TEST PAPER 10

(Subject: - Direct Tax Laws)

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

NOTE: - Question No. **1** is compulsory.
Attempt any **Five** from remaining **Six** Questions.
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: -

A) What is the tax treatment in respect of anonymous donations received by the following trusts during the financial year 2010-11?

(i) A charitable trust referred to in section 11 which applied the entire amount of anonymous donations for purposes of the trust during the relevant financial year.
(ii) A trust established wholly for religious purposes which applied 85% of the amount of anonymous donations for the purposes of the objects of the trust during the financial year.

B) "The illegality tainted with the income has no bearing on its taxability" – Elucidate this statement.

C) Discuss the correctness or otherwise of the following statement –
"Presumption as to –
(i) ownership of assets, books of account, other documents etc. and
(ii) correctness of the contents of such books of account and other documents
is restricted only to such assets, books of account etc. found in the course of search u/s 132".

D) "The presence of "mens rea" is essential for imposition of penalty under section 271(1)(c)" – Discuss the correctness or otherwise of this statement with the aid of a recent Court rulings.

E) Rajasthan Cricket Association, a renowned sports organisation, has engaged Mr. Rohna Bopna, a resident in India, as its tennis coach at an annual remuneration of Rs.13 lakh. The organisation seeks your advice on it's liability that it will be required to fulfil in this regard.

(4 marks each)

Ques. 2: -

A) Mr. Vikram, a resident Indian aged 43 years, has derived the following income during the previous year 2010-11:

	Rs.
(i) Salary income earned in India	3,40,000
(ii) Income from house property in India (computed)	2,00,000
(iii) Commission (Gross) from a company in Hong Kong (Tax paid in Hong Kong Rs.80,000)	4,00,000
(iv) Dividend (Gross) from a company in Hong Kong (Tax paid in Hong Kong Rs.20,000)	1,00,000
(v) Cash Gifts from non-relatives in India	1,60,000

India has no double tax avoidance agreement with Hong Kong. Compute the total income and tax liability of Mr. Vikram for the assessment year 2009-10. (8 marks)

B) Mr. Raj furnishes the following particulars of his assets and liabilities as on 31.3.2011:

Assets:	Rs. in lakh
Residential house at Bombay	50

Residential house at Coimbatore	20
Plot of land comprising an area of 300 square meters at Chennai	75
House at Pune exclusively used for carrying on his business	23
Commercial complex at Ahmedabad	18
Residential house at Delhi let out for 320 days during the previous year	15
Motor cars used in business of running them on hire	12
Shares in private limited companies	17
Cash in hand	1
Gold jewellery	8
Liabilities:	
Loan borrowed for purchase of land at Chennai	15
Loan borrowed for purchase of shares in private limited companies	10
Loan borrowed for purchase of gold jewellery	5

Amounts stated against assets, except cash in hand, are the values determined as per section 7 of the Wealth-tax Act, 1957 read with Schedule III thereto.

Compute the net wealth of Mr. Raj for the assessment year 2011-12.
State the reasons for inclusion or exclusion of the various items. (8 marks)

Ques. 3: -

A) Mr. Pradeep has a house property in Chennai, which was lying vacant for the last 3 years. He constructed the property in 1988 at a cost of Rs.35 lakh. He has let out the same at a monthly rent of Rs.24,000 for a period of two years with effect from 1st January, 2011. The quarterly corporation tax is Rs.20,000. He took a premium of Rs.1,60,000 from the tenant and also security deposit of Rs.1,00,000. The house was constructed on freehold land measuring 5,000 sq. ft. It has two floors each measuring 1,000 sq. ft. Compute the value of the house property for wealth tax purpose as at valuation date 31.3.2011. (10 marks)

B) Can the Assessing Officer initiate proceeding under section 147 in respect of income involving matters which are the subject matter of an appeal? Discuss. (3 marks)

C) "The Assessing Officer has no power to make any adjustment to the income returned by the assessee while processing the return of income under section 143(1)" - Discuss the correctness or otherwise of this statement. (3 marks)

Ques. 4: - Answer any four out of the following: - (4 marks each)

A) "The Appellate Tribunal may, on merit, pass an order of stay in any proceedings relating to an appeal and such period of stay can exceed one year from the date of such order, if the delay is not attributable to the assessee" – Discuss the correctness or otherwise of this statement.

B) All the liability that ceases of to pay either due to applicability of limitation act or by the voluntary waiver of the same. Shall be taxable as per the provisions of deemed income under section. Discuss the provision with the help of relevant case laws, if any.

C) Payments made in the government department and to the government officials over and above mandatory statutory fees are revenue expenditure and hence the same can be claimed under section 37. Discuss.

D) With help of relevant case laws put a light on the matter of cost of acquisition and the sum of monies paid to take the possession of the Joint property in whole and sole.

E) Whenever the main course of work is ancillary work to the work stated in the act for the special consideration or for the applicability of the special provision then in such cases the work can not be said to have been the work as specified in the provision. Discuss it with the help recent rulings.

Ques. 5: -

A) Commissioner is empowered to cancel only the certificate granted under section 12A of the Act to the charitable societies. (4 marks)

B) Exemption under section 54EC is eligible to be claimed only when you invest the amount of capital gain of upto Rs. 50 lacs in a financial year. Elaborate the statement light of relevant laws. (6 marks)

C) The order made by any authority can be reviewed only for the purpose of the some rectification but the order can not be recalled in the whole for the purpose of change in income at all. Elucidate the statement in light of the recent case laws. (6 marks)

Ques. 6: -

A) In computing the capital gain, in certain cases the cost of acquisition is taken as from that which is there in the hands of previous year in such cases how is the period of holding determined. Do we take the period of holding of the donor in total? Discuss it in light of the relevant laws. (4 marks)

B) Netherlands Oil Corporation is a Foreign Company engaged in the exploration of oil and gas in all countries including India. In respect of its Indian business, the company has prepared the Profit and Loss Account in accordance with Part II and III of Schedule VI to the Companies Act, 1956 and such Profit and Loss Account for the previous year ended 31.03.2011 shows a Net Profit of Rs.65 lacs. The Net Profit from activities in all other countries stands at Rs.550 lacs. The company informs that while arriving at the Net Profit as indicated above in respect of Indian business, the following debits/credits have been made in its Profit and Loss Account.

	Credits to the Profit and Loss Account	**Rs.(in Lakhs)**
(i)	Net agricultural income in India	16
(ii)	Share of profits from a firm engaged in business in India	15
(iii)	Amount withdrawn from Reserve created during 2010-11 (Book Profit was not increased by the amount transferred to such reserve in the year 2010-11)	3
(iv)	Profits from an Industrial Undertaking covered and qualified for deduction under Section 10B of Income-tax Act, 1961.	30
(v)	Profits from an Industrial Undertaking covered and qualified for deduction under Section 10C of Income-tax Act, 1961.	6

	Debits to the Profit and Loss Account	**Rs.(in Lakhs)**
(i)	Expenditure relating to 10B undertaking	12
(ii)	Depreciation for current year under Companies Act, 1956	24
(iii)	Interest to Financial Institutions not paid upto the date of filing the return	6
(iv)	Penalty for infraction of law	1
(v)	Proposed Dividend	3
(vi)	Provision for Taxation (Income-tax)	2
(vii)	Transfer to General Reserve	5

(viii)	Provision for Unascertained Liabilities	2
(ix)	Expenditure relating to 10C undertaking	5

The following additional information is also provided:	Rs.(in lakhs)
Brought forward book loss	12
Depreciation allowable under Income-tax rules.	30
Brought forward business loss and unabsorbed depreciation as per Income-tax law.	18
(Loss Rs.8 lakhs and Depreciation Rs. 10 lakhs)	

You are requested to compute the total tax liability of the company for the As. Y 11-12. (12 marks)

Ques. 7: -

A) Capsule Ltd, during the financial year ending 31.3.2011 paid production bonus of an amount of Rs.3 lacs pursuant to a settlement arrived with the workers in addition to the statutory payment of Rs.1 lakh as per Bonus Act. On these facts, your advise is sought.

a. Whether the sum of Rs.3 lacs is deductible as per the provisions of section 36(i)(ii) of the Act?
b. If the claim is not so deductible, can it be claimed under any other provision? (4 marks)

B) Each and every person in respect of each and every case can go to the settlement commission for n number of times with a plea to settle the case in favour of the assessee. (6 marks)

C) Throw some light on the aspect of the first year from which the deduction in respect of sec 80-IB shall be available, with the help of recent case laws. Will it make any difference when we were not aware of the fact that starting is to be earmarked from certain year but we now realize and want to claim the same. (6 marks)