Test Series: October, 2019

MOCK TEST PAPER 1

FINAL (OLD) COURSE: GROUP - II

PAPER – 7: DIRECT TAX LAWS

Working Notes should form part of the answer. Wherever necessary, suitable assumptions may be made by the candidates and disclosed by way of a note. However, in answers to Question in Division A, working notes are not required.

All questions relate to Assessment Year 2019-20, unless stated otherwise in the question.

Time Allowed – 3 Hours **Maximum Marks – 100**

Division A – Multiple Choice Questions

Write the most appropriate answer to each of the following multiple choice questions by choosing one of the four options given. All questions in this division are compulsory.

1. Mr. A, aged 59 years, won Rs. 60 lakh and Mr. B, aged 50 years, won Rs. 8 lakh from lotteries. Tax deductible at source under section 194B was duly deducted. Assuming that this is the only source of income of Mr. A and Mr. B for A.Y.2019-20, are Mr. A and Mr. B liable to pay advance tax for that year?

   (a) No, Mr. A and Mr. B are not liable to pay advance tax as tax deductible at source under section 194B has been fully deducted.

   (b) Yes, Mr. A and Mr. B are liable to pay advance tax on the balance tax liability arising out of levy of higher education cess.

   (c) Mr. A is liable to pay advance tax but Mr. B is not liable to pay advance tax

   (d) Mr. B is liable to pay advance tax but Mr. A is not liable to pay advance tax

(2 Marks)

2. Mr. Vallish, employed as Manager with ABC Ltd. pays rent of Rs. 50,000 per month to his landlord. Which of the following statements are correct?

   (a) Mr. Vallish is liable to deduct tax@10% under section 194-I, since his annual rent exceeds Rs. 1,80,000.

   (b) Mr. Vallish is liable to deduct tax@5% under section 194-IB every month, since he pays rent of Rs. 50,000 per month.

   (c) Mr. Vallish is liable to deduct tax@5% under section 194-IB on the annual rent in the month of March, since he pays rent of Rs. 50,000 per month.

   (d) Mr. Vallish is not liable to deduct tax at source

(1 Mark)

3. Mr. Sanjay, a resident, and Mr. Andrew, a British citizen and a non-resident in India, are both sports commentators deriving income of Rs. 5 lakh from sports commentaries in India for A.Y. 2019-20.

   (i) Tax is deductible u/s 194J from remuneration payable to Mr. Sanjay

   (ii) Tax is deductible u/s 194E from remuneration payable to Mr. Andrew

   (iii) Tax is deductible u/s 195 from remuneration payable to Mr. Andrew

   (iv) Mr. Andrew is not required to file his return of income u/s 139, if tax deductible at source is fully deducted.

   (v) Mr. Sanjay is not required to file his return of income u/s 139, if tax deductible at source is

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fully deducted.

Which of the above statements are correct, assuming that this is the only source of income for Mr. Sanjay and Mr. Andrew?

(a) (i), (ii) and (iv)

(b) (i), (ii), (iv) and (v)

(c) (i) and (iii)

(d) (i), (iii) and (iv)

(2 Marks)

4. Mr. X is aggrieved by an order passed under section 143(3) by the Assessing Officer. Mr. Y is aggrieved by an order passed under section 272A by the Director General. What is the remedy available to Mr. X and Mr. Y and the time limit within which they should exercise the remedy?

(a) Both Mr. X and Mr. Y have to file an appeal before Commissioner (Appeals) under section 246A within 30 days from the date on which the order sought to be appealed against is communicated to them.

(b) Both Mr. X and Mr. Y have to file an appeal before the Appellate Tribunal under section 253 within 60 days from the date on which the order sought to be appealed against is communicated to them.

(c) Mr. X has to file an appeal before Commissioner (Appeals) under section 246A within 30 days from the date of service of the notice of demand relating to the assessment. Mr. Y has to file an appeal before the Appellate Tribunal within 60 days from the date on which the order sought to be appealed against is communicated to him.

(d) Mr. Y has to file an appeal before Commissioner (Appeals) under section 246A within 60 days from the date on which the order sought to be appealed against is communicated to him. Mr. X has to file an appeal before the Appellate Tribunal within 30 days from the date of service of the notice of demand relating to the assessment.

(2 Marks)

5. Mr. Ram Mohan, a non-resident, operates an aircraft between Malaysia and Cochin. He received the following amounts while carrying on the business of operation of aircrafts for the year ended 31.3.2019:

(i) Rs. 2 crores in India on account of carriage of passengers from Cochin.

(ii) Rs. 1 crore in India on account of carriage of goods from Cochin.

(iii) Rs. 3 crores in India on account of carriage of passengers from Malaysia.

(iv) Rs. 0.50 crore in Malaysia on account of carriage of passengers from Cochin.

(v) Rs. 1.30 crores in Malaysia on account of carriage of passengers from Malaysia.

(vi) Rs. 1.20 crore in Malaysia on account of carriage of goods from Malaysia.

(vii) Rs. 0.50 crore in Malaysia on account of carriage of goods from Cochin.

The total expenditure incurred by Mr. Ram Mohan for the purposes of the business during the year ending 31.3.2019 was Rs. 3 crores. What is the income of Mr. Ram Mohan chargeable to tax in India under the head "Profits and gains of business or profession" for the A.Y.2019-20?

(a) Rs. 35 lakh

(b) Rs. 30 lakh

(c) Rs. 20 lakh

(d) Rs. 47.50 lakh

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(2 Marks)

6. Alpha Ltd., an Indian company, provides contract R & D services relating to generic pharmaceutical drug, to Beta Inc., a Swiss company which guarantees 17% of the total borrowings of Alpha Ltd. The aggregate value of such transactions entered into in the P.Y.2018-19 is Rs. 40 crores and the operating expenses are Rs. 30 crores. Assuming that Alpha Ltd. has exercised a valid option for application of safe harbour rules, what is the minimum operating profit margin to be declared by it, which can be accepted by the income-tax authorities?

   (a) Rs. 5.4 crores

   (b) Rs. 6.30 crores

   (c) Rs. 7.20 crores

   (d) Rs. 9.60 crores

(2 Marks)

7. As per section 245N(a)(iv), advance ruling means determination by the Authority for Advance Rulings or decision whether an arrangement, which is proposed to be undertaken by a person is an impermissible avoidance arrangement as referred to in Chapter X-A or not. For making an application in this regard, the applicant has to be -

   (a) Only a Non-resident

   (b) Only a Resident

   (c) Only a Resident falling within such class or category of persons as notified by the Central Government

   (d) Either a resident or a non-resident

(1 Mark)

8. Gamma Ltd. has distributed on 15/12/2018 dividend of Rs. 460 lakhs to its shareholders. On 12/11/2018, Gamma Ltd. has received dividend of Rs. 120 lakhs from its domestic subsidiary company Phi Ltd., on which Phi Ltd. has paid dividend distribution tax under section 115-O. Compute the additional income-tax payable by Gamma Ltd. under section 115-O.

   (a) Rs. 59,40,480

   (b) Rs. 66,76,800

   (c) Rs. 69,88,800

   (d) Rs. 80,37,120

(2 Marks)

9. Mr. Hari has income of Rs. 52 lakhs under the head "Profits and gains of business or profession". One of his businesses is eligible for deduction@100% of profits under section 80-IA for A.Y.2019-20. The profit from such business included in the business income is Rs. 35 lakhs. Compute the tax payable (rounded off) by Mr. Hari for A.Y.2019-20, assuming that he has no other income during the P.Y.2019-20 and credit for alternate minimum tax, if any, to be carried forward -

   (a) Rs. 3,35,400; AMT credit to be carried forward is Nil.

   (b) Rs. 10,00,480; AMT credit to be carried forward is Rs. 6,65,080

   (c) Rs. 11,00,530; AMT credit to be carried forward is Rs. 7,65,130

   (d) Rs. 11,50,550; AMT credit to be carried forward is Rs. 8,15,150

(2 Marks)

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10. A charitable trust was created on 1.4.2016 with the objective of relief of poor. It applied for registration in 1st November, 2017. The application was not disposed of by the Commissioner even after the expiry of period of 6 months stipulated under section 12AA(2). Which of the following statements are correct -

(a) Since the application has not been disposed of by the Commissioner, the trust is not deemed to be registered and hence, is not entitled to benefit of exemption under section 11 and 12 for any of the assessment years

(b) Since the application has not been disposed of by the Commissioner within the stipulated period, the trust is deemed to be registered with effect from 1.4.2016, being the date of creation of trust, and is entitled to benefit of exemption under sections 11 and 12 w.e.f. A.Y.2017-18.

(c) Since the application has not been disposed of by the Commissioner within the stipulated period, the trust is deemed to be registered with effect from 1.11.2017, being the date of application for registration, and is entitled to benefit of exemption under sections 11 and 12 w.e.f. A.Y.2018-19.

(d) Since the application has not been disposed of by the Commissioner within the stipulated period, the trust is deemed to be registered with effect from 1.6.2018, being the date immediately following the expiry of the six month period, but is entitled to benefit of exemption under sections 11 and 12 w.e.f. A.Y.2018-19.

(2 Marks)

11. In the P.Y.2018-19, Mr. Ganguly, a resident individual aged 60 years, earned income from profession (computed) Rs. 1,45,000, winnings from card games Rs. 1,50,000 (gross). He also has interest of Rs. 40,000 on fixed deposit with banks and Rs. 9,000 on savings bank account with banks. He deposited Rs. 1,50,000 in PPF. What is the total income of Mr. Ganguly for P.Y.2018-19?

(a) Rs. 1,45,000

(b) Rs. 1,50,000

(c) Rs. 1,85,000

(d) Rs. 1,90,000

(1 Mark)

12. Dinesh, a resident individual of age of 47 years, has not furnished his return of income for the A.Y. 2019-20. However, his total income for such year as assessed u/s 144 is Rs. 18 lakhs. Is penalty under section 270A attracted and if so, what is the quantum of penalty?

(a) No; penalty under section 270A is not attracted since he has not filed his return of income, hence, this is not a case of underreporting or misreporting of income.

(b) Yes; penalty is Rs. 3,66,600, assuming it is a case of underreporting of income

(c) Yes; penalty is Rs. 1,83,300, assuming it is a case of underreporting of income

(d) Yes; penalty is Rs. 1,44,300, assuming it is a case of underreporting of income

(1 Mark)

13. The assessment of M/s. Epsilon Associates for A.Y.2017-18 was made u/s 143(3) on 28th July, 2019. The Assessing Officer added Rs. 3 lakh being 30% of Rs. 10 lakh, for non-deduction of tax at source and Rs. 4 lakh on account of unexplained investments. The assessee contested the addition on account of unexplained investments in appeal before Commissioner (Appeals). The appeal was decided against the assessee in December, 2019. What is remedy available to the assessee in respect of disallowance under section 40(a)?

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(a) The assessee can file an application for revision to the Commissioner under section 264

(b) The assessee can file an application for rectification under section 154, if it is a mistake apparent from the record

(c) The assessee can opt for either (a) or (b)

(d) The assessee can neither opt for remedy stated in (a) nor for remedy stated in (b)

(1 Mark)

14. The Assessing Officer within his jurisdiction surveyed a popular Cyber Café at 1 a.m. in night for the purpose of collecting information which may be useful for the purposes of the Income-tax Act, 1961. The Cyber Café is kept open for business every day between 2 p.m. and 2 a.m. He impounded and retained in his custody, books of account and other documents inspected by him, after recording his reasons for doing so, for 12 days. Which of the following statements are correct?

(a) The Assessing Officer's action in entering the cyber café at 1 a.m. and impounding books of account and documents inspected by him are in order.

(b) The Assessing Officer's action in entering the cyber café at 1 a.m. is not in order, since he can enter the cyber café only after sunrise but before sunset

(c) The Assessing Officer's action in entering the cyber café at 1 a.m. and in impounding books of account and documents inspected by him are not in order, since he can enter the cyber café only after sunrise but before sunset and he does not have the power to impound books of account under section 133B

(d) The Assessing Officer's action in entering the cyber café at 1 a.m. is in order but impounding books of account and documents inspected by him is not in order, since he does not have the power to impound books of account under section 133B

(1 Mark)

15. Mr. X made a fixed deposit of Rs. 12,000 with a non-banking finance company (NBFC) on 1.4.2018 in cash. Thereafter, he made another fixed deposit of Rs. 7,500 with the same NBFC on 1.8.2018 by bearer cheque. On 31.3.2019, he made yet another fixed deposit of Rs. 8,000 with the same NBFC by an account payee cheque. Which of the following statements are correct?

(a) Penalty under section 271D is attracted at the time of acceptance of first deposit on 1.4.2018

(b) Penalty under section 271D is attracted at the time of acceptance of second deposit on 1.8.2018

(c) Penalty under section 271D is attracted at the time of acceptance of third deposit on 31.3.2019

(d) Penalty under section 271D is not attracted.

(1 Mark)

16. Mr. Kamesh completed his studies in April, 2007 and started his export business in Mumbai in July 2007. He purchased a flat in Mizoram in the January, 2008, a plot of land in UAE in February, 2011 and a flat in New York in September, 2015. In April, 2019, the Assessing Officer issued notice under section 148 in respect of A.Y.2008-09 to A.Y.2018-19. Which of the statements is correct?

(a) The action of the Assessing Officer is not correct, since notice u/s 148 can be issued only in respect of A.Y.2016-17 to A.Y.2018-19.

(b) The action of the Assessing Officer is not correct, since notice u/s 148 can be issued only in respect of A.Y.2013-14 to A.Y.2018-19.

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(c) The action of the Assessing Officer is not correct, since notice u/s 148 can be issued only in respect of A.Y.2011-12 to A.Y.2018-19.

(d) The action of the Assessing Officer in issuing notice u/s 148 in respect of A.Y.2008-09 to A.Y.2018-19 is correct, since notice u/s 148 can be issued within 16 years from the end of the relevant assessment year, in case income in relation to any asset outside India has escaped assessment. In this case, income chargeable to tax is deemed to have escaped assessment since Mr. Kamesh owns assets located outside India.

(1 Mark)

17. Mr. Rajesh is engaged in the profession of technical consultancy and his gross receipts for the P.Y.2018-19 is Rs. 45 lakhs. He does not maintain books of account. He is also a partner of a LLP, Rajesh LLP, which carries on the profession of technical consultancy. The gross receipts of Rajesh LLP during the P.Y.2018-19 is Rs. 48 lakhs. Which of the following statements are correct?

(a) Mr. Rajesh and Rajesh LLP have to pay entire advance tax on or before 15th March, 2019

(b) Mr. Rajesh does not have to pay advance tax. However, Rajesh LLP has to pay the entire advance tax on or before 15th March.

(c) Mr. Rajesh does not have to pay advance tax. However, Rajesh LLP has to pay advance tax in four instalments.

(d) Mr. Rajesh has to pay entire advance tax on or before 15th March and Rajesh LLP has to pay advance tax in four instalments.

(2 Marks)

18. Mr. Rajan purchased 300 shares in Vaigai Ltd. on 12.1.2017 at a cost of Rs. 2,500 per share. The Fair Market Value (FMV) of the share as on 31.1.2018 is Rs. 1,800. Mr. Vaigai sold all the shares of Cauvery Ltd. on 15.7.2018 for Rs. 3,200. Mr. Rajan's brother Mr. Ravi purchased 600 shares in Tapti Ltd. on 25.1.2017 at a cost of Rs. 1,900 per share. The FMV of the share as on 31.1.2018 is Rs. 2,400. Mr. Ravi sold all the shares of Tapti Ltd. on 31.1.2019 for Rs. 1,700 per share. What is the chargeable capital gains on sale of shares of Vaigai Ltd. and Tapti Ltd. in the hands of Mr. Rajan and Mr. Ravi, respectively, for A.Y. 2019-20?

(a) Long-term capital gains of Mr. Rajan Rs. 2,10,000; Long-term capital loss of Mr. Ravi Rs. 4,20,000

(b) Long-term capital gains of Mr. Rajan Rs. 4,20,000; Long-term capital loss of Mr. Ravi Rs. 4,20,000

(c) Long-term capital gains of Mr. Rajan Rs. 4,20,000; Long-term capital loss of Mr. Ravi Rs. 1,20,000.

(d) Long-term capital gains of Mr. Rajan Rs. 2,10,000; Long-term capital loss of Mr. Ravi Rs. 1,20,000.

(2 Marks)

19. The Settlement Commission passed an order on 25.6.2018 under section 245D(4). The applicant noticed a mistake apparent from the record and filed an application for rectification on 3.7.2018. Under section 245D(6B), the Settlement Commission can amend its order on or before -

(a) 25.12.2018

(b) 31.12.2018

(c) 3.1.2019

(d) 31.1.2019

(1 Mark)

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20. Under which of the following methods, arm's length price shall be the arithmetical mean of all values included in the dataset, irrespective of the number of entries in the dataset. It may be assumed that the variation between the arm's length price computed and the transaction price is 5%.

(a) Profit split method

(b) Resale price method

(c) Cost plus method

(d) Transactional net margin method

(1 Mark)

Division B – Descriptive Questions

*Question No. **1** is compulsory*

*Attempt any **four** questions from the remaining **five** questions*

1. The statement of profit & loss of TrustMe Private Ltd., a resident company engaged in manufacturing, shows net profit of Rs. 77,00,000 for the financial year ended on 31st March, 2019, after debit/credit of the following items.

A. Credited to the Statement of Profit and Loss:

(i) Rent received from vacant land Rs. 2,05,000

(ii) Rent received (gross) from a commercial property owned by the company Rs. 4,30,000 (Tax deducted by tenant @ 10%)

(iii) Interest received on income tax refund Rs. 42,000

(iv) Profit on sale of unused land Rs. 2,00,000.

B. Debited to the Statement of Profit and Loss:

(i) Depreciation Rs. 11,75,000.

(ii) Donation of Rs. 70,000 paid to Swachh Bharat Kosh by account payee cheque.

(iii) Contribution to Political Party amounting to Rs. 1,50,000 paid in cash.

(iv) Payment made to transporter Rs. 60,000 by account payee cheque, but no tax has been deducted at source. (Transporter is having PAN and furnished declaration that he is covered under section 44AE and not having more than 10 goods carriages at any time during the previous year).

(v) Bonus to employees Rs. 3,20,000 provided. However, payment was made on the occasion of Diwali festival on 2nd November, 2019.

(vi) Provision made for income-tax Rs. 4,20,000 (including interest of Rs. 70,000 thereon)

(vii) Contribution of Rs. 1,00,000 to a University approved and notified under section 35(1)(ii)

(viii) Loss of Rs. 1,80,000 incurred by way of trading in derivatives in shares in a recognized stock exchange.

Additional information:

(1) The company during the financial year 2017-18 made a provision for an outstanding bill of Rs. 90,000 for purchase of raw material. Out of such outstanding amount, the company has paid Rs. 45,000 in cash on 20th August, 2018.

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(2) During the year, the company has issued 1,00,000 equity shares of face value of Rs. 10 each at premium of Rs. 90 each. The fair market value is Rs. 60 per share at the time of issue of shares.

(3) Unused land which was sold in March, 2019 for Rs. 52,00,000 was acquired by the company in January, 2017 for Rs. 50,00,000.

(4) Depreciation as per Income-tax Act, 1961 Rs. 18,00,000. However, while calculating such depreciation, rate applicable to computers has been adopted for (i) accessories like printers and scanners, and (ii) EPABX. The written down value of these items as on 01.04.2018 is given below:

(a) Printers and Scanners Rs. 3,00,000

(b) EPABX Rs. 5,00,000

(5) Additional depreciation on plant and machinery purchased for Rs. 34,00,000 on 18th November, 2018 has not been considered while calculating depreciation as per Income-tax Act, 1961 as above.

(6) Provision for audit fee Rs. 1,00,000 was made in the books for the year ended on 31st March, 2018 without deducting tax at source.

Such fee was paid to auditors in September 2018 after deducting tax at source under section 194J and tax so deducted was deposited on 6th October, 2018.

Cost Inflation Index – FY 2016-17: 264; FY 2018-19: 280

Compute total income of the company for the Assessment Year 2019-20 stating reasons for treatment of each item. Ignore provisions relating to Minimum Alternate Tax. **(14 Marks)**

2. (a) M/s. Jeevan Pvt. Ltd., a closely held company, is in the business of growing rubber. The profit & loss account for the year ended 31-03-2019 of the company shows a net profit Rs. 37.65 crores after debiting depreciation of Rs. 30 crores.

The company has provided the following additional information:

(i) The company has deposited Rs. 30 crores in a special account with NABARD on 29-04-2019.

(ii) The company has brought forward losses of Rs. 6 crores pertaining to Assessment Year 2016-17. Mr. Alok who continuously held 60% of shares carrying voting power since incorporation of the company, had sold his entire holding to Mr. Bhola on 01-08-2018.

(iii) The company had an accumulated balance of Rs. 200 crores in the special account with NABARD as on 01-04-2018. It has withdrawn Rs. 40 crores and utilized the same for the following purposes:

- Purchase of a new machine for use in its operation Rs. 10 crores,
- Purchase of office appliances for corporate office at Hyderabad Rs. 10 crores.
- Purchase of computers and accessories Rs. 5 crores.
- Construction of a godown at a cost of Rs. 1 crore near the rubber estate to store raw rubber.
- Repairs to machinery Rs. 35 lakhs.

(iv) Depreciation allowable as per Tax Audit Report is Rs. 28 crores.

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Compute Taxable and Exempt income of M/s. Jeevan (P) Ltd. **(8 Marks)**

(b) Compute total income and tax payable by Madhuvan, a senior citizen for the A.Y. 2019-20, from the following information:

(i) Taxable income from a sole-proprietary concern in Ranchi Rs. 50 lakhs.

(ii) Share of profit from a partnership firm in Bhopal Rs. 30 lakhs.

(iii) Agricultural Income from rubber estate in Country T which has no DTAA with India, USD 70000 (Gross). Withholding Tax on the above income USD 10500.

(iv) Brought forward Business Loss of A.Y. 2016-17 in Country T was USD 10000 which is not permitted to be set off against other income as per the laws of that country.

Note: 1 USD = Rs 64 **(6 Marks)**

3. (a) (i) Seva charitable trust registered under section 12AA of the Income-tax Act, 1961 has, out of its income of Rs. 4,90,000 for the year ending 31.3.2019 and sale proceeds of a capital asset, held by it for less than 24 months, amounting to Rs. 10,60,000, purchased a building during the year ending 31.3.2019 for Rs. 15,50,000. The capital asset was sold during the year ending 31.3.2019. The building is held only for charitable purposes.

The trust claims that the purchase of the building amounts to application of its income for charitable purposes and that the capital gain arising on the sale of the capital asset is deemed to have been applied to charitable purposes. Is the claim made by the charitable trust valid in law? **(4 Marks)**

(ii) A Mannat charitable trust registered under Section 12AA, for the previous year ending 31.3.2019, derived gross income of Rs. 21 Lacs, which consists of the following:

	(Rs. in Lacs)
(a) Income from properties held by trust (net)	10
(b) Income (net) from business (incidental to main objects)	4
(c) Voluntary contributions from public	7

The trust applied a sum of Rs. 11.60 lacs towards charitable purposes during the year which includes repayment of loan taken for construction of orphanage Rs. 3.60 lacs. Determine the taxable income of the trust for the assessment year 2019-20. **(4 Marks)**

(b) (i) Examine the tax consequence for Assessment Year 2019-20 in respect of fees for technical services (FTS) received by Mr. Richard Grill, a non-resident, from Trim Ltd., an Indian company, in pursuance of an agreement approved by the Central Government, if -

(I) India has no Double Tax Avoidance Agreement (DTAA) with Country F

(II) India has a DTAA with Country F, which provides for taxation of such FTS @5%.

(III) India has a DTAA with Country F, which provides for taxation of such FTS @15%.

Assume that Richard Grill is a resident of Country F and he has no fixed place of his profession in India. The technical services are utilised by Trim Ltd. for its business in Indore.

(3 Marks)

(ii) If Zing Inc., a UK based company has a permanent establishment in India and the contract/agreement with Swing Ltd. for rendering technical services is effectively connected with such PE in India, examine the taxability based on the following details provided –

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	Particulars	Amount
(1)	Fees for technical services received from Swing Ltd.	Rs. 3.5 crore
(2)	Expenses incurred for earning such income	Rs. 10 lakhs
(3)	Fees for technical services received from other Indian companies in pursuance of approved agreement entered into between the years 2005 to 2010	Rs. 5.5 crore
(4)	Expenses incurred for earning such income	Rs. 12 lakhs
(5)	Expenditure not wholly and exclusively incurred for the business of such PE [not included in (2) & (4) above]	Rs. 6 lakhs
(6)	Amounts paid by the PE to Head Office (not being in the nature of reimbursement of actual expenses)	Rs. 12 lakhs

What are the other requirements, if any, under the Income-tax Act, 1961 in this case?

(3 Marks)

4. (a) (i) T Ltd., a manufacturer of automobiles, sells premium model cars, the value of which ranges from above Rs. 10 lakh to Rs. 50 lakh and small cars, value of which ranges from Rs. 5 lakh upto Rs. 10 lakh to its dealers across the country. Examine whether T Ltd. is liable to collect tax at source under section 206C on sale of these cars to the different dealers across the country.

Also, examine the liability, if any, of dealers to collect tax at source on sale of these cars to the retail customers, if no part of the consideration is received in cash. **(4 Marks)**

(ii) M/s Fitband Limited entered into an agreement for the warehousing of its products with Star Warehousing and deducted tax at source as per provisions of section 194C out of warehousing charges paid during the year ended on 31.03.2019. The Assessing Officer, while completing the assessment for A.Y. 2019-20 of Fitband Limited in April 2020, treated the warehousing charges as rent as defined in section 194-I and asked the company to make payment of difference amount of TDS with interest. It was submitted by the company that the recipient had already paid tax on the entire amount of warehousing charges and therefore, now the difference amount of TDS cannot be recovered. However, it will make the payment of due interest on the difference amount of TDS. Examine critically in the context of provisions contained in Income-tax Act, 1961 as to the correctness of the submission of M/s. Fitband Ltd. **(4 Marks)**

(b) Examine whether transfer pricing provisions under the Income-tax Act, 1961 would be attracted in respect of the following cases -

(i) Scientific research services provided by L Inc., an Italian company to X Ltd., an Indian company. L Inc. is a "specified foreign company" as defined in section 115BBD, in relation to X Ltd.

(ii) Ms. Chiya, a resident Indian, is a director of T Ltd, an Indian company. T Ltd. pays salary of Rs. 40 lakhs per annum to Samya, who is Ms. Chiya's daughter.

(iii) Transfer of technical knowhow by Y Ltd., an Indian company, to A Inc, a French company, which guarantees 15% of the borrowings of Y Ltd. **(6 Marks)**

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5. Attempt either 5(a)(i) OR 5(a)(ii)

(a) (i) The Commissioner of Income-tax issued notice to revise the order passed by an Assessing Officer under section 143. During the pendency of proceedings before the Commissioner, on the basis of material gathered during survey under section 133A after issue of the first notice, the Commissioner of Income-tax issued a second notice, the contents of which were different from the contents of the first notice. Examine whether the action of the Commissioner is justified as to the second notice. **(4 Marks)**

OR

(ii) (I) In an order of assessment for the A.Y. 2018-19, the assessee noticed a mistake for which application under section 154 was moved and the order was rectified. Subsequently, the assessee moved further application for rectification under section 154 which was rejected by the Assessing Officer on the ground that the order once rectified cannot be rectified again. Examine the correctness or otherwise of the contention of the Assessing Officer. **(2 Marks)**

(II) The return for A.Y.2019-20 was filed on time as per section 139(1) and proceedings were taken up for assessment under section 143(3). Later on, the assessee, noticed certain omissions and therefore filed a revised return on 20.4.2020. The Assessing Officer ignoring the revised return so filed framed the order on 25.4.2020. Is the action of Assessing Officer correct? Examine. **(2 Marks)**

(iii) Theory Diagnostics is a diagnostic laboratory in Kanpur and has a branch at Lucknow. A survey under section 133A was conducted, consequent to which the assessee filed return of income. On the basis of certain incriminating documents and materials unearthed during the survey, a notice under section 148 was issued. Subsequently, the incomes were assessed for assessment years 2017-18 and 2018-19 under section 143(3) read with section 147.

The assessee raised additional jurisdictional grounds before the Appellate Tribunal. The assessee contended that for the relevant assessment years, the assessment was completed under section 143(3) read with section 147. However, a notice under section 143(2) was not issued by the Assessing Officer for those years. The Tribunal held that in view of section 292BB, the assessee's participation in the reassessment proceedings would condone the omission to issue a notice.

Discuss, with the aid of a Supreme Court case law, whether failure to issue notice under section 143(2) would vitiate the assessment notwithstanding the assessee's participation in the proceedings. Would section 292BB come to the rescue of the Revenue authority if they omit to issue notice under section 143(2)? Examine. **(4 Marks)**

(b) For facilitating expeditious resolution of disputes relating to international transactions involving transfer pricing and foreign companies, the Income-tax Act, 1961, has provided for "alternate dispute resolution mechanism". In this context, you are required to answer the following:

(I) What meanings have been assigned to "dispute resolution panel" and the "eligible assessee" under this mechanism?

(II) When can a grievance for resolution be filed by an assessee?

(III) What evidences are being considered by the panel to redress the grievance of the assessee? **(6 Marks)**

6. (a) (i) Examine the following cases and state whether the same are liable for penalty as per the provisions of the Income-tax Act, 1961.

(I) Harish & Associates had made payment in excess of the limits prescribed to the contractors for carrying out labour job work at various sites, but had not deducted tax

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at source as per section 194C.

(II) Sunshine Hotels were asked by Income-tax Officer (CIB) to furnish details of all such tourists who stayed in their hotels and had paid bill amount in excess of Rs. 10,000. They have not furnished the requisite information in spite of various reminders.

(4 Marks)

(ii) (I) The merger of a loss making company with a profit making one results in losses setting off profits, a lower net profit and lower tax liability for the merged company. Would the losses be disallowed by applying GAAR?

(II) In the above facts, let us presume, the profit making company merges with a loss making one. This results in losses setting off profits, a lower net profit and lower tax liability for both companies taken together. Can this be examined under GAAR?

(4 Marks)

(b) (i) LMN Ltd., an Indian company, is carrying on the business of manufacture and sale of Indo-western Apparels under the brand name "STYLE&SHINE". In order to expand its overseas sales/exports, it launched a massive advertisement campaign of its products. For the purpose of online advertisement, it utilized the services of Xylo Inc., a London based company. During the previous year 2018-19, LMN Ltd. paid Rs. 15 lakhs to Xylo Inc. for such services. Discuss the tax implications/TDS implications of such payment and receipt in the hands of LMN Ltd. and Xylo Inc., respectively, if Xylo Inc. has no permanent establishment in India. **(3 Marks)**

(ii) Mr. Sarthak, a non-resident, made an application to the Authority for Advance Rulings on 10.8.2018 in relation to a transaction proposed to be undertaken by him. On 13.9.2018, he decides to withdraw the said application. Can he withdraw the application on 13.9.2018? Examine. **(3 Marks)**

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