FINAL EXAMINATION | SET 2
MODEL QUESTION PAPER | TERM – JUNE 2023
PAPER - 15

DIRECT TAX LAWS AND INTERNATIONAL TAXATION

Time Allowed: 3 Hours | **Full Marks: 100**

The figures in the margin on the right side indicate full marks.

Where considered necessary, suitable assumptions may be made and clearly indicated in the answer.

Section A (Question No 1) **and Section C** (Question No 8) – **Compulsory**
Section B - Answer any four Question No. 2, 3, 4, 5, 6 and 7

SECTION - A

1. (a) **Choose the correct alternative. Provide Justification for your answer. 1 Mark is allotted for the correct choice and 1 mark for the justification. [2 × 12 =24]**

(i) GAAR provisions shall not apply to _______. [Please provide a brief justification]

a. an arrangement where the tax benefit in the relevant assessment year arising, in aggregate, to all the parties to the arrangement does not exceed a sum of ₹ 3 crore

b. an arrangement where the tax benefit in the relevant assessment year arising, in aggregate, to all the parties to the arrangement does not exceed a sum of ₹ 5 crore

c. an arrangement where the tax benefit in the relevant assessment year arising, in aggregate, to all the parties to the arrangement does not exceed a sum of ₹ 1 crore

d. None of the above

(ii) Uncontrolled transaction means a transaction between _____________, whether resident or non-resident [Please provide a brief justification]

a. enterprises other than associated enterprises

b. associated enterprises

c. any enterprises

d. none of the above

(iii) The provisions of sec. 92 will apply only if the aggregate value of specified domestic transactions entered into by the taxpayer during the year exceeds a sum of ₹ _____. [Please provide a brief justification]

a. 100 crore

b. 5 crore 10

c. 10 crore

d. 20 crore

(iv) In respect of DTAA, generally, India follows: [Please provide a brief justification]

a. UN Model
b. UK Model
c. OECD Model
d. US Model

(v) ICDS is applicable in case of income under the head: [Please provide a brief justification]

a. Profits and gains from Business or Profession
b. Capital Gains
c. Income from House Property
d. All heads of income

(vi) Countries that employ explicit policies designed to attract international trade oriented activities by minimization of taxes and reduction or elimination of other restrictions on business operations is described as ____________. [Please provide a brief justification]

a. Tax Havens
b. Tax Planning
c. Tax Evasion
d. Tax Management

(vii) Sakshita Fertilisers P Ltd., is a manufacturer. A factory building has been constructed for ₹40 lakhs and occupied on 12.02.2020. Additional depreciation allowable for the said factory building is (including surcharge and cess) __________. [Please provide a brief justification]

a. Nil
b. ₹ 4,00,000
c. ₹ 2,00,000
d. None of the above

(viii) M/s. KLM Ltd. a company having international transactions of ₹ 7 crores related to purchase of raw materials from its subsidiary company. M/s. BL Inc., in USA. M/s. KLM Ltd. is required to keep and maintain certain information and documents under section 92D for period of ________ years. [Please provide a brief justification]

a. 8
b. 10
c. 5
d. 14

(ix) ABC & Co. Ltd. earned ₹ 15 lakhs by way of transfer of carbon credit. The tax liability in respect of carbon credit is______? [Please provide a brief justification]

a. ₹ 1,56,000

b. ₹ 2,34,000

c. ₹ 4,68,000

d. Nil

(x) When Mr. Arun (age 50) has business loss of ₹ 15 lakhs and unexplained cash credit of ₹ 20 lakhs, the total tax liability including cess would be ________. [Please provide a brief justification]

a. ₹ 15,60,000

b. ₹ 7,80,000

c. ₹ 6,86,400

d. Nil

(xi) Vikash has advertised on Facebook to promote his business of coaching. He is required to pay ₹ 20,000 in the previous year 2022-23 to Facebook for the advertising services availed. What amount is required to be deducted as equalisation levy. [Please provide a brief justification]

a. ₹ 1,200

b. ₹ 800

c. ₹ 400

d. Nil

(xii) Kumar Industries is engaged in manufacture of leather products. It was set up in backward area and became eligible for subsidy @ 25% for the generator, to be used in guest house, acquired by it for ₹ 12 lakhs on 15.12.2022. It received the subsidy in March 2023. The amount of depreciation for the year at the applicable rate would be _______. [Please provide a brief justification]

a. ₹ 67,500

b. ₹ 90,000

c. ₹ 1,80,000

d. Nil

SECTION – B

2. (a) Mr. Crown, a non-resident, gives you the following information for the year ended 31-3-2023

Interest on Government securities (gross)	₹ 21,000
Dividend on shares of foreign companies received aboard	₹ 52,000
Interest from deposits in Indian companies (gross)	₹ 30,000
Income from horse races in India	₹ 20,000

He has donated a sum of ₹ 10,000 to Municipal Corporation of Delhi for promotion of family planning. He has paid ₹ 2,000 by cheque to New India Assurance Co. for mediclaim for himself. He has also spent ₹ 16,000 on medical treatment of his minor son who is physically handicapped. Compute total income of Mr. Crown for the assessment year 2023-24.

(b) Mr. Ramesh, a resident Indian, has derived the following incomes for the previous year relevant to the A.Y. 2023-24:

a.	Income from profession in India	₹ 2,44,000
b.	Income from profession in country A (Tax paid in foreign country @ 5%)	₹ 4,50,000

Compute Indian tax liability of the assessee assuming that as per treaty between India and Country A, ₹ 4,50,000 is taxable in India. However foreign tax can be set off against Indian tax liability. **[7 + 8 = 15]**

3. (a) Krishna Ltd. did not make a claim of ₹ 10 lacs in the return of income filed for A.Y. 2023-24 which was disallowed in the previous assessment year u/s 43B. However, the said claim was also not considered by the Assessing Officer during assessment proceedings on the ground that no revised return was filed. Suggest the assessee in respect of making such claim before the appellate authority?

(b) ABC India Limited ('the Company') is engaged in the business of import and sales of computers, laptops & printers. The company is a 100% subsidiary ABC Inc., USA. The company purchases laptops from ABC Inc., USA at negotiated rates and sells to independent customers in India under its own terms and conditions.
The company also trades in computers and printers which it procures from independent vendors in USA and sell to its own customers in India under its own terms and condition.

Below is the profit and loss account of the company.

Particulars	₹ in cr	Particulars	₹ in cr
Opening stock		Sales	
- Computers	500	- Computers	8,000
- Printers	200	- Printers	2,000
- Laptops	800	- Laptops	11,000
Purchases (Imports)		Closing Stock	
- Computers	5,000	- Computers	800
- Printers	1,300	- Printers	250
- Laptops	6,000	- Laptops	1,200
Gross profit c/f	9,450		
	23,250		**23,250**
		Gross profit c/f	9,450
Salary	2,000		
Rent	1,000		
Fright Outward	250		
Travel and Conveyance	300		
PBITD	5,900		
	9,450		**9,450**

Other relevant information:

1. Credit period of 2 months is allowed for customers of computers and printers and hence 2% extra margin towards interest cost is factored in sale price.
2. Purchase of materials accounted at landed costs. It is estimated that around 20% of the purchase cost reported in P&L is towards customs duty and clearing charges.
3. Delivery of computers and printers made at company's cost. For laptop, the customers collect the goods for company premises.
4. For laptop purchases, the company has incurred ocean freight (around ₹ 300) whereas for computer and printers the terms of import are CIF, Chennai.

On the basis of aforesaid information answer the following:

1. Identify the Associated Enterprise in the scenario?
2. Identify the International transaction?
3. Which is the comparable uncontrolled transaction here?
4. What is the normal gross profit margin on the comparable transactions?
5. What is the price of laptop being purchased from the AE, is resold to unrelated enterprise?

6. What is the resultant cost of sales after deducting 'Normal Gross Profit Margin'
7. What are the expenses incurred in connection with purchase?
8. What are the functional difference, including accounting practices, between the international transaction and the comparable uncontrolled transaction, which could materially affect the amount of gross profit margin?
9. What is the cost of sale after adjustment made as per 7 & 8 above?
10. How is the arm's length purchase price determined?
11. Is the purchase price at arm's length?

[5 + 10 = 15]

4. (a) Analyze the following different situation and determine the penalty leviable u/s 270A:

Case	Assessee	Return Filed	Income u/s 143(1)(a)	Assessed Income
i	Individual	Yes	6,00,000	10,00,000
ii	Firm	Yes	17,00,000	20,00,000
iii	Firm	Yes	(8,00,000)	20,00,000
iv	Individual	Yes	(9,00,000)	(3,00,000)
v	Individual	No	N.A.	7,50,000

(b) Write a brief note on thin capitalization u/s 94B. **[10 + 5 = 15]**

5. (a) (i) What are the essentials of the Tax Planning.

(ii) Write a brief note on assessment u/s 10 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015?

(b) Brain Inc. London has 35% equity in Salem Ltd. The company Salem Ltd. is engaged in development of software and maintenance of customers across the globe, which includes Brain Inc.

During the year 2022-23, Salem Ltd. spent 2000 men hours for developing and maintaining a software for Brain Inc. and billed at ₹ 1,000 per hour. The cost incurred for executing maintenance work to Brain Inc. for Salem Ltd. amount to ₹ 15,00,000. Similar such work was done for unrelated party Try Ltd. in which the profit was at 50%.

Brain Inc. gives technical support to Salem Ltd. which can be valued at 8% of gross profit. There is no such functional relationship with try Ltd.

Salem Ltd. gives credit period of 90 days the cost of which is 3% of the normal billing rate which is not given to other parties.

Analyze in the light of the related provisions of Income Tax Law and compute ALP under cost plus method in the hands of Salem Ltd. and the impact of the same on the total income. **[(3+4)+8=15]**

6. (a) X Ltd. has several undertakings carrying on several businesses. During the year 2022-23, the company sold one of its undertaking (as it was continuously generating loss since last 5 years) for a lump sum value of ₹ 300 lacs without assigning value to individual asset and liabilities. Book value of sundry assets and liabilities of the undertaking as on the date of sale is as under:

Items	**Book Value**	**Market Value**
Land	₹ 50 lacs (Value for the purpose of Stamp duty ₹ 70,00,000)	₹ 100 lacs
Machinery	₹ 70 lacs (WDV as per IT Act ₹ 60 lacs)	₹ 100 lacs
Furniture	₹ 50 lacs (WDV as per IT Act ₹ 90 lacs)	₹ 75 lacs
Stock	₹ 30 lacs	₹ 35 lacs
Debtors	₹ 40 lacs	₹ 40 lacs
Creditors	₹ 50 lacs	

Brokerage on transfer paid @ 5%. Analyse the amount of capital gain in the hands of X Ltd. for the assessment year 2023-24 in accordance with the related provisions of Law.

(b) State the disclosure requirements of ICDS VII. **[9 + 6 = 15]**

7. (a) J Inc. of Korea and CD Ltd, an Indian Company are associated enterprises. CD Ltd manufactures Cell Phones and sells them to J.K.& F Inc., a Company based at Nepal. During the year CD Ltd. supplied 2,50,000 Cellular Phones to J Inc. Korea at a price of ₹ 3,000 per unit and 35,000 units to JK & F Inc. at a price of ₹ 5,800 per unit. The transactions of CD Ltd with JK & F Inc. are comparable subject to the following considerations:

Sales to J Inc. are on FOB basis, sales to JK & F Inc. are CIF basis. The freight and insurance paid by J Inc. for each unit @ ₹ 700. Sales to JK & F Inc. are under a free warranty for Two Years whereas sales to J Inc. are without any such warranty. The estimated cost of executing such warranty is ₹ 500. Since J Inc.'s order was huge in volume, quantity discount of ₹ 200 per unit was offered to it.

Analyse the Arm's Length Price and the subsequent amount of increase in the Total Income of CD Ltd, if any.

(b) A non-resident foreign company has a permanent establishment (PE) in India, in respect of which royalty ₹ 101 lakh was earned from an Indian company in pursuance of an agreement dated 10^{th} June, 2016 (expenditure incurred on PE in India ₹ 12,37,600). Examine the gross tax liability of foreign company ignoring TDS/advance tax for the assessment year 2023-24, assuming that there is no other income of the company for the year.

(c) The net result of the business carried on by a branch of foreign company in India for the year ended 31.03.2023 was a loss of ₹ 50 lacs after charge of head office expenses of ₹ 100 lacs allocated to the branch. Compute income of the branch for the assessment year 2023-24. **[5 + 5 + 5 = 15]**

SECTION – C

8. (a) Arvind, a textile merchant and resident Indian is doing business in India and abroad. During the previous year 2022-23, he disclosed the following information:

	₹
Income from business in India	27,00,000
Income from business in Country- A with which India does not have agreement for avoidance of double taxation	15,00,000
Income-tax levied by government in Country-A	5,00,000
Loss from business in Country-B with which also India does not have agreement for avoidance of double taxation	(4,00,000)
Contribution to public provident fund	1,50,000
Payment of life insurance premium on the life of his Father and mother	20,000

On the basis of aforesaid information, you are requested to submit a report highlighting the qualifications of your answer which should be integrated with related tax laws:

1. What will be his tax liability before any relief u/s 90 or 91?
2. What is his average rate of tax?
3. State the eligible amount of relief u/s 90 or 91

(b) Following is the profit and loss account of Z Ltd. for the year ended on 31-3-2023

Particulars	Amount	Particulars	Amount
To Raw material consumed	20,00,000	By Sale	
To Rent	5,00,000	Export	50,00,000
To Salary & Wages	10,00,000	Domestic	30,00,000
To Depreciation	5,00,000	By Closing Stock	10,00,000
To Provision for contingencies	75,000		
To Wealth Tax of earlier year	50,000		
To Loss of subsidiary co.	50,000		
To Custom Duty	40,000		
To Proposed dividend	1,00,000		
To Provision for Income tax	1,05,000		
To Net Profit	45,80,000		
	90,00,000		**90,00,000**

Additional Information

(1) Interest on bank loan relating to year 2020-21 has been paid during the previous year ₹ 1,00,000.

(2) Whole of Custom duty is unpaid.

(3) Company is entitled to get deduction u/s 80G ₹ 1,00,000

(4) For the purpose of Income tax, depreciation is ₹ 4,00,000.

(5) Turnover of the company during the previous year was ₹ 65 crores and it is life time highest turnover achieved by the company.

(6) In past few years, company had suffered losses, following balances are still unabsorbed:

	As per Income tax Act	As per books of Accounts
Depreciation	--	₹ 3,50,000
Losses	₹ 42,50,000	₹ 4,00,000

Formulate the tax liability of the company with the facts of the case.

[8+8 = 16]