

**MOCK TEST PAPER**  
**FINAL (NEW) COURSE: GROUP – II**  
**PAPER – 7: DIRECT TAX LAWS & INTERNATIONAL TAXATION**

*Question 1 is compulsory*

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

*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.*

*All questions relate to Assessment Year 2018-19, unless stated otherwise in the question.*

**Total Marks: 100 Marks**

**Time Allowed: 3 Hours**

1. (a) Organic Ltd., engaged in the business of manufacturing, shows a net profit of ₹ 450 lakhs in its profit and loss account for the year ended 31-03-2018 after debiting and crediting the following items:
- (i) Depreciation provided in accounts as per straight line basis ₹ 30 lakhs.
  - (ii) The company has made cash payments for purchases and expenditures as below:  
On 20-07-2017 ₹ 5.5 lakhs (for purchase of agricultural produce)  
On 17-01-2018 ₹ 6 lakhs (Due to cash demanded by the supplier)  
On 01-04-2017 ₹ 12 lakhs (a bank holiday)  
Cash payments made to transport operator for hiring of lorry are as follows:  
10-06-2017 ₹ 25,000; 25-08-2017 ₹ 70,000; 10-02-2018 ₹ 40,000.
  - (iii) It incurred revenue expenditure of ₹ 7.5 lakhs towards scientific research on in-house approved research and development facility under section 35(2AB).
  - (iv) Dividend received from a foreign company ₹ 6 lakhs, in which organic Ltd. holds 30% in nominal value of equity share capital of the company. ₹ 50,000 spent on earning this income.
  - (v) Professional charges to a consultant including GST shown separately was ₹ 2,95,000. Tax was not deducted on the GST portion on the payment.
  - (vi) The company has also purchased goods of ₹ 55 lakhs from M/s. ABC Ltd. in which Directors have substantial interest. The market value of the goods is ₹ 50 lakhs.
  - (vii) Employer's contribution of ₹ 3.5 lakhs and Employee's contribution of ₹ 3.5 lakhs to the Provident Fund for the month of March, 2018 were remitted on 14<sup>th</sup> August, 2018.
  - (viii) It paid ₹ 75,000 to an electoral trust by cash and ₹ 1,25,000 by cheque to a registered political party. Both these are debited to Profit and Loss Account.

Additional information

- (1) Depreciation allowable as per the Income-tax Rules, 1962 is ₹ 48 lakhs.
- (2) There was a purchase of second hand machinery of ₹ 50 lakhs on 23.10.2017 by a bearer cheque in single payment. Depreciation on such plant and machinery has not been included in amount of depreciation provided in point no. (1) above.
- (3) Out of an amount of ₹ 3 lakhs written off in the F.Y. 2013-14 as irrevocable from a debtor; ₹ 1.5 lakhs was recovered on 19-9-2017 and credited to a reserve account.

Analyse, integrate and apply the relevant provisions of the Income-tax Act, 1961 to compute the total income of Organic Ltd. for the Assessment Year 2018-19 indicating in brief, the reason for treatment of each item. Ignore the provisions relating to minimum alternate tax. **(14 Marks)**

- (b) Compute the total income and tax liability of Mr. Kashyap for the assessment year 2018-19. Mr. Kashyap, aged 60 years, a citizen of India is a resident of both India and a foreign Country X. The following are the particulars of income earned by Mr. Kashyap for the previous year 2017-18:

	(Amount in ₹)
Income from Rifle Shooting in Country X	14,50,000
Tax paid in Country X	2,61,000
Income from Rifle Shooting in India	17,20,000
Life Insurance Premium paid	1,10,000
Deposit in Public Provident Fund	1,50,000
Medical Insurance Premium paid in India for his father aged 82 years (paid through credit card)	32,000

**Note:** There is no Double Taxation Avoidance Agreement between India and Country X. **(6 Marks)**

2. (a) The accounts of Viraj Exports are prepared in accordance with the provisions of the Companies Act, 2013. Its Statement of Profit and Loss for the previous year ended 31st March, 2018 shows a net profit of ₹ 95 Lacs after debiting or crediting the following items:

Credits in Profit and Loss A/c		₹
(1)	Profit from a new industrial undertaking qualifying for deduction under section 80-IA (Net)	17,00,000
(2)	Long-term capital gains	3,00,000
(3)	Dividend received from Investment in Indian companies	2,50,000
(4)	Net agricultural income	5,00,000
Debits in Profit and Loss A/c		
(1)	Depreciation	10,00,000
(2)	Penalty for infraction of law	1,00,000
(3)	Provision for GST	3,00,000
(4)	Provision for doubtful debts	2,00,000
(5)	Interest on financial institutions unpaid before due date of filing return of income	1,50,000
(6)	Reserves of currency foreign fluctuation	1,25,000

**Other Information:**

- Depreciation admissible under the Income-tax Rules, 1962 for the previous year is ₹ 19,50,000.
- Depreciation (as per books) includes ₹ 1,90,000 on account of revaluation of assets.
- The capital gain has been invested in specified assets under section 54EC.
- Interest on borrowed capital ₹ 1,00,000 payable to Y, not debited to profit and loss account.
- GST provided in the accounts has been remitted before the due date for filing return of income.

Compute the minimum alternate tax under section 115JB of the Income-tax Act, 1961, assuming that Viraj Exports is not required to comply with the Indian Accounting Standards (Ind AS).

**(14 Marks)**

- (b) The following information pertains to Mr. John, a non-resident Indian for the previous year 2017-18:

	Particulars	₹	₹
(i)	Dividend from XYZ Ltd., an Indian Company		1,25,000
(ii)	Interest on debentures of MNO Ltd. (subscribed in convertible foreign exchange)	1,20,000	
	Less: Interest on loan taken for purchase of debentures	<u>20,000</u>	1,00,000
(iii)	Long-term capital gains on sale of debentures subscribed in convertible foreign currency:		
	Purchased on 10 <sup>th</sup> June, 2004	4,50,000	
	Sale on 15 <sup>th</sup> March 2018	<u>6,25,000</u>	
		1,75,000	
	Less: Commission to brokers	<u>7,000</u>	1,68,000
(iv)	Income from house property located in India (computed)		2,30,000
(v)	Re-investment the sale proceeds for purchase of shares of ABC Ltd. on 30 <sup>th</sup> April, 2018		4,50,000

Cost Inflation Index: F.Y. 2004-05 - 113; F.Y.2017-18 – 272.

Compute the amount of tax payable by Mr. John for Assessment Year 2018-19, if he opts for the provisions of Chapter XII-A of the Income-tax Act, 1961. Ignore the effect of first proviso to section 48.

**(6 Marks)**

3. (a) (i) Mr. Anish, a resident individual, sold a house property on 16.01.2018. On the said transaction, he earned a long-term capital gain of ₹ 1,25,50,000. He invested a sum of ₹ 50,00,000 in capital gains bonds specified in section 54EC on 15.03.2018. He further invested a sum of ₹ 50,00,000 in the same bonds on 14.06.2018. His other income for the financial year 2017-18 was ₹ 90,000. Compute the tax payable by him for the A.Y. 2018-19.

**(4 Marks)**

- (ii) SD & Co. a partnership firm, was dissolved and as per dissolution deed of the partnership firm, with effect from 17<sup>th</sup> August, 2017. Sanjay, one of the partners of erstwhile firm took over the entire business of the partnership firm in his individual capacity including fixed assets, current assets and liabilities and the other partners was paid his dues. He then continued the business as a sole proprietor with effect from that date. The assessee, relying on section 78(2), claimed the set-off of the losses suffered by the erstwhile partnership firm against his income earned as an individual proprietor, considering the case as a inheritance of business. The claim of the assessee was disallowed by the Assessing Officer. Examine the correctness of the action of the Assessing Officer.

**(4 Marks)**

- (iii) Educare, a trust created with the objective of promoting primary education in rural areas, filed an application for registration under section 12A on 30<sup>th</sup> April, 2017. Since the application was not disposed of by the Commissioner on or before 31st October, 2017 as required under section 12AA(2), the trust contended that it was deemed to be registered as per the provisions of section 12AA(1). Examine the correctness of contention of the trust and determine the total income of the trust for the assessment year 2018-19 from the following details.

S. No.	Particulars	₹ in crores
(i)	Fees collected from students	14.00
(ii)	Construction of a new computer science laboratory	0.50
(iii)	Land acquired to be used as a cricket field for the students	2.00

(iv)	Amount earmarked and set apart for construction of an arts block within the next 4 years.	4.00
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**(6 Marks)**

- (b) RIDA Inc., a German Company, holds 45% of equity in Info tech Ltd., an Indian Company. Info tech Ltd. is engaged in development of software and maintenance of the same for customers across the globe. Its clientele includes RIDA Inc.

During the financial year 2017-18, Info tech Ltd. had spent 1500 man hours for developing and maintaining software for RIDA Inc. with each hour being billed at ₹ 2,500. Cost incurred by Info tech Ltd. for executing work for RIDA Inc. amounts to ₹ 25 lakhs.

Info tech Ltd. had also undertaken developing software for Mira Industries, for which Info tech Ltd. had billed at ₹ 2,700 per man hour. The persons working for Mira Industries and RIDA Inc. were part of the same team and were of matching credentials and caliber. Info tech Ltd. made a gross profit of 50% on Mira Industries work. Info tech Ltd.'s transactions with RIDA Inc. are comparable to transactions with Mira Industries, subject to the following differences:

- RIDA Inc. gives technical knowhow support to Info tech Ltd., which can be valued at 10% of the normal gross profit. Mira Industries does not provide any such support.
- Since the work for RIDA Inc. involved huge number of man hours, a quantity discount of 15% of normal gross profits was given.
- Info tech Ltd. had offered 90 days credit to RIDA Inc., the cost of which is measured at 5% of the normal billing rate. No such discount was offered to Mira Industries.

Compute arm's length price as per Cost Plus Method and the amount of increase in total income of Info tech Ltd.

**(6 Marks)**

4. (a) (i) Purchase commission of ₹ 25,000 was paid to Mr. Kashi, an agent, on 11<sup>th</sup> August, 2017 by Mac Ltd. towards purchase made from him without deducting tax at source. Later on, a further commission of ₹ 55,000 was due to him on 31<sup>st</sup> January, 2018 from which tax of ₹ 4,000 was deducted at source. The tax so deducted was deposited on 25<sup>th</sup> August, 2018. Compute the amount of interest chargeable under section 201(1A). **(4 Marks)**
- (ii) ABC Ltd. failed to deduct tax at source under section 194J in respect of fees for professional services paid by it. The Assessing Officer levied penalty under section 271C for failure to deduct tax at source. In addition, the Assessing Officer also levied penalty under section 272A(2)(c) for failure to furnish return under section 206 and under section 272A(2)(g) for failure to furnish certificate of tax deducted at source as per the requirement of section 203. Is the action of the Assessing Officer correct in law? **(4 Marks)**
- (iii) Examine the applicability of the provisions relating to deduction of tax at source in the following transactions:
- On 15.5.2017, a commission of ₹ 65,000 was retained by the consignee 'Shine Packaging Ltd.' and not remitted to the consignor 'ABC Developers', while remitting the sale consideration.
  - X Ltd. credited ₹ 1,17,000 to the account of Y Ltd. being a resident contractor, in its books of accounts on 31.10.2017 under the contract dated 25<sup>th</sup> September, 2017, towards manufacturing a product according to specification of X Ltd. by using materials purchased from X Ltd.
  - A notified infrastructure debt fund eligible for exemption under section 10(47) of the Income-tax Act, 1961 pays interest of ₹ 6.5 lakhs to a company incorporated in UK. The UK Company incurred expenditure of ₹ 20,000 for earning such interest. **(6 Marks)**

- (b) (i) Thirsty Drink Inc. of UK entered into contracts with three Indian companies namely Thumbs Up Ltd., Pepsi Co. Ltd. and Coca Cola Ltd. for supplying know-how. Thirsty Drink Inc. made an application to the Authority for Advance Rulings (AAR) on the rate of withholding tax on receipts applicable to it.
- Thumbs Up Ltd. also made an application to the Assessing Officer for determination of the rate at which tax is deductible on the payment made to non-resident company i.e., Thirsty Drink Inc.
- The Authority for Advance Rulings (AAR) rejected the application of Thirsty Drink Inc. on the ground that the question raised in the application is already pending before an Income-tax authority. Examine whether the rejection of application by the AAR is justified in justified in law? **(3 Marks)**
- (ii) With reference to the provisions of Chapter VIII of the Finance Act, 2016, explain the meaning of the terms "Equalisation Levy" and "Specified Services". **(3 Marks)**
5. (a) (i) "Noorie", a resident of India, owned for the financial year ended on 31-03-2018, a house property in Australia purchased in July, 2008; a shop in London purchased in June, 2009 and space in a commercial complex in Dubai purchased in April, 2015. She is also having authority to operate the bank account (maintained with Citibank, Australia) of a company owned by her daughter and son-in-law since August, 2016.
- She has been served in July, 2018 with the notices issued under section 148 of the Act for assessment years 2007-08 to 2017-18. She, for the reason of challenging the action of the Assessing Officer for issuing notices under section 148 for last 11 years, seeks your opinion. Advise her suitably. **(4 Marks)**
- (ii) The Assessing Officer issued notices under section 133 to four banks requiring particulars relating to a customer in a specific format duly verified in a prescribed manner. One of the banks refused to part with the information on the ground that the letter did not specify about any proceeding pending against the said customer under the Income-tax Act, 1961. Examine the correctness of action of the bank in refusing to furnish the particulars as required by the Assessing Officer. **(4 Marks)**
- (iii) Examine the correctness or otherwise of the following with reference to the provisions of the Income-tax Act, 1961.
- I. Commissioner (Appeals) has no power to decide a matter that was not raised before him.
  - II. The Income-tax Appellate Tribunal cannot amend its orders.
  - III. A case before the Appellate Tribunal cannot be dealt when there is a difference of opinion amongst the members of the Bench. **(6 Marks)**
- (b) Can tax provisions be discriminatory merely because a person is a non-resident? Explain in the context of the OECD Model Convention. **(6 Marks)**
6. (a) (i) Explain the circumstances under which the Assessing Officer can resort to provisional attachment of the property of the assessee. Also, state the period of time for which such attachment can take place. When can the Assessing Officer revoke provisional assessment of property? Discuss. **(5 Marks)**
- (ii) I. Indico Pvt. Ltd. is a domestic company in India. Den Pvt. Ltd. is a company incorporated in Country 'X' and it is a non-resident in India. Den Pvt. Ltd. forms a company Zen Pvt. Ltd, its 100% subsidiary, in Country 'Y'. Zen Pvt. Ltd. and Indico Pvt. Ltd. form a joint venture company Revolution (P) Ltd. in India on 10.04.2017. There is no other activity in Zen Pvt. Ltd. As per the joint venture agreement, 49% of Revolution (P) Ltd's equity is allotted to Zen Pvt. Ltd. and 51% is allotted to Indico Pvt. Ltd. Zen Pvt. Ltd. is also

designated as a permitted transferee of Den Pvt. Ltd. Permitted transferee means that though shares of Revolution (P) Ltd. are held by Zen Pvt. Ltd, all rights of voting, management, right to sell etc., are vested in Den Pvt. Ltd. On 28.02.2018, the shares of Revolution (P) Ltd. held by Zen Pvt. Ltd. are sold to C Pvt. Ltd., a company connected to the Indico Pvt. Ltd. group. The India-Country 'Y' tax treaty provides for non-taxation of capital gains in the Source Country and Country 'Y' charges no capital gains tax in its domestic law. So, as per the tax treaty with Country 'Y', capital gains arising to Zen Pvt. Ltd. are not taxable in India.

Examine, whether General Anti-Avoidance Rules (GAAR) can be invoked to deny the treaty benefit assuming that the other conditions prescribed for application of GAAR are satisfied. **(4 Marks)**

- II. As per the terms of appointment of the Chief Executive Officer (CEO) of A Ltd., an air-conditioner costing ₹ 51,000 is installed at his residence but A Ltd. treats it as fitted in quality control section in the factory. This is with the objective to treat it as plant for the purpose of computing depreciation. Specify with reason, the nature of transaction as (i) Tax planning; or (ii) Tax management; or (iii) Tax evasion. **(2 Marks)**
- (iii) The Assessing Officer lodged a complaint against M/s Emerald, a firm, under section 276CC of the Income-tax Act 1961 for failure to furnish its return of income for the A.Y.2018-19 within the due date under section 139(1). The tax payable on the assessed income, as reduced by the advance tax paid and tax deducted at source, was ₹ 60,000. The appeal filed by the firm against the order of assessment was allowed by the Commissioner (Appeals). The Assessing Officer passed an order giving effect to the order of the Commissioner (Appeals). The tax payable by the firm as per the said order of the Assessing Officer was ₹ 1,000. The Assessing Officer has accepted the order of the Commissioner (Appeals) and has not referred an appeal against it to the Income-tax Appellate Tribunal. The firm desires to know about the maintainability of the prosecution proceeding in the facts and circumstances of the case. Advise the firm suitably. **(3 Marks)**
- (b) What are the different indicators of BEPS activity as per BEPS Action Plan 11? Discuss. **(6 Marks)**