

DOT
Question No.1 is compulsory.
Answer any five questions from the remaining six Questions.

Question 1 (A) 5 Marks

(A) "Samode Oil Refineries Ltd.", the assessee have started commercial production of mineral oil from 1st June, 2099 of three wells in a licensed block. The company for the purpose of claiming deduction under Section 80-IB (9), contends that each well, is a separate industrial undertaking entitled to deduction. Examine critically in the context of the provisions, the correctness of the contention.

Question 1 (B) 5 Marks

(B) "Bhardwaj Textiles Ltd." ha availed a term loan of Rs.400 lacs from a nationalized bank for acquiring the fixed assets. However, due to financial difficulties, it could not meet its obligation for the last three years and decided to avail the benefit of "One Tim settlement Scheme" announced by the bank to reduce its NPA. The bank as per scheme allowed waiver of principal of Rs.5 lacs and of outstanding interest of Rs.20.30 lacs in total of Rs.25.30 lacs. The company directly credited the amount so waived to the general reserve. The A.O. contends that the entire amount so waived by the bank is chargeable to tax as business income under Section 28(iv) or under section 41(1) of the Act. Assessee company seeks your opinion.

Question 1 (C) 5 Marks

(C) Krishan Kanhiya HUF, running Kanha Departmental Stores consists of Karta, his wife. Two sons and daughter. Both the sons who are having professional/technical qualifications as a Chartered Accountant and as an Automobile Engineer started in partnership a garage for the repairing of motor cars with a clear understanding that the technical side of the business be looked after by the Engineer while the general administration and finance part be taken care by the Chartered Accountant. They had taken an interest-free loan of Rs.5,00,000 from the HUF for starting the venture. The business of garage resulted into net profit of Rs.15,00,000 fro the year ended 31-03-2010. The A.O. proposes to assess the income from the business of motor garage in the hands of HUF. What do you say about the validity of the proposition of the A.O.?

Question 1 (D) 5 Marks

(D) Examine the taxability of the following assets held on valuation date in the context of provisions I Wealth Tax Act, 1957:

- (i) A house property owned by Pankaj was transferred without consideration to Miss Geeta on 11-1-2009. Subsequently Miss Geeta got married to his son on 18-4-2009. The value of house on 31-3-2010 is Rs.75 lacs.
- (ii) Right to live in a house for life.
- (iii) The cash in hand on 31-03-2010 with the cashier of ABC Pvt. Ltd. was Rs.2,00,000. The balance as per cash book on that day was Rs.1,50,000.

Question 2 16 Marks

2. The Profit & Loss account for the year ended 31-3-2010 of Jolly Ltd., a company engaged in different types of business activities, continuously incurring losses disclosed a net loss of Rs.1,50,000 arrived at after debiting/crediting the following:

- (i) Profit of Rs.3,13,000 from a hedging contract entered into for meeting out the loss in foreign currency payments towards an imported machinery of Rs.60 lacs installed and put to use on 1-1-2010.
- (ii) Amount in U.K. Pounds 1,600 equivalent of Rs.1,11,200 paid to a travel agent resident of U.K. as commission for the booking of international tourists of India in one of the hotel of the company; on which the tax at source was neither deducted not paid.
- (iii) Amount of Rs.25,000 debited in commission account represents payment to a party as secret commission duly approved by the board.
- (iv) Amount of Rs.4,32,000 recovered from the C&F agents towards the excess freight charges collected upto financial year 08-09 by them from the customer of the company which was neither remitted to the company nor refunded back to customers.
- (v) Amount of Rs.5,00,000 of unpaid interest for the year 2008-09 waived by SBI after considering the financial health of the company.
- (vi) Interest on the amount of advance of Rs.3,00,000 given to the subsidiary company at 10% p.a. was not charged on the ground that the financial position of the subsidiary was not satisfactory.
- (vii) Rs.5,00,000 representing the value of furniture found missing on physical verification and debited to General Expenses.

- (viii) Amount of salary of Rs.1,50,000 paid to the Managing Director for which the approval of the Central Government was received on 18-4-2010.
- (ix) Amount of Rs.3,30,000 received from the holding company in reimbursement of loss sustained in particular transaction.
- (x) Expenses of Rs.26,00,000 incurred on the dismantling of building and machinery and transportation to the new site for refitting because of shifting of the location of one of its unit.
- (xi) Provision of Rs.75,000 of interest on the unpaid purchase price of an asset which was put to use in August, 2009.

Compute income under the head "Business or Profession" of Jolly Ltd. for the assessment year 2010-11 indicating brief reasons for treatment given to each of the items.

Question 3 (A) 8 Marks

(A) "Mingle Engineering Ltd", a Korean non-resident company, had entered into an agreement for designing, fabricating, hook-up and commissioning of a platform in the Bombay High with "Crude oil India Ltd" an Indian company. The agreement entered into was in two parts, one for the value to be charged for fabrication of structure in Korea for Rs.20 crores (having element of profit in it of Rs.2 crores) and other for the installation and commissioning of the structure in Bombay High for Rs.15 crores (having element of profit in it of Rs.1.5 crores). The Korean company is also setting up an office in India for the activity of installation and commissioning of the platform which is likely to be completed in 9 months.

On these facts, you are required to answer/work out:-

- (a) Whether the office of Mingle Engineering Ltd. to be opened in India be considered as its "permanent establishment" / "business connection"?
- (b) The amount of profits, if any, of the non-resident company subject to tax in India.
- (c) The income subject to tax in India, when the arm's length price of the fabrications of structure is determined at Rs.19 crores.

Question 3 (B) 8 Marks

(B) Mr. Harsh, aged 66 years running business as a proprietor furnishes the particulars of his income for the year ended 31-3-2010 as under:

- (a) Net Profit of Rs.3,35,500 from the wholesale business of textiles and fabrics arrived at after charge of following expenses in the Profit & Loss Account:
 - (i) Personal traveling expenses of Rs.12,750.
 - (ii) Purchase of furniture items for shop on 13-6-2009 of Rs.25,000 but charged in shop expenses.
- (b) He owns a house of two storeys constructed with financial assistance of HDFC out of which ground floor is used by him for self use and first floor was on rent from April, 2009 of Rs.8,500 p.m. The municipal tax paid for the whole house was of Rs.2,500 and interest paid on housing loan taken from the construction was Rs.52,000. Both the floors of the house are identical.
- (c) He had deposited insurance premium on the self of Rs.12,500, wife Rs.13,500, son and daughter of Rs.28,000, made investment of Rs.50,000 in the bonds issued by NABARD and paid Rs.22,500 by credit card for mediclaim insurance of the family.

Compute taxable income and the amount of tax payable by Mr. Harsh on such income for the Asst. Year 2010-11.

Question 4 (A) 4 Marks

(A) Explain the duty of an Assessing Officer under Section 220(6) as summarized by the following statement: "The Assessing Officer while acting under Section 220(6) should not act as a mere tax-gatherer but as a quasi-judicial authority."

Question 4 (B) 4 Marks

(B) Can the aggregate of the deduction under the various provisions of the Income-tax Act, 1961 exceed the profits and gains of the undertaking or unit of enterprises or eligible business, as the case may be? Explain briefly the amendment effected in Section 80A of the Act in this regard to prevent abuse of tax incentives.

Question 4 (C) 4 Marks

(C) In the proceedings initiated under Section 153A, the assessment order passed in respect of Mr. Simbu pertaining to a particular assessment year was annulled by the Income-tax Appellate Tribunal in its order passed on 28-1-2010. The same was received on 28-2-2010 by the jurisdictional Commissioner of Income-tax. Does the Department have any power to complete the assessment subsequently to such annulment? If yes, within what time limit?

Question 4 (D) 4 Marks

- (D) What will be the consequences when Mr. Raghav made a payment of Rs.75,000 in cash to a travel agent for his travel to Saudi Arabia to be undertaken for business purposes by quoting intentionally the wrong PAN? Would your answer be different when such cash payment was made for his travel to Nepal instead of Saudi Arabia?

Question 5 (A)

4 Marks

- (A) Siddarth Hospitals Pvt. Ltd., the assessee, has recently been accorded recognition by several insurance companies to admit and treat patients on cashless hospitalization basis. Payment to the assessee hospital will be made by Third Party Administrators (TPA) who will process the claims of the patients admitted and make the payments to the various hospitals including the assessee. All TPAs are corporate entities. The assessee wants to know whether the TPAs are bound to deduct tax at source under Section 194J or under 194C.

Question 5 (B)

4 Marks

- (B) Richie Rich Real Estates, a partnership firm engaged in real estate business, sold a land for Rs.50 lakhs. The buyer was a stranger to the assessee firm. The valuation adopted by the stamp valuation authority was Rs.60 lacs. The Assessing Officer wants to adopt the value of Rs.60 lacs for Section 50C. IS the same justified?

Question 5 (C)

4 Marks

- (C) The assessee Pandey Co-operative Housing Society is a registered co-operative housing society. Formed with the objective of maintaining the property owned by it, to effect repairs and maintenance of the common property of the members, and to confer to the members, the usual rights and privileges. For the assessment year 2010-2011, the assessee has received Rs.3 lacs as transfer fees from the transferor members and like amount from the transferees, who at the time of transfer, were not members of the society. Discuss the exigibility to tax the aforesaid receipts in the hands of the assessee.

Question 5 (D)

4 Marks

- (D) There is a private specific trust in which the shares of the beneficiaries are certain. Mr. L and Mr. M are the trustees. The beneficiaries are all minors and there are several items of assets as envisaged by section 2(ea). Mr. B, the father of the minor children also has taxable net wealth. What is the best possible manner in which the Assessing Officer should complete the assessment of the trust, so as to maximize the tax revenue?

Question 6 (A)

9 Marks

- (A) Examine the correctness or otherwise of the following cases/matters/issues in the context of provisions contained in the Income Tax Act, 1961 relevant/applicable for the assessment year 2010-2011:
- PNF Ltd. made an entry on 11-06-2009 in its books of account relating to liability against the purchase of material from M/s. Roma Services. The Assessing Officer gathered that M/s. Roma Services had failed to file its return of income and also reported to have lost the books of account for the year ended 31-03-2010. The Assessing Officer having suspicion in mind on these two grounds, got conducted inquiry and noted that the whole transaction of the purchases shown by ONF Ltd. was not genuine but bogus had the entry made in the books of account as a liability was also a paper entry. The Assessing Officer, therefore treated the liability shown by PNF Ltd. as income chargeable to tax under section 68 of the Act. PNF Ltd., however, contends that section 68 can be invoked only in respect of cash credits and not otherwise.
 - Nargis working as regional Area Sales Manager of Pincer Marketing Ltd. was paid salary and a commission based as a percentage on the volume of sales effected by her. Nargis claimed the expenses incurred by her for earning the commission in the return of income, which were disallowed by the assessing officer.
 - B. Ltd. the holding company of A. Ltd. had entered into an agreement by which the textile unit belonging to it was transferred to A. Ltd. The agreement besides other also stipulates for the protection of service conditions and continuity of service of the workmen employed in the textile unit so transferred to / taken over by A. Ltd. B. Ltd. delivered the possession of the properties to A. Ltd. and the also transferred all the employees working in the textile unit with the benefit of continuity of service and protection of service conditions. A. Ltd. claimed deduction for the amount of gratuity payment in respect of the workers of erstwhile textile unit of B. Ltd., who had retired during the relevant previous year. The Assessing Officer disallowed this claim of A. Ltd. on the ground that the liability towards gratuity payment to the employees of erstwhile company for the period prior to the takeover of the unit is not a revenue expenditure but is a capital expenditure.

Question 6 (B)

7 Marks

- (B) Finance (No. 2) Act, 2009 for facilitating expeditions resolution of disputes relating to international transactions involving transfer pricing and foreign companies has provided for "alternate dispute resolution mechanism". In this context you are required to answer the following:

- (i) What meanings have been assigned to “dispute resolution penal” and the “eligible assessee” under this mechanism?
- (ii) When can a grievance for resolution be filed by an assessee?
- (iii) What evidences are being considered by the penal to redress the grievance of the assessee?

Question 7 (A) 4 Marks

- (A) If an Assessee does not claim any expenditure w.r.t. Exempt Income then write down the prescribed methods that the Assessing Officer would follow to determine the amount of expenditure incurred in relation to Exempt Income.

Question 7 (B) 4 Marks

- (B) ‘Capital expenditure cannot be said to be applicant of income by a trust u/s 11(1)(a) of the Income Tax Act, 1961.’ Examine the validity of this statement.

Question 7 (C) 4 Marks

- (C) Discuss the taxability of the following receipts in the hands of Mr. H under the Income Tax Act.
- (i) Gets Rs.1,75,000 in cash as a marriage gift from his grandfather on 13-02-2010.
 - (ii) Received 100 shares of B Ltd., the fair market value of which was Rs.1,00,000 on his birthday, 21-4-2009 from his friend Mr. J.
 - (iii) Received Rs.51,000 from his sister living in UK on 21-09-2009.
 - (iv) Wrist Watch valued at Rs.60,000 from his friend on 01-12-2009.

Question 7 (D) 4 Marks

- (D) The Director General of Income Tax after getting the information that Mr. Mogabo is in possession of unaccounted cash of Rs.50 lakhs, issued orders by invoking powers vested in him as per section 131(1A) of the Act, for its seizure. Is the order for seizure of cash issued by the Director General of Income Tax correct? If not, does the Director General of Income Tax have any other power to seize such cash?

Question 7 (E) 4 Marks

- (E) The assessment of Vasudha Polyesters Pvt. Ltd. for the assessment year 2008-09 was completed under Section 143(3). On 12-3-2010, the Assessing Officer reopened the assessment in proper manner. The reason recorded was that certain expenditure which ought to have been disallowed under section 14A was not be done and hence there has been escapement of income. During the course of hearing, he recorded. The assessee object to the same, contending that the same is not permissible. Examine the correctness of the assessee’s contention.