

MODEL TEST PAPER FOR NOVEMBER 2016 EXAM (MOST LIKELY) - 2

Question 1

1. Vishwa Textiles Ltd. has convened a meeting of top management in which the Taxation Manager and Finance Manager are also present. As Tax Auditor, you have also been convened to the meeting for the session relating to tax audit u/s 44AB of the Income Tax Act, 1961. The company plans to start a subsidiary for doing Chit Fund business.

The Managing Director asked the Taxation Manager, "The Taxation manager replied that it was based on the total chit collections during the year in question.

The Sales Manager pointed out in the meeting that sales return relating to a sale effected in March, 2014 had been debited to the sales account in the current year. He wanted to know how this should be dealt with in the particulars to be furnished in Form No. 3CD of the current year, i.e. assessment year 2016-17.

The Finance manager had a different view relating to an item in Tax Audit Report of the assessment year 2016-16 and wanted some changes in Form No. 3CA of that year.

The company has received a subsidy of Rs. 10 lakhs from the State Government during the year for a machinery purchased in P.Y.2012-13. The WDV of the block as on 01.04.2015 was Rs. 12 lakhs. The chairman asked the forum "How will this subsidy be reported in Form No. 3CD"?

As Tax Auditor of the Company, you are required to-

- i) Identify the various issues raised relating to Section 44 AB and requirements of particulars for Form No. 3CD, and
- ii) Suggest your views relating to the said issues.

[8 marks]

2. **Comment on the following in relation to Advance Pricing Agreements.**

- i. As per the provisions of section 92CC, the APA can be entered into for a specified domestic transaction as well as international transaction.
- ii. Examine the non-applicability of the roll-back provisions in APA.
- iii. Period for which APA could be entered into.

[6 marks]

3. State with reasons whether the following transactions attract Income tax in India, in the hands of recipients under section 9 of Income tax Act, 1961.
- a) A non-resident German Company, which did not have a permanent establishment in India, entered into an agreement for execution of electrical work in India. Separate payments were made toward drawings & designs, which were described as "Engineering Fee". The assessee contended that such

CA DURGESH SINGH

durgeshsinghca@yahoo.com

business profits should be taxable only in Germany as there is no business connection within the meaning of Section 9(1)(i) of Income tax Act, 1961.

- b) A firm of solicitors in Mumbai engaged a barrister in UK for arguing a case before Supreme Court of India. A payment of 5000 pounds was made as per terms of professional engagement.
- c) Amount paid by Government of India for use of a patent developed by Mr. A, who is a non-resident.
- d) Sai Engineering, a non-resident foreign company entered into a collaboration agreement on 25.06.2015. with an Indian Company and was in receipt of interest on 8% debentures for Rs. 20 lakhs, issued by Indian Company, in consideration of providing technical know-how during previous year 2015-16.

[6 marks]

Question 2

1. Daimler Ltd an Indian company is a subsidiary of Daimler Pte Singapore. Daimler Ltd. has sold 7,000 units of raw material at Rs. 9,200/unit from Daimler Pte. Daimler Ltd. has also sold similar raw material to other unrelated enterprises. The details of the comparables are provided below. Compute the Arm's Length Price (ALP) and determine whether Daimler Ltd. has supplied the raw material at ALP. The total income of Daimler Ltd. during the P.Y.2016-17 was Rs.9,00,000. Also compute the total income after making transfer pricing adjustment, if any.

(Assume Comparable Uncontrolled Price (CUP) method as the most appropriate method).

Comparable Unrelated Parties	Price for P.Y.2016-17	Price for P.Y.2015-16
Reyant Ltd.	Rs. 8,990/unit	Rs.9,800/unit
Ciaz Ltd.	Rs. 9,400/unit	Rs.10,000/unit
Shivam Ltd.	Rs. 8,400/unit	Rs.10,000/unit
Ariham Ltd.	Rs. 11,000/unit	Rs.9,690/unit
Rihan Ltd.	No transaction	Rs. 8,980/unit
Divam Ltd.	Rs.10,000/unit	Rs.11,100/unit
Duke Ltd.	Rs.10,990/unit	Rs.6,000/unit
Super Ltd.	Rs.9,900/unit	Rs.8,790/unit
Christler Ltd.	Rs.10,330/unit	Rs.7,980/unit

[10 marks]

2. X, an individual whose total sales in the business of food grains for the year ending 31.3.2016 was Rs. 66 lakhs did not maintain books of account. The Assessing Officer levied penalties under section 271A for non-maintenance of books of account and section 271B for not getting the books audited as required by section 44AB. Is the Assessing Officer justified in levying penalty under section 271 B?

[3 marks]

3. A partnership firm, consisting of two partners, 'X' and 'Y' is engaged in the business of civil construction, had a turnover of Rs. 50 lakhs. The firm submitted its return of income wherein it has been stated that it wished to be governed by the provision of Section 44AD. As authorized by the partnership deed, the firm paid remuneration to the partners within the limit of Section 40(b). The assessing officer declines

CA DURGESH SINGH

durgeshsinghca@yahoo.com

to allow such remuneration in computation of firm's business income. Discuss the validity of the following actions of the assessing officer.

[3 marks]

Question 3

1. Beta Limited has transferred its Unit Omega to Delta Limited by way of slump sale on January, 17th, 2016. The summarised Balance Sheet of Beta Limited as on that date is given below:

Liabilities	Rs. (in lakhs)	Assets	Rs. (in lakhs)
Paid up capital	850	Fixed Assets :	
Reserve & surplus	310	Unit Gamma	75
Liabilities:		Unit Sigma	75
Unit Gamma	20	Unit Omega	275
Unit Sigma	55	Other Assets:	
Unit Omega	45	Unit Gamma	260
		Unit Sigma	400
		Unit Omega	195
Total	1,280	Total	1,280

Using the further information given below, compute the capital gain arising from slump sale of Unit Omega and tax on such capital gain.

- Cost inflation index for financial year 2004-05 and financial year 2015-16 are 480 and 1081, respectively.
- Lump sum consideration on transfer of Unit Omega is 440 lakhs.
- Fixed assets of Unit Omega includes land which was purchased at 30 lakhs in August 2006 and revalued at 45 lakhs as on March 31, 2015.
- Other fixed assets are reflected at 230 lakhs (i.e. 275 lakhs less value of land) which represents written down value of those assets as per books. The written down value of these assets under section 43(6) of the Income-tax Act, 1961 is 205 lakhs.
- The value of other assets includes stock of 110 lakhs which is overvalued by 10%
Unit Omega was set up by Beta Limited in May, 2004.

[8 marks]

2. Discuss the tax implications and compute the capital gains thereon.
- Mr.X, a non-resident, purchases in convertible foreign exchange, GDR of ICICI bank (100 units @ Rs. 500/unit) and GDR of Sterlite Industries (100 units @ Rs. 400/ unit).

Further, on 31/05/2015, he received dividend income on the underlying shares as follows:

ICICI: Rs.40,000

Sterlite: Rs.30,000 (collection charges of Rs.5,000)

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durgeshsinghca@yahoo.com

On 30/06/2015, he sold GDR of ICICI bank to a non-resident for Rs. 900/unit and GDR of Sterlite Industries to a resident for Rs. 700/unit.

- ii. Mr.X, a non-resident, purchased 1000 GDR of ICICI bank on 1st April, 2013 for Rs. 2000 each.
On 30th June, 2015, he requested for redemption/ conversion of GDR into shares. The listed price of the shares on BSE was Rs. 3000 each.
On 30th December, 2015, he sold the shares of ICICI bank for Rs. 3,500.

[8 marks]

Question 4

1. Mr. Anand is an Indian citizen and a member of the crew of a Singapore bound Indian ship engaged in carriage of passengers in international traffic departing from Chennai port on 6th June, 2015. From the following details for the P.Y.2015-16, determine the residential status of Mr. Anand for A.Y.2016-17, assuming that his stay in India in the last 4 previous years (preceding P.Y.2015-16) is 400 days and last seven previous years (preceding P.Y.2015-16) is 750 days:

Particulars	Date
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Anand	6 th June, 2015
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Anand	9 th December, 2015

[4 marks]

2. Examine tax implications of the following transactions:
- i. Mr. Ajay is a shareholder of AZB Pvt. Ltd, holding 15% of shares. The company lent Rs. 1,00,000 to Mr. Ajay on 1st June, 2014. Mr. Ajay has repaid the entire amount to the company as on 31st March, 2015. The accumulated profits of the company as on 31st March, 2015 are Rs. 5,00,000.
- ii. Mrs. Riya is director of RSM Pvt. Ltd is holding 70% of its share capital. The company on 1st September, 2015 gave the interest free loan of Rs. 5,00,000 to the supervisor, who in turn advanced the said amount of loan to Mrs. Riya on 15th October, 2015. The accumulated reserves of the company as on 31st March, 2015 are Rs.8,95,000.
- iii. HLI Private Limited is a company with three shareholders H (40%), L (20%) and I on behalf of his HUF (40%). I (HUF) is a Hindu Undivided Family whose members are Mr. I, Mrs. I and their two sons, G and J. The company gave a loan of Rs. 9 lakhs to I (HUF) on 30th April, 2015, on which date the accumulated profits of the company was Rs. 6 lakhs.

[6 marks]

3. Discuss the following :-

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durgeshsinghca@yahoo.com

- i) Does the High Court have the inherent power under the Income-tax Act, 1961 to review its own order on merits.

[3 marks]

- ii) Transaction charges paid by the members of the stock exchange for availing fully automated online trading facility, being a facility provided by the stock exchange to all its members, constitute fees for technical services to attract the provisions of TDS u/s 194J?

[3 marks]

Question 5

1. Discuss the following:

- i. Is tax is required to be deducted u/s 195 on the demurrage charges paid to a foreign shipping company which is governed by section 172 for the purpose of levy and recovery of tax?

[3 marks]

- ii. Whether remuneration paid to doctors which is based on number of patients and treatment given to them would invoke the liability to deduct TDS u/s 192 or u/s 194J?

[3 marks]

2. MNO Corporation LLP, is carrying on two businesses viz. Textile manufacture and Operation of cold chain facility. It gives you the following information for the year ended 31st March, 2015:

Net profit as per Profit & Loss Account:

From Textile Manufacture Rs.10,25,000

From Operation of cold chain facility Rs.20,50,000

The following items are debited to Profit & Loss Account:

- (i) Interest on capital payable to partners @ 15% on total capital of Rs. 100 lakhs.
(ii) Working partner salary Rs. 36 lakhs (i.e., Rs.1 lakh each per month for 3 partners).
(iii) Depreciation on textile factory building Rs. 5 lakhs.
(iv) Depreciation on Plant & Machineries of textile business Rs. 35 lakhs.
(v) Keyman insurance policy premium paid Rs. 1,55,000.

Other Information:

Eligible depreciation under section 32 for the previous year 2015-16 are-

- (i) On plant & machineries of textile business Rs.27 lakhs.
(ii) On factory building relating to textile business Rs.4 lakhs.

The assessee set up and operating a cold chain facility since 1st April, 2014. It incurred capital expenditure towards construction of cold chain facility during the period from 1st June, 2012 to 31st March, 2014 as under:

Cost of land (acquired on 1st June, 2012) Rs.30 lakhs.

Cost of construction of building and machineries installed till 31st March, 2014 Rs. 50 lakhs.

The income of the firm for the previous year 2014-15 (Assessment Year 2015-16) is given below:

Income from Textile manufacture Rs. 12 lakhs.

CA DURGESH SINGH

durgeshsinghca@yahoo.com

Income from cold chain facility Rs.60 lakhs (before deduction under section 35AD)

The firm originally had 4 equal partners and one partner retired on 31-3-2015. The partnership agreement authorizes payment of salary and interest on capital which are debited to Profit & Loss Account.

You are requested to compute the total income of the firm for the A.Y.2016-17

Note: Ignore Alternate Minimum Tax (AMT) under section 115 JC.

[10 marks]

Question 6

1. Following issues arise for consideration in connection with the tax audit of company under section 44AB of the Income-tax Act,1961 :

- (a) The turnover of the business of the company for the year ended March 31st, 2016 amounted to Rs. 98 lakhs. On verification, it is found that the company maintains a separate account in which the sales tax recovered is credited and the sales tax paid is debited. This amounted to Rs. 3.8 lakhs. It is also found that sale of scrap of Rs. 3 lakh have been credited to an account under the heading "Miscellaneous income". Is the company liable to tax audit? Give your reasons in brief.
- (b) A company is engaged in the execution of building contracts, it is found that the total value of the contract is Rs. 1.5 crores. The work commenced in June 2014 and as on March 31, 2016, the running bills submitted amounted to Rs. 50 lakhs. The value of the work executed is estimated at 75%. The whole building was completed in the previous year ending March 31, 2016. Will the company be liable to tax audit, if so, in which year?

[4 marks]

2. Firm X is engaged in the business of civil construction. The profit and Loss account of the firm for the year ending March 31, 2016 is as under:

Particulars	Rs.	Particulars	Rs.
Opening stock of building materials	40,000	Receipts from the business of civil construction of contracts	37,60,000
Salary to workers and employees	4,10,000		
Purchase of building materials	24,00,000	Rent of godown	80,000
Interest on loan	3,20,000	Surplus from insurance compensation received for loss of plant and machinery by fire	2,00,000
Office administrative expenses	2,60,000		
Traveling expenses	1,40,000		
Municipal taxes on godown	12,000	Interest on company deposits	25,000

CA DURGESH SINGH

durgeshsinghca@yahoo.com

Insurance premium for godown	8,000	Dividend from companies	50,000
Employee remuneration	2,53,000		
Depreciation on plant & machinery	65,000	Closing stock of building materials	25,000
<u>Provision for tax</u>			
Current tax	1,00,000		
Deferred tax	43,000	1,43,000	
Net profit	89,000		
	41,40,000		41,40,000

The following additional information is also available:

- i. Municipal tax of godown includes Rs. 3,000 not paid by the firm.
 - ii. The book value of the plant and machinery, which was insured against fire was Rs. 4,20,000. The written down value of plant and machinery block under section 43(6) as on March 31, 2016 was Rs. 1,85,000.
 - iii. The entire building material were purchased from a firm in which the managing partner of this firm is a partner. The fair market value of the materials purchased is Rs. 20,00,000.
 - iv. Interest on loan includes Rs. 15,000 being interest on loan taken for investment in shares of various companies.
 - v. Office administration expenses include Rs. 90,000 paid as a donation to a charitable organization recognized under section 80G.
 - vi. The prescribed rate of depreciation under the Income-Tax Rules for plant and machinery is 15%.
 - vii. The firm has decided to follow the presumptive tax provision in respect of its business income.
3. Compute the total income of Firm X for the assessment year 2016-17. Your answer should include explanation of your treatment of various items.

[9 marks]

3. The assessee had claimed depreciation on goodwill in his return of income. During the course of assessment proceedings for A.Y.2013-14, the AO disallowed the depreciation on the ground that goodwill is not an asset falling within the definition of asset. The assessee had filed appeal with CIT (A) and the CIT(A) order was passed in favour of assessee. Further, even for earlier A.Y.2008-09, the High Court passed the order in favour of assessee. The revenue has filed the appeal with Supreme Court against the order of High Court for A.Y.2008-09, the outcome of which is pending. The revenue wants to file appeal against the order of CIT (A) for A.Y.2013-14. State the procedure to be followed for the same.

[3 marks]