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 2012-13, unless otherwise stated.

Ques. 1: - 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. (7 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. But to reckon that whether transaction entered is in the business course or not it can be judged with only the motive of person entering into the transaction. Discuss. (5 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: - Ram Singh filed the return of Net Wealth on 2008-09 in time. Penalty Proceedings u/s 18 for concealment of the Net –Wealth were initiated against him by A.O. in October 2010. Due to Tension of the same Mr. Ram Singh Died in December 2011. As per the will whole of the properties were transferred to Mrs Ram Singh, wife of the deceased. But Due to sadness and shock she too died in January 2012. Now whole of the estate was delivered in the hands of Sons Dashrath Singh. A.O. passed to order of Penalty and issued a notice for the recovery of demand to Dashrath Singh. Is the action of A.O. valid in law? (4 marks)

Ques. 6: - I Limited an Indian Company entered into an International Transactions for sale of goods at Rs. 100 lacs, while the same transaction when entered with two unrelated parties was done at Rs. 98 lacs and Rs. 110 lacs respectively. The permissible variation for this class of transaction has been fixed by government is 5%. Discuss the adjustments required in above transaction in context of the transfer pricing. Further what changes will be there if the transaction entered was with the resident of NJA as referred u/s 94A. (5 marks)

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<u>Ques. 7</u>: -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 Perfecti Confectioneries for the 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 Perfecti Confectioneries 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 in dilemma that how to make the schema a tax savvy one. 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)

<u>Ques. 8</u>: -Mrs. Pushpa is having a Income of Rs. 5,20,000/- from the Growing, Curing, Roasting and grounding of Coffee after mixing chiroy and some other flavouring agents. For the year ended on 31.03.2012 She is desires of knowing whether she is liable for filing the return of Income under section 139(1) for the assessment year 2012-13 or not. (4 marks)

<u>Ques. 9</u>: - 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)

<u>Ques. 10</u>: - Mr. X (aged 68 years) submits the following information for the As. Y. 2012-13: -

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 2009-10	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 31.3.12; while on 1st April 11 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 2003-04	40,000
-Brought forward losses of assessment year 2004-05 to 2011-12	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
-PPF contribution out of sale proceeds of crop	1,000

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-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 2012-13. (10 marks)

<u>Ques. 11</u>: - Power to call the order for review by the authority who has passed the same is an inherent power of the authority, under the Income Tax Act, 1961. Discuss the validity of the statement. (5 marks)

<u>Ques. 12</u>: - 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)

<u>Ques. 13</u>: - 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)

<u>Ques. 14</u>: - 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. (8 marks)

<u>Ques. 15</u>: - Infosystem Ltd. Furnishes you the following particulars for the year ended on 31.03.2012 with regards to the its assets on 31.03.2012: -

1) One Hectare of Vacant Land was allotted by RICO, Udaipur for Industrial Purpose in July 2009 on permanent Lease basis by a lump-sum non-refundable premium of Rs. 5 Lacs. The term of allotment included that in the event the lease transfers the leasehold land or the lease, 45% of the unearned increase in the values of lease shall be handed over to the leaser. The construction work of the proposed factory has not yet started. The value of the land is on 31.03.2012 is 48 lacs.
2) Company is a partner in a firm with capital contribution of Rs. 20 lacs out of the total pool of Rs. 70 lacs while having a control of over 30% in the firm and on its profit. The net wealth of the firm is Rs. 150 lacs.
3) A let-out Building with effect from 1/10/11 at a monthly rental of Rs. 1 lacs for a period of 10 Years with an annual increment of 5%. The tenant has advanced a interest free deposit of Rs. 3 lacs. The MT of the property are to the tune of Rs. 1 lac and the same shall be borne by the tenant in full. The building is built on a free hold land and the WDV of the building in the books of accounts existed at Rs. 80 lacs. (6 marks)

<u>Ques. 16</u>: - 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)

<u>Ques. 17</u>: - Receipt of Income is always taxable in the hands of the person who receive it. Discuss the validity of the statement. (6 marks)

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