

Paper 7- Direct Taxation

Paper 7- Direct Taxation

Full Marks : 100

Time allowed: 3 hours

Answer Question No. 1 which is compulsory and any Five from Question No. 2 to No. 7

Part - I

1. (a) Multiple choice questions: [10x1=10]

- (i) Maximum Deduction available under section 80U is –
- (a) ₹ 25,000
 - (b) ₹ 40,000
 - (c) ₹ 1,25,000
 - (d) ₹ 75,000
- (ii) On donation to whom of the following a 50% deduction is allowable u/s 80G of the Income Tax Act?
- (a) National Defence Fund
 - (b) Prime Ministers National Relief Fund
 - (c) Rajiv Gandhi Foundation
 - (d) National foundation for Communal Harmony
- (iii) A Zero Coupon Bond shall be treated as Long term capital asset if it is held by the transferor for _____
- (a) more than 12 months
 - (b) more than 36 months
 - (c) 12 months
 - (d) 36 months
- (iv) _____ is not a capital asset.
- (a) Jewellery
 - (b) Personal car
 - (c) Sculptures
 - (d) Paintings
- (v) If the asset is acquired during the previous year and the same is put to use for less than _____ days for the purpose of business or profession of the assessee during that year then the eligible depreciation on such asset which can be claimed by the assessee during the previous year will be _____.
- (a) 180; 50% of normal depreciation
 - (b) 180; 100% of normal depreciation
 - (c) 182; 50% of normal depreciation
 - (d) 182; 100% of normal depreciation
- (vi) For the purpose of sec. 17(2), member of household includes –
- (a) Spouse (whether dependent or not);
 - (b) Servants

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

- (c) Dependents
(d) All of these
- (vii) Which out of the following is not a case of deemed ownership of house property?
- (a) Transfer to a spouse for inadequate consideration
(b) Transfer to a minor child for inadequate consideration
(c) Holder of an impartible estate
(d) Co-owner of a property
- (viii) On 10-10-2017, Mohan received shares from his friend Uttam (fair value ₹ 36,000 and not acquired through ESOP) as a gift. Further, as on 01-11-2017, he also received gold chain (fair value ₹ 30,000) without any consideration from another friend. Income u/s 56(2) taxable in hands of Mr. Mohan shall be –
- (a) ₹ 66,000
(b) ₹ 16,000
(c) Nil
(d) None of these
- (ix) Where assessment has not been completed, belated income tax return for assessment year 2018-19 can be filed upto
- (a) 31.03.2019
(b) 31.02.2018
(c) 31.03.2018
(d) 31.12.2019
- (x) The balance of income after deduction admissible under section 80C to 80U is called _____.
- (a) Taxable income
(b) Total income
(c) Both (a) and (b)
(d) None of these

Answer:

- | | | | | | | | | | |
|-----|------|-------|------|-----|------|-------|--------|------|-----|
| (i) | (ii) | (iii) | (iv) | (v) | (vi) | (vii) | (viii) | (ix) | (x) |
| c | c | a | b | a | d | d | a | a | b |

(b) Fill in the blanks: [5x1=5]

- (i) The maximum amount deductible u/s 80U is ₹ _____.
- (ii) Expenses on purchase of lottery ticket is _____ deductible
- (iii) Agricultural activities may be divided into two parts viz. _____ and subsequent activities
- (iv) 40% of income from Tea operation shall be _____ under the head profits of Business and Profession.
- (v) In case of company, the return of income has to be signed by the _____.

Answer:

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

- (i) ₹ 1,25,000
- (ii) Not
- (iii) Basic activities
- (iv) Taxable
- (v) Managing director

(c) State whether the following statements are true or false: [5x1=5]

- (i) A return of income filed without payment of self-assessment tax is not a defective return.
- (ii) Reasonable expected rent can exceed standard rent.
- (iii) No tax is required to be deducted from winning from race-horse, if such winning does not exceed ₹ 10,000
- (iv) Negative income under the head 'income from house property' can be adjusted with income from speculation business subject to restriction of ₹ 2,00,000
- (v) Short term capital loss can be adjusted with any income under the head Capital Gains.

Answer:

- (i) False;
- (ii) False;
- (iii) True;
- (iv) True;
- (v) True.

(b) Match the following: [5x1=5]

	Column 'A'		Column 'B'
1.	Sale of urban agricultural land	A	Exempted Income
2.	Dividend	B	Capital Gains
3.	Agricultural income from land situated in India	C	Income from Other Sources
4.	Payment of Premium for Life Insurance Policy	D	Long term capital gain
5.	Long term capital loss	E	Eligible for deduction

Answer:

	Column 'A'		Column 'B'
1.	Sale of urban agricultural land	B	Capital Gains
2.	Dividend	C	Income from Other Sources
3.	Agricultural income from land situated in India	A	Exempted Income
4.	Payment of Premium for Life Insurance Policy	E	Eligible for deduction
5.	Long term capital loss	D	Long term capital gain

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

Part - II

Answer any five from the following. Each question carries 15 marks (5x15=75)

- 2.(a) Mr. X, a foreign citizen, came in India for the first time on July 24, 2013. From July 24, 2013 to December 25, 2014 he was in India. Again, he came to India on August 5, 2017 for employment purpose and left India on November 25, 2017 permanently. Determine his residential status for the assessment year 2018-19. During the year 2017-18, Mr. X earned income from a property in London but received in Paris. Is the income taxable in India for the A.Y. 2018-19? [7]

Answer:

During the previous years, 2017-18, 2016-17, 2015-16, 2014-15 & 2013-14, Mr. X was in India as under:

P.Y.	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
17-18	-	-	-	-	27	30	31	25	-	-	-	-	113
16-17	-	-	-	-	-	-	-	-	-	-	-	-	0
15-16	-	-	-	-	-	-	-	-	-	-	-	-	0
14-15	30	31	30	31	31	30	31	30	25	-	-	-	269
13-14	-	-	-	8	31	30	31	30	31	31	28	31	251

On the basis of given data, residential status of Mr. X in last few years can be decided as under:

Previous Year	Presence in India (In Days)	Resident (R) or Non-resident (NR)	Condition satisfied to become a resident
2017-2018	113	R	6(1)(c)
2016-2017	0	NR	None
2015-2016	0	NR	None
2014-2015	269	R	6(1)(a)
2013-2014	251	R	6(1)(a)
2012-2013	0	NR	None
2011-2012	0	NR	None
2010-2011	0	NR	None
2009-2010	0	NR	None
2008-2009	0	NR	None
2007-2008	0	NR	None

Since, assessee resided in India for 113 days in the previous year 2017-18 and for more than 365 days in 4 years immediately preceding the previous year, hence he satisfies sec. 6(1). So he is resident in India.

Further, since he does not reside in India for 730 days in 7 years immediately preceding the previous year 2017-18, hence he does not satisfy conditions of sec. 6(6). Thus, he is resident but not ordinarily resident.

Conclusion: Resident but not ordinarily resident.

Since the assessee is not ordinarily resident in India, income from a property in London but received in Paris shall not be taxable in India.

- (b) Sri Surajit Chakraborty is the owner of a house in Kolkata, which he used for his own residential purpose. During the previous year 2017-18, he occupied the house upto 31st July, 2017. He then let out the house to a tenant @ ₹ 3,000 p.m. from 1st August, 2017 when he was transferred by his employer to Mumbai. His expenses relating to the house during the previous year were: municipal tax ₹ 3,000, annual charges ₹ 6,000 and interest on loan taken for construction of the house ₹ 15,000. Compute income from house property of Sri Chakraborty for A.Y.2018-19. [8]

Answer:

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

Computation of Income from House Property of Sri Chakraborty for the A.Y. 2018-19

Particulars	Details ₹	Amount ₹
Gross Annual Value		36,000
Less: Municipal Tax		3,000
Net Annual Value		33,000
Less: Deduction u/s		
24 (a) Standard Deduction	9,900	
24 (b) Interest on loan	15,000	24,900
Income from House Property		8,100

Working: Computation of Gross Annual Value (GAV)

Steps	Particulars	Amount
	Fair rent (being ₹ 3,000 * 12)	36,000
1	Reasonable Expected Rent (RER)	36,000
2	Actual rent received (ARR) (being ₹ 3,000 x 8)	24,000
3	Higher of RER and ARR	36,000
4	Gross Annual Value (GAV)	36,000

Explanation: Since property has been let out for 8 months @ ₹ 3,000 p.m. therefore fair rent of the property is ₹ 3,000 p.m.

Note: In case, property is partly self occupied and partly let out (period wise) assessee will not get any benefit for self-occupied period and will be taxed as if the property is let out.

3.(a) Sri Swapan, an employee of XYZ (P) Ltd. retired from the company on 30th November, 2017. At the time of his retirement, he received ₹ 1,50,000, as leave salary from his employer.

From the following information, calculate the taxable amount of leave encashment of Sri Swapan for the assessment year 2018-19.

- | | |
|---|---|
| a. Salary at the time of retirement (per month) | ₹ 9,000 |
| b. Period of service | 20 years 10 months |
| c. Leave availed of while in service | 14 months |
| d. Unavailed leave at the time of retirement | 16 months |
| e. Average salary for the last 10 months till Nov. 2016 | ₹ 8,800 |
| f. Leave entitlement as per service rule | 1½ months for every completed year of service |

[8]

Answer:

Computation of Taxable Leave encashment for the A.Y. 2018-19

Particulars	Details	Amount
Leave encashment received		1,50,000
Less: Minimum of the following is exempted u/s 10(10AA):		
a) Actual amount received	1,50,000	
b) Statutory Amount	3,00,000	
c) 10 months * Average salary p.m. (10 x ₹ 8,800)	88,000	
d) [(20 months – 14 months) x ₹ 8,800]	52,800	52,800

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

Taxable Leave Encashment		97,200
---------------------------------	--	--------

Working:

1. Completed year of service: 20 years
2. Statement showing balance of leave lying to the credit of Sri Swapan

Total leave entitlement as per I.T. Act (being maximum of 1 month for every completed year of service)	20 months
Less: Leave actually availed during service	14 months
Balance leave lying to his credit at the time of retirement	6 months

(b) List down any 10 instances of exempted income. [7]

Answer:

Instances of exempted income

- Agricultural Income [Sec. 10(1)]
- Member's Share in Income of HUF [Sec. 10(2)]
- Share of Profit from a Firm [Sec. 10(2A)]
- Allowance or Perquisite paid Outside India by Government to a citizen of India [Sec. 10(7)]
- Compensation under Bhopal Gas Leak Disaster Act, 1985 [Sec. 10(10BB)]
- Tax paid by Employer on behalf of Employee on Non-monetary Perquisites u/s 17(2) [Sec. 10(10CC)]
- Sum received under a Life Insurance Policy [Sec. 10(10D)]
- Payment from Statutory or Public Provident Fund [Sec. 10(11)]
- Payment from Sukanya Samriddhi Account [Sec. 10(11A)]
- Scholarship [Sec. 10(16)]

The list is not exhaustive.

4.(a) Mrs. Biswas purchased a house on 03.07.79 for ₹80,000 (FIR market value on 01.04.2001 ₹5,20,000). She constructed another floor on 08.07.2007 at a cost of ₹3,15,000. She sold the house on 08.11.2017 for ₹25,00,000. She paid brokerage @ 2%. She purchased a one room flat for ₹6,50,000 on 08.01.2018.

Compute taxable capital gain of Mrs. Biswas for the A.Y. 2018-19. [7]

Answer:

Computation of Capital Gain of Mrs. Biswas for the assessment year 2018-19

Particulars	Amount ₹	Amount ₹
House		
Sale proceeds		25,00,000
Less: Expenses on transfer		50,000
Net sale consideration		24,50,000
Less: Indexed cost of acquisition $[(\square 5,20,000 \times 272) / 100]$	14,14,400	
Less: Indexed cost of improvement $[(\square 3,15,000 \times 272) / 129]$	6,64,186	20,78,586
Long Term Capital Gain		3,71,414
Less: Deduction u/s 54		3,71,414
Taxable Long Term Capital Gain		Nil

(b) Mr. Kumar, a singer, has furnished the following information to compute Total Income:

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

Particulars	Amount
Salary income	50,000
Income from singing profession	1,50,000
Interest on NSC	10,000
Bank interest on saving account	15,000
LIC premium paid	10,000
Invested in ELSS	30,000
Repaid loan borrowed from his friend for purchase of house property	10,000
Repaid loan borrowed from State Bank for purchasing house	25,000
Contributed in Statutory provident fund	10,000

[8]

Answer:

Computation of Taxable Income of Mr.Kumar

Particulars	Amount ₹	Amount ₹
Salary income		50,000
Income from singing profession		1,50,000
Interest on NSC		10,000
Bank interest		15,000
Gross Total Income		2,25,000
Less: Deduction u/s 80C (Note 1)	85,000	
Less: Deduction u/s 80TTA (Bank interest on saving account) (Max. Limit)	10,000	95,000
Total Income		1,30,000

1. Computation of Deduction u/s 80C

Particulars	Amount ₹
LIC premium paid	10,000
Interest on NSC	10,000
Repayment of loan from State Bank for purchasing house	25,000
Contributed in Statutory Provident Fund	10,000
Invested in ELSS	30,000
Total	85,000

Note: Repayment of loan to friend is not eligible for deduction u/s 80C.

5. (a) Mr. Albert has given you the following P/L account for the year ended 31/3/2018

Particulars	Amount ₹	Particulars	Amount ₹
To Opening stock	40,000	By Sales	3,00,000
To Purchases	3,50,000	By Closing stock	50,000
To Know how purchased on 1/4/2017	8,000	By Net loss	2,08,000
To Preliminary expenditure	10,000		

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

To Provision for bad debt	8,000		
To Provision for income tax	7,000		
To Income tax of earlier year	8,000		
To GST	6,000		
To Excise duty	5,000		
To Rent paid to proprietor for use of commercial office	10,000		
To Salaries	40,000		
To Depreciation	20,000		
To Municipal tax paid for own property	10,000		
To Interest on capital paid to proprietor	5,000		
To Rent of furniture	4,000		
To Donation of goods	5,000		
To Children tuition fee	2,000		
To Rent for house-hold	20,000		
	5,58,000		5,58,000

Additional information

1. Assessee overvalued the opening stock by 10%.
 2. Depreciation on tangible assets allowed for income tax purpose ₹ 12,000
 3. GST paid till filing of return is ₹ 4,000
 4. Excise duty paid for last year not included in above P/L ₹ 3,000.
- Compute income from business for the A.Y.2018-19. [10]

Answer:

Computation of Profits & gains of Business or Profession of Mr. Albert for the A.Y.2018-19

Particulars	Note	Details	Amount ₹
Net loss as per books of accounts			(2,08,000)
Add: Expenditure disallowed but debited in P/L A/C			
Know-how	1	8,000	
Preliminary expenditure	2	10,000	
Provision for bad debt	3	8,000	
Provision for income tax	4	7,000	
Income tax of earlier year	5	8,000	
Rent paid to proprietor for use of commercial office	6	10,000	
Depreciation	7	20,000	
Interest on capital	6	5,000	
Donation of goods	8	5,000	
Children tuition fee	9	2,000	
Rent for house-hold	9	20,000	
GST	10	2,000	1,05,000
			(1,03,000)

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

Less: <u>Expenditure allowed but not debited in P/L A/c:</u>			
<u>Depreciation as per I.T. Rules</u>			
On know-how	1	2,000	
On other assets		12,000	
Preliminary expenditure	2	2,000	
Excise duty of last year	10	3,000	19,000
			(1,22,000)
<u>Adjustment for stock valuation</u>			
Add: Overvaluation of opening stock	11		3,636
<i>Profits & gains of Business or Profession</i>			(1,18,364)

Notes:

1. As per sec. 32, know-how is eligible for depreciation @ 25%.
2. As per sec. 35D, preliminary expenditure is deductible in 5 equal instalments.
3. Any anticipated loss is not allowed as deduction.
4. Provision for Income tax is not allowed u/s 40(a).
5. Income tax paid is not allowed u/s 40(a).
6. Rent, interest on capital to proprietor is not allowed as no one can earn from himself.
7. Depreciation is allowed as per IT Act not as per books of accounts.
8. Donation is not an allowable expenditure.
9. Personal expenditure is not deductible.
10. As per sec. 43B, GST (routed through Profit and Loss Account) and excise duty is allowed on cash basis.
11. Over valuation of opening stock
Value of opening stock (₹ 40,000/110%) = ₹ 36,364
Over value of stock 10% of ₹ 36,364 = ₹ 3,636.

(b) Write brief note on ICDS – I.

[5]

Answer:

ICDS – I :

Accounting Policies

- Accounting policies adopted by a person shall be such so as to represent a true and fair view of the state of affairs and income of the business, profession or vocation.
- The treatment and presentation of transactions and events shall be governed by their substance and not merely by the legal form.
- Marked to market loss or an expected loss shall not be recognised unless the recognition of such loss is in accordance with the provisions of any other Income Computation and Disclosure Standard.

Fundamental Accounting Assumptions

- The fundamental accounting assumptions i.e., Going Concern, Consistency and Accrual are assumed as followed. No specific disclosure is required, if these assumptions are followed, however, if such assumption are not followed, the fact shall be disclosed.

Change in Accounting Policies

- An accounting policy shall not be changed without reasonable cause.

Disclosure of Accounting Policies

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

- All significant accounting policies adopted by a person shall be disclosed.
- Any change in an accounting policy which has a material effect shall be disclosed (with quantum of the effect, if ascertainable). Where such amount is not ascertainable, the fact shall be indicated.
- Disclosure of accounting policies or of changes therein cannot remedy a wrong or inappropriate treatment of the item.

6. (a) Smt. A. Sen (age 36 years), a resident individual of India, furnished the following details of her income during the Previous year 2017-18 Compute her Total Income and tax Payable for the Assessment year 2018-19:

Particulars	Amount (₹)
Business Income	2,50,000
Income from winning from lottery (net) TDS @ 30%	70,000
Salary income	8,00,000
Long term Capital gain on transfer of building	1,00,00
Life insurance premium paid (policy taken 1.1.2018 and sum assured ₹ 5,00,000)	80,000
Investment in NSC	50,000
Payment of Tuition fees	30,000
Medical Insurance Premium paid for himself	10,000
Medical Insurance Premium paid for her father (Age 65 years) (not dependent)	19,000
She incurred expenditure for medical treatment of her dependent brother suffering from cerebral palsy (severe)	25,000
Donation to a recognized political party	20,000

[8]

Answer:

Computation of total income of Smt A. Sen for the A.Y. 2018-19

Particulars	Amount ₹	Amount ₹	Amount ₹
<u>Salaries</u>			
Salary income			8,00,000
<u>Profits & Gains of Business or Profession</u>			
Income from business			2,50,000
<u>Capital Gains</u>			
Long term capital gain			1,00,000
<u>Income from other sources</u>			
Lottery income [₹ 70,000 / 70%]			1,00,000
Gross Total Income			12,50,000
<u>Less: Deductions</u>			
- u/s 80C			
LIC (Lower of 10% of sum assured and premium)	50,000		
Investment in NSC	50,000		
Payment of Tuition Fees	30,000	1,30,000	
- u/s 80D (mediclinam) [₹ 10,000 + ₹ 19,000]		29,000	
- u/s 80DD		1,25,000	
- u/s 80GGC		20,000	3,04,000
Total Income			9,46,000

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

Computation of Tax liability of Smt. A. Sen for the A.Y. 2018-19

Particulars	Rate	On	Details	Amount ₹
Long Term Capital Gain	20%	1,00,000		20,000
Lottery Income	30%	1,00,000		30,000
Other Income (Note)				
Upto ₹2,50,000	-		-	
From ₹2,50,001 to ₹5,00,000	5%	2,50,000	12,500	
From ₹5,00,001 to ₹7,46,000	20%	2,46,000	49,200	61,700
Tax Liability				1,11,700
Less: Rebate u/s 87A				-
				1,11,700
Add: Education cess & SHEC	3% of ₹ 1,11,700			3,351
Tax and cess payable				1,15,051
Less: Tax and cess payable				30,000
Tax and cess payable after TDS				85,050

(b) Write short note on “Profit in lieu of Salary”.

[7]

Answer:

Profits in lieu of salary [Sec. 17(3)]

Following receipts are taxable as profits in lieu of salary:

1. The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the (a) termination of his employment, (b) modification of the terms and conditions of employment.
2. Any payment due to or received by an assessee from his employer or former employer except the following:
 - Gratuity exempted u/s 10(10);
 - House rent allowance exempted u/s 10(13A);
 - Commuted pension exempted u/s 10(10A);
 - Retrenchment compensation exempted u/s 10(10B);
 - Payment from an approved Superannuation Fund u/s 10(13);
 - Payment from statutory provident fund or public provident fund;
 - Payment from recognised provident fund to the extent it is exempt u/s 10(12).
3. Any payment from unrecognised provident fund or such other fund to the extent to which it does not consist of contributions by the assessee or interest on such contributions.
4. Any sum received by the employee under the Keyman Insurance Policy including the sum allocated by way of bonus on such policy.
5. Any amount due to or received by the employee (in lump sum or otherwise) prior to employment or after cessation of employment.

7. (a) A Ghosh submits the following particulars of his incomes and losses for the A.Y. 2018-19:

Income from house property	₹12,800
Income from textile business	₹35,700
Loss from stationery business	₹10,000
Speculation loss	₹2,000
Long term capital gains	₹25,000
Short term capital gains	₹10,000
Income from the activity of owning and maintaining race horses	₹13,000
Winning from lottery	₹12,000

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

The losses of A Ghosh brought forward from the assessment year 2017-18 are as follows:	
Loss from house property	₹8,000
Loss from stationery business	₹7,000
Loss under the head capital gains	₹4,300
Loss from the activity of owning and maintaining race horses	₹14,700
All the above losses were first computed in the assessment year 2017-18. Compute his total income for the A.Y. 2018-19.	

[8]

Answer:

Computation of Gross Total Income of Mr.A Ghosh for the A.Y. 2018-19

Particulars	Details	Amount ₹
<u>Income from house property</u>	12,800	
Less: Brought forward loss from house property	8,000	4,800
<u>Profits and gains of business or profession</u>		
- Profit from textile business	35,700	
- Loss from stationery business	(10,000)	
	25,700	
Less: Brought forward loss from stationery business	(7,000)	18,700
Speculative Business	(2,000) ¹	
<u>Capital gains</u>		
- Short term capital gain		10,000
- Long term capital gain	25,000	
Less: Brought forward capital loss	4,300	20,700
<u>Income from Other sources</u>		
Income from activity of owning & maintaining race horses	13,000	
Less: Brought forward loss from such activity	13,000	Nil
Winning from lottery (Gross)		12,000
Gross Total Income		66,200
<u>Loss to be carried forward for subsequent assessment years:</u>		
1. Speculation loss of ₹ 2,000 shall be carried forward to next year.		
2. Brought forward loss from activity of owning & maintaining race-horses of ₹ 1,700 (i.e. ₹ 1,47,000 – ₹ 13,000) shall be carried forward to the next year.		

(b) Write short note on Revised Return.

[7]

Answer:

Revised Return [Sec. 139(5)]

If an assessee discovers any omission or wrong statement (bonafide in nature) in the return filed, he can revise his return u/s 139(5).

Time limit: Assessee may file the revised return -

- before the end of the relevant assessment year; or

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

- before completion of regular assessment,
- whichever is earlier.

Notes:

- a. Replacement of original return: Once a revised return is filed, it replaces the earlier return. This signifies that the revised return should be complete in itself and not merely an accessory to the original return.
- b. Revision of revised return: A revised return can again be revised i.e. a second revised return can be filed u/s 139(5) for correcting any omission or wrong statement made in the first revised return within specified time.
- c. Revision of belated return: A belated return u/s 139(4) can be revised.
- d. Revision of loss return: A loss return can be revised.
- e. Return filed pursuant to notice u/s 142(1) cannot be revised.

8. Write short notes on any three of the following:

[3x5=15]

- (a) Audit u/s 142(2A);**
- (b) Rectification u/s 154;**
- (c) Unrealised Rent;**
- (d) Revocable Transfer u/s 61.**

Answer:

(a) Audit u/s 142(2A)

The Assessing Officer (after giving reasonable opportunity to the assessee) may direct the assessee to get his accounts audited if he is of the opinion that it is necessary to do so having regard to the -

- nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee; and
- interest of revenue.

Such direction can be issued even if the accounts of the assessee have already been audited u/s 44AB or any other law for the time being in force

Notes:

- a. Such direction can be issued only with the prior approval of the Principle Chief Commissioner/ Principle Commissioner / Chief Commissioner/ Commissioner.
- b. The Principle Chief Commissioner/ Principle Commissioner / Chief Commissioner/ Commissioner nominates such auditor.
- c. Such order can be issued at any stage of the proceedings before the Assessing Officer. However, no such order shall be issued after the completion of assessment/reassessment.

Time Limit for audit report: The audit report shall be furnished by the assessee within the period specified by the Assessing Officer. The Assessing Officer has power to extend such period on an application made by the assessee or suomotu. However, the aggregate period (fixed originally and extended) shall not exceed 180 days from the date on which such direction is received by the assessee.

Form of audit report: The chartered accountant shall submit the report in Form 6B to the assessee. Thereafter such report is to be submitted by the assessee to the Assessing Officer within such period as allowed by the Assessing Officer.

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

Audit fees: The audit fees and audit expenditure shall be determined by the Principle Chief Commissioner/ Principle Commissioner / Chief Commissioner/ Commissioner (which shall be final) and paid by the Central Government.

Consequences of failure to get books of account audited: In case assessee fails to get books of account audited, it -

- will be liable to Best Judgment Assessment u/s 144; and
- attracts penalty and prosecution.

Note: Penalty etc. are attracted only if there is a default by the assessee. If accountant nominated by the Commissioner refuses to audit the accounts, the assessee cannot be held responsible

(b) Rectification u/s 154

Rectification of Mistake [Sec.154]

An income-tax authority, is empowered (suo moto or on application by assessee) to –

- a) rectify any mistake apparent in an order passed by him; or
- b) amend any intimation issued u/s 143(1) or deemed intimation
- c) amend any intimation issued u/s 200A(1).

Taxpoint: Such order of rectification must be passed in writing.

Time limit for Rectification [Sec. 154(7)]

Within 4 years from the end of the financial year in which the order sought to be amended was passed.

However, in respect of an application made by the assessee or deductor or collector, the authority shall, within a period of 6 months from the end of the month in which the application is received by it, pass an order -

- a. making the amendment; or
- b. refusing to allow the claim.

Opportunity of being heard [Sec. 154(3)]: If such rectification order is prejudicial to the assessee or deductor or collector, an opportunity of being heard must be given to the assessee, before passing such order.

Note

- Where any such amendment has the effect of reducing the assessment or otherwise reducing the liability of the assessee or the deductor or collector, the Assessing Officer shall make any refund which may be due to such assessee or the deductor or collector.
- Where any such amendment has the effect of enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee or the deductor or collector, the Assessing Officer shall serve on the assessee or the deductor or collector, as the case may be a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued u/s 156.

(c) Unrealised Rent [Rule 4]

Unrealised Rent of current year shall be deducted in full from Actual Rent Receivable, provided the following conditions are satisfied:

- i) The tenancy is *bona fide*;
- ii) The defaulting tenant has vacated the property or steps have been taken to compel him to vacate the property;
- iii) The defaulting tenant is not in occupation of any other property of the assessee;

Answer to MTP_Intermediate_Syllabus2016_Dec2018_Set1

- iv) The assessee has taken all reasonable steps to institute legal proceeding for the recovery of the unpaid rent or has satisfied the Assessing Officer that legal proceedings would be worthless.

(d) Revocable Transfer u/s 61

Revocable Transfer [Sec. 61]

If an assessee transfers an asset under a revocable transfer, then income generated from such asset, shall be clubbed in the hands of the transferor.

Revocable transfer

As per sec. 63(a), a transfer shall be deemed to be revocable if -

- It contains any provision for the retransfer (directly or indirectly) of any part or whole of the income/assets to the transferor; or
- It, in any way, gives the transferor a right to re-assume power (directly or indirectly) over any part or whole of the income/assets.

Exceptions [Sec. 62]

As per sec. 62(1), the provision of sec. 61 shall not apply to an income arising to a person by virtue of -

- (i) A transfer by way of creation of a trust which is irrevocable during the lifetime of the beneficiary;
- (ii) Any transfer which is irrevocable during the lifetime of the transferee; or
- (iii) Any transfer made before 1.4.61, which is not revocable for a period exceeding 6 years.

In any case, the transferor must not derive any benefit (directly or indirectly) from such income.

Note: As per sec. 62(2), income, in any of the above exceptional case, shall be taxable as under –

Situation	Taxable in hands of
When the power to revoke the transfer arises (whether such power is exercised or not)	Transferor
When the power to revoke the transfer does not arise	Transferee