

Test Series: March, 2012

MOCK TEST PAPER – 2
FINAL COURSE: GROUP – II
PAPER – 7: DIRECT TAX LAWS

Question No. 1 is compulsory.

*Attempt any **five** questions from the remaining **six** questions.*

Time Allowed – 3 Hours

Maximum Marks – 100

1. (a) A public charitable trust created under a trust deed for providing relief to physically challenged persons and registered under section 12A of the Income-tax Act, 1961 provides the following particulars of its receipts during the year ended 31st March, 2012:

S.No.	Particulars	₹ in lacs
(i)	Income from properties held by trust (net)	15
(ii)	Income (net) from business (incidental to main objects)	14
(iii)	Voluntary contributions from public (including the corpus donation of ₹ 7 lacs)	18

The trust applied ₹ 18 lacs towards various activities and programmes undertaken for the benefit of physically challenged persons during the year. The trust has also paid ₹ 8 lacs towards repayment of a loan taken two years back for the purpose of construction of its centre for training the handicapped persons in various handicraft works and sports.

You are required to compute the tax liability, if any, of the trust for the assessment year 2012-13. (10 Marks)

- (b) Mrs. Vijaya furnishes the following particulars for the valuation date 31.03.2012 and requests you to compute her wealth tax liability for the assessment year 2012-13:
- (1) She owns two residential house properties each valuing ₹ 16,00,000.
 - (2) She is one of the partners in the business with her husband. The value of her interest in assets of the firm as at 31st March, 2012 is ₹ 14,25,000. The said business is conducted in one of the house properties owned by her.
 - (3) She has two motor cars of ₹ 11,00,500, one of which is imported by her for ₹ 6,40,000.
 - (4) She has invested ₹ 7,50,000 in a bank deposit for five years to meet the future expense of children on their education.

(5) Mrs. Vijaya has signed "agreement to sell" for purchase of new residential house property of ₹ 20,50,000 and has made advance payment of ₹ 4,50,000 on 15th March, 2012 and has taken possession. However, the sale deed has not been executed till 31st March, 2012. She has taken loan of ₹ 16,00,000 from bank for purchase of said property.

(6) She has cash balance of ₹ 1,25,000.

The computation should be supported with proper reasoning for inclusion or exclusion. (10 Marks)

2. M/s. LMN, a partnership firm, consisting of three partners namely Lalit, Mohit and Namit, engaged in the business of running a hotel. The profit & Loss of the firm for the year ended 31st March, 2012 shows a net profit of ₹ 200 lacs after debiting the following :

- (i) Depreciation on hotel building having W.D.V. on 1.4.2011 of ₹ 450 lacs was charged by treating the same as plant and machinery.
- (ii) Expenses of ₹ 1,50,000 incurred for the purpose of promoting family planning among its employees.
- (iii) Payment of ₹ 2,50,000 for an advertisement published in the souvenir released on 17th July by a political party.
- (iv) Compensation of ₹ 50,000 paid to the suppliers of automatic kitchen appliances because of termination of the contract after receipt of 50% of appliances.
- (v) Wines and liquor imported in F.Y. 2010-11 for ₹ 15 lacs and were available in the stock on 1.4.2011 cost ₹ 8 lacs were confiscated by the Govt. authority and therefore were written off.
- (vi) Expenses of ₹ 13 lacs incurred on replacement of carpets in the foyer, lounge and bar.

The firm has also provided the following additional information relating to the year ended on 31.03.2012 :

- (i) Amount of ₹ 8 lacs equal to U.K. £10000 was remitted and paid to a travel agent resident of U.K. as commission for the booking of international tourists in the hotel. Tax at source was not deducted out of such payment.
- (ii) Amount of ₹ 50,000 each was paid in cash to the suppliers of vegetables, milk products and eggs on 07.10.2011 because of suspension of banking operations due to strike of bank employees.
- (iii) Amount of ₹ 4.25 lacs written off in the F.Y. 2010-11 as irrecoverable from a travel agent, an amount of ₹ 3 lacs out of it was recovered on 27.2.12 and credited to a reserve account.

Compute the Gross Total Income of M/s. LMN for assessment year 2012-13 indicating reason for treatment of each of the items. (16 Marks)

3. (a) Mr. Suraj, aged 40 years, paid medical insurance premium of ₹ 14,000 during the P.Y.2011-12 to insure his health as well as the health of his spouse and dependent children. He also paid medical insurance premium of ₹ 30,000 during the year to insure the health of his mother, aged 65 years, who is not dependent on him. He contributed ₹ 2,400 to Central Government Health Scheme (CGHS) during the year. Compute the deduction allowable to Mr. Suraj under section 80D for the A.Y.2012-13. (4 Marks)
- (b) Under section 260A(2), an appeal against the order of the Appellate Tribunal can be filed before the High Court within a period of 120 days from the date of the receipt of the order by the assessee or the Commissioner. Is the High Court empowered to condone delay in filing the appeal? Discuss. (4 Marks)
- (c) (i) The definition of the term "case" which can be admitted by the Settlement Commission has been expanded. Is this statement correct? Discuss. (4 Marks)
- (ii) Mr. Vivek is a non-resident. The appeal pertaining to the assessment year 2011-12 is pending before the Income-tax Appellate Tribunal, the issue involved being computation of export profit and tax thereon. The same issue persists for the assessment year 2012-13 as well. Mr. Vivek's brother Mr. Vishal has obtained an advance ruling under Chapter XIX - B of Income-tax Act, 1961 from the Authority for Advance Ruling on an identical issue. Mr. Vivek proposes to use the said ruling for his assessment pertaining to the assessment year 2012-13. Can he do so? (4 Marks)
4. (a) Decide the following issues with the aid of recent case laws -
- (i) The Central Government framed a scheme whereby freight/transport subsidy was provided to industries set up in remote areas where rail facilities were not available and some percentage of the transport expenses incurred to transport raw material/finished goods to or from the factory was subsidized.
- Can such freight subsidy arising out of the scheme of Central Government be treated as a "profit derived from the business" for the purposes of claim of deduction under section 80-IA? (4 Marks)
- (ii) Can the Duty Entitlement Passbook Scheme (DEPB) benefits and Duty Drawback be treated as profit derived from the business of the industrial undertaking to be eligible for deduction under section 80-IB? (4 Marks)
- (b) A Ltd. filed an appeal against the order of the Assessing Officer (dated 1.3.2007) passed under section 143(3) to the Commissioner (Appeals). The appeal was decided by the Commissioner (Appeals) on 2.4.2008. Thereafter, on 5.4.2011, with a view to rectifying a mistake apparent from record, the Commissioner (Appeals)

amended the said order under section 154, which resulted in increase in tax liability of A Ltd. by ₹ 1,75,000. The Commissioner (Appeals) issued notice to A Ltd. of his intention to make the amendment under section 154 and also gave him an opportunity of being heard.

A Ltd., however, contended that as per section 154(7), no amendment shall be made after the expiry of four years from the end of the financial year in which the order sought to be amended was passed. Since the four year period has to be reckoned from 31.3.2007, the said expired on 31.3.2011, and thereafter, amendment under section 154 was not permissible. Discuss the correctness of the contention of A Ltd. (4 Marks)

- (c) The obligation to deduct tax at source under section 195 arises in respect of all payments (other than salaries) made to non-residents – Discuss the correctness or otherwise of this statement. (4 Marks)
5. (a) Mano Vaidhya, who is 38 years old, is a magician deriving income of ₹ 1,75,000 from shows performed outside India. Tax of ₹ 35,000 was deducted at source in the country where the shows were performed. India does not have any double tax avoidance agreement under section 90 of the Income-tax Act, 1961, with that country. His income in India amounted to ₹ 3,25,000. Compute his tax liability for the assessment year 2012-13 assuming he has deposited ₹ 50,000 in Public Provident Fund and paid medical insurance premium in respect of his father (aged 65 years) ₹ 20,000. (10 Marks)
- (b) Helsinki Limited, an Indian company, is engaged in manufacturing of computer monitor. 55% of shares of the company are held by Hel Inc., incorporated in USA. Helsinki Limited has borrowed funds from Hel Inc. at LIBOR plus 200 points. The LIBOR prevalent at the time of borrowing is 5% for US \$. The borrowings allowed under the External Commercial Borrowings guidelines issued under Foreign Exchange Management Act are LIBOR plus 250 basis points. Discuss whether the borrowing made by Helsinki Limited is at arm's length ('LIBOR' means London Inter-Bank Offer Rate). (6 Marks)
6. (a) Ganesh, an individual, filed his return of income for the assessment year 2011-12 on 27.6.2011. He later discovered that he had not claimed deduction under section 80-C in the said return. He claimed the said deduction through a letter addressed to the Assessing Officer. The Assessing Officer completed the assessment without allowing the deduction claimed by Ganesh. Examine the validity of the action of the Assessing Officer? (4 Marks)
- (b) State whether the following persons have to mandatorily furnish their return of income for the assessment year 2012-13.
- (i) Mr. Rakesh, an individual, aged 60 years, whose gross total income before deduction under section 80C is ₹ 2,60,000 and total income after deduction

under section 80C is ₹ 1,85,000.

- (ii) M/s. ABC, a firm, which has incurred a loss. (4 Marks)
- (c) Discuss the correctness or otherwise of the following propositions in the context of the Income-tax Act, 1961:
- (i) The Commissioner of Income Tax can revise an order during the pendency of an appeal before the First Appellate Authority.
- (ii) The High Court cannot interfere with the factual finding recorded by the lower authorities and the Tribunal, without any valid reasons. (8 Marks)
7. (a) Explain the applicability of the provision relating to the deduction of tax at source in the following transactions:
- (i) X Ltd., the employer, credited salary due for the financial year 2011-12 amounting to ₹ 2,40,000 to the account of Mahesh, an employee, in its books of account on 31.3.2012. Mahesh has not furnished any information about his income/loss from any other head or proof of investments/payments qualifying for deduction under section 80C.
- (ii) By virtue of an agreement with a nationalized bank, a catering organization receives a sum of ₹ 45,000 per month towards supply of food, water, snacks etc. during office hours to the employees of the bank.
- (iii) A State Government pays ₹18,000 as commission to one of its agent on sale of lottery tickets. (2 × 3 = 6 Marks)
- (b) Mr. Mayank, an employee of the Central Government, on deputation since the last two years, received salary of ₹ 8 lakh for the P.Y.2011-12 for services rendered in Japan. In addition, he was also paid ₹ 4.5 lakh in Japan by the Government towards allowances and perquisites. He came to India for one month vacation in June, 2011 during the said year. Discuss the taxability of the above income during the P.Y.2011-12 in the hands of Mr. Mayank. (4 Marks)
- (c) Can prosecution be launched for each of the following actions or defaults committed? If yes, then explain the relevant provisions of the Act and the quantum of prescribed punishment.
- (i) The assessee had restrained and not allowed the officer authorized as per section 132(1)(iib) of the Act to inspect the documents maintained in the form of electronic record and the books of accounts.
- (ii) The assessee deliberately has failed to comply with the requirement of section 142(1) and/or 142(2A).
- (iii) The assessee deliberately has failed to make the payment of the tax collected under section 206C. (6 Marks)