

MAY 2010

FINAL
GROUP-B PAPER-7
DIRECT TAXES

Roll No.....

Total No. of Questions—8]

[Total No. of Printed Pages—7

Time Allowed—3 Hours

Maximum Marks—100

WIN

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 who has not opted for Hindi medium, his answers in Hindi will not be valued.

Answer **all** questions.

Marks

1. The Trading Profit and Loss account of Pingu Trading Pvt. Ltd. having business of Agricultural produce, consumer items and other products for the year ended 31.03.2010 is as under : 18

(Amount in Rupee)

Trading Account

Opening Stock	3,75,000.00	Sales	1,55,50,000.00
Purchases	1,25,75,000.00	Closing Stock	4,50,000.00
Freight & Cartage	1,26,000.00		
Gross Profit	29,24,000.00		
	<u>1,60,00,000.00</u>		<u>1,60,00,000.00</u>

Profit & Loss Account

	Rs.		Rs.
Bonus to Staff	47,500.00	Gross Profit	29,24,000.00
Rent of Premises	53,500.00	Income-tax Refund	20,000.00
Advertisement	5,000.00	Warehousing	
Bad Debts	75,000.00	Charges	15,00,000.00
Interest on Loans	1,63,500.00		
Depreciation	75,500.00		
Sales-tax Demand paid	1,08,350.00		
Miscellaneous Exp.	5,25,650.00		
Net Profit of the year	33,90,000.00		
	<u>44,44,000.00</u>		<u>44,44,000.00</u>

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P. T. O.

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

- (i) There was a survey u/s 133A on the business premises on 31.3.2010 in which it was revealed that the value of closing stocks of 31.3.2009 was Rs. 8,75,000 and a sale of Rs. 75,000 made on 13.3.2010 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 31.3.2010 worked out at Rs. 12,50,000, which was accepted to be correct and not disputed.
- (ii) Income-tax refund includes amount of Rs. 4,570 of interest allowed thereon.
- (iii) Bonus to Staff includes an amount of Rs. 7,500 paid in the month of Dec. '09, which was provided in the books on 31.03.2009.
- (iv) Rent of premises includes an amount of Rs. 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 Rs. 2,500 paid for advertisement published in the souvenir issued by a political party.
- (vi) Miscellaneous expenses include :
 - (a) amount of Rs. 15,000 paid towards penalty for non-fulfilment of delivery conditions of a contract of sale for the reasons beyond control,
 - (b) amount of Rs. 1,00,000 spent on a notified scheme meant for the uplift of the residents of Mid Himalayan Region,
 - (c) amount of Rs. 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 senior advocate of Supreme Court had charged only Rs. 25,000 for the same opinion,
 - (d) amount of Rs. 1,00,000 paid to an Electoral Trust.

- (vii) Sales-tax demand paid includes an amount of Rs. 5,300 charged as penalty for delayed filing of returns and Rs. 12,750 towards interest for delays in deposit of tax.
- (viii) The company had made an investment of Rs. 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 15.09.2009 and the income from this activity is credited in the Profit and Loss account under the head of Warehousing charges.
- (ix) Depreciation under the Income-tax Act works out at Rs. 65,000.
- (x) Interest on loans include an amount of Rs. 20,000 on which tax at source was not deducted.

Compute the income chargeable to tax for assessment year 2010-2011 of Pingu Trading Pvt. Ltd. Support your answer with working notes.

2. (a) The Assessing Officer has served a notice proposing to levy penalty under Section 271(1)(c) of the Income-tax Act, 1961, as the variation of income assessed to income returned and also the tax effect was more than thirty percent. The addition arose consequent to the disallowance of claim of assessee relating to certain exemption. The assessee wants to reply to the effect that there was no mens rea or conscious act of concealment on his part and that the claim made was bonafide, the levy of penalty under Section 271(1)(c) is not valid. You are requested to help the assessee in this regard in drafting a suitable reply. 4
- (b) Premises of Ganesh was subjected to a search under Section 132 of the Act. The search was authorized and the warrant was signed by the Joint Commissioner of Income-tax having jurisdiction over the assessee. The assessee challenged the validity of search, since Section 132(1) does not empower Joint Commissioner to authorize a search under the Act. Decide the correctness of the contention raised by the assessee. 4

- (c) LL Limited paid leave travel facility to its employees and considered exemption under Section 10(5), based on the self-declaration furnished by the employees. The Assessing Officer held that the company as employer ought to have verified the genuineness of the claim of exemption by verifying the details of actual expenditure incurred for availing leave travel facility by the employees. Accordingly, the AO treated the assessee company as assessee in default. Decide the correctness of action.
3. (a) Vikram aged 70 years resident in India received a dividend of Rs. 2,00,000 from shares held in a company situated in Malaysia. The other incomes of the assessee in India was Rs. 12,00,000. The company in Malaysia deducted tax at source and no further tax is payable in respect of the dividend income in Malaysia. The AO wants to tax the dividend income of Vikram in India since he is a resident in India. Decide the issue.
- (b) The proceedings before the Income-tax Authorities either can be attended by the assessee in person or through an authorized representative. Who can be treated as an authorized representative of the assessee ?
- (c) A Company Ltd. issued 11% Debentures and raised Rs. 600 lakhs. The debentures are redeemable after 6 years at a premium of 110%. The company wants to provide Rs. 10 lakhs for meeting the premium on redemption of debentures and claimed the same as revenue expenditure. Is it a permissible deduction ?
- (d) Balaram & Co. engaged in real estate business acquired an old building for Rs. 75 lakhs from Mr. X. The firm demolished the building and sold scrap materials for Rs. 5 lakhs. The purchase consideration could not be paid immediately and therefore it settled to pay in installments to Mr. X with interest @ 6% and the amount of interest was Rs. 4,50,000. The AO treated the income from sale of scrap materials as business income, but whereas the claim of interest on delayed payment of purchase consideration claimed as revenue expenditure was disallowed. Decide the correctness of the action of assessee vis a vis the AO.

4. (a) Discuss whether adjustment is required in the context of transfer pricing provisions where the transfer price adopted for an international transaction concluded on 1st November, 2009 is Rs. 50 lacs whilst the Arm's Length Price determined using appropriate method are Rs. 48 lacs and Rs. 56 lacs. 4
- (b) Gurudev Engineers Pvt. Ltd., is running an industrial undertaking whose profits are eligible for deduction under Section 80IA of the Income-tax Act, 1961. During the year ended 31.03.2010, the undertaking was engaged in eligible business referred to in Section 80IA(4), which however, consisted solely of executing works contract awarded by the State Government. Is the assessee eligible to claim deduction under Section 80IA(4) in respect of Profits derived from this undertaking ? 4
- (c) On 15.11.2009, Ram gave power of attorney and possession to Rahim in respect of a vacant land (held as stock in trade) acquired 10 years ago. The sale deed was executed in April, 2010. In which assessment year, the capital gain is chargeable to tax ? 4
5. (a) In July 2009, Mr. Pervez employed as Marketing Manager in a Pharma company, received a Maruti car as gift from a distributor of the company. The value of the gifted car is estimated at Rs. 2,60,000. Is the value of car taxable as income ? If so, under what head it is taxable ? 4
If the gift of car was received in December, 2009, what is the tax implication ?
- (b) ABC (P) Ltd. made a provision of Rs. 30 lakhs for doubtful debts by debit to Profit and Loss Account. The Assessing Officer while computing 'Book-profit' under Section 115JB wants to add back the provision. Is the Assessing Officer justified in making such addition for computing Book-profit ? 4
- (c) During the year ended 31.3.2010, Geojit Marine Products Ltd. has made payment in cash to the tune of Rs. 60,000 on a single day to local fishermen, who regularly supply to them lobsters and crabs. Will such cash payments be hit by the provisions of Section 40A(3) of the Income-tax Act, 1961 ? Will your answer be different, if such cash payments are made to a hawker who supplies lobsters and crabs ? 4
- (a) Examine critically in the context of provisions of the Act "can the A.O. issue notice u/s 148 to reopen the same assessment order on the same grounds for which the CIT had issued notice u/s 263 of the Act" ? 4

- (b) The land of Ganesh was acquired by NHAI in the year 2006 and since then the litigation was going on for enhancement of compensation. The issue was resolved on 11.09.09 and the court ordered finally to make payment to Ganesh of the enhanced compensation and the following amounts for interest on such enhanced compensation :

Financial Year	Amount (Rs.)
2006-2007	1,15,000
2007-2008	2,25,500
2008-2009	3,75,000
2009-2010	2,14,500

Explain the provisions of the Act and also work out the amount of interest and the assessment year in which the same shall be taxed.

7. (a) Can reference be made to the Valuation Officer under Section 55A of the Income-tax Act, 1961 where the Assessing Officer is of the view that in the context of computation of capital gains, the value of the asset as on 1.4.1981 adopted by the assessee, is more than the fair market value ? If reference under Section 55A is not permissible, is the Assessing Officer bound to accept the value as returned by the assessee ? 4
- (b) Can the provisions of Section 14A of the Income-tax Act, 1961 be applied for disallowing expenditure relating to income for which deduction is available under Chapter VIA, or the section can be invoked only in respect of expenditure relating to income exempt under the provisions of Sections 10 ? 4
- (c) Bharathi Cements Ltd., the assessee, purchases jute bags from Raj Kumar & Co. The latter has to supply the jute bags with the logo and address of the assessee, printed on it. From 01.09.2009 to 20.03.2010, the value of jute bages supplied is Rs. 8,00,000, for which the invoice has been raised on 20.03.2010. While effecting the payment for the same, is the assessee bound to deduct tax at source, assuming that the value of the printing component involved is Rs. 60,000. You are informed that the assessee has not sold any material to Raj Kumr & Co. and that the latter has to manufacture the jute bags in its plant using raw materials purchased by it from outsiders. 4

8. (a) Examine the correctness of the following statements as per provisions contained in Wealth-tax Act, 1957 :
- (i) The building and land appurtenant thereto held on valuation date always do not form part of net wealth. 4
- (ii) Every officer of the company shall be treated as principal officer in respect of proceedings under W.T. Act. 2
- (b) Dee (P) Ltd. has a farm house situated at 30 kilometers from the local limits of Jaipur Municipal Corporation. It also has a guest house at a distance of 40 kilometers from the local limits of Bangalore Municipal Corporation. Decide whether farm house and guest house are chargeable to Wealth tax. 2
- (c) Mr. Parikh pledged his jewellery with a financier and borrowed Rs. 50 lakhs. He acquired shares in limited companies out of the borrowed amount. 2

The value of Assets as on 31.03.2010 are given below :

- | | |
|---|---------------|
| 1. Market value of jewellery pledged with the financier | Rs. 80,00,000 |
| 2. The market price of shares on the valuation date | Rs. 28,00,000 |

The loan outstanding on the valuation date was Rs. 48 lakhs. Compute the Net Wealth of Mr. Parikh as on 31.03.2010.