

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 2020-21, unless stated otherwise.

3. Working notes should form part of the answer.

1. ABC LLP having office located at NOIDA, constituted by a team of professionals comprising of Company Secretaries, Chartered Accountants and Others engaged in providing services for diversified activities in the field of Secretarial matters, Audit matters, Accounts and Taxation related matters to different constituents. The firm is known for the expertise services, best guidelines and for providing consultation in the field of taxation related matters. The Taxation division of the firm is being acknowledged for providing the best consultation on the issues and matters under the Income Tax Act, 1961 and relating to International taxation and on Transfer Pricing. The firm has been contacted for seeking their expert opinion on the issues and matters relating to Taxation by the various constituents/entities including the small professional firms located in the nearby areas. Some of the matters/issues referred by different entities/constituents/professionals for obtaining their expert opinion are being compiled and being listed hereunder :

(A) Matter/Issue referred by Ding Dong Ltd -Mumbai

Ding Dong Ltd engaged in the manufacture of textile goods since 01.04.2009 is preparing to file its tax return for the A.Y. 2020-21 and for ascertaining to have a correct computation of income provides various particulars and details. Its Statement of Profit

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& Loss as on 31.03.2020 shows a net profit of ₹ 700 lakhs after debit/credit of the following items :

- (i) Depreciation calculated on the basis of useful life of assets as per provisions of the Companies Act, 2013 of ₹ 50 lakhs.
- (ii) Both Employee's contribution to EPF of ₹ 2 lakhs and Employer's contribution of ₹ 2 lakhs for the month of March, 2020 were remitted on 18th May, 2020.
- (iii) The company had provided amount of ₹ 20 lakhs being sum estimated as payable to workers based on agreement entered with the workers union towards periodical wage revision once in three years. The provision is based on a fair estimation on wage and reasonable certainty of revision.
- (iv) The company had made a provision of 10% of its debtors towards bad and doubtful debts. Total sundry debtors of the company as on 31.03.2020 were of ₹ 300 lakhs.
- (v) A debtor who owed the company an amount of ₹ 30 lakhs was declared insolvent by Court and hence the amount was written off in total by debit to profit & loss account.
- (vi) The opening and closing stocks for the year were ₹ 200 lakhs and ₹ 255 lakhs respectively. These were overvalued by 10%.
- (vii) Provision for gratuity based on actuarial valuation was ₹ 500 lakhs. Actual gratuity paid during the year and debited to gratuity provision account was of ₹ 300 lakhs.
- (viii) Commission of ₹ 1 lakh paid to a recovery agent for realization of a debt. Tax was neither deducted nor remitted as per Chapter XVII-B of the Act on such amount of payment.
- (ix) The company has purchased 500 tons of packing material at a price of ₹ 30,000 per ton from Ping Pong a firm in which majority of the directors is partners. The normal selling price charged by Ping Pong for the same material when sold to others is ₹ 28,000 per ton.

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Additional Information :

- (i) There was an addition to Plant & Machinery for ₹ 50 lakhs on 10.06.2019 but the machinery was put to use on 10.8.2019. Additional deprecation on such machinery has not been charged or adjusted in the books.
- (ii) Normal depreciation calculated as per income-tax is ₹ 80 lakhs.
- (iii) The company had collected in past ₹ 7 lakhs as sales tax from its customers and paid the same on the due dates to the government. 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".

(B) Matters referred by ABC Professional Services :

The partner of the firm have sought opinion in respect of the matters of their clients for filing reply with the tax authorities relating to the show cause notices issued indicating to tax the income in India in each of the following cases under the provisions of Income-tax Act, 1961 :

- (i) Tech Engineering a German foreign Company entered into an agreement for the execution of Electrical Work in India for Raj Thermal Power Ltd. Separate payment was made towards drawings & designs by Raj Thermal Power Ltd to the German Company which termed as payment for "Engineering Fee". The German Company is not having any permanent establishment (PE) in India for doing the business and operates from Germany only.
- (ii) Engineers and Engineers of UK a non-resident foreign company entered into a collaboration agreement on 25.06.2019 with Tony (India) Ltd an Indian Company. The UK Company was issued debentures by Tony (India) Ltd of ₹ 100 lacs on 1.7.2019 bearing interest @ 12% p.a. in consideration of providing the technical know-how to Tony (India) Ltd by the UK Company. Tony (India) Ltd had also paid the interest on the debentures to Engineers and Engineers which was due for the relevant period ended on 31.3.2020.

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- (iii) PQR Ltd. is an Indian Company manufacturing T-shirts located at Jaipur in Special Economic Zone (SEZ) in which Joly Inc. a US Company is holding 32% shares and voting power. Following transactions were effected between these two companies during the year 2019-20 :
- (a) PQR Ltd sold 1,50,000 pieces of T-shirts at \$ 3 per T-shirt to Joly Inc. The identical T-shirts were sold by PQR Ltd to the unrelated party namely Konny Inc at \$ 4 per T-shirt.
 - (b) PQR Ltd borrowed a loan of \$5,00,000 from a foreign lender on the strength of guarantee given by Joly Inc and for the purpose of giving guarantee, PQR Ltd paid \$20,000 as guarantee fee to Joly Inc. However, for the same amount of loan taken by an unrelated party, Joly Inc had charged the guarantee fees of an amount of \$15,000.
 - (c) PQR Ltd paid \$20,000 to Joly Inc for getting the details of various potential customer to improve its business outside India in global market. Joly Inc provided the same services and details to an unrelated party for \$15,000.

(C) Matter referred by Monika Steel Balls :

Monika Steel Balls manufacturing Steel Balls had ordered advanced technology machine to Punjab Machine Tools Ltd and paid an advance of ₹ 5 lacs. The machine was to be supplied by Punjab Machine Tools Ltd before the end of August, 2019. However, they could not supply the machine till January, 2020 and therefore, Monika Steels Balls after negotiation with them received back the advanced amount of ₹ 5 lacs in February, 2020 and against their claim for liquidated damages received an amount of ₹ 3 lacs in the month of March, 2020. Monika Steel Balls, had shown the amount of liquidated damages as a capital receipt in the return filed for A.Y. 2020-21. However the tax authorities had issued a notice stating that the liquidated damages are in the nature of revenue receipt and thus are subject to tax.

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(D) Matter referred by Nargis Agro Ltd - Jaipur :

Nargis Agro Ltd, Jaipur engaged in manufacturing of Vegetable Oils wants to offer Voluntary Retirement Scheme (VRS) to its employees to cut down its pay roll cost. The company is desirous to offer such scheme of voluntary separation to its employees so that the amount received by the employees under the scheme would qualify for tax exemption under section 10(10C) of the Income Tax Act, 1961 in their hands and also the company be allowed to claim the deduction of the amount so paid to the employees under the scheme.

(E) Matter referred by Siddharth Hospitals Pvt. Ltd :

Siddharth Hospitals Pvt. Ltd has recently been accorded recognition by several insurance companies to admit and treat patients in the hospital on cashless hospitalization basis. Payments are to be made by Third Party Administrators (TPA) who will process the claims of the patients admitted and be making payments to the various hospitals including the payments to Siddharth Hospital. All TPAs are the corporate entities. In the backdrop of the aforesaid compiled matters referred to ABC LLP which are being entrusted to you, provide your expert opinion/views and workings wherever required in the context of provisions contained under the Income Tax Act, 1961 supported with reasons on the following :

(a) Compute the total income of Ding Dong Ltd Mumbai for the year ended 31.3.2020 from the particulars/information and details given by them as compiled under 'A'. Give brief reasons for the treatment given to each of the items in the computation.

(13 Marks)

(b) Provide the expert opinion/advice on the matters referred by ABC Professional Services as compiled under 'B' as to :

(i) Whether the payment made towards drawings and designing by Raj Thermal Power Ltd to Tech Engineering be subject to tax in India and if so, then why ?

(3 Marks)

: 6 :

- (ii) What treatment shall be given for the purpose of taxation to the debentures of ₹ 100 lacs issued by Tony (India) Ltd to Engineers and Engineers of UK on 1.7.2019 ? Whether the interest earned on such debentures to be taxed in India in A.Y. 2020-21 and if so, on what amount the tax shall be charged ? Answer be based only on statutory provisions and by ignoring the provisions of Double Taxation Avoidance Agreement (DTAA) between India and UK.
(3 Marks)
- (iii) Explain the relationship of the companies PQR Ltd and Joly Inc of US and the nature of various transactions entered into between them during the year 2019-20. Compute the adjustment, if required to be made to the total Income of PQR Ltd under transfer pricing provisions. State whether the company can also claim benefit of deduction under section 10AA of the Act for the enhanced income due to adjustments made by application of transfer pricing provisions. *Take the value of one US dollar as ₹ 75.*
(7 Marks)
- (c) Advice to Monika Steel Balls relating to the amount of ₹ 5 lakhs received as liquidated damages on the facts compiled under 'C' whether to be treated as Capital Receipt or Revenue Receipt. Support your answer with the decided case law, if any.
(4 Marks)
- (d) State all those points which would be kept in mind while drawing up the scheme of voluntary separation to be offered by Nargis Agro Ltd to its employees on the facts as compiled under 'D'. What will be the tax treatment for the payments made under the scheme in the hands of Nargis Agro Ltd ?
(6 Marks)

: 7 :

- (e) Siddharth Hospitals Pvt. Ltd on the facts as compiled under 'E' wants to know whether the TPAs shall be deducting any tax at source out of the payments made by them to the hospital and if so under which section and at what rate such tax is to be deducted ?

(4 marks)

2. (a) **Vishwa Kalyan Charitable Trust** was formed on 1st March, 2017. It filed with the Commissioner of Income-tax (Exemption) its application for registration as per section 12A on 31st August, 2019 explaining that for good and sufficient reasons, it could not file the application so long after its formation and thus the registration to be granted since 01.03.2017.

The trust for the accounting year ended on 31st March, 2020 earned an income of ₹ 5,70,000 and has claimed that the income earned by it be treated as exempt under section 11 of the Income-tax Act, 1961.

Explain with brief reasons in the context of the provisions contained under the Income Tax Act, 1961 :

- (i) by which date the application for registration should have been filed by the trust for claiming benefit u/s 11 and 12 and whether such an application could have been filed before the formation of the trust ?
- (ii) can the trust be deemed to be registered in absence of an order of registration from the Commissioner of Income Tax (Exemption) on its application filed on 31.08.2019 and if so, then from which date ?
- (iii) whether a certificate of registration once granted can be cancelled and if so, the conditions thereof ?

(3×2=6 Marks)

- (b) Ankit Private Limited in its return of income filed for A.Y. 2019-20, has claimed a sum of ₹ 40,000 as a deduction on account of payments made for stamp duty and registration charges of the lease deed from the income shown under the head "*Income from house property*". The Assessing Officer disallowed the claim of the assessee company in the assessment order passed under section 143(3). Examine the correctness of the action of the Assessing Officer as to disallowance so made in the context of provisions contained under the Income Tax Act, 1961.

(3 Marks)

- (c) Zonga Ram is a Member of Legislative Assembly of Rajasthan. He underwent an open heart surgery in July, 2019 abroad in respect of which he was paid by the State Government an amount of ₹ 15 lacs towards reimbursement of his medical expenses. The Assessing Officer contended that such amount is taxable as a perquisite under section 17 of the Act and issued a show cause notice to Zonga Ram to tax the amount of ₹ 15 lacs so received by him in A.Y. 2020-21. Examine the correctness of the contention of the AO and support your answer with the ruling of decided case, if any.

(3 marks)

3. (a) Radhey Radhey International of Jaipur, a toys manufacturing company was transporting two of its machines from unit "A" located at Ajmer to unit "B" located at Jaipur (which are at a distance of 150 KMs) on 1st September, 2019 by a truck. On account of a civil disturbance, both the machines got damaged while on its way in truck to unit "B". Company lodged a claim with the insurers for the damages so sustained to the machines. The insurance company admitted the claim and paid an amount of ₹ 8 lacs for the damages caused to both the machines.

On these facts, for submitting the return of income for the previous year ending 31st March, 2020, your advice is sought as to :

- (i) Whether the damage of machines results in any transfer ?
- (ii) How the amount of ₹ 8 lacs received from the insurance company to be treated for the purpose of taxation ?
- (iii) Would there be any impact on the written down value of the block of plant and machinery as at 31st March, 2020 ?

(6 Marks)

: 9 :

- (b) PQR Ltd a non-banking finance company was engaged in the business of leasing and hire purchase. It purchased motor cars from Ramada Motors and leased out these vehicles to its customers. The lease agreement with the customer stated that PQR Ltd was empowered to repossess the vehicle, in case the lessee committed default in payment. Registration of the vehicle in the name of lessee, during the period of lease is mandatory as per the Motor Vehicles Act, 1988. PQR Ltd claimed ₹ 15,00,000 as depreciation on the vehicles leased out for the year ended on 31.03.2020. The claim was rejected by the Assessing Officer on the ground that the assessee had merely financed the purchase of motor cars and was neither the owner nor the user of these motor cars as assets. Is the action of the Assessing Officer valid ? Discuss and support your answer with the ruling of a decided case law.

(6 marks)

4. (a) Ram has a salary income (computed) of ₹ 6,00,000 for the financial year 2019-20. His minor son, Arjun has agricultural income of ₹ 80,000 for the same financial year. The Assessing Officer clubbed the agricultural income of the minor son for determining the rate of income-tax applicable to Ram. However, Ram contended that agricultural income was exempt under section 10(1) of the Act and also not being specified in the definition of income under section 2(24). Hence, agricultural income of minor son should not be clubbed and the provisions of section 64(1A) cannot be attracted in his case.

Discuss the correctness or otherwise of the contention of Ram in the context of provisions of Income Tax Act, 1961.

(4 Marks)

: 10 :

- (b) Manvendar Singh is a distributor of lottery tickets purchased various series of lottery tickets of Rajasthan Government for sale for the draw to be held on 01-09-2019. He won ₹ 10,00,000 as prize money on an unsold lottery ticket lying with him as on 31.08.2019.

The prize money so won by him on the unsold ticket was offered as business income. The Assessing Officer had put to tax the amount of ₹ 10 lacs as winning from lottery at the rate prescribed under section 115BB and not as business income so offered by him.

You are required to state in the context of provisions of the Act, whether the action of A.O. to tax the amount of ₹ 10 lacs as per section 115BB is justified and correct.

(4 Marks)

- (c) Kamlesh Kant, a resident, aged 58 years, has the following income during the previous year 1.4.2019 to 31.3.2020 :

* Salary income ₹ 7,75,000

* Interest on savings bank account with Allahabad Bank ₹ 25,000

He had made the following payments during the period 1.4.2019 to 31.3.2020 :

(i) Insurance premium to Max Life Insurance Ltd amounting to ₹ 25,000 under a policy taken on life of his son. The policy was taken on 20th July, 2011 and the sum assured is of ₹ 1,80,000.

(ii) Insurance premium to Life Insurance Corporation of India amounting to ₹ 22,000 under a policy taken on his life on 20th April, 2012 and the sum assured is of ₹ 2,00,000.

(iii) Premium of ₹ 28,000 paid by cheque on health insurance for self to National Insurance Corporation Ltd and payment in cash of ₹ 5,000 to a hospital for preventive health check-up for self.

Compute the total income of Kamlesh Kant on the basis of the above particulars of income and payments for the A.Y. 2020-21.

(4 marks)

5. (a) Assessment of Ram Bhajan Ltd for Asst. Year 2018-19 was completed under section 143(3) by making additions of ₹ 25 lakhs to the income declared in the return. The assessee company filed an appeal before the Commissioner (Appeals) which is pending till date for adjudication.

In this backdrop, answer the following in the context of provisions contained under the Income Tax Act, 1961 :

- (i) Can the Assessing Officer initiate reassessment proceedings u/s 148 when the appeal is pending before Commissioner (Appeals) for adjudication on the basis of fresh information that there was escapement of income for the same assessment year ?
- (ii) Can the Assessing Officer pass an order under section 154 for rectification of mistake in respect of the issues not being raised and are subject matter of appeal ?
- (iii) Can the Commissioner of Income Tax make a revision under section 263 both in respect of matters covered in appeal and other matters ?

(2×3=6 marks)

- (b) Rolly Polly Exim Ltd Mumbai filed its original return for the previous year 2018-19 on 28th September, 2018 declaring loss of ₹ 22.50 lakh. However, the Manager (Taxation) noticed some calculation error in the original return so filed and therefore decided to file a revised return which was filed on 28th February, 2019 declaring loss of ₹ 29.50 lakh. The assessment of the company for the A.Y. 2019-20 was pending and not completed at that point of time when the revised return was filed by the company on 28.02.2019.

The Assessing Officer is of the view that the loss indicated in the original return alone can be carried forward for set-off in the subsequent years since section 80 of the Income Tax Act, 1961 does not contemplate that a revised return can be filed.

You are required to give answer in the context of provision of the Act whether the contention of the Assessing Officer is correct and justified.

(6 marks)

6. (a) Examine and state with brief reasons as to taxability or allowability or treatment to be given in each of the following independent cases while computing income under the head "Profits and gains from business or profession" in the return of income for the assessment year 2020-2021 :
- (i) Amount received from State Government towards power subsidy with a stipulation that the same is to be adjusted in the electricity bills in each month in subsequent year.
 - (ii) Profits derived by an assessee engaged in carrying on the business as dealer in shares, on exchange of the shares held as stock in trade of one company with the shares of another company.
 - (iii) The amount of margin money forfeited by a bank on the failure of its constituents of not taking the delivery of the shares purchased by such bank on their behalf.
- (2×3=6 Marks)
- (b) Discuss and explain the correctness of the following statements in the context of the provisions of Income-tax Act, 1961 :
- (i) The Joint Commissioner of Income-tax is empowered to issue direction to the Assessing Officer as he thinks fit for the guidance of the Assessing Officer during the assessment proceedings to complete the assessment in a specific manner.
 - (ii) Assessing Officer may direct for the audit of the accounts under section 142(2A) of the Act, during the assessment proceedings on the basis of certain grounds.
- (2×3=6 Marks)