PAPER 7: DIRECT TAXES
NOVEMBER 2002

Answer all questions.

Question 1

Netherlands Oil Corporation is a Foreign Company engaged in the exploration of Oil and Gas in all countries including India. In respect of its Indian Business, the company has prepared the Profit and Loss Account in accordance with Part II and III of Schedule VI to the Companies Act, 1956 and such Profit and Loss Account for the previous year ended 31.3.2002 shows a Net Profit of Rs.65 Lakhs. The Net Profit from activities in all countries stands at Rs.550 Lakhs. The company informs that while arriving at the Net Profit as indicated above in respect of Indian Business, the following debits / credits have been made in its Profit and Loss Account. **(15 Marks)**

(Rs. in lakhs)

Credits to the Profit and Loss Account

(i)	Net Agricultural income in India	16
(ii)	Share of Profits from a firm engaged in business in India.	15
(iii)	Amount withdrawn from Reserve created during 2000-01 (Book Profit was not increased by the amount transferred to such reserve in the year 2000-01)	3
(iv)	Profits from an Industrial Undertaking covered and qualified for deduction U/s. 10B of the Income Tax Act, 1961.	30
(v)	Profits from an Industrial Undertaking covered and qualified U/s. 10C of Income Tax Act, 1961.	6

Debits to the Profit and Loss Account

(i)	Expenditure relating to 10B undertaking	12
(ii)	Depreciation for current year under Companies Act, 1956	24
(iii)	Interest to Financial Institutions not paid up to the date of filing the return	6
(iv)	Penalty for infraction of law	1
(v)	Proposed Dividend	3
(vi)	Provision for Taxation (Income – Tax)	2
(vii)	Transfer to General Reserve	5
(viii)	Provision for Unascertained Liabilities	2
(ix)	Expenditure relating to 10c undertaking	5

The following additional information is also provided :

Brought forward Book Loss	12
Depreciation allowable under Income-Tax Rules	30
Brought forward Business Loss and unabsorbed depreciation as per Income – tax law. (Loss Rs.8 Lakhs and Depreciation Rs.10 Lakhs)	18

You are requested to compute the total tax liability of the company for the A. Year 2002-03.

Question 2

(a) Find out the Taxable Value of perquisite from the following particulars in case of an employee to whom the following Assets held by the company were sold on 13.6.202 **(6 Marks)**

	Amount in Rs.		
	Car	Laptop	Furniture
Cost of Purchase (May, 2000)	8,72,000	1,22,500	35,000
Sale Price	5,15,000	25,000	10,000

(b) M/s. Global Airlines incorporated as a company in USA operated its flight to India and vice versa during the year 2001-02 (April, 2001 to March, 2002) and collected charges of Rs.125 Lakhs for Carriage of passengers and Cargo out of which Rs.65 Lakhs were received in US Dollars for the Passenger Fare booked from New York to Mumbai. The total expenses for the year an operation of such flights were Rs.195 Lakhs. Income chargeable to tax of the Foreign Airlines may please be computed. **(4 Marks)**

(c) Penalty is not leviable, if certain conditions are satisfied, in the case of block assessment . Discuss **(4 Marks)**

Question 3

(a) X Ltd., a Pharmaceutical Company having accumulated losses and unabsorbed depreciation to be set off in future for Rs.130 Lakhs and Rs.250Lakhs as on 31.3.2001 was demerged on 16.5.2001 and 30% of its total Assets were transferred into the resulting Co., XY Ltd., How the Accumulated Losses and Unabsorbed depreciation of the demerged company shall be dealt with in the return for Assessment Year 2002-03 of the resulting company: **(4 Marks)**

i. When the same are not directly relatable to the undertakings transferred; and
ii. When the same are directly relatable to the undertakings transferred.

(b) An enterprise engaged in manufacturing of Steel Balls discontinued its activities and decided to lease out its Factory Building, Plant and Machinery and Furniture from 1.4.2001 on a Consolidated Lease Rent of Rs.50,000 per month. Compute the income for Assessment Year 2002-03 of Assessee from following information:

		Rs.
(i)	Interest received on deposits	1,00,000
(ii)	Brokerage paid on Hundi Loans taken	2,000
(iii)	Interest paid on Hudi and other loans which were given as deposits on interest to others	75,000
(iv)	Expenses incurred on repairs of Building, Plant and Machinery.	15,000
(v)	Fire Insurance Premium on Plant and Machinery and Furniture	12,000
(vi)	Depreciation for the year	1,47,500
(vii)	Legal fees paid to an advocate for drafting and registering the legal agreement	1,500
(viii)	Factory Licence fees paid for the year	1,000
(ix)	There is unabsorbed depreciation of Rs.2,75,000 for the Assessment Year 2000-01 and 2001-02.	
(x)	Interest paid includes an amount of Rs.25,000 remitted outside India on which TDS was not deducted since the party had furnished Form – H.	

Question 4

(a) Mr. rose out of his own funds had taken a FDR for Rs.10,00,000 bearing interest @ 10% P.A. payable half-yearly in the name of his wife Lilly. The Income of interest earned for the year 2000-01 of Rs.1,00,000 was invested by Mrs.Lilly in the business of packed Spices, which resulted into a Net Profit of Rs.55,000 for the year ended 31.3.2002. How the income of interest on FDR and Income from business shall be taxed for the Assessment Year 2002-03. **(4 Marks)**

(b) Examine whether the following actions initiated / taken by the Income-tax Authorities are proper and valid under the Provisions of the Act. **(3×2 = 6 Marks)**

(i) The Assessing Officer within his Jurisdiction surveyed the Residential House of an Assessee, who is engaged in Money Lending Business there from on 10.5.2001 (Thursday) at 4.30 P.M.

(ii) The Return of Income for Assessment Year 2000-01 filed on 01-02-2001 was selected for Scrutiny Assessment for which first notice U/s.143(2) was issued on 27.02.2002

(iii) The Assessment completed U/s.143(3) for Assessment Year 1995-96 was found to have been based on wrong information given by Assessee and accordingly the Income of Rs.1,32,500 earned on 03.05.1994 escaped assessment for which notice U/s.148 to reopen the assessment was issued on 11.3.2002.

(c) Specify the items of Capital Assets in respect of which the cost of acquisition shall be taken as "NIL" under the provisions of the Income – Tax Act, 1961 while computing Capital Gains. **(4 Marks)**

Question 5

(a) State the conditions, if any to be satisfied by the Assessee in order to get relief under section 273A(4) of the Income-Tax Act, 1961 regarding the waiver of penalty. Can the Commissioner of Income-tax refuse to grant relief, when the conditions laid down in the section are complied by the Assessee. **(5 Marks)**

(b) Mr.Biswas, a stock broker has defaulted with regard to his Income-tax payments and the Assessing Officer has attached his membership card of Stock Exchange under section 281B of the Income Tax Act, 1961. Mr.Biswas contends that the membership card is not transferable and is not personal Asset. Discuss the validity of attachment of the card by the Assessing Officer in the context of Section 281B of the Act. **(4 Marks)**

(c) Can the Assessing Officer complete the assessment under section 144 of the Income Tax Act, 1961 even though there is no failure on the part of the assessee under section 139(1),(4),(5), 142(1), 142(2A) or 143(2) of the Act ? if so, under what situation? **(4 Marks)**

Question 6

How do you deal with the following situations? Give reasons for your answer. (The Assessment Year 02-03):

(3×4=12 Marks)

(a) Ramji Charitable Trust has filed return of income for the Assessment Year 2001-02 within the stipulated time under section 139(1) and applied only 50% of its income to specified purposes. It intends to accumulate the balance 25% of income to be spent in future years. While completing the assessment, the Assessing Officer disallowed the accumulated income of 25% and taxed the same on the ground that the trust ahs not made any application U/s. 11(2) along with return of income or even before the completion of assessment. Discuss the validity of the action of A.O. in this case.

(b) Rahim and Iqbal, two co-owners of immovable property situated at Delhi, agreed to sell the property to Mr.Anhijit for a consideration of Rs.58 lakhs. At the time of registration, when the sub-registrar insisted for approval under chapter XX-C of I.T. Act from appropriate authority, the co-owners argued that they agreed to transfer their property rights and each of them was to be paid an amount of consideration, which was less than the amounts specified, viz., Rs.50 Lakhs, each owner would get only Rs.28 Lakhs under the agreement and in such an event, Chapter XX-C would not apply. Discuss the tenability of Co-owners argument in the light of provisions of Chapter XX-C of I.T.Act.

(c) The Assessee, a Co-operative Society, earned interest income of the reserve funds, which had been invested with SBI/RBI in compliance with Statutory provisions in order to carry on banking business and claimed deduction U/s. 80P(2)(a) of I.T. Act. The Assessing Officer declined to allow the claim, but restricted its claim to that part of interest income derived from working or circulating capital. Examine the validity of action of Assessing Officer.

(d) KP Madhusudan & Co., a partnership firm, had taken certain bank drafts for payments to suppliers of Rice and it had made entries in the accounts a few days later, but not on the dates on which the bank drafts were obtained. The explanation of assessee was that sufficient cash balance was snot available on those dates, it had obtained hand loans from friends and, as it had expected to repay such loans within a short time, no entries were made in its books of account in respect thereof. Due to inability to furnish evidence for such loans, the assessee offered the amount of Rs.93,000 as additional income towards unexplained investment. Penalty proceedings were initiated by Assessing Officer U/s. 271(1)(c) read with explanation 1B of I.T. Act and levied a penalty of Rs.37,975. is levy of penalty justifiable?

Question 7

(a) Human Life Insurance Co., of U.K conducted business in India during 2001-02. It seeks your advice for the computation of its income from Life Insurance Business in India, in accordance with the provisions of Income-tax Act, 1961. **(3 Marks)**

(b) Designated Authority can determine any issue under the Income Tax Act, 1961 by giving "Advance Ruling". Elaborate the meaning assigned to "Advance Ruling" under the aforesaid Act. **(3 Marks)**

(c) Any appeal against an assessment order for Assessment Year 1992-93 is decided by the Income Tax Appellate Tribunal against the assessee and the order is served on the Commissioner on 27.12.2001. The Assessing Officer levies penalty under section 271(1)(c) of Income Tax Act, 1961 vide his order dated 27.6.2002 for the aforesaid Assessment Year for which the appeal has been decided against the Assessee. The assessee seeks your advice on the following :

(i) Is the A.O. empowered under the Act to impose penalty after a period of ten years?

(ii) What remedial action can be taken against the order and prescribed time limit thereof?

Question 8

(a) Mr.Kamat a not Ordinarily Resident in India seeks your advice with regard to the furnishing of his Wealth-tax return. The value of assets held on 31.3.2002 is indicated below. You are requested to compute the Taxable Wealth of Mr.Kamat giving justification for the inclusion or exclusion of each item. The valuation date as indicated above is 31st March, 202:

		Rs.
(i)	Motor cars of foreign make held as fixed assets	9,50,000
(ii)	Gold bonds under Gold Deposit Scheme, 1999	15,00,000
(iii)	Residential house property at Pune let out with effect from 5th June, 2001	11,00,000
(iv)	Jewellery held	9,00,000
(v)	Lands purchased for industrial purpose:	
	On 1st January, 1998	5,50,000
	On 25th March, 2001	7,50,000
(vi)	Loan against the purchase of lands :	
	On 1st January, 1998	2,75,000
	On 25th March, 2001	3,50,000
(vii)	Wealth Tax liability	9,000
(viii)	Cash on hand	75,000
(ix)	Cash at Bank	1,25,000
(x)	Fixed assets located in USA	50,00,000
(xi)	Value of Assets held by Mrs.Kamat acquired out of the gifts received from her husband:	
	Shares and Securities	2,00,000
	Residential House Property at Mumbai.	9,00,000

(b) Explain the procedure for adoption of the value of Jewellery for the valuation date as at 31st March, 2002 and subsequent 3 years assuming the value of Jewellery has been determined by Valuation Officer as at 31st March, 2001 **(2 Marks)**