

**Topic: Direct Tax**

**Total Marks - 50**

**Time allowed – 1.5 hours**

**Q1.A.** Examine and explain by giving reasons in brief as to the correctness or otherwise of each of the following statements in the context of provisions contained under the Income Tax Act, 1961 :

- (i) Every person who during the previous year was a partner of a firm or a legal representative of any deceased partner shall not be liable jointly and severally to pay the amount of tax, penalty or other sum payable by the firm.
- (ii) The application before the authority for seeking Advance Ruling is to be filed in triplicate and be accompanied by a fee of `10,000
- (iii) Specified domestic transactions in case of an assessee means any business transacted between the assessee and other person as referred to in section 80-IA(10) of the I.T. Act subject to that the aggregate value of such transactions in the previous year exceeds `20 crores.
- (iv) Impermissible avoidance arrangement results directly or indirectly in the misuse, or abuse of provisions of I.T. Act and be subject to applicability of GAAR.
- (v) Tax Avoidance cannot be considered at par as Tax Evasion since it is usually done by taking advantage of loop-hole without any infringement of taxation laws so that least taxes are attracted.

**Q1.B.** Mr. X, carrying on the business of operating a warehousing facility for storage of sugar, has a total income of Rs. 80 lakh. In computing the total income, he had claimed deduction under section 35AD to the tune of Rs. 70 lakh on investment in building (on 1.4.2020) for operating the warehousing facility for storage of sugar. Compute his tax liability for A.Y.2021-22. Show the calculations of Alternate minimum Tax also.

**Q1.C.** Difference between General Anti Avoidance Rules 'GAAR' and Specific Anti Avoidance Rules 'SAAR'?

**Q1.D.** The residential status of Thomas for the previous year 2019-20 is of a resident but not ordinarily resident (R&NOR). He has following income during the year and asks you to explain by giving brief reasons as per provisions of the Income Tax Act, 1961 whether the same be taxable in the assessment year 2020-21 :

- (a) Agricultural income of `35,000 from the land used for cultivating the crop of grapes located in Nasik, Maharashtra, India.
- (b) Dividend of `55,000 from an Indian Mutual Fund company on the MF Units as specified under section 10(23D) of Act.
- (c) Income received and accrued outside India from a business of cosmetics of `1,25,000 which is being controlled from India.
- (d) Gifts received from brother of `21,000 and gifts of `51,000 received from persons who are not a relative on the occasion of his marriage.
- (e) Past untaxed profits of earlier years of `2,50,000 lying in bank account maintained in Singapore and being remitted during the previous year 2019- 20 to India.

**(5 marks each x 4 = 20 marks)**

**Q2.A.** XYZ Ltd., a foreign company, has its head office at UK. The Board of Directors (BOD) meetings are held in UK. However, the Board of Directors has delegated major powers to a committee in Delhi and the members of this committee are based in Delhi. The Board of Directors ratified the decisions of the said committee. In the light of above,

- (1) Discuss the place of effective management (POEM) of XYZ Ltd.
- (2) Discuss the guiding factors of POEM for Board of Directors delegating authorities to Committee.

**Q2.B.** Specify with the reason, whether the following acts can be considered as tax planning or tax management or tax evasion or tax avoidance.

- i. "Mr. P deposit Rs.1 lakh in PPF account so as to reduce his total income from Rs. 6 lakh to Rs. 5 lakh".
- ii. To reduce tax payable, Mr. Kunal Sharma, a resident individual, paid Rs. 55,000 as life insurance premium on the policy of his minor son.
- iii. Company claiming depreciation on the motor car which is being used by director for personal purposes.

**Q2.C.** Sukriti Ltd. incurred expenses of Rs. 76,000 for the issue of shares. However, the public issue could not materialize on account of non-clearance by SEBI. Examine with the help of a decided case law, whether the above expenditure is revenue or capital in nature.

**Q2.D.** Minimum Alternate Tax (MAT) is attracted under section 115JB, on account of tax on total income being less than 15% of net profit as per the profit and loss account for the relevant previous year. Comment.

**Q2.E.** Brat Inc. of U.K. holds 9% shares in Pit Ltd. of India. The total book value of Assets of Pit Ltd., is Rs. 57,25,000. Brat Inc. of U.K. has given a loan to Pit Ltd. of Rs. 30,00,000. Examine whether Brat Inc and Pit Ltd. are associated enterprises.

**(3 marks each x 5 = 15 marks)**

**Q3.A.** Lal Ltd., a domestic company, purchases its own unlisted shares on 17th August, 2020. The consideration for buyback amounted to Rs. 18 lakh, which was paid on the same day. Lal Ltd. had received Rs. 11 lakh on issue of these shares one year back. Compute the additional income-tax payable by Lal Ltd. Further, determine the interest, if any, payable if such tax is paid to the credit of the Central Government on 7th November, 2020. Discuss.

**Q3.B.** Janak Poly Fibres Ltd. is an Indian company having registered office in Mumbai and John Stuart LLP is a non-resident Singapore base company. There have been a series of international transactions between both these companies since last so many years. Janak Poly Fibres Ltd. has entered into an Advance Pricing Agreement (APA) on 10th January, 2020 to determine the ALP for the transactions entered with John Stuart LLP by stating that P.Y. 2019-20 is the first of the consecutive previous years. The rate adopted under the Advance Pricing Agreement is Rs. 13,500 per MT.

The assessments for the assessment years 2012-13 to 2017-18 of Janak Poly Fibres Ltd. have been completed on various dates and in these years, the ALP determined and taken for the A.Y. 2012-13 to 2015-16 was `13,000 per MT and of ? 14,000 per MT for A.Y. 2016-17 and 2017-18. The quantity involved was 2 lakhs MT in each of these years respectively.

Assessments for the subsequent assessment years for 2018-19 and 2019-20 are pending and yet to be completed. The assessee had adopted the value of ` 13,200 per MT in both the assessment years 2018-19 and 2019-20.

In the backdrop of the above and taking note of the aforesaid information, you are required to answer the following; considering the transfer pricing provisions and the provisions contained under the Income Tax Act, 1961 :

- (i) Can the Assessing Officer apply the roll back provisions for the A.Y. 2012- 13 to A.Y. 2015-16 as the same will be beneficial to the department ?
- (ii) In the given situation and the set of facts, state the year for which the APA cannot be applied.
- (iii) What will happen to the assessments which have already been completed and are pending because of entering into APA ?

**Q3.C.** ABC & Co. is a partnership firm consisting of four partners. The partnership deed provides for remuneration of Rs. 4,00,000 to partners and interest to partners at 12%. Profit for the year ended 31st March, 2021 is Rs. 1,00,000 after arriving the following adjustments :

Particulars	Amount (Rs.)
Remuneration to partners	4,00,000
Interest to partners on capital account @ 12%	20,000
Municipal tax of house property	5,000
Rent received on house property	50,000

Compute the book profit and remuneration deductible under section 40(b) of the Income tax Act, 1961.

**(5 marks each x 3 = 15 marks)**