

Test Series : September, 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) Compute the eligible deduction to Mr. Vivek under appropriate provisions of Chapter VI-A for A.Y. 2012-13 from the following information furnished by him relating to investment/payments made by him during the year ended 31.03.2012 :
- (i) Life Insurance Premium paid – ₹ 90,000, actual capital sum of the policy assured for ₹ 4,00,000;
 - (ii) Contribution to Public Provident Fund – ₹ 70,000 in the name of his father;
 - (iii) Tuition fee payment – ₹ 30,000 for his daughter pursuing B.Sc from Hans Raj College, Delhi; Tuition fee for Son pursuing MBA in Stephen University, London – ₹ 3 lakh;
 - (iv) Housing loan principal repayment – ₹ 55,000 to HDFC Bank. This property is under construction at Delhi as on 31.03.2012;
 - (v) Principal repayment of housing loan taken from a friend – ₹ 1,00,000. The property is self-occupied situated at Noida;
 - (vi) Subscription to notified long term infrastructure bonds ₹ 40,000. (6 Marks)
- (b) Discuss the liability for tax deduction at source in the following cases for the assessment year 2012-13 :
- (i) XYZ Ltd., the employer, credited salary due for the financial year 2011-12 amounting to ₹ 2,75,000 to the account of E, an employee, in its books of account on 31.3.2012. E 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) A foreign company pays fee for professional and technical services rendered to it by an Indian law and accountancy firm. The foreign company does not have any branch, agent or establishment in India. (4 Marks)
- (c) Tushar owns two residential houses, one in Delhi and another in Jaipur. Both the houses are meant to be used for residential purposes by Tushar and his family. The particulars of the houses are as follows:

- (i) The house at Delhi was purchased by him in January, 1980 for ₹ 12 lacs. The house was occupied by his close relative, Rahul, without rent for four months from 1st April, 2011 to 31st July, 2011. The value of the house as per Schedule III to the Wealth-tax Act, 1957 on 31st March, 2012 is ₹ 28 lacs. Its value on the same basis as on 31st March, 1980 was ₹ 15 lacs.
- (ii) The house at Jaipur was purchased in January, 2006 for ₹ 11 lacs. The values of the house as per Schedule III to the Wealth-tax Act, 1957, on 31st March, 2006 and 31st March, 2012 are ₹ 7 lacs and ₹ 10 lacs, respectively.

Determine the value of each house for the purpose of computation of net wealth of Tushar on the valuation date 31.03.2012. (6 Marks)

- (d) Mr. Rupesh is constructing a residential house property in Mumbai after obtaining sanction from appropriate authorities. Is wealth-tax leviable on the value of building under construction, where the construction was still incomplete on the valuation date, 31.3.2012? (4 Marks)

2. The net profit of JMC Ltd. as per profit & loss account for the year ended 31.03.2012 amounted to ₹ 44,74,000 after debiting/crediting the following items:

Items debited to Profit and Loss Account	₹
(i) Provision for income-tax	9,18,000
(ii) Provision for diminution in the value of investment	72,000
(iii) Wealth-tax paid	2,56,000
(iv) Securities transaction tax paid	76,000
(v) Transfer to General Reserve	2,10,000
(vi) Provision for gratuity based on actuarial valuation	1,20,000
(vii) Provision for losses of subsidiary company	1,40,000
(viii) Expenditure to earn agricultural income	50,000
(ix) Expenditure to earn LTCG exempt under section 10(38)	40,000
(x) Depreciation (including depreciation of ₹ 1,50,000 on revaluation)	3,50,000
Items credited to Profit and Loss Account	₹
(i) Amount credited to P&L A/c from Special Reserve	1,00,000
(ii) Amount credited to P&L A/c from Revaluation Reserve	1,80,000
(iii) Agricultural income	2,50,000
(iv) LTCG exempt under section 10(38)	1,60,000

Brought forward losses and unabsorbed depreciation as per books of the company are as follows:

Assessment Year	Amount as per books	
	Loss (₹)	Depreciation (₹)
2009-10	6,00,000	3,00,000
2010-11	2,00,000	Nil
2011-12	3,00,000	4,00,000

The total income computed for the A.Y. 2012-13 as per the other provisions of the Income-tax Act, 1961 is ₹ 25,00,000. You are required to compute book profit of the company under section 115JB for the A.Y. 2012-13 and the tax credit to be carried forward. (16 Marks)

3. (a) Mr. Joseph, a non-resident, operates an aircraft between New York and Bangalore. He received the following amounts in the course of the business of operation of aircraft during the year ending 31.3.2012 :

- ₹ 2 crores in India on account of carriage of passengers from Bangalore.
- ₹ 4 crore in India on account of carriage of goods from Bangalore.
- ₹ 1 crores in India on account of carriage of passengers from New York.
- ₹ 3 crore in Hong Kong on account of carriage of passengers from Bangalore.

The total expenditure incurred by Mr. Joseph for the purposes of the business during the year ending 31.3.2012 was ₹ 2.5 crores.

You are required to compute the income of Mr. Joseph chargeable to tax in India under the head "Profits and gains of business or profession" for the assessment year 2012-13. (6 Marks)

- (b) Explain the tax treatment of income of notified infrastructure debt funds to be set up in accordance with the prescribed guidelines. Also, explain the tax treatment of interest income from such funds in the hands of the recipient, who is a non-resident, and the applicability of TDS provisions in this regard. (5 Marks)
- (c) Alpha Ltd., a domestic company, holds 55% shares in Beta Ltd. Beta Ltd., in its annual general meeting held on 17.6.2011, declared a dividend amounting to ₹ 25 lakhs to its shareholders for the year ended 31.3.2011 and it paid dividend distribution tax on 27.6.2011. Alpha Ltd. did not declare any dividend for the year ended 31.3.2011. It, however, declared an interim dividend amounting to ₹ 45 lakhs on 30.12.2011 for the year ended 31st March, 2012.

What is the amount of tax on dividend payable by Alpha Ltd? (5 Marks)

4. Discuss the following with the aid of recent case laws –

- (a) Connecting India Ltd., a telecom company, supplied SIM cards and recharge coupons to its distributors under a prepaid scheme. Connecting India Ltd. was accountable to the ultimate subscribers for rendering prompt services pursuant to

connections given by the distributors. Connecting India Ltd. claimed that tax was not deductible on the discount given on supply of SIM cards and recharge coupons to the distributors since the transaction was a sale transaction. Whether the discount given on supply of SIM cards and recharge coupons by Connecting India Ltd. to its distributors under the prepaid scheme can be treated as commission to attract the TDS provisions under section 194H. (4 Marks)

- (b) Mr. Rajiv sold his residential house in Ahmedabad and purchased two residential flats adjacent to each other on the same day vide two separate registered sale deeds from two different persons. The builder had certified that he had effected necessary modification to make it one residential apartment. Mr. Rajiv sought exemption under section 54 in respect of the investment made in purchase of the two residential flats. The Assessing Officer, however, gave exemption under section 54 to the extent of purchase of one residential flat only contending that sub-section (1) of section 54 clearly restricts the benefit of exemption to purchase of one residential house only and the two flats cannot be treated as one residential unit since –

- (i) the flats were purchased through different sale deeds; and
- (ii) it was found by the Inspector that, before its sale to the assessee, the residential flats were in occupation of two different tenants.

Discuss the correctness of the contention of the Assessing Officer. (4 Marks)

- (c) Sunshine Ltd. owned a super smelter plant which requires large quantity of water for its day-to-day operation, in the absence of which it would not be able to function. The company, therefore, incurred expenditure for alteration of the dam (constructed by the State Government) to ensure sharing of the water with the State Government without having any right or ownership in the dam or water. Sunshine Ltd.'s share of water is also determined by the State Government. Sunshine Ltd. claimed the expenditure as deduction under section 37, which was disallowed by the Assessing Officer on the ground that it was of capital nature. Whether the stand taken by Assessing officer is correct or not? (4 Marks)
- (d) Mr. Govind filed his return of income a day after the due date and the said return contained a claim for carry forward of losses. The delay of one day in filing the return of income was due to the fact that he had not reached the Central Revenue Building on time because he was sent from one room to the other and by the time he reached the room where his return was to be accepted, it was already 6.00 p.m. and he was told that the return would not be accepted because the counter had been closed. These circumstances were recorded in the letter along with the return of income delivered to the office of the Deputy Commissioner of Income-tax on the very next day. Mr. Govind made a request to the CBDT for condonation of delay in filing the return of income. Discuss whether the CBDT has the power to condone the delay in filing return of income of Mr. Govind and permit carry forward of losses. (4 Marks)

5. (a) Harrison (P) Ltd. has share capital in the form of equity share capital. The shares were held upto 31st March, 2010 by four members M, N, O and P equally. M sold his shares to X as on 25.02.2011 and N sold his shares to Y as on 11.03.2012.

Harrison (P) Ltd. has following carried forward business losses and unabsorbed depreciation as assessed till the Assessment Year 2010-11:

Assessment Year	Business Loss ₹	Unabsorbed Depreciation ₹	Total ₹
2008-2009	Nil	18,00,000	18,00,000
2009-2010	Nil	15,00,000	15,00,000
2010-2011	9,00,000	3,00,000	12,00,000
Total	9,00,000	36,00,000	45,00,000

The profits for the past two previous years are as follows:

31.3.2011 ₹ 20,00,000 (before charging depreciation of ₹ 11,00,000)

31.3.2012 ₹ 51,50,000 (before charging depreciation of ₹ 14,00,000)

You are required to compute the taxable income of Harrison (P) Ltd. for the Assessment Year 2012-13 with proper working notes. (8 Marks)

- (b) The assessment of Jupiter Ltd. for the A.Y. 2010-11 was completed under section 143(3). On 11.2.2012, the Assessing Officer reopened the assessment in proper manner under section 147. The reason recorded was that certain expenditure which ought to have been disallowed under section 40(a) was not done and hence, there has been escapement of income. During the course of hearing, he wants to take up some other matter also, which is not covered by the reason recorded. The company objects to the same, contending that the same is not permissible as per the provisions of the Income-tax Act, 1961. Examine, whether the contention of Jupiter Ltd. is correct or not. (4 Marks)

- (c) Amit purchased a residential flat from her friend Sumit at ₹ 20 lacs in the city of Kanpur on 13th August, 2011. The value determined by the Stamp Duty Authority for stamp duty purpose amounted to ₹ 30 lacs. Sumit had purchased the flat on 21st September, 2009 at a cost of ₹ 7 lacs. Amit sold the flat for ₹ 40 lacs on 10th February, 2012.

Determine the effect of the above transactions on the assessments of Sumit and Amit for assessment year 2012-13, assuming that value for stamp duty purpose in case of the second sale was not more than the sale consideration. (4 Marks)

6. (a) Mr. Sanjay had placed to deposit of ₹ 10 Lacs in a bank on which he received interest of ₹ 80,000. He had also borrowed ₹ 5 Lacs from the same bank on the security of the deposit and was liable to pay ₹ 50,000 by way of interest to the bank. He, therefore, offered the difference between two amounts of ₹ 30,000 as income from other sources. Is this correct? (4 Marks)

- (b) The Income-tax Act, 1961 provides for taxation of a certain income earned by Shiv. The Double Taxation Avoidance Agreement, which applies to Shiv, excludes the income earned by Shiv from the purview of tax. Is Shiv liable to pay tax on the income earned by him? Discuss. (4 Marks)
- (c) Discuss whether adjustment is required in the context of transfer pricing provisions where the transfer price adopted for an international transaction on sale of goods by an Indian company during the financial year 2011-12, is ₹ 25 lacs whilst the Arm's Length Price determined using appropriate method are ₹ 24 lacs and ₹ 28 lacs. Assume that the rate of permissible variation prescribed by the Central Government is 5% of the transfer price for this class of international transaction. (4 Marks)
- (d) Does the Settlement Commission have jurisdiction to entertain an application made under section 245C(1) in respect of a case covered by Chapter XIV-B (Search and seizure case). (4 Marks)
7. (a) Can a person resident in India seek advance ruling from the Authority for Advance Ruling? (4 Marks)
- (b) An assessee, who is aggrieved by all or any of the following orders, is desirous to know the available remedial recourse and the time limit against each under the Income-tax Act, 1961:
- (i) passed under section 143(3) by the Assessing Officer.
 - (ii) passed under section 263 by the CIT.
 - (iii) passed under section 272A by the Director General.
 - (iv) passed under section 254 by the ITAT. (4 Marks)
- (c) Jai is carrying on business of retail trade in garments whose total sales for the year ending 31.3.2012 was ₹ 75 lacs. He did not maintain books of account. The Assessing Officer levied penalty under section 271A for non-maintenance of books of account and section 271B for not getting the books audited as required by section 44AB. Is the Assessing Officer justified in levying penalty under section 271B? (4 Marks)
- (d) "Proceedings cannot be initiated under the Act, unless a proper notice to this effect has been served upon." What are the prescribed modes of service of such notice? (4 Marks)