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. Book profit for the purposes of section 115JB means net profit as shown in the Statement of the Profit and Loss prepared in accordance with ________of the Companies Act as increased and decreased by certain items prescribed in this regard.

a. Schedule V
b. Schedule IV
c. Schedule III
d. Schedule II

ii. What is the due date of filing the return of income in case of a company who is required to furnish a report in Form No. 3CEB under section 92E?

a. September 30 of the assessment year
b. November 30 of the assessment the year
c. July 31 of the assessment year
d. June 30 of relevant assessment the year

iii. While computing book profit u/s 115JB, one of the following is required to be reduced from the net profit

a. Unabsorbed Depreciation as per books of account
b. Brought forward business loss as per books of account
c. Brought forward loss or unabsorbed depreciation, whichever is less as per books of account
d. Income-tax paid or payable if not already debited to the Statement of Profit and Loss

iv. Prosecution can be launched and the taxpayer can be punished if he commits wilful failure to produce before the tax authorities the accounts and documents as demanded u/s ___________.

a. 154
b. 147
c. 143(1)
d. 142(1)

v. Mr. KOKO and Mr. POPO sold their residential house property in Pune for ₹ 3 crore and ₹ 4 crore, respectively, in January, 2024. The house property was purchased by them 25 months back. The indexed cost of acquisition is ₹ 1 crore and ₹ 1.75 crore, respectively. Mr. KOKO purchased two residential flats, one in Delhi and one in Agra for ₹ 70 lakhs and ₹ 80 lakhs, respectively, in April, 2024. On the same date, Mr. POPO also purchased two residential flats, one in Mumbai and the other in Pune, for ₹ 80 lakhs and ₹ 75 lakhs, respectively. Both of them invested ₹ 30 lakhs in bonds of NHAI in March, 2024 and ₹ 30 lakhs in bonds of

RECL in April, 2024. What is the income taxable under the head "Capital Gains" for A.Y.2024-25 in the hands of Mr. KOKO and Mr. POPO?

a. Nil and ₹ 70 lakhs, respectively
b. ₹ 70 lakhs and ₹ 85 lakhs, respectively
c. Nil and ₹ 95 lakhs, respectively
d. ₹ 70 lakhs and ₹ 95 lakhs, respectively

vi. ICDS VII is:

a. Effects of Changes in Foreign Exchange Rates
b. Tangible Fixed Assets
c. Revenue Recognition
d. Government Grants

vii. The Assessing Officer within his jurisdiction surveyed a popular Cyber Café at 2 a.m. in night for the purpose of collecting information which may be useful for the purposes of the Income-tax Act, 1961. The Cyber Café is kept open for business every day between 3 p.m. and 3 a.m. He impounded and retained in his custody, books of account and other documents inspected by him, after recording his reasons for doing so, for 13 days. Which of the following statements is correct?

a. The Assessing Officer's action in entering the cybercafé at 2 a.m. and impounding books of account and documents inspected by him is in order
b. The Assessing Officer's action in entering the cyber café at 2 a.m. is not in order, since he can enter the cyber café only after sunrise but before sunset
c. The Assessing Officer's action in entering the cyber café at 2 a.m. and in impounding books of account and documents inspected by him are not in order, since he can enter the cyber café only after sunrise but before sunset and he does not have the power to impound books of account under section 133B
d. The Assessing Officer's action in entering the cyber café at 2 a.m. is in order but impounding books of account and documents inspected by him is not in order, since he does not have the power to impound books of account under section 133B

viii. Who among the following is not mandated to file the return of income under section 139 for A.Y. 2024-25?

a. PQR Pvt. Ltd., having incurred a loss of ₹2,45,000 during the year.
b. Mr. Sekhar, aged 63 years, having a total income of ₹3,30,000 before deduction under section 80C of ₹1,50,000.
c. Mr. Rakesh, who travelled to England during the year, spent ₹3,50,000 on his travel and hotel stay.
d. Ms. Sunita, a non-resident having assets worth ₹2 crores in India and ₹5 crores outside India. She has not earned or received any income in India.

ix. In the year restructuring, depreciation shall be:

a. available to the successor company fully
b. apportioned between successor and predecessor on the basis of number of days
c. available to the predecessor company fully
d. None of the above

x. Q is a foreign company having permanent establishment in India namely P. R, a non-resident associated enterprise, has invested ₹600 crores through debt in P. Earnings before interest, taxes, depreciation and amortisation (EBITDA) of P during the financial year was ₹150 crores. What is the amount of interest allowable in respect of the debt assuming that the debt was invested on the first day of the financial year and the rate of interest is 10% p.a.?

a. ₹45 crores
b. ₹90 crores
c. ₹60 crores
d. ₹15 crores

xi. XYZ Ltd. has failed to report an international transaction entered into by it with PQR Inc., which is a specified foreign company in relation to XYZ Ltd. What would be the penalty leviable in this case?

a. 200% of tax payable on under-reported income
b. 2% of the value of the international transaction
c. Both (a) and (b)
d. 50% of tax payable on under-reported income

xii. As per section _____ when any specified domestic transaction is carried out between associated enterprises, the said transaction should be carried out at arm's length price.

a. 90
b. 91
c. 92
d. 90A

xiii. Information and documents required to maintain u/s 92D shall be kept and maintained for a period of _______ from the end of the relevant assessment year.

a. 8 years
b. 5 years
c. 10 years
d. 16 years

xiv. In the context of Double Taxation Avoidance Agreements, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on. The term "permanent establishment" does not include:

a. a mine, an oil or gas well, a quarry or any other place of extraction of natural resources
b. a workshop
c. The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise.
d. a farm, plantation or other place where agricultural, pastoral, forestry or plantation activities are carried on

xv. When an Advance Pricing Agreement is entered between the taxpayers, the tax administration of the host country and the foreign tax administration, it is called:

a. Unilateral Advance Pricing Agreement
b. Bilateral Advance Pricing Agreement

c. Multilateral Advance Pricing Agreement

d. None of the above.

SECTION – B

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

[5x14=70]

2. Syniper Ltd., engaged in diversified activities, earned a profit of ₹14,25,000 after debit/credit of the following items to its statement of profit and loss for the year ended on 31.3.2024:

(a) Items debited to Statement of Profit and Loss	₹
Provision for loss of subsidiary	85,000
Provision for income-tax demand	1,05,000
Depreciation	3,60,000
Interest on deposit credited to buyers on 31.3.2024 for advance received from them, on which tax was deducted in April 2024 and was deposited on 31.7.2024	1,00,000
(b) Items credited to Statement of Profit and Loss	
Long term capital gain on sale of equity shares on which securities transaction tax was paid at the time of acquisition and sale	3,60,000
Income from units of UTI (Gross)	75,000

The company provides the following additional information:

(i) Depreciation includes ₹1,50,000 on account of revaluation of fixed assets.

(ii) Depreciation allowable as per Income-tax Rules is ₹2,80,000.

(iii) Brought forward Business Loss/Unabsorbed Depreciation:

F.Y	Amount as per books		Amount as per Income-tax	
	Loss ₹	Depreciation ₹	Loss ₹	Depreciation ₹
2020-21	2,50,000	3,00,000	2,00,000	2,50,000
2021-22	Nil	2,70,000	1,00,000	1,80,000
2022-23	3,50,000	3,15,000	1,20,000	2,10,000

You are required to:

(i) Calculate the total income of the company for the assessment year 2024-25 giving the reasons for treatment of items and

(ii) Examine the applicability of section 115JB of the Income-tax Act, 1961, and compute book profit and the tax credit to be carried forward.

Assume the tax rate applicable to Syniper Ltd for the P.Y. 2023-24 is 30%. Ignore the provisions of section 115BAA. **[14]**

3. (a) In respect of the following independent transactions undertaken during the previous year 2023-24, Discuss 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) Discuss with brief reason, whether the following would fall in the category of tax planning, tax avoidance or tax evasion

(i) Setting up of a liaison office in India by a foreign company, instead of a full-fledged establishment to run its business activities in India

(ii) Claiming depreciation for business purposes for a solar power generation system installed in the residential premises of Proprietor

(iii) Investment in bonds approved under section 54EC **[7]**

4. (a) 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.

Examine and Analyse the comparative pros and cons of slump sale and demerger of automobile division. **[7]**

(b) Examine with reasons whether the following transactions attract income-tax in India, in the hands of recipients under section 9 of income-tax Act, 1961:

(i) A non-resident USA company, which did not have a permanent establishment in India, entered into an agreement for execution of electrical work in India. Separate payments were made towards drawings & designs, which were described as "Engineering Fee". The assessee contended that such business profits should be taxable in USA as there is no business connection within the meaning of section 9(1)(i) of the Income-tax Act, 1961.

(ii) A firm of solicitors in Delhi engaged a barrister in UK for arguing a case before Supreme Court of India. A payment of 5000 pounds was made as per terms of professional engagement.

(iii) Amount paid by Government of India for use of a patent developed by Mr. X. who is a non-resident.

(iv) Om Engineering, a non-resident foreign company entered into a collaboration agreement on 25/6/2023, with an Indian Company and was in receipt of interest on 8% debentures for 20 lakhs, issued by Indian Company, in consideration of providing technical know-how utilised in its business in Pune during previous year 2023-24. **[7]**

5. (a) Who can file memorandum of cross-objections before the Income-tax Appellate Tribunal? Discuss the Time limit & fee for filing memorandum of cross objections. **[7]**

(b) Julian (P) Ltd. provides the following information in respect of plant and equipment for the year ended 31st March, 2024:

Block 1-Plant and machinery (Rate of Depreciation 15%)

(i) Opening WDV ₹ 15,00,000

(ii) Purchase of a new plant on 31.10.2023 (put to use on 30th November, 2023)

Original cost of the plant ₹12,00,000
Trade discount 10%
Total amount paid ₹ 10,80,000

(iii) Expenses on installation of plant ₹ 40,000.
(iv) Cost of stand by equipment required for operating the new plant ₹ 80,000.
(v) Cost of machinery spare parts ₹ 70,000.

Also, it gave the value of securities held as stock in trade as on 31st March, 2024 as under:

Security	A	B	C	D		E	F	G	H	
Category	Equity shares				Total	Debt security				Total
Actual cost of purchase	100	120	140	200	560	150	105	125	220	600
Net realisable value as on 31.03.2024	75	150	120	190	535	160	90	135	230	615

You are required to calculate: (i) depreciation on plant and equipment; and (ii) carrying value of securities as per applicable Income Computation and Disclosure Standards for the assessment year 2024-25. **[7]**

6. (a) Explain, what is Permanent Establishment in the context of Double Taxation Avoidance Agreement? Describe the items which are excluded from the list of Permanent Establishment. **[7]**

(b) Mr. Avinash, a resident aged 45 years is a salaried employee employed with ZZ P Ltd. He received the following components of his salary income during the previous year 2023-24.

- Basic Salary ₹60,000 p.m.
- Dearness Allowance 12% of basic salary
- Transport Allowance ₹10,000 p.m.
- Medical Allowance ₹5,000 p.m.

He contributed ₹18,000 to approved Pension Fund of LIC. He also paid ₹2,00,000 by crossed cheque for Mediclaim premium to insure the health of his mother, a resident aged 63 years, who is not dependent on him as a lump sum payment for 5 years including the current previous year. He also delivered guest lecture in a reputed university in Country A during the year. He received ₹8,00,000 from such university after deduction of tax of ₹2,00,000 in Country A. India does not have any double taxation avoidance agreement under section 90 of the Income-tax Act, 1961, with Country A. Calculate the tax liability of Mr. Avinash for the A.Y. 2024-25. He has opted out of the Default Tax Regime. **[7]**

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 2023-24, 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), Calculate the ALP (in INR) and the amount, if any, to be added to the total income of ZX Ltd. for the assessment year 2024-25. (1 USD=80).

Note: All calculations may be done up to 3 decimal places. **[7]**

(b) PKD Ltd., an Indian Company, has borrowed ₹90 crores on 01-04-2023 from M/s. KK Inc, a company incorporated in London, at an interest rate of 10% p.a. The said loan is repayable over a period of 5 years. Further, this loan is guaranteed by M/s JJ Inc. incorporated in UK. M/s. BB Inc, a non-resident, holds shares carrying 43% of voting power both in M/s PKD Ltd. and M/s JJ Inc.

Net profit of M/s. PKD Ltd. for P.Y. 2023-24 was ₹11 crores after debiting the above interest, depreciation of ₹5 crores and income-tax of ₹4 crores.

Calculate the amount of interest to be allowed to be claimed under the head "Profits and gains of business or profession" in the computation of M/s PKD Ltd. giving appropriate reasons. Also explain allowability of such disallowed interest, if any. **[7]**

8. (a) Mr. Karan, a resident Indian, is in retail business and his turnover for F.Y.2022-23 was ₹13 crores. He regularly purchases goods from another resident, Mr. Ranjan, a wholesaler, and the aggregate payments during the F.Y.2023-24 was ₹95 lakh (₹21 lakh on 1.6.2023,₹ 24 lakh on 12.8.2023, ₹22 lakh on 23.11.2023 and ₹28 lakh on 25.3.2024). Assume that the said amounts were credited to Mr. Ranjan's account in the books of Mr. Karan on the same date. Mr. Ranjan's turnover for F.Y.2022-23 was ₹14 crores.

(i) Based on the above facts, examine the TDS/TCS implications, if any, under the Income-tax Act, 1961.

(ii) Would your answer be different if Mr. Karan's turnover for F.Y.2022-23 was ₹6 crores, all other facts remaining the same?

(iii) Would your answer to (i) and (ii) change, if PAN has not been furnished by the buyer or seller, as required? **[7]**

(b) On 1-4-2023, Rohit Ltd., an Indian company, advanced a loan of ₹6 crores to Virat Inc., a company resident in Dubai. As on the date of loan, the book value of total assets in the books of Virat Inc. was ₹4 crores. In the Financial Year 2022-23, Virat Inc. had revalued its assets and accordingly the value of assets had increased by ₹2 crores. Virat Ltd. paid the entire loan along with interest thereon on 31st August, 2023. During the Financial Year 2023-24, Rohit Ltd. also entered into an agreement with Virat Inc. to provide 20 thousand medical equipment's at a cost of ₹7,400 per unit. The Assessing Officer treats them as associate enterprise and wants to re-compute the income of Rohit Ltd. at arms' length price. You are required to answer the following questions in this respect:

(1) Examine whether, Rohit Ltd. and Virat Ltd. be treated as associate enterprises for the purpose of transfer pricing adopted by the Assessing Officer?

(2) Calculate the arm's length price of Rohit Ltd. which sells the same equipment's at the rate of ₹9,000 per unit to Y Ltd. and at the rate of ₹9,500 per unit to X LLP (both of them are unrelated parties in respect of Rohit Ltd.). Rohit Ltd. is not a wholesale dealer.

(3) What are the options available to Virat Inc. in respect of such increase in transfer price by income tax authorities, if Rohit Ltd. accepts such transfer price? **[7]**