

MAY 2018

Roll No. **Final New Syllabus**

Paper - 7

Total No. of Questions – 6

**Direct Tax Laws &
International Taxation**

Total No. of Printed Pages – 15

Time Allowed – 3 Hours

Maximum Marks – 100

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Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate has not opted for Hindi Medium, his/her answers in Hindi will not be valued.

Question No. 1 is compulsory.

Answer any **four** questions from the remaining **five** questions.

In case, any candidate answers extra question(s)/sub-question(s) over and above the required number, then only the requisite number of questions first answered in the answer book shall be valued and subsequent extra question(s) answered shall be ignored.

Wherever necessary, suitable assumptions may be made and disclosed by way of a note.

Working notes should form part of the respective answers.

All questions relate to **Assessment Year 2018-2019**, unless stated otherwise in the question.

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1. (a) SDK Ltd. is engaged in the manufacture of textile since 01-04-2010. Its Statement of Profit and Loss for the previous year ended 31st March, 2018 shows a profit of ₹ 600 Lakhs after debiting or crediting the following items :
- (i) Depreciation charged on the basis of useful life of assets as per Companies Act is ₹ 40 Lakhs.
- (ii) Industrial power tariff concession of ₹ 3.5 Lakhs, received from State Government was credited to P & L Account.
- (iii) The company had provided ₹ 25 Lakhs being sum fairly estimated as payable with reasonable certainty, to workers on agreement to be entered with the workers union towards periodical wage revision once in every three years.
- (iv) Dividend received from a foreign company ₹ 10 Lakhs.
- (v) Loss ₹ 25 Lakhs, due to destruction of a machine worth ₹ 30 Lakhs by fire due to short circuit and ₹ 5 Lakh received as scrap value. The insurance company did not admit the claim of the company on charge of gross negligence.
- (vi) Provision for gratuity based on actuarial valuation was ₹ 400 Lakhs. Actual gratuity paid debited to gratuity provision account was ₹ 275 lakhs.

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- (vii) The company has purchased 500 tons of industrial paper as packing material at a price of ₹ 30,000 per ton from M/s. Shivbramha, a firm in which majority of the directors of SDK Ltd. are partners. The firm's normal selling price of the same material in market is ₹ 28,000 per ton.
- (viii) Advertisement charges ₹ 1.5 Lakhs, paid by cheque for advertisement published in the souvenir of a political party registered with the Election Commission of India.
- (ix) Long term capital gain ₹ 4.5 Lakhs on sale of equity shares on which Securities Transaction Tax (STT) was paid at the time of acquisition and sale.

Additional Information :

- (i) Normal depreciation as per Income Tax Rules is ₹ 65 Lakhs.
- (ii) The sales tax ₹ 11 Lakhs collected from its customers was paid by the company on the due dates. On an appeal the High Court directed the sales tax department to refund ₹ 4 Lakhs to the company. The company in turn refunded ₹ 3 lakhs to the customers from whom it was collected and the balance ₹ 1 lakh is still lying under the head "Current Liabilities".

Compute the total income of SDK Ltd. for the A.Y. 2018-19 by analyzing and applying the relevant provisions of income tax law. Briefly explain the reasons for treatment of each item. Ignore the provisions relating to Minimum Alternate Tax.

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- (b) X Ltd., a resident Indian Company, on 01-04-2017 has borrowed ₹ 100 crores from M/s. A Inc, a Company incorporated in US, at an interest rate of 9% p.a. The said loan is repayable over a period of 10 years. Further loan is guaranteed by M/s B Inc incorporated in US. M/s. K Inc a non-resident, holds shares carrying 30% of voting power both in M/s X Ltd. and M/s B. Inc. M/s K Inc has also deposited ₹ 100 crores with M/s A Inc.

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Other information

Net profit of M/s X Ltd. was ₹ 10 crores after debiting the above Interest, depreciation of ₹ 5 crores and Income Tax of ₹ 3.40 crores. Calculate the amount of interest to be disallowed under the head Profits and Gains of Business or profession in the computation of M/s X Ltd.

Substantiate your answer with reasons.

2. (a) M/s. Gomati P Ltd., a closely held company is in the business of growing rubber. The profit & Loss account for the year ended 31-03-2018, of the company shows a Net profit ₹ 37.65 crores after debiting Depreciation of ₹ 30 crores.

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The company has provided the following additional information.

- (i) The company has deposited ₹ 30 crores in a special Account with NABARD on 29-04-2018.

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- (ii) The company has brought forward losses of ₹ 6 crores pertaining to Assessment Year 2015-16. Mr. A who continuously held 60% of shares carrying voting power since incorporation of the company, had sold his entire holding to Mr. B on 01-08-2017.
- (iii) The company had an accumulated balance of ₹ 200 crores in the special account with NABARD as on 01-04-2017. It has withdrawn ₹ 40 crores and utilized the same for the following purposes.
- Purchase of a new sprinkling machine for use in its operation ₹ 10 crores.
 - Purchase of office appliances for corporate office at Chennai ₹ 10 crores.
 - Purchase of computers and accessories ₹ 5 crores.
 - Construction of a godown at a cost of ₹ 1 crore near the rubber estate to store raw rubber.
 - Repairs to machinery ₹ 35 lakhs.
- (iv) On 31-03-2018, the company has sold machinery which was purchased on 10-05-2009 for ₹ 10 crores. The purchase of the said machinery was in accordance with the scheme of deposit.
- (v) Depreciation allowable as per Tax Audit Report is ₹ 28 crores.

Compute Taxable and Exempt income of M/s. Gomati (P) Ltd.

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- (b) The Gross Total Income of Mr. Bharadwaj who is a resident of Varanasi for the year ended 31-03-2018 is ₹ 15 lakhs. 6

Further

- (i) He has contributed ₹ 2 lakh towards Clean Ganga Fund set up by the Central Government.
- (ii) He has incurred medical expenditure of ₹ 50,000 towards surgery for his grandmother who is 85 years of age. (No Premium is paid to keep in force an insurance on her health)
- (iii) He has donated ₹ 2 lakhs in cheque and ₹ 50,000 in cash to a political party during its annual conference of which he is a member.
- (iv) Repayment of housing loan instalment of ₹ 1 lakh during the financial year to his employer XYZ Private Limited.

Discuss the allowable deduction to Mr. Bharadwaj from the above information.

- (c) Amrutha is a resident Individual. She has income from the following sources : 6

- (i) Taxable income from a Sole-Proprietary concern in Kochi ₹ 50 lakhs.
- (ii) Share of Profit from a Partnership firm in Chennai ₹ 30 Lakhs.

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(iii) Agricultural Income from rubber estate in Country A which has no DTAA with India, USD 70000. Withholding Tax on the above Income USD 10500 (Assume 1 USD = ₹ 64).

(iv) Brought forward Business Loss in Country A was USD 10000 which is not permitted to be set off against other income as per the laws of that country.

Compute taxable income and tax payable by Amrutha for the Assessment Yr 2018-19.

3. (a) X Ltd., a company in which the whole of its share capital was held by Y Ltd. Both X Ltd. and Y Ltd. are Indian companies. X Ltd. had made investment in shares of ABC Ltd., in 1979 for ₹ 3,00,000 which it sold to Y Ltd. on April 1, 2009 for a consideration of ₹ 30,00,000.

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The fair market value of these shares of ABC Ltd., as on April 1, 2001 is ₹ 20,00,000. Y Ltd. disinvested 5% of the shares held by it in X Ltd., in January 2018 by sale to public. It sold the shares in ABC Ltd. in March 2018 acquired by it from X Ltd. for a sum of ₹ 70,00,000.

Discuss the issue with relevant provisions and tax effects of these transactions in the hands of X Ltd. and Y Ltd. in the relevant assessment years.

The cost inflation Index Value for the Financial Year 2017-18 is 272.

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- (b) Dr. Juhi reports to you that her gross receipt from her medical profession for the year ended 31-03-2018 is ₹ 49,20,000. Her net income as per income and expenditure account is ₹ 26,40,000 before adjustment of depreciation of ₹ 2,10,000. She did not pay any amount by way of advance tax during the financial year 2017-18. She has two residential house properties, of which one is self-occupied for residence and another is let out for the monthly rent of ₹ 10,000 during the financial year 2017-18.

Advise Dr. Juhi with reference to section 44ADA on filing of return with optimal tax liability besides compliance cost. Assume that she approached you in April, 2018 and you have given your advise then.

- (c) Nikanu Ltd., an Indian Company involved in manufacturing and trading in cotton garments under the brand name "PCOTT". In order to expand its exports sale it launched a massive publicity campaign in overseas market. For the purpose of online advertising, it hired the Sky Inc., a New York based company which has no permanent establishment in India and paid ₹ 10 lakhs for its services in previous year 2017-18.

Discuss the tax and TDS implications of such transaction both in the hands of Nikanu Ltd. and Sky Inc.

- (d) "The term 'Advance ruling' includes within its scope, a determination by the Authority for advance Rulings only in relation to a transaction undertaken by a non-resident applicant". Discuss the correctness or otherwise of this statement, as per the income tax law ?

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4. (a) Discuss the TDS/TCS implications if any, for the following transactions. What is the amount payable to the payee : $1\frac{1}{2} \times 4 = 6$

(i) X is a bookmaker and Mr. Y is a punter. On 22-01-2018, B has won ₹ 50,000 in Horse Race 1 and suffered a loss of ₹ 20,000 in Horse Race 2.

(ii) Mr. Santosh has let out his house property on a monthly rent of ₹ 60,000 from 15-01-2018 to Mrs. Preeti.

(iii) H. Ltd., a manufacturer of luxury cars sold 50 cars on 01-09-2017 to NMP Ltd. its dealer, each car cost ₹ 20 Lakhs.

(iv) AKL Ltd., a third party administrator on behalf of an Insurance Company has settled medical bills of ₹ 5,00,000 submitted by Kay Hospitals Ltd. from a patient under a cashless scheme.

(b) Holy Mission Charitable Trust filed an application in Form 10G along with copies of trust deed and registration certificate, for grant of approval under section 80G(5), with the approving authority. In order to verify the stated objects of education, social activities etc. and the facts in the application, the trust was asked to produce the relevant books of account, vouchers, donation book and minutes in original. After considering the same, the commissioner rejected the application for approval under section 80G(5) on the ground that the trust had failed to apply 85% of its income.

Whether the order of commissioner is justified in law ?

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- (c) Surat Limited, engaged in the business of textiles also effected the sales and purchase of shares of other companies. It suffered loss from such transactions : 4
- (1) Whether such company can set off its losses from share trading, from the profit of textile business.
 - (2) If principal business of such company is sale and purchase of shares of other company then what would be your answer ?
- (d) Amar P Ltd., Bangalore is engaged in IT Enabled services. It is the subsidiary of ABC Inc in US. It also provides similar services to a company SAK Ltd. at Singapore. Its billings and other information is as given hereunder : 6
- (i) Billings per month to ABC Inc. USD 85000
 - (ii) Billings per month to SAK Ltd. USD 70000
 - (iii) ABC Inc has provided a loan of USD 100000 to Amar P Ltd. towards purchase of hardware for executing its project. Rate of interest charged for the said loan is at 3% p.a.
 - (iv) Direct and indirect cost incurred are USD 100 and USD 200 per hour respectively.
 - (v) Amar P Ltd. works 9 hours per day for 15 days to execute the projects for ABC Inc and 8 hours per day for 15 days to execute projects for SAK Ltd. Service was provided by the company to both its customers throughout the year.

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- (vi) Warranty was provided to SAK Ltd. for a period of 2 years. Cost of warranty is calculated at 1% of direct cost incurred. The cost of warranty is neither included in the direct nor indirect cost.

Assume conversion rate 1 USD = ₹ 64 Compute Arm's Length Price as per the cost-plus method and the amount to be added if any to the income of Amar P Ltd.

5. (a) A search as per section 132 of the Act was conducted on 02-01-2018 and cash ₹ 40 Lakhs was seized. The assessee moved an application on 30-01-2018 to release such cash with explanation of the nature and sources thereof, which was turned down by the department. Now, the assessee seeks your advice on whether the department can withhold the explained money ? If yes, then to what extent and upto what period ?

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- (b) AUM Enterprises, a partnership firm filed its return of income for the A.Y. 2015-16 on 30-07-2015. The assessment u/s 143(3) was completed on 15th June, 2017 and the A.O. made two additions to the income of assessee namely,

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- (i) Addition of ₹ 8 Lakhs for unexplained cash credit u/s 68 and
(ii) Addition of ₹ 3 lakhs u/s 40(a) (ia) due to non-furnishing of the evidence of TDS payment.

The assessee being aggrieved, contested the addition of ₹ 8 Lakhs u/s 68 and appeal to the CIT (A). The appeal was decided on 5th January, 2018 against the assessee.

Now, the assessee seeks your advice as to whether it should apply for revision to CIT u/s 264 or for rectification u/s 154 to the A.O. as regards disallowance u/s 40(a) (ia). Advise ?

- (c) Pramod, a resident individual of age of 52 years, has not furnished his return of income for the A.Y. 2017-18, However, his total income for such year as assessed u/s 143(3) is ₹ 14 Lakhs. **3**

Whether penalty u/s 270A attracted ? If yes, what will be the quantum of penalty leviable ? [Note : Assume that this is not a case of misreporting].

- (d) Can prosecution be launched for following defaults ? Examine the relevant provisions with quantum of prescribed punishment, if any ? **3**

(i) The assessee deliberately has failed to comply with the requirement of section 142(i) and/or 142(2A).

(ii) The assessee has failed deliberately to make the payment of tax collected u/s 206C.

(iii) 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 form of electronic record and the books of accounts.

- (e) Explain the term "Royalty" as per UN model Tax Convention. Is it different from the definition contained in OECD Model ? Discuss ? 3
- (f) Explain the meaning of "Treaty" as per Article 2 of Vienna Convention on Law of Treaties, 1969. Why it come into play ? 3
6. (a) Whether the Commissioner (Appeals) is empowered to consider an appeal filed by an assessee challenging the order of assessment in respect of which the proceedings before the settlement commissioner abates ? Examine with the relevant provisions of law ? 3

EITHER (Attempt either (b) (i) or (b) (ii))

- (b) (i) The regular assessment of Ms. Swati for the A.Y. 2014-15 was completed u/s 143(3) on 16-07-2016. On 18-01-2018 she received a notice issued u/s 148 for income escaping assessment for the same A.Y. 2014-15. Further on 25-03-2018, during the pendency of such proceeding for income escaped assessment, the A.O. attaches the house property of Ms. Swati. 5

Now, aggrieved Swati seeks your opinion (being a Chartered Accountant) as to :

- (i) The circumstances under which the A.O. can make provisional attachment of property of the assessee ?
- (ii) The period of time for which such attachment can take place ?
- (iii) Can such attachment be revoked by the A.O. and if yes, how ?

Discuss the relevant provisions of law to satisfy the aggrieved assessee Ms. Swati ?

OR

- (b) (ii) Denim Ltd. was incorporated on 01-04-2017 to carry on the business of innovation, development, deployment and commercialisation of new processes driven by technology. It holds a certificate of eligible business from the notified IBMC (Inter Ministerial Board of Certification).

Its total turnover and the profits and gains from such business for the P.Y. 2017-18 and expected turnover and profits and gains in the following years are as follows :

Particulars	P.Y.	P.Y.	P.Y.	P.Y.	P.Y.	P.Y.	P.Y.
	2017-18	18-19	19-20	20-21	21-22	22-23	23-24
Total Turnover in Crores	15	18	20	22	24	24.5	24.75
Profits (Losses) in Crores	(2.52)	(1.5)	6.5	8.25	9.5	8	9.50

Is Denim Ltd. eligible for any benefit under the provisions of the Income Tax Act, 1961 ? If yes, what is the benefit available ?

- (c) Discuss the taxability or otherwise of the following transactions :

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- (i) Mr. A purchased a 10 acres of agricultural lands from Mr. B at the rate of ₹ 2 lakh per acre on 10-05-2017. The guideline value of the land on the date of the transaction was ₹ 3 lakhs per acre. However he had entered into an agreement for purchase of the land on 10-03-2017 when the guideline value was ₹ 2.20 lakhs per acre. He had paid a token advance of ₹ 1 lakh by account payee cheque.

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(ii) Mr. A received cash gift of ₹ 4.75 lakhs from B on the occasion of his 61st birthday which was celebrated like marriage as per tradition, and ₹ 25,000 from C. Both B and C are his distant relatives.

(iii) Mr. Dileep contributed ₹ 2 lakhs to a Trust created for the purpose of marriage of his friend's daughter.

Note : (Guide line value means Assessable stamp duty value)

(d) State with reasons whether the following transactions are subject to tax as deemed income.

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(i) XYZ Ltd. is a broadcaster of News Channel in India. It had made payments to a Malaysian company having no PE in India for downlinking Television Channels into India and international footprint through a channel.

(ii) Mr. A a foreign citizen and a diamond merchant from US has earned income of ₹ 10 crores from display of uncut and unassorted diamonds in the Bharat Diamond Bourse a notified special zone in Surat.