

**EXAMINATION OF ARTICLED CLERKS**

**PAPER IV**

**TAXATION**

**MONDAY, 18<sup>TH</sup> MAY 2015**

**Time: 3 HOURS (1-00 P.M. to 4-00 P.M.)**

**(Total Marks-100)**

*Notes:* 1. Figures in the bracket indicate *full* marks.

2. Answers should be legible, precise and to the point.

3. Answers to every question should be on a fresh sheet of paper.

4. No tax computations are required under any of the questions.

5. Reference to the Act means Income Tax Act, 1961.

- 1) i) How is the income from House Property determined? (12)  
ii) What are the deductions permissible under this head of income?  
iii) What are the amounts that are not deductible from income under this head of income?
- 2) Discuss briefly the types of income of other persons that are to be included in the (12) income of the assessee.
- 3) Discuss any **five** deductions that are available to an individual under (12) the Provisions of Chapter VI A of the Act.
- 4) a) Does the doctrine of Res Judicate or Estoppel by Record apply to Income (12) Tax Proceedings? Discuss.  
b) Whether a Circular issued by the Board under Section 119(2)(a) of the Act is binding on an Assessee and the Income Tax Department? What if circular is inconsistent with the statutory provisions? Give Reasons.
- 5) Please discuss the provision of appeal to the High Court under Section (12) 260A of the Income Tax Act, 1961. Does the High Court has power to frame substantial questions of law at the time of hearing of the appeal other than the questions on which appeal has been admitted?

- 6) Write short notes on any **four** of the following: (20)
- a. Slump Sale
  - b. Tax planning Vs. Tax avoidance
  - c. Previous Year
  - d. Dividend Distribution Tax
  - e. Rectification of Mistake
  - f. Permanent Account Number

- 7) Answer any **three** with reasons. (15)

- A) Assessee, a hospital entered in to agreements with consultant doctors under which the services of the doctors engaged were not administratively controlled and managed by the assessee hospital. The agreement between the consultant doctors and the assessee hospital, inter alia, did not provide payment of provident fund and gratuity. They were free to come at any point of time as far as their attendance was concerned and treat the patients. For the A.Y.2008-09, orders u/ss.201 and 201 (1A) were passed treating the assessee hospital as an **assessee in default** for non deduction of tax at source u/s. 192 of the Income Tax Act, 1961 holding that the payments made by the assessee hospital to the consultant doctor was salary.,

Are the orders passed by the Assessing Officer correct in law? Please advise the Assessee Hospital

- B) The assessee in July 2005, sold an immovable property for a consideration of Rs.8,51,00,000/- which was more than the stamp duty value of the property. In the course of the assessment proceedings for the A.Y. 2006-07, the Assessing Officer referred the case to the DVO for valuation as on the date of sale and also as on 01-04-1981. The DVO valued the property as on the date of sale at Rs.13,73,90,000/-. The DVO also valued the property as on 01-04-1981 at Rs.94,00,000/- as against Rs.1,03,00,000/- determined by the registered valuer of the assessee. As a result the Assessing Officer made an addition of Rs.81,57,643/- to the total income. Is action of the Assessing Officer for addition of Rs.8,51,00,000/- to the total income valid in law? Please advise the assessee.

- C) The assessee was a share broker registered with National Stock Exchange and the Bombay Stock Exchange and was engaged in the business of purchase and sale of shares. In the A.Y. 2005-06, the assessee declared short-term capital gains of Rs.82,32,316/- from sale of shares held by it as investment. The shares held as investment were kept in a separate portfolio. The shares related to only three companies were not treated as stock-in-trade. These shares were sold after a gap of four months or more. The Assessing Officer held that the profit was assessable as business income, while the assessee claimed as a short terms capital gain. Is the action of Assessing Officer correct or valid in law? Please advise the assessee.
- D) The assessee was engaged in the business of developing, operation and maintaining an industrial park and providing infrastructure facilities to different companies as its business. For the A.Ys. 2005-06 to 2009-10, the assessee had claimed that the rent received from letting out buildings along with other amenities in a software technology park as income from business. The Assessing Officer assessed it as income from house property. Does the action of Assessing Officer valid in law? Please advise the assessee.
- E) The assessee, a Co-operative Housing Society, received a sum of Rs.39,68,000 on account of transfer of flat and garage and credited it to 'general amenities fund' as well as 'repair fund'. The assessee claimed that the said receipt as exempted from tax on the ground of mutuality. The Assessing Officer disallowed the said sum holding that the principles of mutuality would not apply. Is the action of Assessing Officer correct or valid in law? Please advise the assessee.
- 8) State with reasons whether the following transactions attract Income Tax in India, (5)  
in the hands of recipients u/s 9 of Income Tax Act, 1961
- i) 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 towards drawings and designs, which were described as "Engineering Fee". The assessee contended that such business profits should be

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

- ii) 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.
  - iii) Amount paid by Government of India for use of a patent developed by Mr. A, who is a non-resident.
  - iv) Sai Engineering, a non-resident Foreign Company entered into a collaboration agreement on 25/06/2013, 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 2013-14.
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