

Roll No.

OPEN BOOK EXAMINATION

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 12

NOTE : 1. Answer **ALL** Questions.

2. All the references to sections in the Question Paper relate to the Income-tax Act, 1961 and relevant Assessment Year is 2019-20, unless stated otherwise.

3. Working notes should form part of the answer.

1. Samode Group, comprised of diversified business entities, is having its registered office located at Jaipur with various business verticals located at different places within and outside the country. The Board of directors regularly have meetings with the heads of each of the business verticals, along with group Finance Director, Company Secretary, Director Taxation and other senior managers and consultants, for reviewing the business results of each of the units and to sort out the various issues. A meeting of all these heads was scheduled for 30th August, 2019 to discuss the various matters relating to taxation and to ascertain as to filing of the return of income of the group companies for the A.Y. 2019-20. The matters which were scheduled for discussion in this meeting, as listed were as under :

(1) The main line of business activity of the group is of running of various hotels under Samode Group Hotels Ltd. located at different places in the country. The Finance Director has indicated that the statement of profit & loss drawn as on 31st March, 2019 shows a Net Profit of ₹ 172 lakhs after debiting and/or crediting the following items :

(a) Payment of ₹ 35,000 and of ₹ 50,000 made in cash on 3rd December, 2018 and 10th December, 2018 for purchase of crab, lobster and squibs to Mr. Rajamani, a fisherman, and Mr. Khalid, a middleman for these products, respectively.

: 2 :

- (b) Contribution towards employees pension scheme notified by the Central Government under section 80CCD, made at 12% of the basic salary and dearness allowance (forming part of retirement benefits) payable to the employees. The total outlay of such basic salary and D.A. is ₹ 100 lakhs.
- (c) Payment of ₹ 5.25 lakhs towards transportation of various materials procured by one of its hotels to M/s Jaipur Transport company, a partnership firm, without deduction of tax at source. The firm declared having opted for presumptive taxation under section 44AE and has also furnished its Permanent Account Number and a declaration to this effect in the tender document.
- (d) Profit of ₹ 22 lakhs on sale of a piece of land to Avinash Private Limited, a domestic company, the entire shares of which are being held by Samode Group Hotels Ltd. The piece of land was acquired by Samode Group Hotels Pvt. Ltd. on 1st June, 2016.
- (e) Contribution of ₹ 2 lakhs to Indian Institute of Technology with a specific direction to use the amount for scientific research programme approved by the prescribed authority.
- (f) Expense of ₹ 15 lakhs on foreign travel of its two directors for entering into a collaboration agreement with a foreign company for a brewery project to be set up at Thane, Mumbai. However, the negotiation did not succeed and the project was abandoned.
- (g) Fees of ₹ 2 lakh paid to an independent director for attending board meetings, without deduction of tax at source.
- (h) Depreciation charged as per the Companies Act, 2013 on its assets for the year of ₹ 13 lakhs.

: 3 :

- (i) Amount of ₹ 12 lakhs being the additional compensation received from the State Government pursuant to an interim order of Court, in respect of land acquired by the State Government of Karnataka in the previous year 2013-14.
- (j) Dividend received from a foreign company of ₹ 7 lakhs.

The Director Finance had also made available the following additional details and information relating to the year :

- (i) As a corporate debt restructuring, Bank Of India has converted unpaid interest of ₹ 15 lakhs upto 31st March, 2018 into a new loan account repayable in five equal annual installments. The first installment of such converted loan was paid in March, 2019 by debiting the amount to new loan account.
 - (ii) Depreciation as per the Income-tax Act, 1961 ₹ 18 lakhs.
- (2) One of the companies of the Samode Group had taken over a running business of a sole-proprietor firm by executing a sale deed. The company taking over the business as per terms of the sale deed is required to make payment of overriding charges of ₹ 1,50,000 per annum to the wife of the sole proprietor, in addition to the sale consideration. It is also specifically mentioned in the sale deed that the amount so to be paid would be a charge on the net profits of the company which had been accepted as an obligation, being a condition of purchase of the business as a going concern.
- (3) Another company of the Samode Group has received duty drawback under a scheme framed by the Central Government as per the provisions of the Customs Act, 1962 of ₹ 20 lakhs. This company is entitled to claim a deduction under section 80-IB of the Income-tax Act, 1961 and wants to claim the amount of duty drawback so received as forming part of profits of the eligible undertaking for claiming deduction u/s 80-IB.

- (4) Another company of the Samode Group is having a block of Plant & Machinery with 20 different machinery items chargeable to depreciation @ 15%. One of the machines out of the 20 different machinery items used for packing, became obsolete and was discarded from use in July, 2018 but value thereof was appearing in the block. Return of income for the A.Y. 2019-20 is to be filed by claiming depreciation on the machine so discarded in July, 2018 of ₹ 90,000.
- (5) Samode Group Hotels Ltd. has distributed dividend of ₹ 230 lakh on 1st Jan., 2019 to its shareholders. Samode Group Hotels Ltd. has received dividend of ₹ 60 lakh on 30th Dec., 2018 from the domestic subsidiary company, on which the subsidiary company has paid the dividend distribution tax, as specified in section 115-O.
- (6) The net result of the business carried on by one company of the Samode Group Hotels Ltd., as a branch of Swiss Electronics Pvt. Ltd. of UK, a foreign company, located in Mumbai, for the year ended 31st March, 2019 was a loss of ₹ 150 lakh, arrived at after charge of head office expenses of ₹ 210 lakh so allocated by the foreign company to the Indian branch.
- (7) A notice under section 148 to reopen the assessment made earlier for Asst. Year 2013-14 under section 143(3) in the case of one of the companies of the Samode Group Hotels Ltd. was issued by the Assessing Officer after forming belief and recording of the reasons as per section 147 of the Act to issue such notice. The Manager (Taxation) of the company wants to challenge the validity of the notice on the ground of sufficiency of belief of the Assessing Officer for the recorded reasons.

: 5 :

In the back-drop of the aforesaid agenda items, details, information and issues put before in the meeting by different heads of the group companies you are being asked by the directors of Samode Group Hotels Ltd., as the Taxation Consultant, to answer the following questions :

(a) Compute total income of Samode Group Hotels Ltd. for the Assessment Year 2019-20 from the information and details given in para (1) by giving brief reasons for the treatment given to each of the items in the computation.

(12 marks)

(b) (i) Examine whether payment of overriding charges made by the group company to the wife of the sole-proprietor (whose business was purchased) is in the nature of diversion of income or application of income. Explain in the context of provisions contained under the Act and support your answer with decided case law, if any.

(4 marks)

(ii) Advise the company as to whether the amount of duty drawback received will form part of the profits derived by the eligible undertaking for claiming deduction under section 80-IB. Support your advice with the ruling given by the Court, if any.

(5 marks)

(c) (i) State the provisions of the Income-tax Act, 1961 as to payment of dividend distribution tax and compute the amount of dividend distribution tax payable by the company on the basis of information and details given in para (5) supra.

(6 marks)

: 6 :

(ii) Stating the provisions of the Income-tax Act, 1961, compute the income to be declared by the branch of Swiss Electronics Pty. Ltd. in India in its return for the assessment year 2019-20.

(4 marks)

(d) (i) Advise as an expert, as to the validity of the notice issued under section 148 of the Income-tax Act, 1961 and comment upon the correctness of the view of Manager (Taxation). Support your answer with the provisions of Act and decided case laws.

(5 marks)

(ii) Examine and state in the context of provisions contained under the Income-tax Act, 1961 as to the validity of the claim of depreciation on the discarded/obsolete machine of ₹ 90,000 in A.Y. 19-20 [Refer para (4) supra].

(4 marks)

2. (a) Xavier had taken a loan from a bank by executing registered mortgage deed for the purchase of house at Ajmer on 26th May, 2001. The cost of house so purchased was ₹ 10 lakh. The said property was inherited by his son Abraham as per will, in the financial year 2008-09, after the death of Xavier.

Abraham paid the outstanding amount of loan taken by father to bank on 12th Feb., 2009 of ₹ 8 lakh, for obtaining the clear title of the house. The said house property was sold by Abraham on 16th March, 2019 for ₹ 80 lacs.

Work out the amount chargeable to capital gains for A.Y. 2019-20 and support your answer by giving brief reasons.

(Cost inflation Index 2001-02 : 100, 2008-09 : 137 and 2018-19 : 280)

(6 marks)

: 7 :

- (b) Vishwa Bharti Charitable Trust, registered under section 12AA, for the previous year 2018-19 derived gross income of ₹ 15 lakh from various sources consisting of the following :

Particulars	Amount (₹ in lakh)
(a) Income from properties held by trust (net)	6
(b) Income (net) from business (incidental to main objects)	3
(c) Voluntary contributions from public (identified donors)	6

The trust had applied a sum of ₹ 9.60 lakh towards charitable purposes during the year ended on 31st March, 2019 which included repayment of loan taken for construction of orphanage at Kota of ₹ 3.60 lakh.

The trust has given in the year, corpus donation of ₹ 2 lakh to another charitable trust registered u/s 12AA.

Determine the total income of the trust for the assessment year 2019-20.

(6 marks)

3. (a) X Ltd. has two units, unit 'N' and unit 'Y'. Unit 'N' engaged in the business of power generation installed a windmill in March, 2019 and had a profit of ₹ 100 lakh (before depreciation) in Assessment Year 2019-20. X Ltd. claimed depreciation of ₹ 120 lakh on windmill against the profit of ₹ 100 lakh from power generation business which was eligible for deduction under section 80-IA. Unit 'Y', engaged in manufacturing of wires, non-eligible business, had a profit of ₹ 70 lakh for Assessment Year 2019-20.

The loss of ₹ 20 lakhs, i.e. balance depreciation not set off pertaining to unit 'N' was set-off against the profits of unit 'Y' carrying on non-eligible business, by the assessee, X Ltd.

The Assessing Officer was of the view that depreciation relating to a business eligible for deduction under section 80-IA cannot be set-off against non-eligible business income. Hence, according to the AO, the unabsorbed depreciation should be carried forward to the subsequent year to be set off against eligible business income of the assessee of that year.

Give your comments on the correctness of the view of the Assessing Officer and support your answer with a decided case law, if any. How will the profit of unit N be calculated in the A.Y. 2020-21 vis-a-vis ₹ 20 lakhs depreciation, if allowed to be set off against profits of unit 'Y' in the current year ?

(6 marks)

- (b) (i) Ram & Co., the sole proprietorship concern of late Ram, got converted into partnership, after his death on May 10, 2018, by his two sons Luv and Kush. The business of Ram & Co. was continued to be carried in the same manner by both of them as a going concern. There was business loss of ₹ 4.25 lakh for the year ended March 31, 2018. The net results of the business for the year ended March 31, 2019 was profits of ₹ 5 lakh. The partners want to set off the loss of ₹ 4.25 lakh from the profits of the firm for the previous year 2018-19.

Advise them whether they can do so. Support your answer with provisions of Act and decided case law, if any.

(3 marks)

: 9 :

- (ii) “If an assessee, fails to make claim for any deduction in the return of income, he loses his opportunity for claiming such deduction at the assessment stage or at subsequent stage”.

Do you agree with the proposition and if not, state how such deduction will be allowed to the assessee ?

(3 marks)

4. Vishnu Textiles Ltd. (VTL), an Indian company, holds 100% shares in Laskhmi Textiles Ltd. (LTL), also an Indian company.

LTL had sold shares held by it in Bharat Textiles Ltd. (BTL), an unlisted company, on 21st November, 2012 to VTL for a sum of ₹ 50 lakhs. These shares had been acquired by it on 12th Aug., 2003 for ₹ 21.8 lakhs.

During the PY 2018-19, the following transactions were done by VTL :

- (i) Shares in BTL were sold for ₹ 72 lakhs on 23rd Feb., 2019.
- (ii) 10% of the shareholding in LTL was disinvested by sale to public on 25th Feb., 2019.

The Board of Directors in VTL want to know the capital gains implications in the hands of VTL and LTL for the relevant assessment years (assuming that there is no change in law), for each of the above two transactions. You are required to help the Board with your computation, along with working note.

Additional information :

- FMV of shares in BTL as on 1st April, 2001, was ₹ 55 lakhs.
- Cost inflation index for FY 2003-04 is 109, FY 2012-13 is 200 and for FY 2018-19 is 280.

(12 marks)

5. (a) Examine in the context of provisions contained under the Income-tax Act, 1961 in each of the following independent cases, and state in brief, whether there exists a business connection in India, so as to bring the income earned by them, if any, to the tax net in India :
- (i) Ali & Ali Ltd., a company resident in Abu Dhabi, had set up a liaison office at Hyderabad to receive trade inquiries from customers in India. The work of the liaison office is not only restricted to forwarding of the trade inquiries to the company in Abu Dhabi but also to negotiate and enter into the contracts on behalf of Ali & Ali Ltd. with the customers in India.
- (ii) John Miller Inc., a resident company of UK, has set up a branch office at Delhi for the purpose of purchase of raw materials to be used for manufacturing its products. The branch office is also engaged in selling the products manufactured by John Miler Inc. and in providing sales related services to the customers in India on behalf of the UK company.
- (iii) Mr. Rajveer, a resident in India and based at Gurugram in India, is appointed as agent by POK Pty Inc., a company incorporated in USA, for tracking the Indian markets. He has no authority to accept the orders but is allowed to canvass for the orders and then to communicate the same to POK Pty Inc. in USA. All the orders were directly received, accepted and after receiving the price/value, the delivery of goods was given by POK Pty Inc. from outside India. Neither purchase of raw material, nor manufacturing of finished goods took place in India. The agent is entitled to receive the commission on the sales so concluded by POK Pty. Inc. of USA.

(6 marks)

(b) Examine in the context of provisions contained under section 92A, whether their exist any, relationship as an Associated Enterprises in each of the following independent cases :

- (i) X Ltd., of USA is having a subsidiary in India and have given guarantee to the financial institution from whom the subsidiary had taken a loan of ₹ 100 crores, that in the case of default it will make the entire payment. The total borrowings of the subsidiary are of ₹ 500 crores.
- (ii) Zebra Inc. of UK had supplied the Trade Mark and the Business Commercial Rights to Nargis Ltd. of India to carry out business throughout the globe. The business of Nargis Ltd. of India to be carried out is totally dependent on the Trade Mark and the business commercial rights as given by Zebra Inc. of U.K.
- (iii) Krishan Kanhiya HUF, resident in India and proprietor of Pankaj Agro, is dealing in edible oils. The business of Pankaj Agro is being controlled by Suresh Seeds run in partnership of brother and son of the Karta of Krishan Kanhiya HUF. Suresh Seeds operates from Singapore.

(6 marks)

6. (a) Examine and state the correctness or otherwise of each of the following statements in the context of provisions contained under the Income-tax Act, 1961 by giving brief reasons/contents :

- (i) Double taxation avoidance treaties (DTAA) entered into by the Government of India do not override the domestic law in force.
- (ii) Business transaction done through e-commerce is not different from the modes of business transaction carried out through traditional means.
- (iii) Ramesh, resident in India during the previous year 2018-19 had agricultural income of ₹ 15 lacs from the lands located in Malaysia. He had paid tax on such agricultural income in Malaysia, for which he is entitled to claim a rebate/relief from the tax payable in India.

(6 marks)

: 12 :

(b) Cash of ₹ 35 lakh was seized on 12th Sept., 2018 in a search conducted in the premises of an assessee as per section 132 of the Act. The assessee moved an application on 27th Oct., 2018 to release the cash, after explaining the source thereof, which was turned down by the Department. The assessee seeks your opinion on the following issues :

- (i) Can the Department withhold the explained money ?
(ii) If yes, then to what extent and up to which period ?

(3 marks)

(c) Alfa Pvt. Ltd., an Indian Company, has made payments to Beeta Enterprises, a resident partnership firm on different dates during the year 2018-19 towards the job work done by them under different contracts :

Contract No.	Date of payment	Amount (₹)
1	15-05-2018	28,000
2	26-06-2018	22,500
3	18-08-2018	24,000
4	20-12-2018	15,000
5	23-01-2019	18,000

Alfa Pvt. Ltd. claims that it is not liable for deduction of tax at source as per section 194C from such payments made to Beeta Enterprises. Examine the correctness of the stand taken by the company.

What would be the position, if the value of the contract No. 5 is ₹ 10,000 only and there was no further contract during the year ?

(3 marks)

————— o —————