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SUGGESTED SOLUTION

CS EXECUTIVE JUNE 2019 EXAM

SUBJECT- DIRECT TAX

Test Code - CSE 2049

BRANCH - () (Date :)

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Answer 1:

(A)

- (i) Any sum of money received by an individual on the occasion of the marriage of the individual is exempt. This provision is, however, not applicable to a cash gift received during a wedding function celebrated on completion of 60 years of age.

The gift of Rs. 51,000 received from a non-relative is, therefore, chargeable to tax under section 56(2)(x) in the hands of Mrs. Hemali.

- (ii) The provisions of section 56(2)(x) are not attracted in respect of any sum of money or property received from a relative. Thus, the gift of diamond necklace received from her sister is not taxable under section 56(2)(x), even though jewellery falls within the definition of "property".

- (iii) To be exempt from applicability of section 56(2)(x), the property should be received on the occasion of the marriage of the individual, not that of the individual's son or daughter. Therefore, this exemption provision is not attracted in this case.

Any sum of money received without consideration by an individual is chargeable to tax under section 56(2)(x), if the aggregate value exceeds Rs. 50,000 in a year. "Sum of money" has, however, not been defined under section 56(2)(x).

Therefore, there are two possible views in respect of the value of fixed deposit assigned in favour of Mrs. Hemali –

- (1) The first view is that fixed deposit does not fall within the meaning of "sum of money" and therefore, the provisions of section 56(2)(x) are not attracted. It may be noted that fixed deposit is also not included in the definition of "property".
- (2) However, another possible view is that fixed deposit assigned in favour of Mrs. Hemali falls within the meaning of "sum of money" received.

Income assessable as "Income from other sources"

If the first view is taken, the total amount chargeable to tax as "Income from other sources" would be Rs. 51,000, being cash gift received from a friend on her Shastiaptha Poorthi.

As per the second view, the provisions of section 56(2)(x) would also be attracted in respect of the fixed deposit assigned and the "Income from other sources" of Mrs. Hemali would be Rs. 1,02,000 (Rs. 51,000 + Rs. 51,000). **(2 marks x 3 = 6 marks)**

(B)

There are circumstances where notional income is charged to tax instead of real income. For example –

- ◆ Where the assessee owns more than one house property for the purpose of self-occupation, the annual value of any one of those properties, at the option of the assessee, will be nil and the other properties are deemed to be let-out and income has to be computed on a notional basis by taking the Expected Rent (ER) as the GAV.
- ◆ In the case of let-out property throughout the previous year, if the Expected Rent (ER) exceeds the actual rent received or receivable, then ER is taken as the GAV.
- ◆ In the case of let-out property which is vacant for part of the year, if the actual rent received or receivable for let out period is less than the Expected Rent (ER) for whole year not owing to vacancy, then ER for whole year is taken as the GAV.
- ◆ In case of a house property held as stock-in-trade by assessee (which is not let out), income has to be computed on a notional basis by taking the Expected Rent

(ER) as the GAV after 1 year from the end of the financial year in which certificate of completion of construction of the property is obtained from the competent authority. **(1 mark x 4 = 4 marks)**

Answer 2:

Computation of Income from Salary of Mr. X for the A.Y. 2019-20

| Particulars | Rs. | Rs. |
|--|--------|-----------------|
| Basic salary [Rs. 25,000 × 12] | | 3,00,000 |
| Commission [Rs. 1,000 × 12] | | 12,000 |
| Entertainment allowance [Rs. 1,000 × 12] | | 12,000 |
| Rent free accommodation [Note 1] | 48,600 | |
| <i>Add</i> : Value of furniture [Rs. 2,40,000 × 10% p.a. for 8 months] | 16,000 | 64,600 |
| Interest on personal loan [Note 2] | | 22,500 |
| Use of motor cycle [Rs. 60,000 × 10% p.a. for 4 months] | | 2,000 |
| Transfer of motor cycle [Note 3] | | 12,000 |
| Gross Salary | | 4,25,100 |
| <i>Less</i> : Deduction under section 16 | | |
| Under section 16(ia) – Deduction of upto Rs.40,000 | 40,000 | |
| Under section 16(iii) - Professional tax paid | 2,000 | 42,000 |
| Income from Salary | | 3,83,100 |

(7 marks)

Note 1: Value of rent free unfurnished accommodation

= 15% of salary for the relevant period

= 15% of (Rs. 3,00,000 + Rs. 12,000 + Rs. 12,000) = Rs. 48,600

Note 2: Value of perquisite for interest on personal loan

= [Rs. 5,00,000 × (12.75% - 6.75%) for 9 months] = Rs. 22,500

Note 3: Depreciated value of the motor cycle

= Original cost – Depreciation @ 10% p.a. for 3 completed years.

= Rs. 60,000 – (Rs. 60,000 × 10% p.a. × 3 years) = Rs. 42,000.

Perquisite = Rs. 42,000 – Rs. 30,000 = Rs. 12,000.

(1 mark x 3 = 3 marks)

Answer 3:

Let us first calculate the income from each house property assuming that they are deemed to be let out.

Computation of income from house property of Ganesh for the A.Y. 2019-20

| Particulars | Amount in Rs. | |
|--|---------------|----------|
| | House I | House II |
| Gross Annual Value (GAV) | | |
| ER is the GAV of house property | | |
| ER = Higher of MV and FR, but restricted to SR | 90,000 | 1,60,000 |

| | | |
|---|---------------|-----------------|
| Less: Municipal taxes (paid by the owner during the previous year) | 12,000 | 12,000 |
| Net Annual Value (NAV) | 78,000 | 1,48,000 |
| Less: Deductions under section 24 | | |
| (a) 30% of NAV | 23,400 | 44,400 |
| (b) Interest on borrowed capital | - | 55,000 |
| Income from house property | 54,600 | 48,600 |

(5 marks)

OPTION 1 (House I – self-occupied and House II – deemed to be let out)

If House I is opted to be self-occupied, the income from house property shall be –

| Particulars | Amount in Rs. |
|-----------------------------------|---------------|
| House I (Self-occupied) | Nil |
| House II (Deemed to be let-out) | 48,600 |
| Income from house property | 48,600 |

(2 marks)

OPTION 2 (House I – deemed to be let out and House II – self-occupied)

If House II is opted to be self-occupied, the income from house property shall be –

| Particulars | Amount in Rs. |
|--|---------------|
| House I (Deemed to be let-out) | 54,600 |
| House II (Self-occupied) (interest deduction restricted to Rs. 30,000) | -30,000 |
| Income from house property | 24,600 |

(2 marks)

Since Option 2 is more beneficial, Ganesh should opt to treat House II as self-occupied and House I as deemed to be let out. His income from house property would be Rs. 24,600 for the A.Y. 2019-20.

(1 mark)

Answer 4:

| | Particulars | Head of Income |
|-------|--|--|
| (i) | Rental income in case property held as stock-in trade for 3 years | Income from house property |
| (ii) | Dividend on shares in case of a dealer in shares | Income from other sources |
| (iii) | Salary by partner from his partnership firm | Profits and profession gains of business |
| (iv) | Rental income of machinery (See Note below) | Income from other sources/ Profits and gains of business or profession |
| (v) | Winnings from lotteries by a person having the same as business activity | Income from other sources |

| | | |
|--------|--|---|
| (vi) | Salaries payable to a Member of Parliament | Income from other sources |
| (vii) | Receipts without consideration | Income from other sources |
| (viii) | In case of retirement, interest on employee's contribution if provident fund is unrecognized | Income from other sources |
| (xi) | Rental income in case of a person engaged in the business of letting out of properties | Profits and gains from business or profession |

Note - As per section 56(2)(ii), rental income of machinery would be chargeable to tax under the head "Income from Other Sources", if the same is not chargeable to income-tax under the head "Profits and gains of business or profession" **(10 marks)**

Answer 5:

(A)

As per section 2(7), assessee means a person by whom tax or any other sum of money is payable under the Income-tax Act, 1961.

In addition, the term includes –

- Every person in respect of whom any proceeding under the Act has been taken for the assessment of –
- his income; or
- the income of any other person in respect of which he is assessable; or
- the loss sustained by him or by such other person; or
- the amount of refund due to him or to such other person.
- Every person who is deemed to be an assessee under any provision of this Act;
- Every person who is deemed to be an assessee in default under any provision of this Act.

(5 marks)

(B)

He is covered by the Payment of Gratuity Act 1972

Gratuity received at the time of retirement Rs. 6,00,000

Less: Exemption under section 10(10)

Least of the following:

i. Gratuity received Rs. 6,00,000

ii. Statutory limit Rs. 20,00,000

iii. 15 days' salary based on last drawn salary for each completed year of service or part thereof in excess of 6 months

$\frac{15}{26} \times \text{last drawn salary} \times \text{years of service}$

$\frac{15}{26} \times (\text{Rs. } 5,000 + \text{Rs. } 3,000) \times 27 =$ Rs. 1,24,615 Rs. 1,24,615

Taxable Gratuity Rs. 4,75,385

(5 marks)