Class Test – Answer Sheet

CA Final – Direct Taxes [Full Syllabus]

Time Allowed – 3:00 Hours 11-10-2015 **Marks – 100**

Question No. 1 is compulsory. Attempt any five from the remaining six questions.

(Wherever required, suitable assumption/s should be made and indicated in the answer by the candidate)

Marks

1. (a) Computation of tax liability of XYZ Ltd. ***(amount in ₹)*** **-** **6**

Particulars		Taxable amount	Tax Rate	Tax liability
(1) Interest received from Indian Government from investment in government bonds u/s 115A(1)(a)	5,00,000			
Less : Expenditure incurred	Nil	5,00,000	20%	1,00,000
(2) Interest received from infrastructure debt fund	6,25,000			
Less : Expenditure incurred	Nil	6,25,000	5%	31,250
(3) Interest received from Indian concern from investment in debentures in Indian currency	4,85,000			
Less : Expenditure incurred	25,000			
Deduction under Chapter VI-A	15,000	4,45,000	40%	1,78,000
(4) Royalty derived from Indian concern *(agreement entered on 01-4-2011)* u/s 115A(1)(b)	4,80,000			
Less : Expenditure incurred	Nil	4,80,000	25%	1,20,000
(5) Dividend from Indian company	Exempt	-	-	-
(6) Interest received from Indian company u/s 194LC	1,00,000	-	5%	5,000
Tax liability				**4,34,250**
Add : EC & SHEC @ 3%				13,028
Total tax liability ***(rounded off)***				**4,47,280**

(b) Computation of total income of Mr. W for the A.Y. 2015-16 ***(amount in ₹)*** **:** **6**

Income from business (computed)	5,00,000
Add: Expenditure in relation to income which does not form part of the total income [WN]	32,000
Income from business/Total Income	**5,32,000**

Working Note : In this case dividend income of ₹ 1,25,000 from mutual fund is exempt under section 10(35). ₹ 85,000 representing Mr. W's share of profit from firm is exempt u/s 10(2A). Therefore, both dividend and share of profit from firm represent exempt income of Mr. W.

However, since the data for ascertaining average value of investment in firm has not been given in the question, the same has been ignored while computing the figures in (ii) and (iii) in the table below showing the computation of expenditure in relation to exempt income in the manner provided in Rule 8D.

	Particulars	₹
(i)	Expenditure directly relating to exempt income - consultancy charges paid to Mutual Fund agent	15,000
(ii)	Interest expenditure attributable to exempt income [See Note]	15,000
(iii)	0.5% of the average value of investment, income from which is exempt from tax i.e., 0.5% of ₹ 4,00,000	2,000
Expenditure in relation to income which does not form part of the total income		**32,000**

Note :

$$\text{Interest expenditure incurred (₹ 2,25,000)} \times \frac{\text{Average value of investment in Mutual Fund Units as on the first and last day of the previous year [(₹ 5,00,000 + ₹ 3,00,000)/2]}}{\text{Average of total assets of the assessee as appearing in the Balance Sheet, on the first day and last day of the previous year [(₹ 50,00,000 + ₹ 70,00,000)/2]}} = ₹\ 15{,}000$$

(c) (i) The Punjab and Haryana High Court in **CIT v. Kap Scan and Diagnostic Centre P. Ltd. [2012] 344 ITR 476 (P&H)** has held that the payment of commission to the doctors by the assessee for referring patients to it could not be accepted to be legal or in accordance with the public policy as under the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, hence the demand as well as payment of such commission was wrong. Therefore, such commission was opposed to public policy and illegal and hence, would not be allowed as business expenditure under section 37. Therefore the action of the Assessing Officer to disallow such expenditure is correct even if tax has been deducted at source on such payments under section 194H of the Act. **2**

(ii) The assessee, 3-Star & Company, entered into a contract to buy an immovable property. On failure on the part of the seller, the assessee filed a suit for specific performance of the contract. Subsequently, the assessee received ₹ 15 lacs from owner in terms of a compromise agreed to by the parties. **2**

In the case of **CIT v. Smt. Laxmidevi Ratani [2008] 296 ITR 363 (MP),** the High Court, on identical facts, held that the receipt is exigible to capital gains tax as it involved transfer of property within the meaning of section 2(47). The action on the part of the assessee in giving up its right to claim the property and instead accepting money compensation is a clear case of extinguishment of right in the property resulting in transfer as defined in section 2(47).

(iii) In this case, the assessee has failed to claim deduction under section 80C at the time of filing return of income. Such claim can be made by the assessee only when he furnishes revised return for the relevant assessment year. Just by addressing a letter to the Assessing Officer to that effect will not entitle the assessee to claim such deduction. The same view has been upheld by Supreme Court in **Goetze (India) Ltd. v. CIT [2006] 284 ITR 323 (SC).** In view of the decision of the Supreme Court cited above, the Assessing Officer was justified in completing the assessment without allowing the deduction under section 80C. **2**

(iv) Where any relief is allowed under section 89 for any assessment year in respect of any amount received or receivable on voluntary retirement, no exemption under section 10(10C) shall be allowed in respect of the said sum in that assessment year or any other assessment year. **2**

Similarly, relief under section 89 cannot be claimed if benefit of exemption has been claimed under section 10(10C).

Mr. Ramanand can, therefore, opt to claim exemption of ₹ 5 lacs under section 10(10C) or relief under section 89 in respect of compensation received on voluntary retirement, but not both. Accordingly, the advice given by his tax consultant is not correct.

2. Computation of total income of XYZ Private Ltd. - **16**

Particulars	₹	₹
Income from House Property :		
Gross Annual Value (GAV) (Rental income)	6,00,000	
Less : Municipal Taxes (not deductible since it has not been paid)	Nil	
Net Annual Value (NAV)	**6,00,000**	
Less : Standard deduction (@ 30% of NAV)	1,80,000	4,20,000
Profits and gains of Business or profession :		
Net profit as per profit and loss account	1,50,00,000	
Add: Loss on non-realization of advance to wholly owned subsidiary company [WN-2]	20,00,000	

Rent paid and professional charges to a consultant on which tax was not deducted at source on service tax element.	[WN-3]	-	
Municipal taxes in respect of let-out part of office premises	[WN-1]	15,000	
Contribution to approved and notified university (treated separately)	[WN-4]	2,00,000	
Loss due to destruction of machinery by fire	[WN-5]	3,00,000	
Amount payable to contractor not having PAN	[WN-6]	27,000	
Short-term capital loss on sale of shares of P. Ltd.	[WN-7]	20,000	
Depreciation on tangible fixed assets	[WN-8]	1,00,000	
		1,76,62,000	
Less : Depreciation under section 32			
Intangible asset (Franchise) 25% of ₹ 20,00,000		5,00,000	
Tangible fixed assets	[WN-8]	1,75,000	
Weighted deduction under section 35(1)(ii)	[WN-4]	3,50,000	
Rental income to be taxed under "Income from house property"	[WN-1]	6,00,000	
Dividend credited to profit and loss account to be excluded	[WN-7]	10,000	
Waiver of interest on bank loan credited to profit and loss account but not taxable	[WN-9]	1,00,000	
		17,35,000	1,59,27,000
Capital Gains :			
Short-term capital loss (₹ 20 × 1000 shares)		20,000	
Less : Dividend exempt under section 10(34)		10,000	
Short-term capital loss to be carried forward to A.Y. 2016-17		10,000	0
Income from Other Sources :			
Deemed dividend under section 2(22)(e)	[WN-10]		50,000
Total Income			**1,63,97,000**

Working Notes :

(1) Rental income from letting out a part of the office premises is taxable under "Income from house property".

(2) It does not arise in the normal course of business, since the wholly owned subsidiary company is engaged in providing finance to other borrowers. As far as A & Co. is concerned, its business is manufacturing and not financing. Hence, loss is to be disallowed.

(3) The CBDT vide Circular No. 1 dated 13th January, 2014 has clarified that wherever in terms of the agreement/ contract between the payer and the payee, the service tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid/ payable without including such service tax component.

(4) Contribution to a university approved and notified under section 35(1)(ii) is eligible for a weighted deduction of 175% Therefore, ₹ 3,50,000 is eligible for deduction while computing business income.

(5) Loss of ₹ 3 lakhs due to destruction of machinery caused by fire is not deductible since it is capital in nature.

(6) According to Section 206AA, if PAN is not furnished, the rate of TDS is 20%. Since the company has deducted tax @ 2% and not @ 20% as per the requirement under section 206AA, disallowance under section 40(a)(ia) would be attracted in respect of payment of ₹ 90,000 made to contractor. 30% of such amount shall be disallowed. Proportionate sum to the extent of tax deducted at source shall be allowed as deduction.

(7) As per section 94(7), where any person buys any shares within 3 months prior to the record date and sells such shares within 3 months after such date and the dividend received on such shares is exempt, then the loss arising out of such purchase and sale of shares shall be ignored to the extent of dividend income.

Loss on purchase and sale of shares (₹ 100 – ₹ 80) × 1000 shares	20,000
Less : Dividend exempt under section 10(34)	10,000
Short-term capital loss	**10,000**

Since short term capital loss can be set-off only against income under the head "Capital Gains", the short-term capital loss of ₹ 10,000 has to be carried forward to the next year. Dividend of ₹ 10,000 credited to profit and loss account has to be deducted and short-term capital loss of ₹ 20,000 debited to profit and loss account has to be added back.

(8) Depreciation as per Income-tax Rules, 1962, is deductible while calculating business income. Therefore, ₹ 1.75 lakh depreciation on tangible fixed assets and ₹ 5 lakh on intangible assets is deducted. The amount of ₹ 1 lakh depreciation debited to profit and loss account has been added back.

(9) Waiver of principal amount of loan taken for trading activity is a benefit in respect of a trading-liability by way of remission or cessation thereof and is, hence, taxable under section 41(1). It has been so held in ***Iskraemeco Regent Ltd. v. CIT [2011] 331 ITR 317 (Mad.).*** Since the loan waiver has already been credited to profit and loss account, no adjustment is required.

Since the loan is for meeting working capital requirement, it is logical to assume that is taken for trading activity.

However, the treatment is different in respect of interest of loan. Since interest on such loan would have not been allowed as deduction in the earlier years as per Section 43B due to non-payment of such interest, waiver of interest will not be taxable. Since ₹ 1,00,000 representing interest waiver has already been credited to profit and loss account, the same has to be deducted for computing business income.

(10) As per section 2 (22) (e), any payment by a company in which the public are not substantially interested by way of loan to a shareholder, who is the beneficial owner of shares holding not less than 10% of voting power, is deemed as dividend to the extent to which to company possesses accumulated profits. Accordingly, in this case, ₹ 50,000 would be deemed as dividend under section 2(22)(e).

3. (a) Section 275(1) provides for the time limit for imposing penalty. According to this section, the time limit for imposition of penalty under section 271(1)(c) in the following cases would be : **6**

(i) If X. Limited did not contest the assessment order : Where the relevant assessment order is not the subject matter of either appeal or revision, an order imposing penalty shall not be passed –

(a) after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, *i.e.* 31st March, 2014, or

(b) 6 months from the end of the month in which action for imposition of penalty is initiated, i.e. 30th June, 2014

whichever is later.

Therefore, the time limit for imposing penalty in this case would be 30th June, 2014.

(ii) If X. Limited made an appeal to the Commissioner (Appeals) against the assessment order and the appeal was dismissed on 30th December, 2014, on which date the Commissioner received the appeal order : Where the assessment order or other order is the subject matter of an appeal to the Commissioner (Appeals) under section 246A, and the Commissioner (Appeals) passes the order disposing of such appeal, an order imposing penalty shall be passed–

(a) before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed i.e. 31st March, 2014; or

(b) within one year from the end of the financial year in which the order of the Commissioner (Appeals) is received by the Chief Commissioner or Commissioner i.e. 31st March, 2016,

whichever is later.

Therefore, the time limit for imposing penalty in this case would be 31st March, 2016.

(iii) If the penalty proceeding is stayed by the High Court on 25th August, 2014 and the stay is vacated by the Supreme Court on 3rd November, 2014.

As per the provisions of the Explanation below section 275(2), the period of stay is to be excluded from the time limit for imposition of penalty. However, in this case, the time limit for imposing penalty would expire on 30th June, 2014, being the date of expiry of six months from the end of the month in which action for imposition of penalty is initiated (since it is later than 31-3-2014, being the date of expiry of the financial year in which the assessment proceedings are completed). The passing of stay order after that date will not have any impact on the time limit for imposing penalty which would be 30th June, 2014.

(b) (i) **Yes.** The Income-tax Appellate Tribunal has the power to entertain question raised for the first time. The Tribunal is not confined only to the issues arising out of the appeal before the Commissioner (Appeals). The Tribunal has the power to allow the assessee to urge any ground not raised before the Commissioner (Appeals). **4**

However, the relevant facts in respect of such ground should be on record. The decision of the Supreme Court in the case of **National Thermal Power Company Limited v. CIT [1998] 229 ITR 383 (SC)** supports this view.

(ii) The power of review is not an inherent power and must be expressly granted. Since, such power has not been expressly granted to the Appellate Tribunal under the Act, the Appellate Tribunal is not empowered to review an order passed by it. - **CCEx. v. Steelco Gujarat Ltd. [2003] 163 ELT 403 (SC) & CIT v. Vichtra Constructions (P) Ltd. [2004] 269 ITR 371 (Del.)**

(c) (i) As per section 245S(1), the advance ruling pronounced under section 245R by the Authority for Advance Ruling shall be binding only on the applicant who had sought it and in respect of the specific transaction in relation to which advance ruling was sought. **2**

In view of the above provision, Mr. Balram cannot use the advance ruling, obtained on an identical issue by his brother, for his assessment.

(ii) As per Section 226(3), in case the person to whom the notice is issued fails to comply with such notice, he shall be deemed to be an assessee in default in respect of the amount specified in the notice and recovery proceedings can be initiated against him in the manner provided in Sections 222 to 225, as if it were an arrear of tax due from him. **2**

In the given case, a notice was issued by the Assessing Officer to Babu (debtor of Raman) under section 226(3) and since he failed to comply with the same, he shall be deemed to be an assessee in default and hence recovery proceedings specified under section 222 to 225 can be initiated against him.

However, the Assessing Officer cannot follow the modes as prescribed in Section 226, hence he cannot issue the notice to the Babu's employer as it is one of the modes prescribed in Section 226.

Therefore, the action of Assessing officer is not justified.

(iii) In this case, the provisions of section 69D are attracted. Since Mr. C has borrowed ₹ 15,000 on Hundi by way of bearer cheque, therefore, it shall be deemed to be income of Mr. C for the previous year 2014-15. However, the repayment of the same along with interest was made by way of account payee cheque, hence the same would not be hit by the provisions of section 69D. Therefore, the action of the Assessing Officer treating the amount borrowed as income during the previous year is valid in law. **2**

4. (a) The original compensation will be taxable in the year of receipt. However, the amount of compensation received in pursuance of an interim order of the court, Tribunal or other authority shall be deemed to be income chargeable under the head 'Capital gains' in the previous year in which the final order of such court, Tribunal or other authority is made. Hence the relevant computation will be as under : **4**

Computation of long term capital gains on receipt of original compensation :

Particulars	₹
Full value of consideration	15,00,000
Less: Indexed cost of acquisition (₹ 2,00,000 × 852 ÷ 140)	12,17,143
Long term capital gains taxable in AY 2013-14	**2,82,857**

Computation of long term capital gains on receipt of enhanced compensation :

Particulars	₹
Full value of consideration	10,00,000
Less: Indexed cost of acquisition	NIL
Long term capital gains taxable in AY 2015-16	**10,00,000**

Note : The interim compensation of ₹ 5,00,000 will not be taxable in AY 2014-15 but will be taxable when the final award is received *i.e.* AY 2015-16.

(b) (i) Computation of interest allowable under section 80EE : **4**

Particulars	₹
For A.Y. 2014-15 :	
Total Interest payable during financial year 2013-14. [₹ 25,00,000 × 10% × 10/12]	2,08,333
Deduction u/s 24(b) allowable in computing income from house property. *(Restricted to ₹ 1,50,000)*	1,50,000
Balance Interest deductible under section 80EE (₹ 2,08,333 – ₹ 1,50,000)	**58,333**
For A.Y. 2015-16 :	
Total Interest payable during financial year 2014-15 [₹ 25,00,000 × 10% × 1]	2,50,000
Deduction u/s 24(b) allowable in computing income from house property. *(Restricted to ₹ 2,00,000)*	2,00,000
Deduction u/s 80EE (₹ 1,00,000 – ₹ 58,333 allowed as deduction in P.Y. 2013-14)	**41,667**

(ii) In case after receipt of intimation of death of assessee, if the Assessing Officer has completed the assessment without bringing legal representative on record, the assessment so framed is invalid. Rectification under section 154 can be made of mistake apparent from record. An invalid assessment cannot be rectified under section 154. The same view has been upheld by Supreme Court in **CIT v. Jai Prakash Singh [1996] 219 ITR 737 (SC).** **2**

(c) Computation of tax liability of Mr. Jacob for A.Y.2015-16 : **6**

Particulars	₹	₹
Tax liability on total income of ₹ 82 lakhs under the normal provisions of the Income-tax Act, 1961 [₹ 1.25 lakhs (tax on income upto ₹ 10 lakhs) + 30% of ₹ 72 lakhs (₹ 82 lakhs – ₹ 10 lakhs)]		22,85,000
Add: Education cess and SHEC @ 3%		68,550
Total tax liability		**23,53,550**
Computation of Adjusted Total Income	₹	
Total Income		82,00,000
Add: Deduction under section 35AD [150% of ₹ 70 lakhs]	1,05,00,000	
Less: Depreciation under section 32 [10% of ₹ 70 lakhs]	7,00,000	98,00,000
Adjusted Total Income		**1,80,00,000**
Computation of Alternate Minimum Tax (AMT) :		
Alternate Minimum Tax (AMT) @ 18.5%		33,30,000
Add: Surcharge @ 10% (since adjusted total income > ₹ 100 lakh)		3,33,000
		36,63,000
Add: Education cess @ 2% and SHEC @ 1%		1,09,890
Tax liability under section 115JC		**37,72,890**
Since the regular income-tax payable is less than the AMT payable, the adjusted total income of ₹ 180 lakhs shall be deemed to be the total income of Mr. Jacob and tax is payable @ 18.5% thereof plus surcharge @ 10% and cess @ 3%. Therefore, the tax liability is ₹ 37.73 lakhs.		
AMT Credit to be carried forward under section 115JD		
AMT Credit to be carried forward under section 115JD		37,72,890
Less: Tax liability under the regular provisions of the Income-tax Act, 1961		23,53,550
		14,19,340

Notes:

(1) The Finance (No.2) Act, 2014 has brought the investment-linked tax deduction claimed under section 35AD within the scope of AMT. Accordingly, section 115JC has been amended to provide that total income shall be increased by the deduction claimed under section 35AD, as reduced by the depreciation allowable under section 32, as if no deduction under section 35AD was allowed in respect of the asset for which such deduction is claimed.

(2) The specified business of setting up and operating a cold chain facility is eligible for weighted deduction @ 150% of capital expenditure under section 35AD, if operations were commenced on or after 1-4-2012.

(3) AMT Credit can be carried forward for a maximum period of ten assessment years immediately succeeding the assessment year for which the tax credit becomes allowable. Such credit is allowed to be set-off against the tax payable on total income in an assessment year in which the tax is computed in accordance with the regular provisions of the Income-tax Act, 1961, to the extent of excess of such tax payable over the AMT of that year.

5. (a) Chapter XII-DA, comprising of sections 115QA, 115QB and 115QC levies additional income-tax on buyback of unlisted shares by domestic companies. As per section 115QA, the distributed income would be subject to additional income-tax @ 20% (plus surcharge @ 10% and education cess @ 2% and secondary and higher education cess @ 1%) in the hands of the domestic company. Distributed income is the consideration paid by the company for buyback of its own unlisted shares which is in excess of the sum received by the company at the time of issue of such shares. **4**

Accordingly, Sigma Ltd is liable to pay ₹ 1,81,280 as additional income-tax, which is the amount calculated @ 22.66% (20% plus surcharge @ 10% plus cess @ 3%) on ₹ 8 lakh, being its distributed income (i.e., ₹ 22 lakh – ₹ 14 lakh).

The additional income-tax was payable on or before 30th September, 2014. However, the same was paid only on 11th December, 2014.

Interest under section 115QB is attracted @ 1% for every month or part of the month on the amount of tax not paid or short paid for the period beginning from the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

In this case, the period for which interest @ 1% per month or part of a month is leviable is calculated as under -

Period	No. of months/ part of month
1st October - 31st October, 2014 (whole of first month)	1
1st November – 30th November, 2014 (whole of second month)	1
1st December – 11th December, 2014 (part of third month)	1
Total number of months	**3**

Interest under section 115QB is payable @ 1% per month for 3 months on the amount of additional tax payable i.e., ₹ 1,81,280. Therefore, interest payable u/s 115QB is ₹ 5,438.

The income arising to the shareholders in respect of such buyback of unlisted shares by Sigma Ltd. would be exempt under section 10(34A) in their hands.

(b) (i) **The statement is not correct.** The advance pricing agreement may, subject to such prescribed conditions, procedure and manner, provide for determining the arm's length price or for specifying the manner in which arm's length price is to be determined in relation to an international transaction entered into by a person during any period not exceeding four previous years preceding the first of the previous years for which the advance pricing agreement applies in respect of the international transaction. **2**

(ii) Section 92B(2) extends the scope of the definition of international transaction given in section 92B(1) by deeming a transaction entered into with a person other than an associated enterprise as a transaction with an associated enterprise, if the following conditions are satisfied: **2**

(a) there exists a prior agreement in relation to the relevant transaction between the other person and the associated enterprise; or

(b) where the terms of the relevant transaction are determined in substance between such other person and the associated enterprise; and

(c) either the enterprise or the associated enterprise or both of them are nonresidents.

In such a case, a transaction entered into between the enterprise and the other person shall be deemed to be an international transaction entered into between two associated enterprises, whether or not such other person is a non-resident. In this case, the agreement between the Indian company, XYZ Ltd. and unrelated party, Mr. Ganesh for sale of product M was entered into on 15-3-2015. Prior to that date (i.e., on 10-3-2015), Mr. Ganesh has entered into an agreement, for sale of product M, with ABC Inc., a non-resident entity. ABC Inc. is deemed to be an associated enterprise of XYZ Ltd. since it is a specified foreign company in relation to XYZ Ltd., which implies that XYZ Ltd. holds 26% or more in the nominal value of the equity share capital of ABC Inc.

In this case, there exists a prior agreement in relation to the transaction for sale of product M between the unrelated party, Mr. Ganesh and the associated enterprise, ABC Inc., which is a non-resident entity. Hence, the transaction entered into between XYZ Ltd., an Indian company and Mr. Ganesh for sale of product M is deemed to be an international transaction entered into between two associated enterprises, irrespective of the residential status of Mr. Ganesh.

(c) Since India doesn't have any DTAA with the country in which Nandita performed her plays, therefore, she will be eligible for relief under section 91 of the Act. **8**

Computation of tax liability of Nandita :

Particulars	**₹**	**₹**
Indian income		5,10,000
Foreign income		1,10,000
Gross Total Income		**6,20,000**
Less: Deduction u/s 80C in respect of PPF	70,000	
Deduction u/s 80CCC – Contribution of approved pension fund	32,000	
The aggregate deduction u/s 80C, 80CCC and 80CCD is to be restricted to ₹ 1,50,000	1,02,000	
Subscription to notified long-term infrastructure bonds, ₹ 25,000, shall not be eligible for deduction for A.Y. 2015-16	Nil	
Deduction u/s 80D – Contribution to Central Government Health Scheme ₹ 18,000. This contribution is also allowable as deduction under section 80D, since is does not exceed the maximum limit of ₹ 20,000	18,000	
Medical insurance premium of ₹ 21,000 paid for father aged 76 years. Since the father is a non-resident, he will not be entitled for the higher deduction of ₹ 20,000 eligible for a senior citizen, who is resident in India. Hence, the deduction will be restricted to maximum of ₹ 15,000.	15,000	1,35,000
Total Income		**4,85,000**
Income Tax on total income (Basic exemption limit is ₹ 3,00,000) after tax rebate u/s 87A		16,500
Add: Education Cess and SHEC @ 3%		495
Total Tax		**16,995**
Indian Rate of Tax (Average Rate of Tax) [Total tax ÷ Total income)	3.50%	
Foreign Rate of Tax [₹ 11,000 ÷ ₹ 1,10,000]	10.00%	
Doubly Taxed Income	1,10,000	
Less: Rebate u/s 91 on ₹ 1,10,000 @ 3.50% (lower of average Indian-tax rate or average foreign tax rate)		3,850
Tax payable *(rounded off to nearest ₹10)*		**13,150**

6. (a) Section 161 provides that the representative assessee is liable to pay tax in like manner and to the same extent as it would be payable by the person represented by him. So, the tax payable by the representative assessee shall be sum aggregate of the additional tax payable by the beneficiaries had the respective shares of the beneficiaries in the income of the trust had accrued to them. **6**

➢ **Computation of actual tax liability of the beneficiaries *(amount in ₹)* :**

Particulars	Mr. Salil	Niks Pvt. Ltd.
Total income	11,00,000	1,02,00,000
Income tax on total income	1,55,000	30,60,000
Add: Surcharge @ 5%	0	1,53,000
Tax + Surcharge	**1,55,000**	**32,13,000**
Less: Marginal Relief	0	13,000
Tax payable	**1,55,000**	**32,00,000**
Add: EC + SHEC @ 3%	4,650	96,000
Tax liability	**1,59,650**	**32,96,000**

➢ **Computation of tax liability of beneficiaries had share in trust income accrued to them : ₹**

Particulars	Mr. Salil	Niks Pvt. Ltd.
Total income	11,00,000	1,02,00,000
Share in trust income	600,000	4,00,000
Aggregate income	**17,00,000**	**1,06,00,000**
Income tax on aggregate	3,35,000	31,80,000
Add: Surcharge @ 5%	0	1,59,000
Tax + Surcharge	**3,35,000**	**33,39,000**
Add: EC + SHEC @ 3%	10,050	1,00,170
Tax Liability	**3,45,050**	**34,39,170**
Less: Actual tax liability (as computed above)	1,59,650	32,96,000
Additional tax (payable by trust)	**1,85,400**	**1,43,170**
Total tax payable by the trust *(rounded off)*		**3,28,570**

(b) Computation of taxable income of firm PQRS Traders : **10**

Particulars	₹
Business income before claiming deduction of salary and interest to partners	6,20,000
Add: Legal charges paid to P (Note 1)	10,000
	6,30,000
Less: Interest paid to Mr. P on behalf of his wife Mrs. P *[This interest will not be taken into account for the purposes of disallowance under section 40(b)]*	10,000
Less: Interest to partners @ 12% p.a. [1,40,000 ÷ 14 × 12] *(Interest paid to non-working partner is also allowable to the extent of 12% p.a.)*	1,20,000
Book profits of the firm	**5,00,000**
Less: Maximum remuneration allowable under section 40(b): Lower of –	
(a) [3,00,000 × 90% + balance 2,00,000 × 60%]	3,90,000
(b) Remuneration to working partners authorised by partnership deed (Note 3)	3,85,000
Taxable income of PQRS traders	**1,15,000**

Working Notes:

(1) It has been held in **CIT v. Packwell Industries [2004] 140 Taxman 44 (Mad.)** that a partner is required to make available all expertise possessed by him to the firm. Any sum paid to a partner for making available any expertise (legal consultancy, in this case) amounts to 'remuneration' paid to him by the firm and is subject to disallowance under section 40(b).

(2) ***Whether Mr. R is Working partner :*** In view of decision in ***Rashik Lal & Co. v. CIT [1998] 229 ITR 458 (SC)***, a partner of a firm acts in his individual capacity so far as firm is concerned. Therefore, so far as firm is concerned, the partner is Mr. R, who is an individual and, therefore, a working partner.

(3) Remuneration to working partners authorised by partnership deed has been computed as follows –

Salary pertaining to P, Q and R [(5,40,000 – 40,000) × 3 ÷ 4]	3,75,000
Remuneration being legal charges paid to P	10,000
	3,85,000

The following remuneration to partners is not allowable as deduction –

(a) Salary to non-working partner Mr. S i.e. 5,40,000 ÷ 4 = ₹ 1,35,000;

(b) Salary to working partners not authorised by partnership deed *i.e.* 40,000 × 3 ÷ 4 = ₹30,000;

7. (a) (i) The Delhi High Court in **Indus Towers Ltd v. CIT [2014] 364 ITR 114 (Del)** has held that the submission of the assessee that the transaction is not "renting" is incorrect. Also, the Revenue's contention that the transaction is primarily "renting of land" is also incorrect. The underlying object of the arrangement was the use of machinery, plant or equipment i.e., the passive infrastructure and it is incidental that it was necessary to house the equipment in some premises. It directed that tax deduction be made at 2% as per section 194-I(a), the rate applicable for payment made for use of plant and machinery. **2**

(ii) The Bombay High Court in **DIT (International Taxation) v. Wizcraft International Entertainment (P) Ltd. [2014] 364 ITR 227 (Bom)** has held that therefore, affirmed the decision of the Tribunal and Commissioner (Appeals) holding that the service rendered by the agent was outside India and hence, was not chargeable to tax in India. Thus, the requirement for deducting tax at source under section 195 on such payment does not arise. **2**

(b) (i) **The statement is correct.** Sub-section (2A) has been inserted in section 133A to provide that an income-tax authority may, for the purpose of verifying that tax has been deducted or collected at source in accordance with the provisions of Chapter XVII-B or Chapter XVII-BB, as the case may be, enter- **4**

(a) any office, or a place where business or profession is carried on, within the limits of the area assigned to him, or

(b) any such place in respect of which he is authorised for the purposes of this section by such income-tax authority who is assigned the area within which such place is situated, where books of account or documents are kept.

An income-tax authority may -

(a) place marks of identification on the books of account or other documents inspected by him and take extracts and copies thereof;

(b) record the statement of any person which may be useful for, or relevant to, any proceeding under the Act.

However, while acting under sub-section (2A), the income-tax authority shall not impound and retain in his custody, any books of account or documents inspected by him or make an inventory of any cash, stock or other valuable articles or thing checked or verified by him.

(ii) **The statement is correct.** In order to align the time period under section 133A with the time period under section 131(3), section 133A(3) has been amended by the Finance (No.2) Act, 2014 to provide that an income-tax authority shall not retain in his custody any such books of account or other documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner or Principal Director or Director therefor, as the case may be.

(c) (i) As per section 10AA, in computing the total income of Rudra Ltd. from its unit located in a Special Economic Zone (SEZ), which begins to manufacture or produce any article or thing on or after 1-4-2005, there shall be allowed a deduction of 100% of the profit derived from export of such article or thing for the first five year period commencing from the year of manufacture or production of articles or things by the Unit in SEZ and 50% of such profits for further five years subject to fulfillment of other conditions specified in section 10AA. The relevant particulars are as under - **6**

Particulars	Rudra Ltd. (₹)	Unit in DTA (₹)	Unit in SEZ (₹)
Total Sales	6,00,00,000	2,00,00,000	4,00,00,000
Export Sales	4,60,00,000	1,60,00,000	3,00,00,000
Net Profit	80,00,000	20,00,000	60,00,000

(i) If Unit in SEZ were set up and began manufacturing from 22-05-2008 : Since it is the 7th year of operation of the eligible unit, it shall be eligible for deduction upto 50% of the profit of such unit assuming all the other conditions specified in section 10AA are fulfilled.

$$= \text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}} \times 50\%$$

$$= ₹\ 60 \text{ lakhs} \times \frac{₹\ 300 \text{ lakhs}}{₹\ 400 \text{ lakhs}} \times 50\% = ₹\ 22.5 \text{ lakhs}$$

(ii) If Unit in SEZ were set up and began manufacturing from 14-05-2012 : Since it is the 3rd year of operation of the eligible unit, it shall be eligible for deduction of 100% of the profit of such unit assuming all the other conditions specified in section 10AA are fulfilled.

$$= \text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}} \times 100\%$$

$$= ₹\ 60 \text{ lakhs} \times \frac{₹\ 300 \text{ lakhs}}{₹\ 400 \text{ lakhs}} \times 100\% = ₹\ 45 \text{ lakhs}$$

(ii) Section 80-IB(9) provides for deduction in respect of profits and gains derived from, inter alia, commercial production or refining of mineral oil. **2**

Explanation to Section 80-IB(9), put forth a condition that for the purposes of claiming deduction under this section, all blocks licensed under a single contract, which has been awarded under the New Exploration Licensing Policy VIII announced by the Government of India or has been awarded in pursuance of any law for the time being in force or has been awarded by the Central or a State Government in any other manner, shall be treated as single "undertaking".

In view of the provision, the assessee's contention is not correct. Each well in a block cannot be regarded as separate industrial undertaking. The entire block has to be treated as a single industrial undertaking.

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