TAX PAPER 6

(Topic covered: - Foreign Taxation)

Time Allowed: - 3 hours **M. M. 100**

NOTE: - All the references to the sections mentioned in the paper relates to Income Tax Act, 1961 and relevant Assessment Year is 2011-12, unless otherwise stated. All questions are compulsory.

Ques. 1: - In all case of the NR corporate entities, relief u/s 91 is always equivalent to the amount of taxes paid in the foreign country but not for the individuals. Discuss. (16 marks)

Ques. 2: - The provisions of the section 172 and 44B are such that they override each other. But when taken and interpreted in harmonious manner they both go hand in hand and the assessee has got certain advantage too over the issues to take upon and make planning in regards to its business. Discuss. (12 marks)

Ques. 3: - The variation between the Arm's length price and the actual price of the transaction as declared by the assessee cannot exceed more than 5%. In case of it exceeding more than that the A.O. shall be at the discretionary power to apply the valuation so given by the Transfer Pricing Officer. Discuss. (8 marks)

Ques. 4: - Where the case is referred to the TPO and the assessee produces an affidavit or any such evidence form the either of the party who is related with the transaction and especially the party who is Non-Resident, then in such cases the evidence so produced shall be considered and will be given due weight for computation of the Arm's Length Price. Discuss, would the things make difference if the evidence produced by the NR is certified by an appropriate valuation authority or the customs authority of his resident country. (8 marks)

Ques. 5: - Compute the income-tax in the following cases:
(a) Royalty of Rs.10 lakh received by a foreign company from an Indian concern in pursuance of an agreement approved by the Central Government in the previous year 2007-08.
(b) Rs.10 lakh long-term capital gains received by an overseas financial organization on transfer of units purchased in foreign currency. (2 marks each = 4 marks)

Ques. 6: - Compute the 'arm length price' (ALP) in the following cases:
(a) Medical Instruments Ltd. is a 100% Indian subsidiary of a US company. The parent company sells one of its products to the Indian subsidiary at a price of US$ 100 per unit. The same product is sold to unrelated buyers in India at a price of US$ 125 per unit.
(b) The US parent company sells the same product to an unrelated company in India @ US$ 80 per unit. (2 marks each = 4 marks)

Ques. 7: - An application for seeking advance ruling can be applied only in the case where there is involvement of atleast one Non- Resident is there in the transaction or the issue. Discuss. (8 marks)

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Ques. 8: - If a tax payer has legitimately reduced his tax burden by taking advantage of treaty, the benefit cannot be denied to him on the ground of loss of revenue. Explain in the context of decided case law. (5 marks)

Ques. 9: - Explain the powers of the Authority for Advance Rulings in regard to rejection of an application and modification of an order. (5 marks)

Ques. 10: - A Non Resident purchases the shares of Reliance on 1.1.2005 (46, 48) by remitting US$. The following data is made available by him: -
COA: - Rs 585000,
Date of Sale: - 1.2.2011 (39, 42),
Sale Consideration: - Rs. 10 Lacs,
Expenditure on transfer: - Rs. 26600 (incurred on 28.12.2010(47, 48)).
On 4.2.2011 (45, 47) a sum of Rs. 8.42 lacs was invested in shares (out of the sale proceeds), which were sold on 25.03.2012(39, 42) for Rs. 25 lacs.
Compute the capital gain.
Also state out the planning which he should have done so as to make the transaction more tax savvy. Further suggest the ways by following which he can now reduce the tax burden for future tax transactions.
(the figures in brackets after date represents the exchange rates). (10 marks)

Ques. 11: -Discuss the issues of the applicability of MAT on the Foreign Companies. (7 marks)

Ques. 12: - Advance ruling sought in respect of an assessee can be made applicable to the other entities of the same management, if the management wants and enforces the department for the same but not in case of the other entities. Discuss. (5 marks)

Ques. 13: -Since there is no bar on assigning the expenses of an Indian Company on to its various foreign branch offices under the act hence the Uniliver Inc. Claims that in the same manner the expenses allocated to the branch office in India of the Body Corporate shall be entitled to be claimed from its income. Is the claim of the Uniliver justified in law. Discuss. (8 marks)

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