Ch-1

Q1 NNO Ltd. is engaged in manufacturing activities. It received liquidated damages of ₹ 10 lakh from supplier of machinery due to delay in supply of machinery. State with reasons whether or not the income by way of liquidated damages is a revenue receipt subject to income tax.

Ans The issue under consideration is whether the income of liquidated damages is a revenue receipt. If it is a revenue receipt it is liable to tax. As per the provisions of income tax act if income arises is of non revenue nature it is called a capital receipt & capital receipt not liable to income tax. So in this case ₹ 10 lakh which is a liquidated damages arises due to delay in supply of machinery its a capital receipt hence not liable to income tax

Q-2 Mr. Bhargava, a leading advocate on Corporate law, decided to reduce his practice & to accept briefs only for paying his taxes & making charities with fees received on such briefs. In a particular case, he agreed to appear to defend one Company in the Supreme Court on the condition that he would be provided with ₹ 5 lacs for a public charitable trust that he would create. He defended the Company & was paid the sum by Company. He created a trust of that sum by executing a trust deed. Decide whether the amount received by Mr. Bhargava is assessable in his hands as income from profession.

Ans The trust was created by Mr. Bhargava out of his professional income. The client did not create any trust. There is no diversion of income to trust before it became professional income in hands of Mr. Bhargava. This is not the case of diversion of income by overriding title. Hence such income is taxable in the hands of Mr. Bhargava as income from profession.

Q-3 XYZ Ltd. took over the running of business of sole proprietor by sale deed. As per the sale deed, XYZ Ltd undertook to pay overriding charges of ₹ 15000 p.a to the wife of sole proprietor in addition to sale consideration. The sale deed also specifically mentioned that the amount was charged on net profits of XYZ Ltd. who had accepted the obligation as a condition of purchase of going concern. Is the payment of overriding charges by XYZ Ltd. to the wife of sole proprietor in the nature of diversion of income or application of income? Discuss

Ans The overriding charges which will be paid to the wife of sole proprietor is an important part of sale deed. It is a source of income of wife of sole proprietor. The sale deed also specify that amount will based on net profits of XYZ Ltd. & XYZ Ltd is an obligation to calculate on such basis therefore it is a diversion of income.

Q 4 MKG Agency is a partnership firm Consisting of father & three major sons. The partnership deed provided that after death of father, the business shall be Continued by sons, subject to condition that the firm Shall pay 20% of profits to mother. Father died in March 2016. In Previous yr 2016-17 the reconstituted firm ₹ 1 lakh (equivalent to 20% of profits) to mother & Claimed the amount as deduction from its income. Examine the Correctness of claim of firm.

Ans The issue under consideration is whether the amount paid to mother will claim as deduction or not for the reconstituted firm. The partnership deed specifies that after death of father firm will be reconstituted & 20% of profit will be paid to the wife of deceased person. The firm will receive such income but on behalf of wife of deceased person who possess the overriding title therefore this amount will be eligible for deduction from the firm's income.