



CA FINAL MAY'19

SUBJECT- DT

Test Code – FNJ 7191

(Date :)

(Marks - 100)

Question 1 is compulsory and attempt any three out of four questions

Question 1:

(A) Objective Questions

Knowledge Based (1 mark x 10 = 10 marks)

- 1) Any payment from an account, opened in accordance with the _____ is exempt in the hands of an individual under section 10(11A) of the Act.
 - (a) Sukanya Samriddhi Account Rules, 2014
 - (b) Provident Fund Account
 - (c) Public Provident Fund Account
 - (d) Post Office Savings Account

- 2) As per section 115BBE, any cash credit found in the books of the assessee which remains unexplained shall be charged to tax at a flat rate of _____ (plus surcharge and cess as applicable).
 - (a) 10%
 - (b) 20%
 - (c) 30%
 - (d) 60%

- 3) ABC India Pvt. Ltd and XYZ India Pvt. Ltd are related parties, as defined under section 40A(2)(b), who have entered into a transaction for purchase of goods for Rs. 25 lacs on 2nd April, 2018. The Arm Length Price for such goods is Rs. 15 lacs. Aggregate value of such transactions in the previous year 2018-19 is Rs. 22.5 crores. Can the transaction be considered as a specified domestic transaction to attract transfer pricing provisions?
 - (a) Yes, as the aggregate transaction value exceeds Rs. 20 crores
 - (b) Yes, as parties are related parties.
 - (c) No, transfer pricing provisions are not applicable in this case
 - (d) Yes, since parties are related parties and the aggregate transaction value exceeds Rs. 20 crores

- 4) When SPV makes payment of interest to REIT-
 - (a) Tax deduction at source not required
 - (b) Tax shall be deducted at the rate of 10%
 - (c) Tax shall be deducted at the rate of 10% if interest amount exceeds Rs. 10,000
 - (d) Tax shall be deducted at the rate of 20%

- 5) Identify the person who may not be regarded as agent of non-resident as defined under section 163 of the Act.
- (a) Employee of non-resident
 - (b) Person having business connection with the non-resident
 - (c) Trustee of non-resident
 - (d) Relative of non-resident
- 6) The appeal shall lie to the High Court against Any order passed in appeal by the Appellate Tribunal, if the High court is satisfied that the case involves a ____.
- (a) substantial question of law
 - (b) substantial question of fact
 - (c) dispute
 - (d) compromise
- 7) Directions, instructions, orders issued under section 119 cannot interfere with the discretion of _____ in the exercise of appellate functions.
- (a) CCIT
 - (b) CIT
 - (c) PR. CIT
 - (d) CIT(A)
- 8) As per the provisions of section 220(2) , if the amount specified in any notice of demand u/s 156 is not paid within the period mentioned under section 220(1), the assessee shall be liable to pay simple interest at_% for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in section 220(1) and ending with the day on which the amount is paid.
- (a) 1.25
 - (b) 1
 - (c) 1.5
 - (d) 0.5
- 9) Under section 194C of the Act, If any person being ___ or ___ or ___ or ___ is liable to audit of accounts under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which contract payments are credited or paid, then they are required to deduct tax at source.
- (a) An individual/HUF/AOP/BOI
 - (b) An individual/partnership firm /AOP / BOI
 - (c) An individual/company / AOP / BOI
 - (d) A partnership firm/HUF /AOP / BOI
- 10) For the purpose of section 269 SS, the term "loan or deposit" means loan or deposit_____.
- (a) Of money
 - (b) In cash or in kind
 - (c) In kind
 - (d) None of the above

Application Based (2 marks x 10 = 20 marks)

11) Basic salary Rs. 3,00,000 per annum, dearness allowance forming part of salary while computing retirement benefits Rs. 2,00,000. House rent allowance (HRA) was Rs. 1,00,000 per annum. Annual rent paid at Delhi Rs. 1,20,000. Taxable HRA will be Rs. ____.

(a) Rs. 2,50,000

(b) Rs. 1,00,000

(c) Rs. 70,000

(d) Rs. 30,000

12) The tax liability of Mr. Sunil for the financial year 2018-19 came to Rs. 1,54,000. He has paid advance tax of Rs. 1,38,000 and there was a TDS credit of Rs. 44,000 in his account. He filed his return of income on 30th July, 2019 claiming the refund due. His assessment was completed under section 143(1) and he was granted the refund on 15th February, 2020. Subsequently, his case was selected for scrutiny and his income was assessed under section 143(3). As per the assessment order dated 25th August, 2020, his income was recomputed after making certain additions and his revised tax liability was computed at Rs. 1,76,000. Whether he will be liable to pay any interest on the excess refund granted to him? If yes, then for what period?

(a) Sunil will be liable to pay interest on the excess refund of Rs. 22,000 at the rate of ½ percent for a period of 7 months.

(b) Sunil will not be liable to pay any interest on the excess refund granted to him.

(c) Sunil will be liable to pay interest on the excess refund of Rs. 22,000 at the rate of 1 percent for a period of 6 months.

(d) Sunil will be liable to pay interest on the total refund of Rs. 28,000 at the rate of ½ percent for a period of 7 months.

13) PQRS & Co., an AOP provides following information:

Name of Member	Interest paid to Member	Interest recovered from Member
Mr. P	Rs. 8,000	Nil
Mr. Q	Rs. 10,000	Nil
Mr. R	Rs. 13,000	Nil
Mr. S	Nil	Rs. 21,000

Find out interest to be disallowed under section 40(ba) in the hands of AOP

(a) Rs. 10,000

(b) Rs. Nil

(c) Rs. 21,000

(d) Rs. 31,000

14) A Venture Capital Fund registered before 21-05-2012 derived income of Rs.17 lakh comprising dividend of Rs.4 lakh from shares from a Venture Capital Undertaking and interest of Rs.13 lakh on loan granted to such undertaking. G receives income of Rs.1.7 lakh from such fund. Examine the taxability of the sum of Rs.1.7 lakh received by G.

- (a) Rs. 1.70 lakh shall be exempt (b) Rs. 1.3 lakh shall be chargeable to tax
 (c) Rs. 0.40 lakh shall be exempt (d) Rs. 1.70 Lakhs shall be chargeable to tax

15) Work out from the following particulars, the amount of capital gain which shall be deemed to have been applied for charitable or religious purpose arising out of sale of a capital asset utilized for the purposes of trust.

Particulars	Rs.
Cost of transferred asset	2,40,000
Sale consideration	3,80,000
Cost of new asset purchased	3,00,000
Expenses in connection with transfer	20,000

- (a) Rs. 2,40,000 (b) Rs.3,00,000
 (c) Rs. 60,000 (d) Rs.3,60,000

16) Mr. X purchases 1,000 unlisted equity shares of Rs. 10 each in A Ltd. on 10.05.2018 @ Rs. 60. On 20.10.2018, he transfers 800 equity shares @Rs. 30 per share and remaining 200 shares are transferred on 20.12.2018 @Rs. 20 per share. A Ltd. declares 50 percent dividend (record date: 03.08.2018). Also, during the previous year 2018-19, X has also earned long term capital gain of Rs. 96,000 on sale of a capital asset. Compute the amount of short term capital loss on sale of shares in question that can be set off from the long term capital gain of Rs. 96,000.

- (a) Rs. 28,000
 (b) Rs. 32,000
 (c) Rs. 27,000
 (d) Rs.8,000

17) P Ltd. is a domestic company which filed its return of income for A.Y. 2019 -20 declaring a total income of Rs. 1,15,00,000. The assessment in its case was opened by the Assessing Officer by issuing notice u/s 143(2). The Assessing Officer doubted the genuineness of loans taken by the company and added an amount of Rs. 5,00,000 to the total income u/s 68 as cash credits. What shall be the effective rate at which the said income of Rs. 5,00,000 shall be taxable in the hands of P Ltd.?

- (a) 77.25 %
 (b) 66.768 %
 (c) 78 %
 (d) 33.384 %

- 18) During the previous year, ABC Ltd. gave an annual maintenance contract for maintenance of air conditioners to Mr. Kirit. As per the agreed terms, the annual contract value is Rs. 58,000 and same shall be paid to Mr. Kirit in two equal instalments on the interval of six months in a financial year.

Find out the amount tax to be deducted by ABC Ltd. under section 194C?

- (a) Rs. 580 (b) Rs. 290
(c) Rs. 1160 (d) Nil

- 19) Dabur Ltd. has entered into a contract to buy plastic bottles from Packaging Pvt. Ltd as per the designs and specification given to it. For this purpose, Dabur Ltd. sold necessary raw material to Packaging Pvt. Ltd. For the previous year **2018-19**, Packaging Pvt. Ltd. has raised following invoices on Dabur Ltd.

Date	Invoice no.	Qty.	Value of Raw Material	Labour Charges	Total Bill Rs.
14/10/18	1020/18-19	10,000	-	-	60,000
31/11/18	1255/18-19	20,000	80,000	45,000	1,25,000

Identify the obligation of Dabur Ltd. to deduct tax at source under section 194C, if any.

- (a) Dabur Ltd. is required to deduct TDS on Rs. 60,000 for the invoice no. **1020/18-19** while in case of invoice no. **1225/18-19** TDS to be made on Rs. 1,25,000.
(b) Dabur Ltd. is required to deduct TDS on Rs. 60,000 for the invoice no. **1020/18-19** while in case of invoice no. **1225/18-19** TDS to be made on Rs. 45,000.
(c) Dabur Ltd. is required to deduct TDS on Rs. 60,000 for the invoice no. **1020/18-19** while in case of invoice no. **1225/18-19** TDS to be made on Rs. 80,000.
(d) Dabur Ltd. is not required to deduct TDS for the invoice no. **1020/18-19** while in case of invoice no. **1225/18-19** TDS to be made on Rs. 45,000.

- 20) A is a resident individual aged 45 years. Find out his tax liability for A.Y. 2019-20 on the basis of the following particulars:

Business income	5,00,000
Dividend from different domestic companies (dividend distribution tax has been paid by these companies)	
- G Ltd.	40,00,000
- H Ltd.	10,000
- I Ltd.	11,90,000
Expenditure for earning dividend income	2,60,000

- (a) Rs.4,49,800
(b) Rs.6,09,180
(c) Rs.4,22,760
(d) Rs.13,000

(B)

- i) Anush Motors Ltd., an Indian company declared income of Rs. 300 crores computed in accordance with Chapter IV-D but before making any adjustments in respect of the following transactions for the year ended on 31.3.2019:
- (i) 10,000 cars sold to Rida Ltd., US company, which holds 30% shares in Anush Motors Ltd. at a price which is less by \$ 200 each car than the price charged from Shingto Ltd.
 - (ii) Royalty of \$ 1,20,00,000 was paid to Kyoto Ltd., a US company, for use of technical know-how in the manufacturing of car. However, Kyoto Ltd. had provided the same know-how to another Indian company for \$ 90,00,000.
 - (iii) Loan of Euro 1000 crores carrying interest @10% p.a. advanced by Dorf Ltd., a German company, was outstanding on 31.3.2019. The total book value of assets of Anush Motors Ltd. on the date was Rs. 90,000 crores. The said German company had also advanced a loan of similar amount to another Indian company @9% p.a. Total interest paid for the year was EURO 100 crores.

Explain in brief the provisions of the Act affecting all these transactions and compute the income of the company chargeable to tax for A.Y.2019-20 keeping in mind that the value of 1\$ and of 1 EURO was Rs. 63 and Rs. 84, respectively, throughout the year. (6 marks)

- ii) Mr. Q, a non-resident, operates an aircraft between Singapore and Chennai. He received the following amounts while carrying on the business of operation of aircrafts for the year ended 31.3.2019:
- (i) Rs. 2 crores in India on account of carriage of passengers from Chennai.
 - (ii) Rs. 1 crore in India on account of carriage of goods from Chennai.
 - (iii) Rs. 3 crores in India on account of carriage of passengers from Singapore.
 - (iv) Rs. 1 crore in Singapore on account of carriage of passengers from Chennai.

The total expenditure incurred by Mr. Q for the purposes of the business during the year ending 31.3.2019 was Rs. 6.75 Crores.

Compute the income of Mr. Q chargeable to tax in India under the head "Profits and gains of business or profession" for the assessment year 2019-20.

What would be your answer in case the business was carried on by a foreign company, Q Airlines (P) Ltd?

(4 marks)

Question 2:

(A)

Mega Tea Ltd. is a tea company engaged in cultivating and processing tea in its factory for marketing. The company distributed dividend of Rs. 25 lakhs to its shareholders. The Assessing Officer was of the view that the entire dividend is subject to dividend distribution tax. The company, however, contended that the tax on dividend declared by it in this case is nothing but a tax on agricultural income; and the legislative competence for taxing agricultural income lies with the State Government and not the Central Government. On appeal, the Appellate

Authority held that since the company is carrying on cultivation of tea, which is an agricultural process as also the processing of tea in the factory, which is an industrial process, 40% of dividend distributed by the company is to be taxed under Section 115-O. **Discuss the correctness or otherwise of the contention of the Appellate Authority.** (6 marks)

(B)

The following are the particulars in respect of a scheduled bank incorporated in India -

	Particulars	Rs. in lakh
(i)	Provision for bad and doubtful debts under section 36(1)(viia) upto A.Y.2018-19	100
(ii)	Gross Total Income of A.Y.2019-20 [before deduction under section 36(1)(viia)]	800
(iii)	Aggregate average advances made by rural branches of the bank	300
(iv)	Bad debts written off (for the first time) in the books of account (in respect of urban advances only) during the previous year 2018-19	210

Compute the deduction allowable under section 36(1)(vii) for the A.Y.2019-20.

(5 marks)

(C)

Edu All Charitable Trust registered under section 12AA, following cash system of accounting, furnishes you the following information for P.Y. 2018-19:

- (i) Gross receipts from hospital Rs. 200 lakhs.
- (ii) Gross receipts from medical college Rs.95 lakhs (offering recognized degree courses).
- (iii) Corpus donations by way of cheque Rs. 42 lakhs and by way of cash Rs. 6 lakhs.
- (iv) Anonymous donations by cash Rs. 12 lakhs.
- (v) Administrative expenses for hospital Rs. 75 lakhs.
- (vi) Fees not realized from patients Rs. 18,00,000 as on 31st March, 2019.
- (vii) Depreciation on assets of the trust Rs. 37,50,000. The entire cost of assets Rs. 250 lakhs claimed as application in the earlier years.
- (viii) Acquired a building for Rs. 80 lakhs on 01.06.2018 for expansion of hospital (cost of land included therein Rs. 50 lakhs). Stamp duty value of the land and building on the date of registration of sale deed Rs. 210 lakhs.
- (ix) The trust gave corpus donation of Rs. 19 lakhs to Help Aid Trust having objects of charitable nature registered under section 12AA but not similar to the objects of the donor trust.

You are required to compute the total income of the trust and its income-tax liability in such a manner that it can avail the optimal benefit within the four corners of the Income- Tax Act, 1961.

Note: The trust does not want to seek accumulation of income by virtue of section 11(2) of the Act.

(9 marks)

Question 3:

(A)

Rhombus (P) Limited is engaged in manufacture and sale of ceramic tiles. The net profit of the company as per its profit and loss account for the year ended 31st March, 2019 is Rs. 210 lakh after debiting or crediting the following items:

- (x) One-time license fee of Rs. 32 lakh paid to ABC Ltd (an Indian company) for obtaining franchise on 1st June, 2018.
- (xi) Rs. 32,000 paid to Beta & Co., a goods transport operator, in cash on 31st January, 2019 for carrying company's products to the warehouse.
- (xii) Rent of Rs. 50,000 p.m. received from letting out a part of its office premises. Municipal tax in respect of the said part of the building is Rs. 8,000 remains unpaid due to court litigation.
- (xiii) Rs. 1 lakh, being contribution to a scientific research association approved and notified under section 35(1)(ii).
- (xiv) Rs. 2 lakh, being loss due to destruction of a machinery caused by a fire due to short circuit. The Insurance Company did not admit the claim of the company.
- (xv) Rs. 5 lakh paid to a contractor for repair work at the company's factory. No tax was deducted on such payment.
- (xvi) Dividend of Rs. 10,000 from Gama Limited on 1,000 equity shares of Rs. 10 each purchased at Rs. 100 per share on 10th October, 2018. The rate of dividend declared is 100%, the record date being 10th December, 2018. The shares were sold on 1st March, 2019 at Rs. 80 per share.
- (xvii) Depreciation on tangible fixed assets as per books of account Rs. 2.20 lakh.

Additional Information:

- (i) Depreciation on tangible fixed assets as per Income-tax Rules Rs. 2.60 lakh.
- (ii) The company has obtained a loan of Rs. 2 lakh from Theta Private Limited in which it holds 16% voting rights. The accumulated profits held by Theta Private Limited on the date of loan were Rs. 0.50 lakh.

Compute total income of Rhombus (P) Ltd. for the Assessment Year 2019-20 indicating reasons for treatment of each item. Ignore the provisions relating to minimum alternate tax. **(16 marks)**

(B)

Mr. Balram is a non-resident. The appeal pertaining to the assessment year 2014-15 is pending before the Income-tax Appellate Tribunal, the issue involved being computation of export profit and tax thereon. The same issue persists for the assessment year 2015-16 as well. Mr. Balram's brother Mr. Krishna has obtained an advance ruling under Chapter XIX - B of Income-tax Act, 1961 from the Authority for Advance Rulings on an identical issue. **Mr. Balram proposes to use the said ruling for his assessment pertaining to the assessment year 2015-16. Can he do so?** **(4 marks)**

Question 4:**(A)**

Vijay, an individual, owned three residential houses which were let out. Besides, he and his four brothers co-owned a residential house in equal shares. He sold one residential house owned by him during the previous year relevant to the assessment year 2019-20. Within a month from the date of such sale, the four brothers executed a release deed in respect of their shares in the co-owned residential house in favour of Vijay for a monetary consideration.

Vijay utilised the entire long-term capital gain arising out of the sale of the residential house for payment of the said consideration to his four brothers. Vijay is not using the house, in respect of which his brothers executed a release deed, for his own residential purposes, but has let it out to another person, who is using it for his residential purposes.

Is Vijay eligible for exemption under section 54 of the Income-tax Act, 1961 for the assessment year 2019-20 in respect of the long-term capital gain arising from the sale of his residential house, which he utilised for acquiring the shares of his brothers in the co-owned residential house? Will the non-use of the new house for his own residential purposes disentitle him to exemption? **(5 marks)**

(B)

If Xylo Inc. has a permanent establishment in India and the contract/agreement with Alpha Ltd. for rendering technical services is effectively connected with such PE in India, **examine the taxability based on the following details** provided –

	Particulars	Amount
(1)	Fees for technical services received from Alpha Ltd.	Rs. 2 crore
(2)	Expenses incurred for earning such income	Rs. 8 lakhs
(3)	Fees for technical services received from other Indian companies in pursuance of approved agreement entered into between the years 2005 to 2010	Rs. 4 crore
(4)	Expenses incurred for earning such income	Rs. 15 lakhs
(5)	Expenditure not wholly and exclusively incurred for the business of such PE [not included in (2) & (4) above]	Rs. 6 lakhs
(6)	Amounts paid by the PE to Head Office (not being in the nature of reimbursement of actual expenses)	Rs. 12 lakhs

What are the other requirements, if any, under the Income-tax Act, 1961 in this case? **(5 marks)**

(C)

The Korean Company was subjected to regular assessment for the assessment year 2006-07. The assessment order was passed, pursuant to the directions under section 144C(5) made by the Disputes Resolution Panel. For the same assessment year, i.e., A.Y.2006-07, assessee was issued a reassessment notice dated March 30, 2013 under section 148. Against this reassessment notice, assessee filed a writ petition before the High Court.

Can an assessee, objecting to the reassessment notice issued under section 148, directly approach the High Court in the normal course contending that such reassessment proceedings are apparently unjustified and illegal?

Answer your question with reference to relevant case law. (5 marks)

(D)

The assessee-company, engaged in ship breaking activity, sold old and used plates, wood etc. It did not produce any document or papers to show collection of tax at source on sale of such items and payment thereof to the credit of the Central Government nor was certificate in Form No.27C produced. The Assessing Officer observed that such items were in the nature of scrap and therefore, the assessee was under an obligation to collect tax at source from the buyers of scrap. Accordingly, he raised a demand under section 201(1) and interest under section 201(1A). The assessee claimed that such items are usable as such, and are hence not 'scrap' to attract the provisions for collection of tax at source.

Can items of finished products from ship breaking activity which are usable as such be treated as "Scrap" to attract provisions for tax collection at source under section 206C? (5 marks)

Question 5:

(A)

In respect of the taxes due from a private limited company, which could not be recovered from it, the Tax Recovery Officer attached the properties of an erstwhile director for recovery thereof. It was contended by the director that a notice under section 156 had not been served on him and therefore, the proceedings for recovery were not valid. **What is the correct legal position?** (4 marks)

(B)

Explain the meaning of "**significant economic presence**". Does "significant economic presence" constitute "business connection" for attracting deemed accrual provisions under section 9(1)? Examine, in line with which action plan of BEPS, has this provision been introduced in the Income-tax Act, 1961. (5 marks)

(C)

What do you mean by **double taxation**? Discuss the connecting factors which lead to Double taxation. (5 marks)

(D)

What is the **difference between OECD Model Convention, 2017 and UN Model Convention, 2017** relating to right of Source State to tax business profits of an enterprise? Explain. (6 marks)