

**May 2008: Direct Tax**

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1. The net profit for the year ended on 31.3.2008 of Indian Biotech Ltd., engaged in the business of bio-technology works out at Rs.45 lacs after debit / credit of the following items: **(13 Marks)**
- i. Profit of Rs.2,50,000 from a hedging contract entered into for meeting out the loss in foreign currency payments towards an imported machinery of Rs.80 lacs installed on 1.2.2008.
  - ii. Incidental charges of Rs.20 lacs paid to a financial institution for taking short term loan of Rs.25 crores repayable in 18 months.
  - iii. Commission of Rs.25,000 paid to recovery agent for getting realization of an old outstanding.
  - iv. Registration fees of Rs.20,000 and listing fees of Rs.30,000 paid to the Registrar of Companies and the Stock Exchange respectively on the issue of bonus shares.
  - v. Amount of Rs.1,00,000 towards carry forward losses for Asst. year 98-99 of X Ltd., which got merged with the company during the Financial year 2003-04.'
  - vi. Interest received from banks of Rs.90,000 net of TDS of Rs.10,000.
  - vii. Amount of Rs.1,50,000 incurred towards reconditioning of generator.
  - viii. Employees share to the EPF for the month of March, 2008 of Rs.40,000. the amount was deposited with the PF Commissioner on 22-4-2008.

Compute the total income of the company for Asst. year 2008-09 and give brief reasons for the treatment given to each of the items.

2. (a) A notice to levy penalty U/s. 271(1)(c) was issued on 11.6.07. The assessee in response thereto filed on 13.7.07 a written submission requesting to decide the matter. The A.O. before whom this reply was filed retired on 31.7.07 and the officer, who succeeded him passed the penalty order without providing any further opportunity, but by taking into cognizance the reply filed by the assessee. Whether the order by the A.O. is valid? **(3 Marks)**
- (b) An order for A.Y.2006-07 was passed by the A.O. as per section 143(3), but the typist wrongly typed in the order of assessment year as 2005-06 and the relevant previous year ending on 31.3.2005. Assessee claimed in appeal that the same is an invalid order which was not accepted by the CIT(A) on the ground of error of clerical nature. What do you say about the correctness of the order of the CIT(A)? **(3 Marks)**
- (c) "Proceedings can not be initiated under the Act, unless a proper notice to this effect has been served upon". In this context answer? **(5 Marks)**
- (i) What are the prescribed modes of service of such notice?
  - (ii) On whom the notice be addressed and served upon in the cases where the assessee is a company, a dissolved firm, a deceased person and a partitioned HUF.
3. (a) M/s. Nagdiwala Enterprises, a partnership firm constituted by a doctor and a non-doctor engaged in running a multispecialty hospital seeks your opinion in the context of provisions of the Act as to allowability/chargeability of the following transactions for preparing its return for A.Y.2008-09: **(8 Marks)**
- (a) Depreciation on the instruments, imported from U.K. for Rs.2 lacs cleared by customs on 22.3.2008 on payment of duty of Rs.1 lac, installed and ready for use on 26.3.2008. only one preparation with the help of such instruments was performed till 31.3.2008.
  - (b) The book profits calculated as per section 40(b) are Rs.3 lacs and payment of salary to working partners was Rs.1 lac. Clause for payment of salary to working partners thought appears in the deed, but the same is silent as to quantum and the manner of distribution.
  - (c) Salary of Rs.10,000 p.m. paid to the wife of a partner for working as an anesthetist. The normal salary of an anesthetist in the town is Rs.7,500 p.m. or less.
  - (d) Purchase of medicines in cash on 18.12.2007 for Rs.35,000.

(e) Revenue expenditure of Rs.10,000 incurred for promoting family planning amongst its employees.  
(f) Interest of Rs.3,000 paid on an overdraft of Rs.1 lac taken for making payment of installment of advance tax of Rs.1.25 lacs.

(b) An assessee, who is aggrieved from all or any of the following order is desirous to know the available remedial recourse and the time limit against each under the I.Tax Act, 1961: **(6 Marks)**

- (i) Passed U/s. 143(3) by the A.O.
- (ii) Passed U/s. 263 by the CIT.
- (iii) Passed U/s. 272A by the Director General.
- (iv) Passed U/s. 254 by the ITAT.

4. (a) State with reasons and the provisions of Act as to chargeability of the following receipts to tax on assessment year 2008-09: **(2×5=10 Marks)**

- (1) Rent of Rs.60,000 charged from tenants occupying houses constructed on the land situated in India and used for agricultural purposes.
- (2) Rameshwar Das Birla National award of Rs.51,000 was given to Mr.X, a Chartered Accountant by “Rameshwar Dasji Birla Smarak Kosh” for his contributions and work.
- (3) Hundi subscribing “contributions in this hundi form part of corpus of trust fund” kept at Lord Venkateshwara Temple, Tirumala, was opened on 30.3.2008. Cash of Rs.100 lacs and valuable articles worth Rs.250 lacs were found to have been contributed by the devotees.
- (4) Minister of Surface Transport was in receipt besides salary an amount of Rs.2,000 p.m as entertainment allowance.
- (5) Rent of Rs.30,000 for the period 1.4.2005 to 30.6.2005 due till the property sold out by the owner on 16.5.2007 was received on 12.2.2008 because of an order of court.

(b) Tax Recovery Officer, can recover the arrears of demand from the assessee in default by sale of the attached property after making a proclamation. How can such proclamation be made by the Tax Recovery Officer? **(3 Marks)**

5. (a) Examine the following cases and state whether the same are liable for penalty as per provisions of Income Tax Act: **(2×3=6 Marks)**

- i. Raman & Associates had made payment in excess of the limits prescribed to the contractors for carrying out labour job work at various sites, but had not deducted tax at source as per section 194C.
- ii. Hotels and hotel were asked by Income Tax Officer (CIB) to furnish details of all such tourists who stayed in their hotels and had paid bill amount in excess of Rs.10,000. They have not furnished the requisite information inspite of various reminders.
- iii. An assessee whose turnover in the previous year was of Rs.20 lacs had neither opted to be taxed as per section 44A of the Act nor had kept and maintained books of accounts.

(b) Explain the meaning of “eligible business” referred to in section 80-IE granting tax holiday in respect of profits and gains of certain undertakings in Northern – Eastern States. **(4 Marks)**

(c) Examine the correctness of the statement “that the jurisdiction of an Assessing Officer can not be objected by the Assessee”. **(4 Marks)**

6. (a) “Income Tax Act, 1961 extends to whole of India”. What meaning has been assigned to “India” under this Act? **(3 Marks)**

(b) Explain those conditions which are required to be fulfilled by both the predecessor and successor co-operative banks in order to claim benefit of section 72AB of the Act? **(5 Marks)**

(c) Specify all those public facilities which have been notified by CBDT as infrastructure facility for the purpose of section 36(1)(viii). **(5 Marks)**

7. Answer the following in the context of provisions contained in Income Tax Act, 1961: (4×3=12 Marks)

(a) Ram Kripa Kuber Gramin Bank a co-operative society engaged in banking business provided training to its employees before regular employment. The employees undergoing such training were required to execute a contract bond and to furnish security deposit. Certain such employees left the services of bank in between and as per terms of the contract the security deposit was forfeited and the recoveries against notice pay and training charges were also made. A.O. taxed these amounts as income which is objected and claimed to be not subject to tax by the bank.

(b) The A.O. within the powers vested in him U/s. 142(2A), while examining the accounts of PNF Ltd., had ordered to get the same audited. The company challenges this order on the ground “that the opportunity was not provided to them by the A.O. prior to passing of such an order”.

(c) Assessment for A.Y.02-03 was completed as per section 143(3) considering the various claims so made by the assessee on 23.12.2003. Subsequently, this was reopened U/s. 147 on certain issues, but excluding the claim of the assessee as to “Lease Equalization Fund”. The order of reassessment was passed on 24.11.2006. The Commissioner within the powers vested U/s. 263 passed an order on 11.1.2008 rejecting the claim of assessee as to “Lease Equalization Fund”. The assessee challenges that the action of the CIT is not sustainable because barred by limitation.

8. (a) State with reasons whether the following constitute assets chargeable to Wealth Tax on the valuation date 31.3.2008: **(5 Marks)**

- i. Agricultural farm house situated 26 Kms outside the Municipal limits of Jaipur, but within 22 Kms of Niwai Municipal Corporation.
- ii. Factory building and godown leased out on rent.
- iii. Silver and gold in the jewelers shop.
- iv. Aircraft held by a shipping company having turn over of Rs.800 crores for exclusive use of its Managing Director.
- v. A cash balance of Rs.1,50,000.

(b) Rakesh, a married coparcener having, no son but two minor daughters gets a commercial property on disruption of the HUF on 17.3.2008. He therefore, seeks your advice to know in whose hands the value of this property be subject to Wealth Tax on valuation date 31.3.2008 **(3 Marks)**

(c) How can the arrear demand of Wealth - Tax be recovered by the department where the assessee dies prior to making payment thereof? **(2 Marks)**