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 2012-13, unless otherwise stated. All questions are compulsory.

Ques. 1: - Mr. Singh, a non-resident individual, is due to receive interest of Rs.5 lakhs during March 2012 from a notified infrastructure debt fund eligible for exemption under section 10(47). He incurred expenditure amounting to Rs.10,000 for earning such income. Assuming that Mr. X is a resident of a NJA, discuss the tax implications under section 94A, read with sections 115A and 194LB? (6 marks)

Ques. 2: - Transfer pricing officer is only a back desk officer so it has limited powers. Discuss the validity of the statement. (6 marks)

Ques. 3: - A Ltd., an Income company, receive the following dividend income during the P.Y. 2011-12 –

(1) From shares held in XYZ Inc., a foreign company, in which it holds 25% of nominal value of equity share capital – Rs. 80,000;
(2) From shares held in PQR Inc., a foreign company, in which it holds 30% of nominal value of equity share capital – Rs. 1,85,000.
(3) From shares held in Indian companies – Rs. 90,000.

A Ltd. has paid remuneration of Rs.18,000 for realizing dividend, the breakup of which is as follows –

(1) Rs. 4,000 (XYZ Inc.)
(2) Rs. 9,000 (PQR Inc.)
(3) Rs. 5,000 (Indian companies)

The business income of A Ltd. computed under the provisions of the Act is Rs.40 lakh. Compute the total income and tax liability of A Ltd., ignoring MAT. (6 marks)

Ques. 4: - 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$ 200 per unit. The same product is sold to unrelated buyers in India at a price of US$ 250 per unit.
(b) The US parent company sells the same product to an unrelated company in India @ US$ 160 per unit. (2 marks each = 4 marks)

Ques. 5: - While computing the income under the provisions of MAT, income derived from the SEZ is not liable for taxation only for the foreign companies, and for rest the same is now taxable as the exemption of the same has now got lapsed. (4 marks)

Ques. 6: - Section 44BB is a special section and it covers only the specific services and not the incidental and ancillary services." Throw the light on the validity of the statement with the help of the recent case laws. (6 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 in the transaction or the issue. Discuss. (8 marks)

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: - Raman a citizen of India but a NR, 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: - 1.2.2012 (39, 42),
Sale Consideration: - Rs. 10 Lacs,
Expenditure on transfer: - Rs. 26600 (incurred on 28.12.2011 (47, 48)).
On 4.2.2012 (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 buying and selling rates). (10 marks)

Ques. 11: - Where the case is referred to the TPO and the assessee produces an affidavit or any such evidence from 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. 12: - Uniliver Inc. (UI) sought an Advance ruling for a certain transaction that he entered in with a sister company Hindustan Uniliver Ltd. (HUL), UI also entered into a transaction with the British Uniliver Co. (BUC) another sister concern, Further a same transaction which UI and HUL were having that was entered between BUC and HUL. BUC's legal experts are of view that they can apply the same ruling which was given by AAR to UI, further since they are sister concern hence they are not required to seek a different ruling. Are the views of the expert correct, if No then give the suggestions and explanations? (8 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 Coke claims that in the same manner the expenses allocated to the branch office in India of the NR shall be entitled to be claimed from its income. Is the claim of the Coke justified in law? Discuss. (8 marks)

Ques. 14: - Qutar Airways operates aircraft between Qatar and Mumbai. Following Information is submitted to you to compute the tax for the year ended 31st March 2012: -

- 5 Crore in India for boarding of passengers from Mumbai.
- 2 Crore in India for the cargo boarded from Mumbai.
- 8 Crore in Qatar for the passengers who boarded for Mumbai.
- 2 Crore in Qatar for the cargo that was boarded from Qatar.
- 9 Crore in Qatar for cargo that was boarded from Mumbai.
- Total Expenditure for operation of various aircrafts from India was Rs. 8 crore. (6 marks)

Ques. 15: - Om Ltd., an Indian company, provides technical services to a company, Alfa Inc., located in a NJA for a consideration of Rs.20 lakhs in October, 2011. It charges Rs.24 lakhs and Rs.26 lakhs for similar services rendered to Fie Inc. and Pie Inc. are not associated enterprises of Om Ltd. Assuming that the variation notified by the Central Government for such class of international transactions is 8% of the transaction price, discuss the tax implication under section 94A read with section 92C in respect of the above transaction of provision of technical services by Om Ltd. to Alfa Inc. (6 marks)

Ques. 16: - Junaid Co., A company incorporated in Australia has entered into an agreement with Jhonson Ltd., an Indian Co. for rendering technical services to latter for setting up a Oil refinery in Barmer, area of Rajasthan. The agreement rendered both off-shore and on-shore services to at a fees of Rs. 8 Cr. and 18 Cr. Junaid Co. is of view that since the above money of Rs. 8 Cr. is received for the work done outside India and therefore no service tax was leviable and in the same manner the same is not liable to be taxed in under Income Tax Act also. Discuss on the view of the Junaid Co? (4 marks)

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