Remedies available to the assessee:
(i) He can file an appeal u/s 246A to CIT(A) against the order within 30 days of date of Service
(ii) He can opt to file an application for revision of order u/s 264 within one year from the date on which the order sought to the revised is communicated, only if time limit to appeal u/s 246A has expired.