TEST PAPER 9

(Subject: - Direct Tax Laws)

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

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

Ques. 1: - Section 35D deals with the amortization of preliminary expenses or such similar expenses which are incurred by the company in case of a new unit being set up or in case of its expansion but the ruling of delhi high court in case of Priya Roadshows Ltd. has given a new scope of thinking and have given us the new way where by we can now always try to cover an preliminary expenditure under the ambit of section 37 and as the normal revenue expenditure. Discuss. (5 marks)

Ques. 2: - For the purpose of Section 2(22)(e) each and every transaction need to be seen only by the virtue that it forms the part of a regular course of business or not? If the activity or the loan or any advance that has been given or transferred is in connection with the normal course of business that will be out of the ambit of deeming provision of the dividend. Discuss. (3 marks)

Ques. 3: -Meaning of Intangibles is to be looked in wider connotation not just in the way as it has been always looked upon by just taking the exact terms as given under the law, i.e. list is just an illustrative list and meaning of the same need to be taken in liberal and wide manner. Discuss the issue in the light of the recent case law. (5 marks)

Ques. 4: - Penalty under section 271(1)(c) shall not be leviable where assessee has made a wrong claim in the return of the income. State true and false with the reason in support of your answer. (6 marks)

Ques. 5: - Increase in the rate of MAT has brought more companies within the purview and coverage and thus thereby causing the burden and affecting the fund cycle of the companies. Discuss. (4 marks)

Ques. 6: - Now virtually all the assessee how are declaring the income from business or profession are liable for audit or they shall declare profit under the presumptive schema of taxation. Discuss. (5 marks)

Ques. 7: -Mr. Anand is planning to take voluntary retirement from a government undertaking wherein he shall be in receipt of Rs. 70 lacs. So Mr. Anand is of the view that the money so receivable shall be full exempt from the tax as he was a government employee. Further he is planning to take an agency from the Parle Agro Food products for the Udaipur city in whole, for which he'll be required to give a security deposit of Rs. 22 lacs which will fetch him interest @6% p.a. and he is desirous of receiving the return @ 10% on the capital besides the monthly remuneration of Rs. 45000. Mrs. Anand is a marketing manager in one of the competitor firm of Parle Agro where she is in receipt of annual remuneration of Rs. 15 lacs but she is also in mood of switching her job. She has agreed to join the business of her husband on the condition that the remuneration of Rs. 12 lacs shall be paid to her annually. Mr. Anand has agreed to the conditions but is of the view that the structure many not be tax savvy. Hence he has approached you to give him an advice on the business structures that he can opt for with the various issues to be kept in the mind with regards to all the relevant statues, and also that the cost of floating the business comes to least, Advice. (8 marks)

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Ques. 8: - Your client, Raj Music Ltd. has two industrial undertakings-one engaged in production of audio music CDs and cassettes and the other engaged in production of video CDs. As a restructuring drive, the company has decided to sell its undertaking producing video CDs as a going concern by way of slump sale for Rs. 550 lacs to a new company called Ran Music Ltd., in which it holds 75% equity shares. The balance sheet of Raj Music Ltd. as on 31st March, 2011 reads as follows:

	Rs. in lacs Audio Unit	Video Unit
Fixed Assets	150	225
Debtors	150	112.5
Inventories	75	37.5
Liabilities	42	75
Paid up share capital		Rs. 378 lacs
General Reserve		Rs. 222 lacs
Share premium		Rs. 33 lacs
Revaluation Reserve		Rs. 140 lacs

The company set up the video unit on 1st April, 2001. The written down value of the block of assets for tax purpose as on 31st March, 2011 is Rs.200 lacs of which Rs. 85 lacs are attributable to video unit. Calculate the Tax on the above transaction. Also suggest ways by which the transaction can be more tax efficient and also jot down the implications of the same. (8 marks)

Ques. 9: - A.O. can not make assessment u/s 144 where there is no failure on assessee's part u/s 139(1), (4), (5), 142 (1), 142(2A), 143(2). Justify the statement with reason. (4 marks)

Ques. 10: - Mr. X (aged 68 years) submits the following information for the As. Y. 2011-12: -

Non Agriculture Income	Rs.
Business Income	48,000
Dividend form Manufacturing Co. incorporated outside India	32,000
Dividend from Non-Domestic Co. engaged in growing and manufacturing Tea in India	11,30,000
One-third share from AB & sons, partnership Firm engaged in Coffee plantation (manufacturing, growing, plantation)	21,000
Salary received from AB sons	12,000
One Half share from DE & Sons, a partnership firm assessed as such and engaged in growing roasting and manufacturing coffee in Goa	41,000
Salary received from DE & Sons	18,000
Long term capital gain on sale of land	10,000
Winning from Lottery	51,000
Brought forward losses of Business of the year 2008-09	28,000
PPF contribution out of business and dividend income	40,000
Agriculture income from land situated in Punjab	
Sale proceed of 120 tons of wheat (total crop of 135 tons, out of which 1 ton is consumed by the family of assessee and the closing stock of 16 tons on 31.3.11; while on 1st April 10 2 tons in stock which was valued at 2,600 per ton)	4,80,000
Total cost of Cultivation (including depreciation of tractor, pumps etc, cost of seed insurance, expenses on irrigation and wages to labour)	3,51,000
Brought forward losses of Assessment Year 2002-03	40,000
Brought forward losses of assessment year 2003-04 to 2010-11	30,000
Life Insurance Premium paid out of sale proceed of the crop (sum assured 50000)	12000
Agriculture Income from Tea Plantation in Kerala	
Sale proceed received in kind	40,000
Expenses incurred in collecting rent and sale of crop received in kind	32,000
Tax on agriculture income charged by state government of Kerala	1,200
PPF contribution out of sale proceed of crop	4,000

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PPF contribution out of sale proceeds of crop	1,000
Agriculture income from land situated in Nepal	
Sale Proceeds of Crop	10,000
Expenses incurred	8,000
Agriculture Income of Minor Child of Mr. X	
- From land gifted by Mr. X (situated in Pune)	30,000
- From land acquired by child out of his own income situated at Assam	25,000

Compute the tax Liability of Mr. X for the assessment year 2011-12. (10 marks)

Ques. 11: - X, belonging to the Northern School of Mitakshara law, Inherited certain ancestral house properties form his father. His mother was alive when he married under the Special Marriage Act and subsequently solemnised this marriage according to Hindu rites. Subsequent to this, after the birth of two sons, X gifted the aforesaid family properties to wife and minor sons and claimed exclusion of the gifted properties in wealth tax assessment of his HUF. His mother was dead then. He claimed before the A.O. that his marriage under the Special marriage Act amounted to severance of his joint family status making inherited properties his separate properties which he could deal with in any manner he liked. Discuss the liability of wealth tax of properties in hands of HUF. (6 marks).

Ques. 12: - For reopening of the case under section 147, there is a requirement of valid reason of escapement of income, and the report by the valuation offices or an audit objection by the audit party are the valid ground for opening or re-opening the case u/s 147 by issuing notice u/s 148. Discuss (6 marks)

Ques. 13: - Assembling of knocked or semi finished parts at a place parts does not tantamount to manufacturing, as the parts in the break parts in the break down conditions as well as in the final terms are same and hence the activities carried out are not liable to be enjoy the benefits of the manufacturing unit. (5 marks)

Ques. 14: - For calculating the deduction u/s 80-IB all the profits derived from the undertaking of the assessee company in the notified area is eligible out of all the profits of the assessee. Discuss the issue with the help of relevant laws and judicial pronouncement in this regard. (10 marks)

Ques. 15: - It is always the responsibility of the assessee to deposit out the interest u/s 234B and 234C wherever there is shortfall in the payment of the advance taxes and or there is deferment of the advance tax, only in the case where the liability to pay advance tax is more than Rs. 10,000 as per the normal provisions of the Income Tax, not in case where the tax is calculated keeping in mind some special provisions. Justify the validity of the statement. (6 marks)

Ques. 16: - Mutual organizations' are always exempt for the purview of the taxation, except in case of the chamber of commerce and industry which is specifically liable from taxation. Discuss. (6 marks)

Ques. 17: - Ownership with use in business will suffice for claiming the depreciation under the business head with regard to all the tangible assets. Where as the ownership with use for any purpose other than the business for a tangible asset will bring it in the purview of house property head. Discuss. (9 marks)

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