

## NEW SCHEME

### FINAL COURSE – GROUP I PAPER 7: Direct Tax Laws and International Taxation

*Syllabus 100% A*

*Question 1 is compulsory.*

*The students may attempt any five of the remaining six questions*

*All the workings shall form a part of your answer.*

*Maximum Time : 3 hours*

*Maximum Marks : 100*

### 100 A

1. a) X, Y and HUF of Z (represented by Z) are partners with equal shares in profits and losses of a firm, M/s Popular Cine Vision, which is engaged in the production of TV serials and telefilms. In the previous year 2016-17, one partner 'A' retired, but his dues have been settled in the previous year 2017-18.

The earlier partnership deed did not authorise payment of remuneration or interest to partners. The partnership deed was revised by the partners on 1<sup>st</sup> June, 2017 to authorise payment of remuneration of ` 1 lakh per month to each working partner and simple interest at 15% per annum on partners' capital. X, Y and Z are actively associated with the affairs of the firm.

The Profit & Loss Account of the firm for the year ended 31st March, 2018 shows a net profit of ` 10 lakhs after debiting/crediting the following:

- (a) Interest amounting to ` 5 lakhs each was paid to partners on the balances standing to their capital accounts from 1<sup>st</sup> June, 2017 to 31st March, 2018.
- (b) Remuneration to the partners including partner in representative capacity ` 30 lakhs.
- (c) Interest amounting to ` 2 lakhs paid to Z on loan provided by him in his individual capacity at 16% interest.
- (d) Royalty of ` 5 lakhs paid to partner X, who is a professional script writer, for use of his scripts as per agreement between the firm and X. The same is authorized by partnership deed.

- (e) Two separate payments of ` 18,000 and ` 15,000 made in cash on 1<sup>st</sup> February, 2018 to Altaf, a hairdresser, against his bill for services rendered in January, 2018 and two payments of ` 19,000 and ` 10,000 made in cash on 1<sup>st</sup> February and 2<sup>nd</sup> February, 2018, respectively, to Priyam, an assistant cameraman, against her bill for services provided in January, 2018.
- (f) Amount of ` 5 lakhs provided in the books on 31<sup>st</sup> March 2018 as liability for remuneration to Shreya, a film artist and a non-resident. Tax deducted at source under section 195 from the amount so credited was paid on 3<sup>rd</sup> June, 2018.
- (g) Amount of ` 6 lakhs provided as gratuity for the year on the basis of actuarial valuation. Gratuity actually paid to one retired employee during the year is ` 1.50 lakhs.
- (h) Interest of ` 1.20 lakhs received on income-tax refund under section 244(1A) in respect of A.Y. 2015-16.

The firm has also provided the following additional information:

The amount due to A, an ex-partner, was ` 15 lakhs which was settled on 30<sup>th</sup> September, 2017 by transferring a plot of land purchased one years back having book value of ` 10 lakhs. The difference of ` 5 lakhs was credited to partners' capital accounts in their profit sharing ratio. The value of plot for stamp duty valuation on the date of transfer was ` 16 lakhs.

Compute the total income of the firm for the assessment year 2018-19 stating the reasons for treatment of each item.

*(14 marks)*

b) The details given hereunder for the A.Y.2018-19 relate to two foreign nationals (who are non-residents in India) - Mr. William Jones, an English cricket player and his brother, Mr. Frederick Jones, a singer:

	Particulars	Mr. William Jones	Mr. Frederick Jones
(1)	Participation in cricket tournaments in India	` 45 lakhs	
(2)	Winnings from lotteries (net)	` 69,100	
(3)	Contribution of an article relating to the sport of cricket in a sports magazine in India	` 10,000	
(4)	Performance in a music show in India		

			3 lakhs
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With reference to the provisions of the Income-tax Act, 1961, you are required to –

- (i) Compute their tax liability for the A.Y.2018-19.
- (ii) Examine whether the above income are subject to deduction of tax at source.
- (iii) Decide whether it is necessary for them to file their return of income for A.Y.2018-19.

(6 marks)

2. a) The trading and profit and loss account of Pingu Trading Pvt. Ltd. having business of agricultural produce, consumer items and other products for the year ended 31.03.2018 is as under:

Trading Account

Particulars		Particulars	
Opening Stock	3,75,000	Sales	1,55,50,000
Purchases	1,25,75,000	Closing Stock	4,50,000
Freight & Cartage	1,26,000		
Gross profit	<u>29,24,000</u>		
	<u>1,60,00,000</u>		<u>1,60,00,000</u>

Profit and Loss Account

Particulars		Particulars	
Bonus to staff	47,500	Gross profit	29,24,000
Rent of premises	53,500	Income-tax refund	20,000
Advertisement	5,000	Warehousing charges	15,00,000
Bad Debts	75,000		
Interest on loans	1,67,500		
Depreciation	71,500		
Goods and Services tax demand paid	1,08,350		

Miscellaneous expenses	5,25,650		
Net profit of the year	<u>33,90,000</u>		_____
	<u>44,44,000</u>		<u>44,44,000</u>

On scrutiny of records, the following further information and details were extracted/ gathered:

- (i) There was a survey under section 133A on the business premises on 31.3.2018 in which it was revealed that the value of closing stocks of 31.3.2017 was ` 8,75,000 and a sale of ` 75,000 made on 13.3.2018 was not recorded in the books. The value of closing stocks after considering these facts and on the basis of inventory prepared by the department as on 31.3.2018 worked out at ` 12,50,000, which was accepted to be correct and not disputed.
- (ii) Income-tax refund includes amount of ` 4,570 of interest allowed thereon.
- (iii) Bonus to staff includes an amount of ` 7,500 paid in the month of December 2017, which was provided in the books on 31.03.2017.
- (iv) Rent of premises includes an amount of ` 5,500 incurred on repairs. The assessee was under no obligation to incur such expenses as per rent agreement.
- (v) Advertisement expenses include an amount of ` 2,500 paid for advertisement published in the souvenir issued by a political party. The payment is made by way of an account payee cheque.
- (vi) Miscellaneous expenses include:
  - (a) amount of ` 15,000 paid towards penalty for non-fulfillment of delivery conditions of a contract of sale for the reasons beyond control,
  - (b) amount of ` 1,00,000 paid to the wife of a director, who is working as junior lawyer for taking an opinion on a disputed matter. The junior advocate of High Courts normally charge only ` 25,000 for the same opinion,
  - (c) amount of ` 1,00,000 paid to an Electoral Trust by cheque.
- (vii) Goods and Services Tax demand paid includes an amount of ` 5,300 charged as penalty for delayed filing of returns and ` 12,750 towards interest for delay in deposit of tax.
- (viii) The company had made an investment of ` 25 lacs on the construction of a warehouse in rural area for the purpose of storage of agricultural produce. This was made available for use from 15.09.2017 and the income from this activity is credited in the Profit and Loss account under the head "Warehousing charges".
- (ix) Depreciation under the Income-tax Act, 1961 works out at ` 65,000.

(x) Interest on loans includes an amount of ` 80,000 on which tax was not deducted.

Compute the income chargeable to tax for assessment year 2018-19 of Pingu Trading Pvt. Ltd, ignoring MAT. Support your answer with working notes.

*(14 marks)*

b) Sigma Consulting (P) Ltd., an Indian company established in the year 2005, reports total income of ` 15 lakh for the previous year ended 31st March, 2018. Tax deducted at source by different payers amounted to ` 1,35,600 and tax paid in foreign country on a doubly taxed income amounted to ` 22,000 for which the company is entitled to relief under section 90 as per the double taxation avoidance agreement.

During the year, the company paid advance tax as under:

Date of payment	Advance tax paid (`)
14-06-2017	38,000
13-09-2017	73,000
14-12-2017	92,000
15-03-2018	77,000

The company filed its return of income for the A.Y. 2018-19 on 22nd October, 2018.

Compute interest, if any, payable by the company under sections 234A, 234B and 234C and fee payable under section 234F. Assume that transfer pricing provisions are not applicable.

Note – Turnover of Sigma Consulting (P) Ltd. for P.Y. 2015-16 is ` 55 crore.

*(6 marks)*

3. a) (i) In the course of search on 25.03.2018, assets were seized. Examine the procedure laid down to deal with such seized assets under the Act.

*(4 marks)*

a) (ii) Mr. X, a resident, has provided the following particulars of his income for the P.Y.2017-18.

(i) Income from salary (computed)	- ₹ 1,80,000
(ii) Income from house property (computed)	- ₹ 2,00,000
(iii) Agricultural income from a land in Jaipur	- ₹ 2,80,000
(iv) Expenses incurred for earning agricultural income	- ₹ 1,70,000

Compute his tax liability assuming his age is -

- (a) 45 years
- (b) 70 years

*(4 marks)*

a) (iii) What is the meaning of, and difference between, a hybrid mismatch and branch mismatch? Briefly mention the reasons why hybrid mismatch arrangements arise. Which Action Plan of BEPS gives recommendations in this regard?

*(6 marks)*

b) The following are the particulars of income earned by Miss Anuradha, a resident Indian aged 25, for the A.Y. 2018-19:

Particulars	(₹ In lakhs)
Income from playing hockey matches in country A	15.00
Tax paid in country A	3.00
Income from playing hockey matches in India	23.00
Deposit in PPF	1.50
Medical Insurance Premium paid for her mother aged 75 years (paid through credit card), who is not dependent on her.	0.40

Compute her total income and tax liability for the A.Y.2018-19. There is no Double Taxation Avoidance Agreement between India and country A.

*(6 marks)*

4. a) (i) Is recording of satisfaction and quantification of escaped income a pre-condition for issuing notice under section 148 after 4 years from the end of the relevant assessment year?

*(4 marks)*

a) (ii) The assessment of Vindhya Ltd. was completed under section 143(3) with an addition of ₹ 21 lakhs to the returned income. Vindhya Ltd. preferred appeal before the Commissioner (Appeals) which is pending now.

In this backdrop, examine the following issues:

- (i) Based on fresh information that there was escapement of income for the same assessment year, can the Assessing Officer initiate reassessment proceedings when the appeal is pending before Commissioner (Appeals)?
- (ii) Can the Assessing Officer pass an order under section 154 for rectification of mistake in respect of issues not being subject matter of appeal?
- (iii) Can the assessee-company seek revision under section 264 in respect of matters other than those preferred in appeal?
- (iv) Can the Commissioner make a revision under section 263 both in respect of matters covered in appeal and other matters?

*(4 marks)*

a) (iii) Can advance given for purchase of land, building, plant and machinery tantamount to utilization of capital gain for purchase and acquisition of new machinery or plant and building or land, for claim of exemption under section 54G?

*(6 marks)*

b) (i) Explain the circumstances under which the Assessing Officer can resort to provisional attachment of the property of the assessee. Also, state the period of time for which such attachment can take place.

When can the Assessing Officer revoke provisional assessment of property? Discuss.

*(3 marks)*

b) (ii) What is the quantum of penalty that could be levied in each of the following cases -

- I. Failure to get books of accounts audited as required under section 44AB within the time prescribed under the Act.
- II. Failure to comply with a direction issued under section 142(2A).
- III. Failure to furnish report from an accountant as required under section 92E.

*(3 marks)*

5. a) (i) Boat Club is an association governed by the provisions of Section 44A of the Income-tax Act, 1961. The subscription received from members for the year ended 31<sup>st</sup> March, 2018 was ` 2,00,000. The expenditures in the normal course of its activities were ` 3,85,000. Its other income taxable under the Act works out to ` 2,75,000. You are consulted as to how Boat Club's income would be determined for assessment year 2018-19?

*(4 marks)*

- a) (ii) Mr. Vallish, a non-resident, made an application to the Authority for Advance Rulings on 9.9.2017 in relation to a transaction proposed to be undertaken by him. On 1.11.2017, he decides to withdraw the said application. Can he withdraw the application on 1.11.2017? Examine.

*(4 marks)*

- a) (iii) Examine the correctness or otherwise of the claims made by the following charitable trusts, registered under section 12AA, while computing income for the P.Y.2017 -18:

- (a) Kamala charitable trust, having its main object as medical relief, earned the following income during the P.Y.2017-18:

	Particulars	` in lakh
(i)	Dividend income	0.50
(ii)	Income from mutual funds specified under section 10(23D)	0.85
(iii)	Agricultural income	3.25



The trust claims exemption under section 10(1), 10(34) and 10(35) in respect of its agricultural income, dividend and income from mutual funds, respectively, without complying with the conditions laid down under section 11.

- (b) Gandhi charitable trust, having its main object as promoting education in rural areas, purchased computers and laptops for ` 15 lakh in March, 2017 for the purposes of the trust and claimed the same as application of income in the P.Y.2016-17. It also claims depreciation @ 40% on such computers and laptops for P.Y.2017-18, while computing income for the purpose of application for that year.

*(6 marks)*

b) Amrutha is a resident Individual. She has income from the following sources:

- (i) Taxable income from a sole-proprietary concern in Kochi ` 50 lakhs.
- (ii) Share of profit from a partnership firm in Chennai ` 30 lakhs.
- (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 = Rs 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 A.Y. 2018-19.

*(6 marks)*

6. a) (i) In respect of the taxes due from a private limited company, which could not be recovered from it, the Tax Recovery Officer attached the properties of an erstwhile director for recovery thereof. It was contended by the director that a notice under section 156 had not been served on him and therefore, the proceedings for recovery were not valid. What is the correct legal position?

*(5 marks)*

a) (ii) i. What are the tests for determining “substantial part of business” of lending company for the purpose of application of exclusion provision under section 2(22)?

*(4 marks)*

ii. Can prosecution be launched for each of the following actions or defaults committed? If yes, then explain the relevant provisions of the Act and the quantum of prescribed punishment.

- (i) 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 the form of electronic record and the books of accounts.
- (ii) The assessee deliberately has failed to comply with the requirement of section 142(1) and/or 142(2A).
- (iii) The assessee deliberately has failed to make the payment of the tax collected under section 206C.

*(2 marks)*

a) (iii) Explain the powers of Settlement Commission to amend its order.

*(3 marks)*

b) Where a building, comprising of several floors, has been developed and re-constructed, would exemption under section 54/54F be available in respect of the cost of construction of -

- (i) the new residential house (i.e., all independent floors handed over to the assessee); or
- (ii) a single residential unit (i.e., only one independent floor)?

*(6 marks)*