Gurukripa's Guideline Answers to May 2016 Exam Questions
CA Final – Direct Taxes

Question No.1 is compulsory **(4 X 5 = 20 Marks).**
Answer **any five** questions from the **remaining six** questions **(16 X 5 = 80 Marks).** [Answer any 4 out of 5 in Q.4]
Working Notes should form part of the answer.
Wherever necessary, suitable assumptions should be made and indicated in answer by the Candidates.

Note: References are from **"Padhuka's Direct Taxes – A Ready Referencer – For CA Final"**
Students can also refer to **"Paduka's Practical Guide on Direct Taxes – For CA Final"** for easy revision.

All questions pertaining to Income Tax relate to **Assessment Year 2016–2017**, unless stated otherwise in the Question.

Question 1(a): Computation of MAT **10 Marks**

Sona Ltd, a Resident Company, earned a Profit of ₹ 15 Lakhs after Debit / Credit of the following items to its Statement of Profit and Loss for the year ended on 31.03.2016 – **(Amounts in ₹)**

Items Debited to Statement of Profit and Loss		Items Credited to Statement of Profit and Loss	
Provision for the Loss of Subsidiary	70,000	Profit from Unit established in SEZ	5,00,000
Provision for Doubtful Debts	75,000	Share in Income of an AOP as a Member	1,00,000
Provision for Income Tax	1,05,000	Income from Units of UTI	75,000
Provisions for Gratuity based on Actuarial Valuation	2,00,000	Long Term Capital Gains	3,00,000
Depreciation	3,60,000		
Interest to Financial Institution (unpaid before filing of Return)	1,00,000		
Penalty for infraction of Law	50,000		

Compute Minimum Alternate Tax u/s 115JB of the Income Tax Act, 1961, for AY 2016–2017. Other Information:

(i) Depreciation includes ₹ 1,50,000 on account of Revaluation of Fixed Assets.

(ii) Depreciation as per Income Tax Rules is ₹ 2,80,000.

(iii) Balance of Statement of Profit and Loss shown in Balance Sheet at the Assets side as at 31.03.2015 was ₹ 10 Lakhs which includes Unabsorbed Depreciation of ₹ 4 Lakhs.

(iv) The Capital Gain has been invested in Specified Assets u/s 54EC.

(v) The AOP, of which the Company is a Member, has paid Tax at Maximum Marginal Rate.

(vi) Provision for Income Tax includes ₹ 45,000 of Interest payable on Income Tax.

Solution: **Refer Illustrations in Chapter 19**

Assessee: Sona Ltd **Previous Year: 2015–2016** **Assessment Year: 2016–2017**

1. Computation of Total Income and Tax Liability

Particulars	**₹**		
Profits and Gains of Business or Profession	**Deduction from Profit**	**Addition to Profit**	
Net Profit as per Profit and Loss Account		15,00,000	
Provision for Subsidiary's Loss, disallowed u/s 37 Unrealized Capital Loss		70,000	
Provision for Doubtful Debts, disallowed (Bad Debts w/o in P&L only allowable)		75,000	
Provision for Income Tax, disallowed u/s 40(a)(ii) **(WN 1)**		1,05,000	
Provision for Gratuity based on Actuarial Valuation **(WN 2)**		2,00,000	
Depreciation as per Books		3,60,000	
Depreciation allowable under Income Tax Rules	2,80,000		
Interest to Financial Institution (Unpaid before filing of Return) disallowed u/s 43B		1,00,000	
Penalty for Infraction of Law, disallowed u/s 37		50,000	

Particulars	₹		
Profit from SEZ Unit – Exempt u/s 10AA **(WN 3)**	5,00,000		
Share Income from AOP not included, since AOP is taxable at Max. Marginal Rate	1,00,000		
Income from Units of UTI – considered as "Income from Other Sources"	75,000		
LTCG – Considered under "Capital Gains"	3,00,000		
Profits and Gains of Business or Profession	12,55,000	24,60,000	12,05,000
Income from Capital Gains – Long Term Capital Gains		3,00,000	
Less: Exempt u/s 54EC		(3,00,000)	NIL
Income from Other Sources – Income from Units of UTI		75,000	
Less: Exempt u/s 10(35)		(75,000)	NIL
Gross Total Income			**12,05,000**
Less: Deductions under Chapter VI–A			**NIL**
TOTAL INCOME			**12,05,000**
Tax on Total Income @ 30% (A)			**3,61,500**

Note:

1. Interest to Financial Institution is allowable. However, since it is not paid within the due date for filing Return, it is disallowed u/s 43B.
2. U/s 40A(7), Provision for Gratuity in the books is disallowed unless –
   (a) Provision is made for payment to an Approved Gratuity Fund, (or)
   (b) Provision is for Gratuity which has become due and payable during the previous year.
   Hence, it is inferred that the provision based on actuarial estimates not allowable.
3. It is assumed that the above FY falls within the first 5–year period. Hence, 100% of Export Profits is exempt u/s 10AA.

2. Computation of MAT u/s 115JB

Particulars	Deduction	Addition
Net Profit as per Profit and Loss A/c		15,00,000
Depreciation debited in Profit & Loss Account		3,60,000
Deprn. debited excl. Deprn. on account of revaluation of assets [₹ 3,60,000 – ₹ 1,50,000]	2,10,000	
Provision for diminution in Value of any Asset – Provision for Bad & Doubtful Debts		75,000
Provision for the Loss of Subsidiary		70,000
Provision for Taxation including Interest		1,05,000
Share Income of an AOP, on which no Income–Tax is payable **[Note 3]**	1,00,000	
Income exempt u/s 10(35) – Income from Units of UTI	75,000	
Least of Business Loss ₹ 6 Lakhs or Unabsorbed Depreciation ₹ 4 Lakhs **[Note 4]**	4,00,000	
Sub–Total	**7,85,000**	**21,10,000**
Book Profits u/s 115JB (₹ 21,10,000 – ₹ 8,25,000)		**13,25,000**
MAT at 18.5% u/s 115JB (B)		**2,45,125**

Working Note:

1. **Provision for Gratuity** on the basis of actuarial calculations is an **ascertained liability. [Echjay Forgings (P) Ltd, 116 Taxman 322 (Bom.)]** Hence, no additions required therefor. **[See Page 19.7]**
2. Only those additions and deductions given u/s 115JB should be applied. Any other provisions of the Act in computation of Book Profit should not be applied. All other adjustments under the Act shall be considered only in computation of Total Income. Hence, Interest to Financial Institution & Penalty for infraction of Law is not considered, even if it is disallowed under other provisions.
3. Share Income from AOP shall not be included in Book Profit of Member, if AOP is taxable at Maximum Marginal Rate.
4. No adjustment is required in respect of Profit from Unit of SEZ and Long Term Capital Gains.
5. Opening Debit Balance of P&L is ₹ 10 Lakhs including Unabsorbed Depreciation of ₹ 4 Lakhs. Hence, Unabsorbed Business Loss would be (₹ 10 Lakhs – ₹ 4 Lakhs) ₹ 6 Lakhs.
6. Depreciation under IT Rules, Investment u/s 54EC, etc are not relevant for MAT Computation.

3. Computation of Tax Liability

	Particulars	₹
	Tax Payable (Higher of A or B)	3,61,500
Add:	Surcharge at 7% (Since Total income does not exceed ₹ 1 Crore)	NIL
	Total Tax Payable	3,61,500
Add:	Education Cess at 2%	7,230
Add:	Secondary and Higher Education Cess at 1%	3,615
	Tax Payable	**3,72,345**
	Tax Payable (Rounded Off)	**3,72,350**

Question 1(b): Capital Gains – Slump Sale **10 Marks**

K & Co (Firm) has sold all its Assets & Liabilities as a Slump Sale on 31.03.2016 to SVPC & Co (Firm) for lump sum consideration of ₹ 600 Lakhs. The Statement of Affairs of K & Co as on 31.03.2016 is as below –

Liabilities	₹ Lakhs	Assets		₹ Lakhs	₹ Lakhs
Capital	1,627	Fixed Assets:	Plant & Machinery at WDV	250	
Unsecured Loans	25		Land (At Revalued figure)	1,200	1,450
Bank Borrowing	500	Current Assets:	Sundry Debtors	380	
Sundry Creditors	80		Cash & Bank Balances	2	
			Loans & Advances	150	
			Closing Stock	250	782
Total	2,232	Total			2,232

Compute Capital Gain arising from Slump Sale and Tax on such Gain. Additional Information:

(1) Cost of Land in March 2005 was ₹ 100 Lakhs.

(2) WDV of Plant & Machinery u/s 43(6) was ₹ 200 Lakhs.

(3) Cost Inflation Index for the Financial Year 2004–2005 was 480 and for 2015–2016 is 1081.

(4) Stock is overvalued by 10%.

Solution: **Similar to Illustrations in Page 7.27**

Assessee: K & Co **Previous Year: 2015–2016** **Assessment Year: 2016–2017**

Computation of Tax Liability arising on Slump Sale

1. **Net Worth of K & Co –**

	Particulars		₹ Lakhs
	Fixed Assets at WDV as per the Income Tax Act		200.00
	(Other Assets – Revalued figure shall not be considered)		
	Land at Book Value		100.00
	Sundry Debtors		380.00
	Cash & Bank Balances		2.00
	Loans & Advances		150.00
	Stock (₹ 250 Lakhs × $\frac{100}{110}$) [Assumed that it is overvalued by 10% **on Cost**]		227.27
	Total Assets		**1,059.27**
Less:	Liabilities –	Unsecured Loans	(25.00)
		Bank Borrowings	(500.00)
		Sundry Creditors	(80.00)
	Net Worth		**454.27**

2. **Computation of Long Term Capital Gain (Unit owned for more than 36 Months):**

Note: CII for FY 2004–2005 is given. So, it is assumed that the Unit was set up in FY 2004–2005. Hence, resulting Profit / Loss shall be Long Term Capital Gain. However, Benefit of Indexation shall not apply.

	Particulars		₹ Lakhs
	Sale Consideration		600.00
Less:	Net Worth of Business Transferred	**(Pt.No.1)**	454.27
	Long Term Capital Gain		**145.73**
	Tax on above at 20% u/s 112 [₹ 145.73 Lakhs × 20%]		**29.15**
Add:	Surcharge at 7% (Since the Total Income exceeds ₹ 1 Crore)		2.04
	Tax and Surcharge Payable		**31.19**
Add:	Education Cess at 2%		0.62
Add:	Secondary and Higher Education Cess at 1%		0.31
	Total Tax Liability under Slump Sale		**32.12**

Question 2: Computation of Total Income & Tax Payable **16 Marks**

XYZ Ltd engaged in the manufacture of Fertilizers since 01.04.2009. Its Statement of Profit & Loss shown a Net Profit of ₹ 700 Lakhs after Debit / Credit of the following items –

(1) Depreciation calculated on the basis of Useful Life of Assets as per provisions of the Companies Act, 2013 is ₹ 50 Lakhs.

(2) Normal Depreciation calculated as per Income Tax Rules is ₹ 80 Lakhs.

(3) Employer's Contribution to EPF of ₹ 2 Lakhs together with the Employees' Contribution of ₹ 2 Lakhs for the month of March 2016 was remitted on 8th May 2016.

(4) The Company appended a Note to its Income Statement that Industrial Power Tariff Concession of ₹ 2.5 Lakhs was received from the State Government and treated the same as Capital Receipt.

(5) The Company had provided an amount of ₹ 25 Lakhs being sum estimated as payable to Workers based on agreement to be entered with the Workers' Union towards periodical wage revision once in 3 years. The Provision is based on a fair estimation on wage and probable revision.

(6) The Company has made a Provision of 10% of its Debtors towards Bad and Doubtful Debts. Total Sundry Debtors of the Company as on 31.03.2016 was ₹ 200 Lakhs.

(7) A Debtor who owed the Company an amount of 40 Crores was declared insolvent and hence was written off.

(8) Sundry Creditors include an amount of ₹ 50 Lakhs payable to A & Co, towards supply of Raw Materials, which remained unpaid due to quality Issues. An agreement has been made on 31.03.2016, to settle the amount at a discount of 75% of the outstanding.

(9) Opening and Closing Stock for the year were ₹ 200 Lakhs and ₹ 250 Lakhs respectively. They were overvalued by 10%.

(10) Provision for Gratuity based on Actuarial Valuation was ₹ 5 Crores. Actual Gratuity paid was ₹ 3 Crores.

(11) Commission of ₹ 1 Lakh paid to a Recovery Agent for realization of a debt. Tax has been deducted and remitted as per Chapter XVII–B of the Act.

(12) The Company has purchased 500 Tons of Industrial Paper as Packing Material at a price of ₹ 30,000/Ton from PQR, a Firm in which majority of Directors are Partners. PQR's normal Selling Price in the market for the same Material is ₹ 28,000/Ton.

Additional Information:

(1) There was an addition to Plant & Machinery amounting to ₹ 50 Lakhs on 10.06.2015.

(2) The Company has credited a Sub–Contractor an amount of ₹ 8 Lakhs on 31.03.2015 towards repairing a Machinery component. The Tax so deducted was remitted on 31.10.2015.

(3) The Company has collected ₹ 10 Lakhs as Sales Tax from its Customers and paid the same on the due dates. However, on an appeal made, the High Court directed the Sales Tax Department to refund ₹ 3 Lakhs to the Company. The Company in turn refunded ₹ 2 lakhs to the Customers from whom the amount was collected and the balance of ₹ 1 Lakh is still lying under the head 'Current Liabilities'.

Compute Total Income and Tax Payable. Ignore MAT provisions.

Solution: **Refer Illustrations in Chapter 19, where various adjustments / points are illustrated**

Assessee: XYZ Ltd **Previous Year: 2015–2016** **Assessment Year: 2016–2017**

Computation of Total Income and Tax Payable

Particulars		**₹ in Lakhs**		
Profits and Gains of Business or Profession		**Deduction from Profit**	**Addition to Profit**	
Net Profit as per Profit and Loss Account			700.00	
Depreciation as per Books			50.00	
Depreciation allowable under Income Tax Rules		80.00		
Employees' Contribution to EPF – Paid after Due Date, disallowed	**(WN 1)**		2.00	
Industrial Power Tariff Concession – Treated as Income	**(WN 2)**		2.50	
Provision for Bad & Doubtful Debts [₹ 200 Lakhs × 10%]	**(WN 4)**		20.00	
Discount on settlement of Sundry Creditors [₹ 50 Lakhs × 75%]	**(WN 5)**		37.50	
Overvaluation of Opening Stock [₹ 200 Lakhs × 10%]	**(WN 6)**		20.00	
Overvaluation of Closing Stock [₹ 250 Lakhs × 10%]	**(WN 6)**	25.00		
Provision for Gratuity (₹ 500 Lakhs – ₹ 300 Lakhs)	**(WN 7)**		200.00	
Purchase from PQR [(₹ 30,000 – ₹ 28,000) × 500/Tons]	**(WN 9)**		10.00	
Deduction u/s 35AD [₹ 50 Lakhs × 150%]	**(WN 10)**	75.00		
Sales Tax amount not refunded to customers (₹ 3 Lakhs – ₹ 2 Lakhs)	**(WN 12)**		1.00	
Sub–Total		180.00	1,043.00	
Profits and Gains from Business or Profession				**863.00**
Gross Total Income				**863.00**
Less: Deductions under Chapter VI–A				**NIL**
TOTAL INCOME				**863.00**
Tax on Total Income @ 30%				258.90
Add: Surcharge @ 7%				18.12
Total Tax Payable				277.02
Add: Education Cess @ 2%				5.54
Secondary and Higher Education Cess @ 1%				2.77
Tax Payable				**285.33**

Working Notes:

No.	**Description**	**Reference**
1	Employers' Contribution to PF shall be made before the due date of filing Return, but Employees' Contribution shall be paid before the due date specified under the respective Act, in order to claim deduction. **[Gujarat State Road Transport Corporation (2014) 366 ITR 170]** [Alternative views are also possible]	**Page 6.77, Point 10**
2	U/s 2(24), Income includes Assistance by way of Subsidy/ Grant /Cash Incentive / Duty Drawback by whatever name called by Central / State Govt or any Authority given to the Assessee, other than such subsidy which are deductible from the Cost of Acquisition u/s 43.	**Page 1.17, Para 1.10**
3	A provision is **deductible u/s 37 if it is a present obligation resulting from past events** which may require outflow of resources to settle and a **reliable estimate** may be made. Hence, Wages ₹ 25 Lakhs is fully allowable. No adjustment is required.	**Refer Rotork Case – Pg 6.61**
4	Amount written off in P&L A/c as Bad Debts are allowable as deduction. So, ₹ 40 Crores written off is fully allowable. No adjustment is required. **[General Insurance Corp. of India 254 ITR 204 (Bom.)]** However, Provision for Bad Debts is not allowable.	**Page 6.51, Point No. 4**
5	Remission / Cessation of Trading Liability which was already allowed as deduction is treated as Deemed Income u/s 41(1).	**Page 6.79**
6	Alternatively, it can be assumed that the Value given itself is overvalued figure. In such case, Overvaluation for Opg. Stock = ₹ 200 Lakhs × $\frac{100}{110}$ = ₹ 18.18 Lakhs. Overvaluation for Clg. Stock = ₹ 250 Lakhs × $\frac{100}{110}$ = ₹ 22.73 Lakhs.	**Page 19.43**

No.	Description	Reference
7	U/s 40A(7), Provision for Gratuity in the books is disallowed unless – (a) Provision is made for payment to an Approved Gratuity Fund, (or) (b) Provision is for Gratuity which has become due and payable during the previous year. Hence, it is inferred that the provision based on actuarial estimates not allowable.	**Page 6.76, Para 6.4.5**
8	Commission paid to Recovery Agent for getting realization of an outstanding due is an Allowable Expenditure **[Super Tannery (India) Ltd 274 ITR 338(All)]**.	**Page 19.29, Point No. 4**
9	Provisions of Sec. 40A(2) shall be attracted in case of Payment made to any concern in which Directors are having Substantial Interest. Any excessive or unreasonable sum shall be disallowed. In this case, majority of Directors are Partners. However, whether such Directors have substantial interest in the firm is not given. Hence, it is assumed that the Directors have substantial interest.	**Page 6.73, Para 6.4.3**
10	Enhanced Deduction of 150% is available for New Fertilizer Plant commenced on or after 01.04.2010 or in newly installed capacity in an existing Plant, for production of Fertilizer. In this case, it is assumed that Installed Capacity is increased by this additional Plant. In respect of this expenditure, no other deduction (i.e. Depreciation) shall be allowed under any other provisions. Since in the Question it is given that the Normal Depreciation as per IT Rules, it is assumed that no Depreciation has been claimed in respect of this New Plant.	**Page 6.44, Para 6.3.8**
11	U/s 40(a)(ia), In case of Expenditure in respect of which TDS has not been deducted or having deducted has not been deposited before the due date of filing the Return u/s 139(1), 30% of such expenditure shall be disallowed. It is to be noted that for AY 2015–2016, due date for filing Return has been extended to 31.10.2015. Hence, in the given case, the Company has deposited the TDS on 31.10.2015, i.e. within the due date of filing return u/s 139(1). Hence, it would have been already allowed in PY 2014–2015 itself and no adjustment is required in the current PY.	**Page 6.72, Para 6.4.1**
12	Deemed as Business Income u/s 41(1), unless the same was refunded to the customers from whom it was collected **– Tirumalaiswamy Naidu & Sons [230 ITR 534 (SC)].** So, **₹ 1 Lakh not refunded** to customers will be **treated as Income**, irrespective of whether it is shown as Current Liabilities or written off in the books. It is deductible in the year of repayment.	**Page 6.80, Para 6.5.1**

Question 3(a): Deduction u/s 80JJAA **6 Marks**

M/s XYZ commenced the business of manufacturing Iron Rods on 1st April 2015. It has employed 200 Workmen during the year which included the following –

Workman	No.of persons	Salary per month (in ₹)
Casual Labour	**50**	**5,000**
Workmen employed through Contractor	**25**	**7,500**
Skilled Labour	**50**	**12,500**
Semi–Skilled Labour	**50**	**6,000**
Skilled Labour employed from 01.10.2015	**25**	**12,500**

Compute the deduction available to M/s XYZ, if the Profits derived during the Financial Year 2015–2016 is ₹ 100 Lakhs.

Solution: **Refer Principles in Para 11.6.2, Page No. 11.42**

Assessee: M/s XYZ **Previous Year: 2015–2016** **Assessment Year: 2016–2017**

Computation of Deduction u/s 80JJAA

Particulars	Workmen	Reason
Casual Workmen	Nil	Regular Workmen does not include Casual Workman.
Workmen employed through Contractor	Nil	Regular Workmen does not include Contract Labour.
Skilled Labour	50	Regular Workmen does not include Workmen employed for a period less than 300 days during PY. So, Workmen employed on 01.10.2015 is not eligible Workmen.
Semi–Skilled Labour	50	
Skilled Labour employed from 01.10.2015	Nil	
Total Eligible Workmen	100	
Less: Threshold Limit u/s 80JJAA	50	
New Regular Workmen u/s 80JJAA	**50**	Taken as Skilled Labour, as it is beneficial to the Assessee
Additional Wages	₹ 75,00,000	₹ 12,500 × 12 Months × 50 Workmen
Deduction u/s 80JJAA	**₹ 22,50,000**	₹ 75,00,000 × 30%

Question 3(b): Search & Seizure 4 Marks

M/s XYZ was subjected to search and seizure. During the course of search, Sales, Purchase Ledgers and Property Documents pertaining to Mr. A was found in the premises of XYZ. What is the procedure to be adopted by the Assessing Officer of XYZ who has seized the records?

Solution: **Refer Principles in Point No. 1 of Sec. 153C, Para 35.2.2, Page No. 35.10**

Question 3(c): Discuss the liability of the following receipts, for the year ended 31.03.2016 in the hands of Ms. Jyoti – 4 Marks

Solution: **Similar to Illustration [M 12] in Page No. 8.5**

Question	Answer
(i) Gift of ₹ 60,000 in Cash from her father's sister on her birthday.	Father's Sister is a 'Relative' u/s 56(2)(vii). Gift from Relative is Not Taxable.
(ii) Acquired a Vacant Site from grandfather's younger brother. The Stamp Duty value of the Land was ₹ 3 Lakhs but the consideration paid was ₹ 2 Lakhs.	Grandfather's Brother is not a 'Relative' u/s 56(2)(vii). Also the difference exceeds ₹ 50,000. So, difference of ₹ 1 Lakh is taxable.
(iii) Received Car from her friend on payment of ₹ 2,50,000, Market Value ₹ 3,00,000.	Not Taxable, as Car is not a 'Property'.
(iv) Interest on Enhanced Compensation on the order of Court, from NHAI in respect of her Land which was compulsorily acquired, was received ₹ 3,50,000 on 12.11.2015 which includes Interest of ₹ 2,00,000 pertaining to PY 2013–2014.	Taxable in the year of receipt u/s 145A & a deduction of 50% is available. So, ₹ 1,75,000 is taxable.
(v) Received Cash Gift of ₹ 15,000 each from three of her friends.	Not Taxable, Aggregate ≤ 50,000.

Question 3(d): Discuss the liability of the following receipts, for the year ended 31.03.2016 in the hands of Ms. Jyoti – 2 Marks

State with reasons whether the provisions of Chapter XVII–B are attracted in the following case and what is the Net Amount receivable by the Payee. Mr. Sharma is an Employee of M/s ABC Ltd since 01.04.2013. He has resigned on 31.03.2016 and has withdrawn the amount of ₹ 50,000 being the balance in his EPF A/c.

Solution: **Refer Para 4.4.6 & 41.1.3, Page No. 4.17 & 41.5**

Hint: Not rendered continuous service for 5 Years. So, TDS u/s 192A is applicable at 10%. Net Amount Receivable by the Payee = ₹ 50,000 – [10% of ₹ 50,000] = ₹ 45,000. [**Note:** It is assumed that Payee's PAN is submitted to the Deductor. Otherwise, TDS shall be at Maximum Marginal Rate i.e. 30%]

Question 4: Examine any 4 out of the following, supporting the answers with relevant Case Laws & workings – 4 × 4 = 16 Marks

(a) Mr. Janak is the Proprietor of M/s Yash Texnit which is engaged in Garment Manufacturing Business. The entire Block of Plant & Machinery chargeable to depreciation @ 15%, has 15 different Machinery Items as at 31.03.2015. One of the Machinery used for packing had become obsolete and was discarded by Mr. Janak in July 13.

Assessee filed its Return for AY 2015–2016 claiming Total Depreciation of ₹ 40 Lakhs which includes ₹ 4 Lakhs being the Depreciation claimed on the Machinery Items discarded by Mr. Janak. The AO disallowed the claim of Depreciation of ₹ 4 Lakhs during the course of Scrutiny Assessment. Comment on the validity of action taken by AO.

(b) X Ltd issued Debentures in PY 2015–2016, which were to be matured at the end of 5 years. The Debenture Holders were given an option of one time upfront payment of ₹ 60 per Debentures on account of Interest which was to be immediately paid by the Company. As per the option exercised by the Debenture Holders, Company paid Interest upfront to them in the First Year itself and the same was claimed as deduction in the Return of the Company. But in the Accounts, the Interest Expenditure was shown as Deferred Expenditure to be written off over a period of 5 years. During the course of Assessment, AO spread the Upfront Interest paid over a period of 5 Years term of Debentures, and allowed only 1/5th of the amount in PY 2015–2016. Examine the correctness of the action of Assessing Officer.

(c) An Assessee deducted the tax at the time of making the payment of Salaries. However, it delayed depositing the amount of tax deducted with the Revenue. The quantum of tax deducted was deposited with the Revenue along with the Interest by the Assessee on its own before any Notice determining the amount or declaring the Assessee to be in default was made. AO levied Penalty u/s 221, for failure to pay TDS within the prescribed time. Is the action of AO justified?

(d) Ms. Ankisha had filed her Return for the relevant AY wherein her Total Income consisted of Income from Business and Profession of ₹ 3.25 Lakhs and Income from Short Term Capital Gain (STCG) of ₹ 2 Lakhs. During the course of scrutiny, the AO interpreted the Income of ₹ 2 Lakhs declared as STCG as Income from her Business having regard to the nature of transactions. AO completed the Assessment and levied penalty u/s 271(1)(c) on the grounds that Ms. Ankisha had furnished inaccurate particulars of her Income. Is the action of AO justified in law?

(e) Bhola & Co, a Firm, failed to pay the Advance Tax as required by the provisions of the Income Tax Act, 1961. The Assessment was done u/s 143(3) and the Assessment Order issued by AO stated that Interest is payable u/s 234B. The Order did not contain any direction for the payment of Interest, it merely stated that Interest is payable. The Assessee's contention is that since the direction for payment of Interest is absent in the Assessement Order, it could not be fastened with liability to Interest u/s 234B. Examine the validity of Assessee's contention.

Solution:

Case	Validity	Reasoning	Answer Reference
(a)	Not Valid	Depreciation can be claimed on Discarded Machinery, if the Machinery is kept in the Block and it has been used in the Business in earlier Previous Years (Need not necessarily used in the current Previous Year).	**Yamaha Motor India Pvt Ltd Case – Pg 6.19**
(b)	Not Valid	Entire Payment would be entitled to deduction in the year of Payment.	**Taparia Tools Ltd 55 Taxmann 361 (SC)**
(c)	Valid	Penalty u/s 221 will continue to be imposable, even if tax has been deposited before initiation of penalty proceedings.	**Reliance Industries Ltd Case – Pg. 42.4**
(d)	Not Valid	Disclosure of Income under a different heads cannot be tantamount to furnishing of inaccurate particulars or suppression of facts to attract penalty u/s 271(1)(c).	**Amit Jain 351 ITR 74 (Del) – Pg. 45.5**
(e)	Not Valid	Levy of Interest u/s 234B is valid even if the Assessment Order did not contain any direction for payment of Interest u/s 234B.	**Bagat Construction Co P Ltd Case – Pg. 43.4**

Question 5: Discuss the correctness or otherwise of the following with reference to IT Act, 1961 – 16 Marks

(a) (i) Liaison Office maintained in India to explore the opportunity of business in India does not constitute Business Connection. [3 Marks]

(ii) Transfer Pricing Rules shall have no implication where Income is computed on the basis of Book Profits. [3 Marks]

(b) (i) The Double Taxation Avoidance Treaties entered into by the Government of India override the Domestic Law. [2 Marks]

(ii) Assessing Officer can complete the assessment of the Income from International Transaction in disregard of the Order passed by the Transfer Pricing Officer, by accepting the contention of Assessee. [2 Marks]

(c) A Non–Resident Aviation Company, flying an Aircraft in India and paid Tax u/s 44BBA claims that the Employees deputed for flying this Aircraft shall not be subjected to tax on the remuneration to the extent paid out of such Income. [3 Marks]

(d) 'X' while making payment "Net of Tax" to a Non–Resident for providing Technical Services on a World Bank–Aided Project had deducted Tax as per Rates prescribed, but says that the Payee is not entitled for the TDS Certificate. [3 Marks]

Solution:

Case	Correctness	Reasoning	Answer Reference
(a) (i)	Incorrect	Liaison Office maintained in India would be treated as PE of Foreign Company. Hence, it constitutes Business Connection.	**Brown & Sharpe Case – Pg 26.4**
(a) (ii)	Correct	In computation of Book Profit u/s 115JB, only those additions and deductions given u/s 115JB should be applied. Any other provisions of the Income Tax Act should **not** be applied in computation of Book Profit.	**Page No. 19.7**
(b) (i)	Partly correct	Where the DTAA has been notified, then, the provisions of the Act shall apply to the extent they are more beneficial to that Assessee.	**Para 28.2.3, Pt No. 1 – Pg. 28.2**
(b)(ii)	Incorrect	ALP determined by TPO shall be binding upon AO u/s 92CA(4).	**Page No. 27.26**
(c)	Incorrect	1. Salary to Employees **paid** in India, is taxable in India u/s 5. Income u/s 44BBA is not relevant in this regard. 2. Even if the Employees are Non–Residents, Salary paid for services rended in India shall be regarded as Income earned in India.	**Page No. 41.3**
(d)	Incorrect	Even if **income is payable net of tax**, Deductor is under legal obligation to furnish **TDS Certificate** in the prescribed form within prescribed time.	**C.No. 785/24.11. 1999 – Pg. 41.39**

Question 6: Discuss the correctness or otherwise of the following with reference to IT Act, 1961 – 16 Marks

(a) Mr. Shyam had e–filed his IT Return for AY 2015–2016 within the due date declaring a Total Income of ₹ 9,50,000. Such Total Income interalia includes Dividend from Indian Companies of ₹ 50,000 and Long Term Capital Gains on sale of Shares of ₹ 2,00,000. However, Mr. Shyam correctly disclosed both such Incomes in the Schedule of Exempt Income. Consequently, the said Return got processed u/s 143(1) denying both the above exemptions and Intimation was served on Mr. Shyam raising a demand of tax. After receipt of said intimation, Assessee filed a Revised Return but time limit of filing Revised Return u/s 139(5) had lapsed and such Revised Return was held invalid. Assessee filed for Rectification u/s 154 which was also rejected by AO. Decide the correctness of action of AO.

(b) M/s A Ltd had received a Notice u/s 148 for AY 2012–2013 on 02.02.2016. They also anticipate similar Notices for AY 2010–2011 & 2011–2012 for which they have already furnished Return of Income. On examination of the Books of Account produced, you have noticed huge amounts of Concealed Income. As a Consultant, what is your advice to A Ltd?

(c) Mr. Ravi has gifted his only House Property to his wife Mrs. Ravi and his married daughter Mrs. Divya. AO has served a Notice of demand on Mr. Ravi for payment of tax for the Income derived from the said House Property. Examine the validity of AO's action.

(d) Sachin settled 1/4th Share of his Property under a Trust for Education & Maintenance of his Minor Daughter, Pallavi. Under the terms of the Trust Deed, Income accruing to the Trust, after meeting the expenses of Maintenance & Education of Pallavi, was to be accumulated and paid over to her on attaining majority. AO assessed the income arising from 1/4th Share of the Property, settled for the benefit of Pallavi, in the hands of Sachin. Can the AO do so?

Solution:

Case	Answer	Reasoning	Answer Reference
(a)	Incorrect	Since Dividend is exempt u/s 10(34) and LTCG is exempt u/s 10(38), it is a Mistake apparent from Record. Hence, AO should rectify the same u/s 154.	**Sec. 154 – Pg. 38.1**
(b)	Opt for Settlement Commission	A Ltd may apply to Settlement Commission after Payment of Additional Income Tax Payable (AITP). Since it is given that there is a huge amount of concealed income, it is assumed that AITP exceeds ₹ 10 Lakhs.	**Point 1, 3 – Pg 37.3**
(c)	Partly Correct	Sec. 27 applies. Only Mrs. Ravi's share is taxable in the hands of Mr. Ravi.	**Page No. 5.4**
(d)	Incorrect	Income of the Trust is available to the minor only on attaining majority. It is not available for the immediate use of the Minor. Hence, it cannot be clubbed in the hands of the Parent. It is taxable in the hands of the Trust, as per the provisions of Sec.161 and Sec.166.	**Illustration [M 13] – Pg 23.27**

Question 7: TDS & TCS Provisions 16 Marks

Question	Answer Reference
(a) State the Rate at which tax is to be deducted or collected in the following cases –	
(i) A Partnership Firm making sales of the Timber which was procured and obtained under a Forest Lease.	**2.5% u/s 206C See Pg No. 41.44, Para 41.6.2**
(ii) Payment of Income on Investments in Securities to Foreign Institutional Investor.	**20% u/s 196D See Pg No. 41.33, Para 41.3.8**
(iii) A Nationalized Bank receiving Professional Services from a Registered Society made provision on 31.03.2016 of an amount of ₹ 25 Lakhs against the Service Charges Bills to be received.	**10% u/s 194J See Pg No.41.21, Para 41.2.14**
(iv) Payment of ₹ 5 Lakhs make to Mr. Phelps who is an Athlete by a Manufacturer of a Swim Wear for Brand Ambassador.	**10% u/s 194J See Pg No.41.21, Para 41.2.14**
(b) Discuss the liability for TDS in the following cases for AY 2016–2017 –	
(i) Wings Ltd has paid amount of ₹ 15 Lakhs during the year ended 31.03.2016 to Airports Authority of India towards Landing and Parking Charges.	**Not Liable u/s 194–I. Same Illustration [M 14] Pg 41.19**

Question	Answer Reference
(ii) Omega Ltd, an Event Management Company, organized a Concert of International Artists in India. In this connection, it engaged the services of an Overseas Agent, Mr. John from UK to bring Artists to India. He contacted the Artists and negotiated with them for performance in India in terms of the Authority given by the Company. He did not took part in Event organized in India. Company made the payment of Commission of ₹ 1 Lakh to the Overseas Agent.	**Not Liable for TDS.** **Refer Wizcraft International Entertainment Case –Pg. 41.31**
(iii) Ramesh gave a Building on sub–lease to Mac Ltd, with effect from 01.07.2015 on a rent of ₹ 15,000 per month. The Company also took on hire Machinery from Ramesh with effect from 01.11.2015, on Hire Charges of ₹ 10,000 per month. The Rent of Building and Hire Charges of Machinery for the Year 2015–2016 were credited by the Company to the account of Ramesh in its books of account on 31.03.2016.	**Refer Sec. 194–I in Pg. 41.18, Para 41.2.12** **10% TDS for Rent for Building** [₹ 15,000 × 9 Mths] = ₹ 1,35,000 **2% TDS for Rent for Machinery** [₹ 10,000 × 5 Months] = ₹ 50,000 Total = ₹ 1,85,000 > ₹ 1,80,000 TDS = 13,500 + 1,000 = ₹ 14,500
(iv) ₹ 1,95,000 paid to Mr. X on 01.02.2015 by Karnataka State Government on compulsory acquisition of his Urban Land. **What would be your answer if the Land is Agricultural Land?**	**Refer Sec. 194LA in Pg 41.25, Para 41.2.15** No TDS, since Total ≤ ₹ 2,00,000 Sec. 194LA not apply to Agricultural Land at all.
(c) Ravinder, a Non–Resident, had maintained his permanent House both in UAE and India during PY ended on 31.03.2016, but was having his habitual abode in UAE because of employment. He had income in India from Dividend, Interest and Capital Gains during PY ended on 31.03.2016 which are not subject to tax under any law in force in UAE. There exists a DTAA between India and UAE. Ravinder claims that none of the income earned by him in India shall be subject to tax in India, because of the benefits available to him under DTAA. Is the contention of Ravinder correct?	It is given that the Indian income shall not be subject to tax in India, because of the benefits available to him under DTAA. So, they are not taxable, since DTAA provisions override the Domestic Law. **Para 28.2.3, Pt. 1 – Pg. 28.2**

STUDENTS' NOTES

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