SUGGESTED ANSWERS TO QUESTIONS

FINAL EXAMINATION

GROUP - III

(SYLLABUS 2016)

DECEMBER – 2021

Paper-16 : DIRECT TAX LAWS AND INTERNATIONAL TAXATION

Time Allowed : 3 Hours Full Marks : 100

Section : A MCQ 20X1 = 20 Marks

Q.1 When a company claimed bogus salary expenditure of Rs.3 lakhs in order to reduce itsincome chargeable to tax, it is called as

Ans
1. Tax planning
2. Tax management
3. Tax avoidance
4. Tax evasion ✔

Q.2 In the case of partnership firm resident in India, the benefit of marginal relief isavailable in which of the following cases?

Ans
1. Total income Rs.90 lakhs
2. Total income Rs.95 lakhs
3. Total income Rs.103 lakhs ✔
4. Total income Rs.110 lakhs

Q.3 When unit located in Special Economic Zone has profit of Rs.25 lakhs and it is in the4th year of its existence, the quantum of deduction allowable under section 10AA would be.

Ans
1. Rs.25 lakhs (100%) ✔
2. Rs.12.50 lakhs (50%)
3. Rs.5 lakhs (20%)
4. Nil

Q.4 A HUF having income under the head "Profits and gains of business or profession" Rs.10 lakhs wants to pay tax under section 115BAC. Which form has to be filed to convey / intimate its option for availing the benefit of section 115BAC?

Ans
1. It is not eligible for section 115BAC.
2. Form No.3CB and Form 3CD
3. Form No.3CA and Form 3CD
4. Form No.10-IE ✔

Q.5 A company engaged in manufacturing activity opted for section 115BAB. What is themaximum rate of depreciation applicable for the assets owned by it?

Ans
1. 15%
2. 25%
3. 40% ✔
4. 45%

Q.6 A co-operative society has total income of Rs.42 lakhs. It is eligible for deductionunder section 80P of Rs.22 lakhs. What is its tax liability under section 115BAD? [Ignore surcharge and HEC]

Ans
1. Rs.4,40,000
2. Rs.6,00,000
3. Rs.8,40,000
4. Rs.9,24,000 ✔

Q.7 Ram Saha Ltd is located in Assam. The unit began manufacturing activity on 01.04.2016. Its total income from business (computed) is Rs.11,40,000. How much isthe amount eligible for deduction under Chapter VI-A if the unit is engaged in manufacture of eligible article and is engaged in eligible business?

Ans
1. NIL
2. Rs.5,70,000
✔ 3. Rs.11,40,000
4. Rs.2,85,000

Q.8 Ramesh received Rs.22 lakhs as enhanced compensation relating to compulsoryacquisition of land in urban area made in the financial year 2018-19 as per courtdecree, how much is taxable?

Ans
1. Rs.22 lakhs
2. NIL
✔ 3. Rs.11 lakhs
4. Rs.20 lakhs

Q.9 In the case of a foreign company receiving dividend declared by an Indian company inMay, 2021 at what rate the tax is deductible at source on such dividend?

Ans
1. 5%
2. 10%
3. 15%
✔ 4. 20%

Q.10 Which of the following incomes of a registered trade union is exempt from tax?

Ans
1. Income from house property
2. Income from other sources
✔ 3. All of these
4. None of these

Q.11 When a residential house is transferred and the assessee acquires 2 residentialhouses it is eligible for exemption in which of the following cases?

Ans
1. When the capital gain reinvested is more than Rs.200 lakhs
✔ 2. When the capital gain reinvested is less than Rs.200 lakhs
3. When the assessee does not own more than one residential house
4. When the assessee does not own any other residential house

Q.12 A wholly religious trust registered under section 12AA received Rs.5 lakh by way ofanonymous donation. The trust spent Rs.3.50 lakhs towards renovation of temple building owned by it. How much is the tax payable by the trust in respect of the anonymous donation?

Ans
✔ 1. NIL
2. Rs.45,000
3. Rs.1,50,000
4. Rs.60,000

Q.13 In which of the following method, multiple year data for determination of arm's lengthprice is not applicable?

Ans
1. Cost Plus Method
2. Resale Price Method
3. Profit Split Method
✔ 4. Comparable Uncontrolled Price Method

Q.14 Mr.X gifted his let out property fetching a monthly rent of Rs.50,000 to his married daughter on 01.10.2020. He paid Rs.1,20,000 towards municipal tax in June, 2020 relating to 5 previous years viz. previous year 2016-17 to 2020-21. How much is taxablein the hands of Mr.X for the assessment year 2021-22?

Ans
1. Rs.1,26,000
2. Rs.1,93,200
3. Rs.4,03,200
4. Rs.3,36,000

Q.15 When Arvind incurred Rs.60,000 towards surgery of his parents (senior citizens) how much is eligible for deduction under section 80D? Assume they are not covered underany health insurance policy

Ans
1. Rs.25,000
2. Rs.30,000
3. Rs.50,000
4. Rs.60,000

Q.16 What is the maximum of surcharge that can be applied on individual taxpayer inrespect of income by way of long-term capital gain?

Ans
1. 10%
2. 15%
3. 25%
4. 37%

Q.17 When a company is located in International Financial Services Centre what is the rate of tax applicable on book profit under section 115JB?

Ans
1. 18%
2. 15%
3. 9%
4. 6%

Q.18 An REIT (Real Estate Investment Trust) distributed interest of Rs.2 lakhs to theresident unit holders. At what rate tax is deductible at source on the income sodistributed?

Ans
1. 10%
2. 20%
3. 30%
4. NIL

Q.19 A survey under section 133A was conducted in the premises of ABC & Co on 11.11.2020. Whose prior authorization must have been obtained for conducting thesurvey?

Ans
1. Principal Chief Commissioner
2. Additional Commissioner
3. Joint Commissioner
4. Assistant Commissioner

Q.20 Which of the following perquisite is always a taxable perquisite?

Ans
1. Telephone provided in the residence of the employee
2. Subsidized lunch
3. Employers contribution to staff group insurance scheme
4. Reimbursement of actual sum paid to domestic servant

Q.1 **When the assessee has undisclosed assets in foreign country the time limit for issue of notice for reassessment is ____________________________________years from the end of the assessment year relevant to the financial year in which such asset was owned by him.**

Answer: 16 years

Q.2 **A subsidiary company imports goods from parent company and redistributes to customers and unrelated parties in India without any value addition. The most appropriate method of determining the ALP would be ___**

Answer: resale price method

Q.3 **A doctor constructs a residential building for Rs.60 lakhs by appointing a civil engineer. The percentage of tax deductible at source on the amount paid wouldbe__%**

Answer: 5

Q.4 **No secondary adjustment is required if the primary adjustment does not exceedRs.___**

Answer: 1. Crore

Q.5 **Loss from speculation business is eligible for carry forward for a maximum of ________assessment years succeeding the assessment year in which the loss was incurred.**

Answer: 4

Q.6 **When a contract payment is made and the recipient does not furnish PAN the rate atwhich the tax is deductible at source would be ____**

Answer: 20%

Q.7 **A minor child has income by way of dance performance Rs.80,000 and fixed deposit interest from SBI of Rs.30,000. The amount of income liable for clubbing in the hands of parent would be ____**

Answer: Rs.28,500

Q.8 **Vijay is engaged in growing and manufacturing tea. He does further process to make the tea leaves into tea dust. His net income from growing and manufacturing tea is Rs.8 lakhs. His income chargeable to tax would be ______**

Answer: Rs.3,20,000

Q.9 **Bhagwat sold a vacant site for Rs.52 lakhs to Venkat. The circle rate (guideline value) of the site was Rs.56 lakhs. The sale consideration for the purpose of computing capital gain would be ________**

Answer: Rs.52 lakhs

Q.10 **For under-reporting of income penalty is leviable @_____% of tax on the income assessed less the income originally admitted by the assessee.**

Answer: 50%

Q.11 **Advance Pricing Agreement (APA) is applicable for_____consecutive previous years succeeding the previous year in which the agreement is made.**

Answer: 5

Q.12 Prakash is engaged in business and his income as per section 115BAC is computed at Rs.25 lakhs. He must pay alternative minimum tax of Rs.____.

Answer: Nil

Q.13 Singh Industries Ltd has opted for section 115BAA. The rate of income-tax applicable on its income is___%.(Ignore Surcharge and HEC)

Answer: 22

Q.14 When a non-resident is engaged in the business of operation of aircraft in India, ______% of aggregate receipt shall be deemed to be the profits and gains of suchbusiness.

Answer: 5

Q.15 When Laxman citizen of India employed in a country where he need not pay income-tax on his income comes to India and stays for 130 days in the previous year 2020-21. His income from property in India is Rs.20 lakhs (annually). His residential status for the assessment year 2021-22 would be_________________.

Answer: RNOR

Q.16 A television channel paid Rs. 5 lakhs on 10/12/2020 to a celebrity for guest appearance in a popular show. The amount of tax deductible at source would be____

Answer: 37,500 @ 7.5%

Q.17 Income-tax Officer can levy penalty without any prior approval from the superior income-tax authority when the quantum of penalty does not exceed Rs.____.

Answer: Rs.10,000

Q.18 The due date for filing quarterly return of TCS for the quarter ended 30th September would be ___

Answer: 15th October

Q.19 The time limit for revision under section 263 is________years from the end of thefinancial year in which the order sought to be revised was passed.

Answer: 2

Q.20 Interest on moneys borrowed for renovation of house property is eligible for deduction up to a maximum of Rs._____.

Answer: 30,000/ Nil/No limit

Section C

(4X12 = 48 Marks)
One LAQ

6 Marks

Q.1 Ms. P is a dealer in real estate. She buys and sells immovable property like land, buildings, etc. On 30th June, 2019, she had purchased a building for Rs. 55 lakhs.

As on 31st March 2020, the building remained unsold and the net realizable (NRV) of the building was Rs. 51.5 lakhs only. Closing stock is valued by her at cost or NRV,whichever is lower.
On 1st April, 2020, she converted this building into capital asset, passing necessaryentries in the books there for. The stamp duty valuation as on this date was Rs 53 lakhs. The building was not suitable for her personal use and hence she sold it on 12th March, 2021 for Rs. 51 lakhs, expenses on sale being Rs 40,000.

Determine the income-tax consequences in the hands of Ms. P for the A.Y . 2021-22 relating to the above.

Answer:

As per amendment made by the Finance Act, 2018, where any business asset is converted into personal asset (capital asset), there will be tax consequence; fair market value of the asset transferred as on the date of transfer will have to be considered and business income calculated, as per section 28(via)

In the given situation, being a business asset, inventory on 31-3- 2020, would have been valued at cost or NRV whichever is lower (as given in the problem), i.e. for Rs 51.5 lakhs. Thus, the opening value as on 1-4-2020 as per books is Rs 51.5 lakhs.

As per section 28(via), the fair market value of the asset transferred, determined in the prescribed manner has to be determined and adopted for ascertaining the business income. As per the relevant Rule, the FMV is the value adopted for stamp valuation purposes, i.e. 53 lakhs.

Therefore, the difference between 53 L and 51.5 L i.e. Rs 1.5 lakhs will be treated as business income for the AY 2020-21.

For purposes of capital gain, the FMV as on 1-4-2020 so adopted, will be the cost of acquisition. The date of conversion will be treated as date of acquisition.

Consequently, when the building is sold on 12-3-2021 for Rs 51 lakhs, the expenses on sale being Rs 0.4 lakhs, there will be short term capital loss of Rs. 53-50.6 =2.4 lakhs

6 Marks

Q.2 Keshava charitable trust was created on 10.03.2005 with the objective of helping the physically challenged people and advancement of any other object of general public utility. The charitable trust sells art and crafts items through which it received an income of Rs. 10,00,000. Total receipts of the trust during the previousyear 2020-21 is Rs. 80,00,000. Total receipts includes anonymous donation of Rs. 12,00,000 with no specific directions for use. It has utilized Rs. 70,00,000 for the objectives of the trust and accumulated Rs. 10,00,000 for future use.

The accumulated funds are planned to be applied outside India. Examine the taxability of income.

Answer:

An institution having its main object as ‘’ advancement of any other object of general public utility’’, derives income from the activity in the nature of trade during a financial year, would retain its charitable status if the receipts from such activity does not exceed 20% of the total receipts in that year.

As the total receipts from the business is 12.5% (10 lakhs/80 lakhs
***100) which is less than 20% of the total receipts, the status of charitable trust will not be affected.**
The exemption u/s 11 or 12 shall not be applicable in respect of anonymous donation with a specific direction that the donation shall form part of the corpus of the trust or institution, such anonymous donation would not be exempt by virtue of sec 11(1)(d). It would be taxable at 30% as per sec 115BBC. So, an amount of Rs. 12 lakhs would be taxable at 30%.

As per sec 11, accumulation of 15% of income is permissible. For computing this 15%, voluntary contributions referred to in the sec 12 shall be deemed to be part of income. Also, accumulation must be with the object of application of the accumulated amount for charitable or religious purposes in India at a later date. Such facility of accumulation is not available for those trusts whose income is to be applied outside India.

The accumulation of Rs. 10 lakhs is within the permitted limit of 15% of income but as the same is accumulated for the objective of being applied outside India, the facility of accumulation u/s 11 is not available and would be included in the total income.

Q.1 DKC softeck is a company incorporated in UK in which 55% of shares are held by the FAM softeck which is in India. DKC softeck has 4 branches in India. The details relating to the DKC softeck for the P.Y. 2020-21, are as under:

8 Marks

Particulars	India (In crores)	UK (In crores)
Value of fixed assets:		
Market (NRV) values	145	70
Depreciated values	135	160
Book value before depreciation	155	85
Intangible assets	35	180
Other assets (value as per books of account)	25	35
Income from trading operations	90	145
The above figure includes:		
(a) Income from transactions where purchases are from associated enterprises and sales are made to non-associated enterprises.	10	25
(b) Income from transactions where sales are to Associated enterprises and purchases are from non-associated enterprises.	15	20
(c) Income from transactions where both purchases and sales are from/to associated Enterprises	35	65
Interest and dividend from the investments	45	20
Number of employees	150	200
Out of the 200 employees in UK		
15 are resident of India		
Out of the 150 employees in India		
30 are non-resident in India		
Salary given to the employees	30	40
Bonus given during festivals	5	8

Determine the residential status of DKC Softeck for the A.Y. 2020-21 if out of 9board meetings held 6 meetings are held in India.

Answer:

The residential status of a foreign company is determined on the basis of place of effective management (POEM) of the company.

For determining the POEM of a foreign company, the important criteria is whether the company is engaged in active business outside India or not (ABOI).

A company shall be said to be engaged in "Active Business Outside India" (ABOI) for POEM, if the passive income is not more than 50% of its total income; and less than 50% of its total assets are situated in India; and less than 50% of total number of employees are situated in India or are resident in India; and the payroll expenses incurred on such employees is less than 50% of its total payroll expenditure.

DKC softeck shall be regarded as a company engaged in active business outside India for P.Y.2020-21 for POEM purpose only if it satisfies all the four conditions cumulatively.

<u>Condition 1</u>: The passive income of DKC softeck should not be more than 50% of its total income

Total income of DKC softeck during the P.Y. 2020-21 is Rs. 300 crores [(Rs. 90 crores +145 crores) + (45 crores + 20 crores)]

Passive income is the aggregate of, -

(i) income from the transactions where both the purchase and sale of goods is from/to its associated enterprises; and

(ii) income by way of royalty, dividend, capital gains, interest or rental income;

Passive Income of DKC softeck is Rs. 100 crores, being sum total of:

(i) Rs. 35 crores, income from transactions where both purchases and sales are from/to associated enterprises (Rs. 15 crores in India and Rs. 20 crores in UK)

(ii) Rs. 65 crores, being interest and dividend from investment (Rs. 45 crores in India and Rs. 20 crores in UK)

Percentage of passive income to total income = Rs. 100 crore/ Rs. 300 crore x 100 = 33.33%

Since passive income of DKC softeck is 33.33%, which is not more than 50% of its total income, the first condition is satisfied.

<u>Condition 2</u>: DKC softeck should have less than 50% of its total assets situated in India

Value of total assets of DKC softeck during the P.Y. 2020-21 is Rs. 570 crores [Rs. 195 crores, in India + Rs. 375 crores, in UK]

Note:

Value of fixed assets are taken at the depreciated values and others at the book value.

Percentage of assets situated in India to total assets = Rs. 195 crores/Rs.570 crores x 100 = 34.21%

Since the value of assets of DKC softeck situated in India is less than 50% of its total assets, the second condition for ABOI

test is satisfied.

Condition 3: Less than 50% of the total number of employees of DKC softeck should be situated in India or should be resident in India.

Number of employees situated in India or are resident in India is 135 [(150-30) +15]

Total number of employees of DKC softeck is 350 [150 + 200]

Percentage of employees situated in India or are resident in India to total number of employees is 135/350 x 100 = 38.57%

Since employees situated in India or are residents in India of DKC softeck are less than 50% of its total employees, the third condition for ABOI test is satisfied.

Condition 4: The payroll expenses incurred on employees situated in India or resident in India should be less than 50% of its total payroll expenditure.

Payroll expenses on employees employed in and resident of India = (35/150*120) + (48/200*15) = 28+3.6= 31.6 crores Total payroll expenses = Rs. 83 crores (Rs. 35 crores + Rs. 48 crores)

Percentage of payroll expenses of employees situated in India or are resident in India to the total payroll expenses = 31.6/83*100 = 38%

Since the payroll expenses incurred on employees situated in India or resident in India is less than 50% of its total payroll expenditure, the fourth condition for ABOI test is also satisfied.

Thus, since DKC softeck has satisfied all the four conditions, the company would be said to be engaged in “active business outside India” during the P.Y.2020-21.

POEM of a company engaged in active business outside India shall be presumed to be outside India, if the majority of the board meetings are held outside India.

Though DKC softeck is engaged in active business outside India in the P.Y. 2020 -21 but the majority of its board meetings i.e., 6 out of 9, were held in India, POEM of DKC softeck shall be in India. The assessee will be treated as resident.

4 Marks

Q.2 In M/S WER Ltd., shareholding structure is as follows: -Central government 20%

Reserve bank of India 22% Promoters of the company 58% -

Examine whether WER Ltd is a widely held government company u/s 2(18) or not?

Answer:

Company in which public are substantially interested [Sec. 2(18)]

A company is said to be a company in which the public are substantially interested (also known as widely held company):

Government company: A company owned by the Government or the Reserve Bank of India or in which not less than 40% of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that bank;

In the above case, the 42% shares (which is not less than 40%) of M/S WER Ltd., is held together by the Central government and RBI. So, M/S WER Ltd is a government company in which public are substantially interested as per sub section 18 of section 2.

6 Marks

Q.1 Arnold Ltd, Mumbai is engaged in manufacture of toys. It is the subsidiary of Tony Ltd of UK. It wanted to expand its operations and accordingly wanted term loan of Rs.100 crores. Based on the guarantee provided by Tony Ltd, a nationalized bank inIndia gave term loan of Rs 80 crores on 1.6.2020 for interest @8% per annum. Besides this, Arnold Ltd availed loan of Rs.20 crores from a yet another bank by giving its own properties as security in December, 2020. No other borrowings were made by Arnold Ltd except these two borrowings. The total book value of assets of Arnold Ltd was Rs. 200 crores as on 1.6.2020. The net profit of Arnold Ltd as per statement of Profit and loss for the year ended 31st March, 2021 was Rs. 3 crores. The following amounts are debited to Statement of profit and Loss: (i) Depreciation Rs.5 crores; (ii) Interest to bank (on term loan based on guarantee of Tony Ltd referred above) Rs. 6 crores; (iii) Interest on bank loan
(based on own security) Rs.1.60 crore; (iv) Provision for taxation Rs. 2 crores; (v) Staff salary Rs12 crores; (vi) Administrative expenses Rs.15 crores; and (vii) Proposed dividend Rs.3 crores.
You are required to compute the quantum of interest allowable in the hands Arnold Ltd for the Assessment Year 2021-22 and interest eligible for carry forward to subsequent assessment years.

Answer:

Interest eligible for deduction Rs. 528 lakhs.

Interest liable for disallowance and eligible for carry forward to subsequent 8 assessment years. =Rs.72 lakhs.

6 Marks

Q.2 Amar & Co is a partnership firm consisting of 4 equal partners with 25% share therein. The partnership firm has Net Profit of Rs.11,20,000 after adjustment of thefollowing:

(i) Interest on capital to partners @ 15% as authorized by the deed Rs.4,50,000

(ii) Working partner salary to partners Rs.6,00,000 as per deed.

(iii) The firm paid rent of Rs.2,70,000 to a partner for the premises occupied by it. No tax was deducted at source on the said payment.

(iv) The firm paid Rs.60,000 as brokerage to Ramji and tax was deducted at sourceon 31st March, 2021 and was remitted in July 2021.

(v) The firm remitted Rs.60,000 being provident fund recovered from its employees of the previous year 2020-21 on 12th May, 2021.

(vi) The firm paid Rs.5 lakhs towards patent to a non-resident in March, 2021 being the amount payable for the financial year 2020-21. The tax deducted at source at thetime of payment was remitted in June 2020.

Additional information:

Provident fund payable for the previous year 2019-20 Rs. 50,000 was remitted in January, 2021. This amount was shown as liability in the balance sheet as at 31stMarch, 2020.

You are required to compute the 'Book profit' of the firm.

Answer:

Book Profit = Rs. 19,11,000

6 Marks

Q.1 **Dr. Chopra is an eminent eye surgeon practicing for more than 3 decades. He was running a hospital as Proprietor. He agreed to admit his junior Dr. Verma and formed a company by name EYE (P) Ltd. He held 51% share capital and balance 49% was allotted to Dr. Verma on the condition that Dr. Verma would pay Rs. 25 lakhs personally as goodwill to Dr. Chopra. All the assets of the profession held till that date was brought as capital contribution of Dr. Chopra in the books of the company. Dr. Verma contributed Rs. 49 lakhs as his share in the share capital of the company.**

Discuss the income tax consequence of conversion of proprietary concern into company and the treatment of goodwill. Would your answer be different, if the amount of goodwill is debited in the books of proprietary concern before conversion or in the books of the company with corresponding credit to Dr. Chopra's account?

Answer:

Section 47 lists instances where the transactions would not be regarded as 'transfer'.

If the transferor continues to remain as shareholder with more than 50 % share in the company, the conversion of proprietary business in to a company would be tax neutral as Dr. Chopra holds more than 50% share in the company.

Dr. Chopra has to maintain his shareholding above 50% so as to avail the tax benefit conferred by section 47(xiv).

However, if Dr. Chopra takes Rs. 25 lakhs personally from Dr. Verma then the payment or consideration is received not from the company and therefore the benefit of exemption cannot be denied to Dr. Chopra.

The amount received by him from Dr. Verma is chargeable to tax as income. It can be called as goodwill with cost of acquisition being "nil" or if considered as gift from non-relative it could be taxed under section 56(2)(x). Either way it is taxable. Since it is unrelated to conversion process it is more appropriate to tax under the head 'other sources'.

If Goodwill is created in proprietary concern books by accounting entry:

Since, the book entry made is a notional entry there would be no tax consequence. Neither Dr. Chopra nor the successor company is liable to tax for creating goodwill account in the books of the predecessor and the successor (i.e. EYE (P) Ltd).

If the goodwill entry is passed in the books of the company:

Again, it is only a notional book entry, with no tax consequence. However, if the goodwill is paid to Dr. Chopra by the company, then the benefit of section 47(xiv) would not be available.

6 Marks

Q.2 **Mr. Jadeja (85 years old) purchased a house property of Rs. 15 lakhs in Jaipur on 24-02-2004. He received a rental income of Rs. 30,000 p.m. from that house property and paid a municipal tax of Rs.20,000 and Rs. 5000 was payable as on 31-03-2021. On 03-10-2020, he sold his property for Rs. 1.5 crores and paid Rs. 3 lakhs as commission to the broker. He purchased 2 new residential house properties worth Rs. 49 lakhs and 53 lakhs respectively in Kanpur on 31-07-2021. He received Rs. 36,000 as interest on fixed deposits.**

i. Compute total income of Mr. Jadeja for A.Y. 2020-21.

ii. Comment on whether he is required to file return of income u/s 139(1). CII: 2001-02: 100, 2003-04: 109, 2004-05: 113, 2020-21: 301

Answer:

(i) **Total income = Rs. 4,69,798**

(ii) **According to sec 139(1), a person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable under this Act [income before giving effect to sec. 54, 54B, 54D, 54EC, 54F, 54G, 54GA, 54GB and chapter VIA (i.e., deduction u/s 80C to 80U)] during the previous year exceeded the maximum amount which is not chargeable to income tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.**

For Mr. Jadeja, the total income before giving effect to sec 54 and deduction u/s 80TTA is Rs.1,07,05,798 which exceeds maximum amount which not chargeable to tax of Rs. 5,00,000, he is required to file return for the A.Y. 2021-22.

8 Marks

Q.1 WER Ltd., is an Indian company, engaged in manufacturing robots for education purposes. In order to promote its sales outside India also, the company has paid asum of Rs 30 lakhs to HJ Inc., a company incorporated in Colombo, during the PY 2020-21.
Examine whether there is their any obligation to withhold tax/levy in the under-mentioned situations:
(i) When HJ Inc., does not have a PE In India; [4]
(ii) When HJ Inc., has a PE In India and the impugned services are related to suchPE. [4]

Answer:

- **Payment is made by a resident carrying on business in India (DBL);**
- **Same is for specified services. Online advertisement is covered by the same.**
- **Such payment exceeds Rs 1 lakh.**
- **The payment is made to a non-resident not having a PE in India**

Situation 1 Where HJ Inc., does not have PE In India
In this case, equalization levy will not ensue
However, tax has to be deducted at source u/s 195, at the rates in force, since it is taxable in the hands of HJ INC., in India.
Same will be Rs. 9,36,000.

Situation 2 Where HJ Inc., has PE In India
Equalization levy at 6 % will arise, since the payment is for specified services to the non-resident not having PE In India.
Same will be Rs. 1,80,000

4 Marks

Q.2 Is a resident permitted to seek advance ruling from the Authority for Advance Ruling (AAR)? If yes, state the situations in which the advance ruling can be soughtfor.

Answer:
Advance Ruling by a resident assessee
A resident can make an application to the Authority for Advance Ruling to seek an advance ruling.
The same can be done in the following cases:

(i) **Section 245N(b)(A)(III) enables a resident referred in section 245N(a)(iia) falling within any such class or category of persons as may be notified by the Central Government to make an application to Authority for Advance Rulings. Such notified resident applicant can seek ruling in relation to his tax liability arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant, and such determination shall include the determination of any question of law or of fact specified in the application. A resident in relation to his tax liability arising out of one or more transactions valuing Rs.100 crore or more in total which has been undertaken or proposed to be undertaken would be an applicant for this purpose.**

(ii) **Section 245N(b)(A)(IV) enables a resident falling within any such class or category of persons as may be notified by the Central Government to make an application for Advance Ruling. Such notified resident applicant can seek ruling in respect of issues relating to computation of total income which is pending before any income-tax authority or the Appellate Tribunal. Such a resident applicant can make an application to seek determination or decision by the AAR on a question of law or a question of fact relating to such computation of total income specified in the application.**
"Public sector companies" as defined in section 2(36A) of the Income- tax Act, 1961 have been notified as applicant for this purpose.

(iii) **A resident can also make an application seeking advance ruling in relation to the tax liability of a non-resident arising out of a transaction undertaken or proposed to be undertaken by him with such non-resident.**

(iv) **A resident can make an application seeking advance ruling on whether an arrangement proposed to be undertaken by him is an impermissible avoidance arrangement under Chapter X-A.**

Six LAQ
(4X3 = 12 Marks)

Q.1 Write short notes on Applicability of MAT to foreign companies 3 Marks

Answer:

Applicability of MAT to foreign companies:

The provision of this section shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company; if. The assessee is a resident of a country or a specified territory with which India has an agreement referred to in section 90 or the Central Government has adopted any agreement under section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such agreement; or The assessee is a resident of a country with which India does not have an agreement of the nature referred above and the assessee is not required to seek registration under any law for the time being in force relating to companies. The MAT provision is not applicable to an assessee, being a foreign company, where its total income comprises solely of profits and gains from business referred to in section 44B or 44BB or 44BBA or 44BBB and such income has been offered to tax at the rates prescribed in those sections.

Q.2 Write short notes on Taxation of income from patent 3 Marks

Answer:

Income from Patent:

Where the total income of an eligible assessee includes any income by way of royalty in respect of a patent developed and registered in India, tax @ 10% shall be payable on such royalty income. Eligible assessee means a person resident in India and who is a patentee; Developed means at least 75% of the expenditure incurred in India by the eligible assessee for any invention in respect of which patent is granted under the Patents Act, 1970.

Q.3 Write short notes on Production of additional evidence before CIT (Appeals) 3 Marks

Answer:

Appellate authority has the power to accept additional evidence (after recording reason for its admission in writing) and may make further enquiry at his discretion before disposing of the appeal. In the following circumstances additional evidence shall be admitted by the Commissioner (Appeals);

(i) Where the Assessing Officer has refused to admit evidence with ought to have been admitted; or

(ii) Where appellant was prevented by sufficient cause from producing before the Assessing Officer any evidence, which is related to any ground of appeal; or

(iii) Where the appellant was prevented by sufficient cause from producing the evidence, which he was called upon to produce by the Assessing Officer; or

(iv) Where the Assessing Officer has made an order (appealed against) without giving sufficient opportunity to the appellant to produce evidence relevant to any ground of appeal. Before taking into account the additional evidence filed, Commissioner (Appeals) is to provide reasonable opportunity to the Assessing Officer for examining the additional evidence or the witness as well as to produce evidences to rebut additional evidences filed by the taxpayer.

Q.4 Write short notes on Foreign tax credit 3 Marks

Answer:

Foreign Tax credit

An assessee being a resident shall be allowed credit for the amount of any foreign tax paid by him in a country or territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India, in the manner and to the extent specified in rule 128 of the Income-tax Rules, 1962.

More than one year: In a case, where such foreign income is offered to tax is more than one year, credit of foreign tax shall be allowed across those years in the same proportion in which the income is offered to tax or assessed to tax in India.

No credit for interest etc: The credit shall be available against the amount of tax, surcharge and cess payable under the Act but not in respect of any sum payable by way of interest, fee or penalty.

No credit for disputed tax: No credit shall be available in respect of any amount of foreign tax or part thereof which is disputed in any manner by the assessee. However, the credit of such disputed tax shall be allowed for the year in which such income is offered to tax or assessed to tax in India if the assesse within 6 months from the end of the month in which the dispute is finally settled, furnishes evidence of settlement of dispute and on evidence to the effect ha the liability for payment of such foreign tax has been discharged by him and furnished an undertaking that no refund in respect of such amount has directly or indirectly been claimed or shall be claimed.

Q.5 Write short notes on Liability of directors of private company in liquidation undersection 179 of the Income Tax Act.: 3 Marks

Answer:

Where any tax due from a private company -

- in respect of any income of any previous year; or

- From any other company in respect of any income of any previous year during which such other company was a private company.

Cannot be recovered, then, every person who was a director of the private company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax.

However, no such director shall be liable if he proves that the non- recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Tax point: Tax Due includes penalty, interest or any other sum payable under the Act .

3+3+3+3 = 12 Marks

Q.1 **Parikh purchased a vacant land at Cuttack at a cost of Rs.90 lakhs in December 2008 and held the same as his capital asset till 30th September, 2019. He started real estate business on 1st October, 2019 and converted the said land into stock intrade of his business on the said date, when the fair market value of the land was Rs.360 lakhs.**

He constructed 30 apartments of equal size, quality and dimension and the construction was completed in December, 2020. Cost of construction of each apartment is Rs.15 lakhs. He sold 20 apartments at Rs.35 lakhs per apartment during the period from January, 2021 to February 2021. The remaining 10 apartments were held in stock as on 31st March, 2021. He also holds a penthouse in Bengaluru, construction of which was completed in March, 2020, as stock-in-trade. He let out the penthouse to Amit, a salaried individual, for Rs.60,000 per month from April, 2020 to March, 2022., who has furnished his PAN to him. Parikh paid municipal tax of Rs.40,000 in December, 2020 relating to the year 2020-21.

He invested Rs.20 lakhs in bonds issued by National Highway Authority of India on 31st March, 2021; Rs.20 lakhs in bonds of Rural Electrification Corporation Ltd on 31st August, 2021; Rs.10 lakhs in bonds of Rural Electrification Corporation Ltd on 30th September, 2021 and Rs.10 lakhs in bonds of National Highway Authority of India on 31st December, 2021. Parikh is subjected to tax audit for the previous year 2020-21.

Cost inflation indices:

F.Y.2008-09; 137; F.Y.2018-19; 280; F.Y.2019-20; 289 F.Y.2020-21; 301

Based on the above facts, you are required to answer the following:

(i) **Compute income under the head "Capital Gains" in the hands of Parikh for the Assessment Year 2021-22.**

(ii) **Compute income under the head "Profits and gains of business or profession" in the hands of Parikh for the Assessment Year 2021-22.**

(iii) **Compute income under the head "House property" in the hands of Parikh for the Assessment Year 2021-22.:**

(iv) **Briefly state the TDS responsibilities of the tenant Amit in respect of rent paid by him.**

Answer:

(i) **Capital Gains for the AY 2021-22 = Rs. 73.4307 lakhs**

(ii) **Income chargeable to tax under the head Profits and gains of business or profession - AY 2021-22 = Rs. 160.00 lakhs**

(iii) **Income chargeable to tax under the head 'house property' - AY 2021-22 = Rs. 4.76 lakhs**

(iv) **Liability to deduct TDS by tenant Amit :**

- **Amit has to deduct tax at source on rent paid as per section 194-IB since the rent paid exceeds Rs.50,000 per month or part of a month.**
- **TDS on Rs.7,20,000 @ 5% thereon is deductible. The amount being Rs.36,000.**
- **It is deductible only in March, 2011 being the last month of the previous year in the financial year 2020-21.**