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## PAPER -7 : DIRECT TAXES

NOVEMBER 1998.

Answer all questions.

Wherever appropriate, suitable assumption/s should be made by the candidate.

### Question 1

Discuss the liability for tax deduction at source in the following cases:

- (i) An Indian company pays dividends on preference shares to a shareholder of the amount of Rs. 10,000 on 30.9.98. **(2 Marks)**
- (ii) A foreign enterprise enters into a contract for the fabrication and supply of components for machinery with X and Co. a firm in India. X and Co. in turn subcontracts the work to Y and Co. and pays it Rs. 20 lakhs during the financial year, 1997-98. **(2 Marks)**
- (iii) A H.U.F. had deposited Rs. 50,000 under the National Savings Scheme, 1987 (N.S.S). There was a partition in the family under which the shares of each of the two coparceners in the deposit was fixed at Rs. 25,000. The partition took erstwhile H.U.F. in March, 1998. **(3 Marks)**
- (iv) A Company pays to a doctor a monthly retainer ship of Rs.1,500 for attending an outpatient clinic at its factory premises. **(2 Marks)**
- (v) Under an agreement entered into after 1<sup>st</sup> June, 1997, between an Indian Company and a Foreign Company and approved by the Central Govt., the tax royalty payable by the former to the latter, is to be paid by the Indian Company. The royalty payable is Rs. 10 lakhs for the financial year 1997-98. **(3 Marks)**
- (vi) A non-resident Indian had acquired 10,000 units of the UTI of the face value of Rs. 10 each, out of the funds standing to his credit in the Non-resident (External) Account maintained in a bank. The UTI declares a dividend of Rs. 12,000 and credit to the account of the Non-resident Indian. **(3 Marks)**

### Question 2

- (a) One of the objects of a religious trust is the establishment and maintenance of public places of work-ship and prayer halls open to all communities. The Assessing Officer allows exemption in respect of the income of the religious trust U/s. 11, but declines to grant deduction U/s. 80g in the hands of the donors in respect of donations made to the trust. Comment on the seeming contradiction in the two decisions of the Assessing Officer. **(8 Marks)**
- (b) Shrinivas purchased, in 1992, 10,000 shares of BMC Ltd., for Rs. 5 lakhs by borrowing money from a bank. He holds them as 'investments'. He received dividend income on these shares of Rs. 1 lakh for the previous year 1997-98 on 10.12.1997. He has paid interest of Rs. 85,000 on the loan to the bank. Please advise shrinivas, how should he deal with these facts in computing his income. Would your advice be different if shrinivas had received dividend in the previous year 1995-96 and had paid the interest in that year? **(6 Marks)**

### Question 3

- (a) Discuss the scope of the restrictions relating to acceptance of loans and deposits and repayments thereof in cash bringing out the distinctions in the relevant provisions. **(8 Marks)**
- (b) What are provisions regarding the carry forward and set off of the unabsorbed depreciation U/s. 32 of the Income Tax Act? Write an elaborate note. **(6 Marks)**

### Question 4

Write short notes on:

- i. Subordinate Legislation **(4 Marks)**
- ii. Pension Fund set up by L.I.C. **(5 Marks)**
- iii. Assessment of Profits of Retail Trader. **(5 Marks)**

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**Question 5**

(a) Telecom Ltd. incurs an expenditure of Rs. 100 crores for acquiring the right to operate telecommunication services for Haryana & Punjab circles. The payment of Rs. 100 crores was made in September, 1996 and the licence to operate the services was valid for 10 years. In December, 1997, the company transfer part of the licence, in respect of Haryana, to Intel Ltd. for a sum of Rs. 27 crores and continues to operate the licence in respect of Punjab. What is the amount allowable as deduction U/s. 35ABB to Telecom Ltd. in respect of the licence fee, for Assessment Year, 1998-99? **(4 Marks)**

(b) A. Dalal was the holder of a membership card of Bombay Stock Exchange acquired in 1975 for Rs. 10 lakhs. He transferred the card to a company, Dalal & Co. (Pvt.) Ltd. in September, 1997 and was allotted 25,000 shares of the value of Rs. 100 each in the company in consideration of the transfer. Due to ill health, he sold these shares at Rs. 120 per share in October, 1998. Discuss the consequences of these transfers. To avoid arithmetical calculations you are told to assume the indexed cost of the membership card in September, 1997 at RS.10 lakhs. **(6 Marks)**

(c) A contractor engaged in the business of civil construction work does not maintain regular books of account. The total bills submitted in respect of contracts for the period 1.4.1997 to 31.3.1998 are as under:

	Rs. in lakhs
Value of work carried out	25.00
Value of materials supplied at fixed costs by the Contractee	8.00
<b>Bills Gross</b>	<b>33.00</b>
Less: Amount retained at 10% by the contractee for due Performance of the contract and refundable six months after the completion of the contract	3.30
<b>Bills Net</b>	<b>29.70</b>

How will the profit of the contractor be assessed by the assessing officer? **(4 Marks)**

**Question 6**

Express Ltd. credited to its profit & loss account drawn for the financial year ending 31<sup>st</sup> March, 1998, the following amounts: **(14 Marks)**

- |  | Rs.      |
|--|----------|
| (i) Unclaimed wages for the years 1992 to 1994.  | 2,80,000 |
| (ii) Deposits received from its customers (during the financial year 1990-91 Rs.84,000 and 1992-93 Rs.1,26,000) for supply of spare parts – remaining unclaimed.   | 2,10,000 |
| (iii) Amounts claimed and recovered from the Agents of its customers, the excess freight paid by the customers of the assessee company – remaining unclaimed by the customers during the last 4-5 years.   | 3,42,000 |
| (iv) Amounts collected by way of sales tax from its customers in the financial year, 1982-83 and deposited with the State Government in the same year- In February, 1998, the State Government refunded the amount to the assessee company, when the relevant provision relating to levy of Sales Tax was struck down by the High Court. | 3,00,000 |

The assessee company contends that it is not liable to pay any tax in respect of any of the aforesaid credits made to its profit & loss account during the financial year, 1997-98 for the following diverse reasons:

- There has been no cessation of assessee company's liability to its workers and/or customers merely by its unilateral act of crediting the amounts to its profit & loss account.
- The way in which the entries are made by an assessee in his books of accounts is not determinative of the question, whether it has earned any assessable profit or suffered any assessable loss.
- Amounts received by it from the customers and / or recovered by it from the agents of the customers were never claimed by and / or allowed to it as a business deduction in any of the earlier years.

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- (d) The liability of the assessee company in respect of the aforesaid sums became barred by limitations long before 1<sup>st</sup> April, 1997.

Are you in agreement with company's contentions? Give reasons observations with reasons on each of the items credited to profit& loss account.

**Question 7**

- (a) Sudarshan Builders Ltd., a widely held company owns the following assets as on 31<sup>st</sup> March, 1998: **(6Marks)**
- i. Land at Bangalore, purchased on 1995, on which a residential complex consisting of 24 flats, to be sold on ownership basis, is under construction for last 18 months;
  - ii. Two office flats at Calcutta purchased for resale in the year 1996;
  - iii. Shares of Group Companies, break-up value of which is Rs.6,40,000;
  - iv. Cash at construction site Rs.3,20,000;
  - v. Residential flat in occupation of company's whole time director drawing a salary of Rs.1,80,000 per annum.

Which of the above assets will be liable for wealth tax? Give reasons in brief.

- (b) Property Company Ltd., has let out a premises W.E.F 1<sup>st</sup> October, 1997 on monthly rent of Rs.1 lakh. The lease is valid for 10 years and the tenant has made a deposit equivalent to 3 month's rent. The tenant has undertaken to pay the municipal taxes of the premises amounting to Rs.1 lakh. What will be the value of the property under Schedule III of the Wealth Tax Act for assessment to Wealth Tax? **(6 Marks)**
- (c) What are the circumstances under which the Wealth Tax Officer is not required to follow the procedure laid down for valuation of House Property in Rule 3 of Schedule III of the Wealth Tax Act? **(3 Marks)**