

Roll No.

Total Number of Questions : 7

Time Alloted : 3 Hours

Total Number of Printed pages - 10

Maximum Marks - 100

**PAPER – 7 : DIRECT TAX LAWS AND INTERNATIONAL TAXATION
COMMON FOR NEW AND OLD SYLLABUS**

*Question No. 1 is compulsory . Answer any five questions from the remaining Six questions
All questions related to Assessment Year 2018-19, unless stated otherwise in the question*

Question 1

(a) SS(P) Ltd., a domestic Indian company having two undertakings engaged in manufacture of cement and steel, decided to hive off cement division to RV(P) Ltd., a domestic Indian company, by way of demerger. The net worth of SS(P) Ltd. immediately before demerger was ₹ 40 crores. The net book value of assets transferred to RV(P) Ltd. was ₹ 10 crores. The demerger was made in January 2018. In the scheme of demerger, it was fixed that for each equity share of ₹ 10 each (fully paid up) of SS(P) Ltd., two equity shares of ₹ 10 each (fully paid up) were to be issued.

One Mr. N.K. held 25,000 equity shares in SS(P) Ltd. which were acquired in the financial year 2003 – 04 for ₹ 6,00,000. Mr. N.K. received 50,000 equity shares from RV(P) Ltd. consequent to demerger in January 2018. He sold all the shares of RV(P) Ltd. for ₹ 8,00,000 in March, 2018. In this background you are requested to answer the following:

- i) Does the transaction of demerger attract any income tax liability in the hands of SS(P) Ltd. and RV(P) Ltd.?
- ii) Compute the capital gain that could arise in the hands of Mr. N.K. on receipt of shares of RV(P) Ltd.
- iii) Compute the capital gain that could arise in the hands of Mr. N.K. on sale of shares of RV(P) Ltd.
- iv) Will the sale of shares by Mr. N.K. affect the tax benefits availed by SS(P) Ltd. and/or RV(P) Ltd.?
- v) Is Mr. N.K. eligible to avail any tax exemption under any of the provisions of the Income – tax Act, 1961 on the sale of shares of RV(P) Ltd.? If so, mention in brief.

2003 – 04 109

2017 – 18 272

[10 marks]

(b) Following are the details of income provided by Mr. Singh, the assessee for the financial year ended 31st March 2018:

- i) Rental income from property at Bangalore - ₹ 3 lakhs, Standard Rent - ₹ 2,50,000, Fair Rent - ₹ 2,80,000.
- ii) Municipal and water tax paid during 2017 – 18: Current year ₹ 35,000 Arrears - ₹ 1,50,000.
- iii) Interest on loan borrowed towards major repairs to the property: ₹ 1,50,000



iv) Arrears of rent of ` 30,000 received during the year, which was not charged to tax in earlier years.

Further, the assessee furnished following additional information regarding sale of property at Chennai:

i) Mr. Singh's father acquired a residential house in April 2005 for ` 1,25,000 and thereafter gifted this property to the assessee, Mr. Singh on 1st March, 2006.

ii) The property, so gifted, was sold by Mr. Singh on 10th June 2017. The consideration received was ` 25,00,000.

iii) Stamp duty charges paid by the purchaser at the time of registration @ 13% (as per statutory guidelines) was ` 3,90,000.

iv) Out of the sale consideration received :

(a) On 21.01.2018, the assessee had purchased two adjacent flats, in the same building and made suitable modification to make it as one unit. The investment was made by separate sale deeds, amount being ` 8,00,000 and ` 7,00,000, respectively.

(b) On 10.10.2017, ` 10 lakhs was invested in bonds issued by National Highways Authority of India, but the allotment of the bonds was made on 1.2.2018.

Compute Mr. Singh's taxable income for assessment year 2018 – 19.

Cost inflation index: F.Y. 2005 – 06: 117; F.Y. 2017 – 18 : 272

[6 marks]

(c) Siddharth Ltd. has an undertaking (Unit-X) in Special Economic Zone (SEZ) and another undertaking (Unit-Y) in Free Trade Zone (FTZ) for manufacturing of computer software. It furnishes the following particulars for its 2nd year of operations ended on 31st March, 2018:

	Unit X	Unit Y
	` (In lacs)	` (In lacs)
Total Sales:	180	120
Export Sales :	120	10
(Inclusive of ` 10 lacs for onsite development of computer software outside India by Unit X)		
Profit earned	63	36

[After claim of bad debts under section 36(I)(vii) in Unit X]



Plant and machinery used in the business has been depreciated at 15% on straight line method (SLM) basis and depreciation of ₹9 lacs was charged to profit and loss account in the proportion of sales during the previous year. ₹100 lacs were realized out of export sales in time and balance of ₹20 lacs becomes irrecoverable due to bankruptcy of one of the foreign buyers in Unit-X.

Compute the deduction under section 10AA of the Income-tax Act, 1961 and taxable income of Siddarth Ltd. for the Assessment Year 2018-19.

[4 marks]

Question 2

XYZ Ltd. is engaged in the manufacture of textile since 01.04.2009. Its Statement of Profit & Loss shows a profit of ₹700 lakhs after debit / credit of the following items :

1. Depreciation calculated on the basis of useful life of assets as per provisions of the Companies Act, 2013 is ₹50 lakhs.
2. Employer's contribution to EPF of ₹2 lakhs and Employees' contribution of ₹2 lakhs for the month of March, 2018 were remitted on 8th May 2018.
3. The Company appended a note to its Income Statement that industrial power tariff concession of ₹2.5 lakhs was received from the State Government and credited the same to P & L Account.
4. The Company had provided an amount of ₹25 lakhs being sum estimated as payable to workers based on agreement to be entered with the workers union towards periodical wage revision once in 3 years. The provision is based on a fair estimation on wage and reasonable certainty of revision once in 3 years.
5. The company had made a provision of 10% of its debtors towards bad and doubtful debts. Total sundry debtors of the company as on 31.03.2018 was ₹200 lakhs.
6. A debtor who owed the company an amount of ₹40 lakhs was declared insolvent and hence, was written off by debit to Profit and loss amount.
7. Sundry creditors include an amount of ₹50 lakhs payable to A & Co, towards supply of raw materials, which remained unpaid due to quality issues. An agreement has been made on 31.03.2018, to settle the amount at a discount of 75% of the outstanding. The amount waived is credited to Profit and Loss account.
8. The opening and closing stock for the year were ₹200 lakhs and ₹255 lakhs, respectively. They were over valued by 10%.
9. Provision for gratuity based on actuarial valuation was ₹500 lakhs. Actual gratuity paid debited to gratuity provision account was ₹300 lakhs.



10. Commission of ₹ 1 lakhs paid to a recovery agent for realization of a debt. Tax has been deducted and remitted as per Chapter XVIIIB of the Act.
11. The company has purchased 500 tons of industrial paper as packing material at a price of ₹ 30,000/ton from PQR, a firm in which majority of the directors are partners. PQR's normal selling price in the market for the same material is ₹ 28,000/ton.

Additional Information

1. There was an addition to Plant & Machinery amounting to ₹ 50 lakhs on 10-06-2017, which was used for more than 180 days during the year. Additional depreciation has not been adjusted in the books.
2. Normal depreciation calculated as per income-tax rules is ₹ 80 lakhs.
3. The company had credited a sub – contractor an amount of ₹ 10 lakhs on 31.03.2017 towards repairing a machinery component. The tax so deducted was remitted on 31.12.2017.
4. The company has collected ₹ 7 lakhs as sales tax from its customers and paid the same on the due dates. However on an appeal made, the High Court directed the Sales Tax Department to refund ₹ 3 lakhs to the company. The company in turn refunded ₹ 2 lakhs to the customers from whom the amount was collected and the balance of ₹ 1 lakh is still lying under the head “Current Liabilities”.

Compute total income and tax payable for A.Y. 2018-19. Ignore MAT provisions.

[16 marks]

Question 3

- (a) Mr. A has commenced the business of manufacture of computers on 1.4.2017. He employed 350 new employees during the P.Y. 2017-18, the details of whom are as follows –

No. of employees	Date of employment		Regular / Casual	Total monthly emoluments per employee (₹)
i.	75	1.4.2017	Regular	24,000
ii.	125	1.5.2017	Regular	26,000
iii.	50	1.8.2017	Casual	25,500
iv.	100	1.9.2017	Regular	24,000



The regular employees participate in recognized provident fund while the casual employees do not. Compute the deduction, if any, available to Mr.A for A.Y. 2018-19, if the profits and gains derived from manufacture of computers that year is ` 75 lakhs and his total turnover is ` 2.16 crores.

What would be your answer if Mr.A has commenced the business of manufacture of apparel on 1.4.2017 ?
[6 marks]

(b) Taj Ltd. filed its return of income for assessment year 2017-18 on 6th June 2017. The return is selected for regular assessment under section 143(3) for which notice under section 143(2) is served on the company on 3rd October, 2018. The company responded to the notice under section 143(2). Examine whether the service of the notice is within time and if not whether the assessment order can be challenged by the assessee.
[4 marks]

(c) Examine the following transactions and discuss whether the transfer price declared by the following assesses, who have exercised a valid option for application of safe harbour rules, can be accepted by the Income-tax Authorities –

Assessee	International transaction	Aggregate value of transactions entered into in the P.Y. 2017 – 18	Declared Operating Profit Margin	Operating Expense
A Ltd., an Indian company	Provision of system support services to X Inc., which is a “specified foreign company” in relation to A Ltd.	` 95 crore	` 12 crore	` 75 crore
B Ltd., an Indian company	Provision of data processing services with the use of information technology to Y Inc., its foreign subsidiary.	` 180 crore	` 30 crore	` 150 crore

[6 marks]



Question 4

Answer any Four out of the following 5 cases. Your answer should cover these aspects.

- i) Issues involved
- ii) Provisions applicable
- iii) Analysis; and
- iv) conclusion

(a)

LL Limited paid leave travel facility to its employees and considered exemption under section 10(5), based on the self-declaration furnished by the employees. The Assessing Officer held that the company as an employer ought to have verified the genuineness of the claim of exemption by obtaining from them, the proof of actual expenditure incurred by availing leave travel facility. Accordingly, the Assessing Officer treated the assessee company as assessee in default. Decide the correctness of action.

(b)

Ankur, the owner of a land situated in Kerala used for growing thereon different types of fruits, paddy, vegetables and flowers, received from Yahoo Movies Ltd., Chennai, ₹ 5 lacs as rent towards the use of this land for shooting of a film. The amount so received was accounted by him in the books as revenue derived from land and claimed to be exempt under section 10(1). He now wants to confirm from you whether the amount has been correctly treated by him as agricultural income.

(c)

Mr. Santhanam holding 25% voting power in VKS Manufacturing Private Limited permitted his own land to be mortgaged to a bank for enabling the company to obtain a loan. Mr. Santhanam requested the company to release the property from the mortgage. The company failed to do so, but for retaining the benefit of bank loan it gave an advance of ₹ 10 lakhs to Mr. Santhanam, which was authorized by a resolution passed by the Board of Directors. The company's accumulated profit on the date of payment of advance was ₹ 50 lakhs. The

Assessing Officer proposes to tax the amount of ₹ 10 lakhs by invoking the provision of section 2(22)(e).

Is the proposition of the Assessing Officer correct in law?

(d)

"Save Wild Life" an institution having its main object as „preservation of wildlife", used the entire income derived from an activity in the nature of trade for its main object during the previous year ended on 31.03.2018. The institution seeks your opinion to know whether such utilization of its income be treated for "charitable purpose"? Would your answer be different, if the main object of the institution is "advancement of object of general public utility"?

A Charitable trust derives its income from the business of providing mineral water to various companies situated in Software Technology Park in Hyderabad. A sum of ` 30 lacs has been derived as net income from such business activity, which has been applied for the object of general public utility. The total receipts of the trust during the P.Y. 2017-18 was ` 140 lacs. Examine the taxability of application of the income, if the income so derived relates to the previous year 2017 – 2018. Would your answer be different, if the trust runs a school in a backward district and applies the profits from the business for such school's activity ?

(e)

Rajesh regularly files his return of income electronically. While he was trying to upload his return of income for assessment year 2017-18 on 31st July, 2017, last date for filing the same, he found it extremely difficult to do the same due to network problems and ultimately he became successful in making e-filing of his return only at 1 a.m. on 1st August, 2017. The return contained a claim for carry forward of business loss of ` 1 lakh. This circumstance was recorded in a letter delivered to the office of the Deputy Commissioner of Income Tax on 1st August, 2017 during normal office hours. Rajesh made a request to the CBDT for condonation of delay in filling the return of income.

Discuss whether the CBDT has the power to condone the delay in filling the return of income and permit carry forward of loss in the given circumstance.

[4×4 = 16 marks]

Question No.5

(a)

JJ Limited, a company incorporated in Australia has entered into an agreement with KK Limited, an Indian company for rendering technical services to the latter for setting up a fertilizer plant in Orissa. As per the agreement, JJ Limited rendered both off-shore services and on-shore services to KK Limited at fee of ` 1 crore and ` 1.5 crore, respectively. JJ Limited is of the view that it is not liable to tax in India in respect of fee of ` 1 crore as it is for rendering services outside India. Discuss the correctness of the view of JJ Limited.

[4 marks]

(b)

Mr. Vasudevan gifted a sum of ` 6 lakhs to his brother's wife on 14.6.2017. On 12.7.2017, his brother gifted a sum of ` 5 lakhs to Mr. Vasudevan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and wife of Mr. Vasudevan's brother on 01.08.2017 at 9% interest. Discuss the consequences of the above under the provisions of the Income – tax Act, 1961 in the hands of Mr. Vasudevan and his brother.

[4 marks]



(c)

The premises of Ganesh were subjected to a search under section 132 of the Act. The search was authorized and the warrant was signed by the Joint Commissioner of Income-tax having jurisdiction over the assessee, consequent to information in his possession. The assessee challenged the validity of search on the ground that section 132(1) does not empower Joint Commissioner to authorize a search under the Act. Decide the correctness of the contention raised by the assessee.

[4 marks]

(d)

M/s. XYZ is a firm liable to tax @ 30%. The following are the particulars furnished by the firm for A.Y. 2018-19

Particulars of total income`

(1) As per the return of income furnished u/s 139(1)	50,00,000
(2) Determined under section 143(1) (a)	60,00,000
(3) Assessed under section 143(3)	75,00,000
(4) Reassessed under section 147	95,00,000

Can penalty be levied under section 270A on M/s. XYZ? if the answer is in the affirmative, compute the penalty leviable under section 270A.

[4 marks]

Question 6

(a)

Examine the correctness or otherwise of the following statements with reference to the provisions of the Income-tax Act, 1961.

- (1) An appeal before Income-tax Appellate Tribunal cannot be decided in the event of difference of opinion between the Judicial Member and the Accountant Member on a particular ground.
- (2) A High Court does not have an inherent power to review an earlier order passed by it on merits.

[4 marks]



(b)

- (1) Dishant received a notice under section 148 from the Assessing Officer for A.Y. 2014-15 on the ground that depreciation on certain assets was allowed in excess. The Assessing Officer recorded the reason for reopening. The original assessment was completed under section 143(3). In course of reassessment proceeding, the Assessing Officer also disallowed certain sum under section 14A in respect of expenses purported to be in relation to dividend from companies and tax-free interest. However, the Assessing Officer did not record the reason for applying the provisions of section 147 in respect of the issue of disallowance under section 14A and passed the order disallowing the excess depreciation and also certain sum under section 14A. Is there any infirmity in the order passed by the Assessing Officer?
- (2) X & Co Ltd. had made an application to the Settlement Commission. The issued in the said Application related to cash credits in the books of account. The Commission passed an order making addition to the income on the basis of difference in gross profit rate adopted, which was neither an issued in the application nor in the report of the Commissioner of Income-tax, Discuss the validity of the order of the Settlement Commission.
- (3) Ram, an individual, filed his return of income for the assessment year 2018-19 on 15.6.2018. he later discovered that he had not claimed deduction under section 80 C in the said return. He claimed the said deduction through a letter addressed to the Assessing Officer. The Assessing Officer completed the assessment without allowing the deduction claimed by Ram. Is the Assessing Officer justified in doing so?

[2×3 = 6 marks]

(c)

- (1) Bharathi Cements Ltd. Purchased jute bags from Raj Kumar & Co. The latter has to supply the jute bags with the logo and address of the assessee, printed on it. From 01.09.2017 to 20.03.2018, the value of jute bags supplied is ₹ 8,00,000, for which the invoice has been raised on 20.03.2018. while effecting the payment for the same, is the assessee bound to deduct tax at source, assuming that the value of the printing component involved is ₹ 1, 10,000. You are informed that the assessee has not sold any material to Raj Kumar & Co. and that the latter has to manufacture the jute bags in its plant using raw materials purchased by it from outsiders.
- 2) Siddharth Hospitals Pvt. Ltd., has recently been accorded recognition by several insurance companies to admit and treat patients on cashless hospitalization basis. Payment of the assessee hospital will be made by Third Party Administrators (TPA) who will process the claims of the patients admitted and make 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 194 J or under section 194C?
- 3) Examine the liability for tax deduction at source in the following cases for the assessment year 2018-19.



- (1) Mr. Anand has been running a sole proprietary business whose accounts are audited under section 44AB with turnover of ₹ 202 lakhs for the A.Y. 2017-18. He pays a monthly rent of ₹ 10,000 for the office premises to Mr. R, the owner of building and an individual. Besides, he also pays service charges of ₹ 6,000 per month to Mr. R towards the use of furniture, fixtures and vacant land appurtenant thereto.
- (2) By virtue of an agreement with a nationalized bank, a catering organization receives a sum of ₹ 50,000 per month towards supply of food, water, snacks etc. During office hours to the employees of the bank.

[2×3 = 6 marks]

Question 7

(a)

Nandita, an individual resident retired employee of the Prasar Bharati aged 60 years, is a well-known dramatist deriving income of ₹ 1,10,000 from theatrical works played abroad. Tax of ₹ 11,000 was deducted in the country where the plays were performed. India does not have any Double Tax Avoidance Agreement under section 90 of the Income – tax Act, 1961, with that country. Her income in India amounted to ₹ 5,10,100. In view of tax planning, she has deposited ₹ 1,50,000 in Public Provident Fund and paid contribution to approved Pension Fund of LIC ₹ 32,000. She also contributed ₹ 28,000 to Central Government Health Scheme during the previous year and gave payment of medical insurance premium of ₹ 26,000 to insure the health of her father, a non-resident aged 84 years, who is not dependent on her. Compute the tax liability of Nandita for the Assessment year 2018 – 19.

(b)

R, an individual resident in India, bought 1,000 equity shares of ₹ 10 each of A Ltd. at ₹ 50 per share on 30.05.2017. He sold 700 equity shares at ₹ 35 per share on 30.09.2017 and the remaining 300 shares at ₹ 25 per share on 20.12.2017. A Ltd. declared a dividend of 50%, the record date being 10.08.2017. R sold on 1.2.2018, a house from which he derived a long-term capital gain of ₹ 75,000.

Compute the amount of capital gain arising to R for the assessment year 2018 – 19.

(c)

ABC Ltd., an Indian company, is carrying on the business of manufacture and sale of teakwood furniture under the brand name “PUREWOOD”. In order to expand its overseas sales/exports, it launched a massive advertisement campaign of its products. For the purpose of online advertisement, it utilized the services of PQR Inc., a London based company. During the previous year 2017 – 18, ABC Ltd. paid ₹ 5 lakhs to PQR Inc. for such services. Discuss the tax implications / TDS implications of such payment and receipt in the hands of ABC Ltd. and PQR Inc., respectively, if –

- i) PQR Inc. has no permanent establishment in India
- ii) PQR Inc. has a permanent establishment in India.

(d)

When does it become necessary to apply the tie-breaker rule? Discuss the manner of application of the tie – breaker rule.

