

**DT QUESTION PAPER SOLUTION (Test held on 07.04.18)****Solution 1(a) (10 Marks)****Computation of depreciation allowance under section 32 for the A.Y. 2018-19**

Particulars	Amount (Rs.)	Plant and Machinery (15%) (Rs.)	Plant and Machinery (40%) (Rs.)
Opening WDV as on 01.04.2017		5,78,000	
Add: Plant and Machinery acquired during the year			
-Second hand machinery	2,00,000		
- Machinery Y	8,00,000		
- Air conditioner for office	3,00,000		
- Machinery Z	3,25,000	16,25,000	
- Air pollution control equipment		-	2,50,000
		22,03,000	2,50,000
Less: Asset sold during the year		3,10,000	Nil
Written down value before charging depreciation		18,93,000	2,50,000
<b>Normal depreciation</b>			
40% on air pollution control equipment (Rs. 2,50,000 x 40%)		-	1,00,000
Depreciation on plant and machinery put to use for less than 180 days@ 7.5% (i.e., 50% of 15%)			
-Second hand machinery (Rs. 2,00,000 × 7.5%)	15,000		
- Machinery Z (Rs. 3,25,000 × 7.5%)	24,375	39,375	
15% on the balance WDV being put to use for more than 180 days (Rs. 13,68,000 × 15%)		2,05,200	
<b>Additional depreciation</b>			
- Machinery Y (Rs. 8,00,000 × 20%)	1,60,000		
-Machinery Z (Rs. 3,25,000 × 10%, being 50% of 20%)	32,500		
-Air pollution control equipment (Rs.2,50,000× 20%)		1,92,500	50,000
<b>Total depreciation</b>		<b>4,37,075</b>	<b>1,50,000</b>

**Solution 1(b) (5 Marks)**

**Computation of income under the head “Profits and gains of business or profession” for the A.Y.2018-19**

Particulars		Rs.	Rs.
<b>Net profit as per profit and loss account</b>			35,25,890
<b>Add:</b>	<b>Items debited to profit and loss account, but to be disallowed</b>		
	Purchase price of Land used in in-house research and development - being capital expenditure not allowable as deduction under section 35	5,00,000	
	Purchase price of building used in in-house research and development - being capital expenditure, 100% of which is allowable as deduction u/s 35	-	
	Expenditure incurred on notified agricultural extension project (to be treated separately)	25,50,000	
	Expenditure incurred on notified skill development project - Purchase of land - being capital expenditure not qualifying for deduction under section 35CCD	40,00,000	
	Expenditure incurred on notified skill development project - Expenditure on training for skill development (to be treated separately)	32,50,000	
	Expenditure incurred on advertisement in the souvenir published by a political party not allowed as deduction	75,000	1,03,75,000
			<b>1,39,00,890</b>
<b>Less:</b>	Purchase price of raw material used for in-house research and development qualifies for 150% deduction under section 35(2AB). Since, it is already debited to profit and loss account balance 50% is allowed.	5,90,000	
<b>Less:</b>	Expenditure incurred on notified agricultural extension project qualifies for 150% deduction under section 35CCC.	38,25,000	
<b>Less:</b>	Expenditure incurred on training for skill		

development in a notified skill development project qualifies for 150% deduction under section 35CCD.	48,75,000	92,90,000
<b>Profit and gains from business</b>		<b>46,10,890</b>

**Solution 1(c) (5 Marks)**

Disallowance under section 40(a)(ia) of the Income-tax Act, 1961 is attracted where the assessee fails to deduct tax at source as is required under the Act, or having deducted tax at source, fails to remit the same to the credit of the Central Government within the stipulated time limit.

- (i) The obligation to deduct tax at source from interest paid to a resident arises under section 194A in the case of an individual, whose total turnover in the immediately preceding previous year, i.e., P.Y. 2016-17 exceeds Rs. 100 lakhs. Thus, in present case, since the turnover of the assessee is less than Rs. 100 lakhs, **he is not liable to deduct tax at source.**
- (ii) The **disallowance of 30%** of the sums payable under section 40(a)(ia) would be attracted in respect of all sums on which tax is deductible under Chapter XVII-B. Section 192. The obligation to deduct tax at source under section 192 arises, in the hands all assessee employers even if the turnover amount does not exceed Rs.100 lacs in the immediately preceding previous year.
- (iii) The obligation to deduct tax at source under section 194-H from commission paid in excess of Rs. 15,000 to a resident arises in the case of an individual, whose total turnover in the immediately preceding previous year, i.e., P.Y. 2016-17 exceeds Rs. 100 lakhs. Thus, in present case, since the turnover of the assessee is less than Rs. 100 lakhs, **he is not liable to deduct tax at source.**

**Answer 2(a) (8 Marks)**

(a) The facts in the present case are similar to facts in the case **Yamaha Motor India Pvt. Ltd.**, wherein the Delhi High Court observed that the expression "used for the purposes of the business" in section 32 when used with respect to discarded machinery would mean the use in the business, not only in the relevant financial year/previous year, but also in the earlier financial years.

Applying the rationale of the above case, the action of the **Assessing Officer** in disallowing Rs. 4 lakhs, being the depreciation claim attributable to discarded machinery, on the ground that the same was not put to use in the relevant previous year, is **invalid**, since the said machinery was put to use in the earlier previous years

(b) The issue under consideration is whether, in a case where debentures are issued with maturity at the end of five years, and the debenture holders are given an option of upfront payment of interest in the first year itself, can the entire upfront interest paid, be claimed as deduction by the company in the first year

The facts of the case are similar to the facts in **Taparia Tools Ltd.**, wherein the above issue came up before the Supreme Court. In that case, it was observed that under section 36(1)(iii), the amount of interest paid in respect of capital borrowed for the purposes of business or profession, is allowable as deduction.

Accordingly, the action of the **Assessing Officer** in spreading the upfront interest paid over the five year term of debentures and restricting the deduction in the P.Y. 2017-18 to one-fifth of the upfront interest paid is **not correct**.

**Solution 2(b) (4 Marks)**

**Computation of taxable capital gains of Mr. Dee for A.Y.2018-19**

Particulars	Rs.	Rs.
Sale consideration		12,00,000
Less: Indexed cost of acquisition <b>(See Note below)</b>	7,34,400	
Less: Indexed cost of improvement <b>(See Note below)</b>	4,66,569	12,00,969
<b>Long-term capital Loss</b>		<b>969</b>

Indexed cost of acquisition = (Rs.2,70,000 × 272/100) = Rs. 7,34,400

Indexed cost of improvement = (Rs.2,35,000 × 272/137) = Rs. 4,66,569

**Answer 2(c) (4 Marks)**

**(i) If the amount was paid for transfer of business / profession to partnership**

The amount of Rs.5 lacs would be the full value of consideration received as a result of transfer and the capital gains resulting from this transfer would be chargeable to tax.

**(ii) If the amount is paid by the incoming partner for Goodwill**

The Supreme Court, **B.C. Srinivasa Setty**, observed that the income chargeable to capital gains tax is to be computed by deducting from the full value of consideration "the cost of acquisition of the capital asset". If it is not possible to ascertain the cost of acquisition, then, **transfer of such asset is not chargeable to tax.**

**Answer 3 (16 Marks)**

**Computation of Total Income of XYZ Ltd. for the A.Y.2018-19**

Particulars	Amount	
<b>Profits and Gains from Business and Profession</b>		
Profit as per Statement of profit and loss account		7,00,00,000
<b>Add:</b>		
(a) Depreciation as per Companies Act, 2013 disallowed	50,00,000	
(b) Employees' contribution to EPF	2,00,000	
(c) Employers contribution to EPF	Nil	
(d) Industrial power tariff concession received from State Government	Nil	
(e) Provision for wages payable to workers	Nil	
(f) Provision for doubtful debts [10% of Rs. 200 Lakhs	20,00,000	
(g) Bad debts written off	Nil	
(h) Discount given by Sundry Creditors for supply of raw materials	Nil	
(i) Provision for gratuity	2,00,00,000	
(j) Commission paid to recovery agent for realization of a debt	Nil	
(k) Purchase of paper at a price higher than the fair market value	10,00,000	
(l) Sales tax not refunded to customers out of		

sales tax refund	1,00,000	
		2,83,00,000
		<b>9,83,00,000</b>
<b>Less:</b>		
(m) Depreciation as per Income-tax Act, 1961	80,00,000	
(n) Over-valuation of stock [Rs. 55 lakhs × 10/110]	5,00,000	
(o) Additional Depreciation [Additional depreciation@20% is allowable on Rs. 50 lakhs]	10,00,000	
(p) Payment to a sub-contractor where tax deducted last year was remitted after the due date of filing of return	3,00,000	
		98,00,000
<b>Total Income</b>		<b>8,85,00,000</b>

**Computation of tax liability of XYZ Ltd. for A.Y.2018-19**

Particulars	Rs.
Tax @30% on the above total income (since the turnover exceeded Rs. 50 crore in the P.Y. 2015-16)	2,65,50,000
Add: Surcharge@7% (since total income exceeds Rs. 1 crore but less than Rs. 10 crore)	18,58,500
	2,84,08,500
Add: Education cess@2%	5,68,170
Secondary and higher education cess@1%	2,84,085
Total tax liability	2,92,60,755
<b>Total tax liability (rounded off)</b>	<b>2,92,60,760</b>

**Answer 4(a) (4 Marks)**

Section 245Q of the Income-tax Act, 1961 provides that an applicant, who has sought for an advance ruling, may withdraw the application within 30 days from the date of the application. Since more than 30 days have elapsed from the date of application by Mr. Vallish to the Authority for Advance Rulings, he cannot withdraw the application.

However, the Authority for Advance Rulings (AAR), in M.K. Jain, has observed that though section 245Q provides that an application may be withdrawn by the applicant within 30 days from the date of the application, this, however, does not preclude the AAR from permitting withdrawal of the application after the said period with its permission, if the circumstances of the case so justify.

**Answer 4(b) (4 Marks)****Computation of tax liability of Miss Anuradha for the A.Y. 2018-19**

Particulars	Rs.	Rs.
Indian Income		23,00,000
Foreign Income		15,00,000
<b>Gross Total Income</b>		<b>38,00,000</b>
<b>Less: Deduction under Chapter VI-A</b>		
<b>Deduction under section 80C</b>		
PPF deposit of Rs. 1,50,000	1,50,000	
Deduction under section 80D	30,000	1,80,000
<b>Total Income</b>		<b>36,20,000</b>
<b>Tax on Total Income</b>		
Income-tax	8,98,500	
Add: Education cess@2%	17,970	
Add: Secondary and higher education cess@1%	8,985	<b>9,25,455</b>
Average rate of tax in India (i.e. Rs.9,25,455/Rs.36,20,000 × 100) 25.57%		
Average rate of tax in foreign country "A" (i.e. Rs.3,00,000/Rs.15,00,000 ×100) 20.00%		
Rebate u/s 91 on Rs.15lakh @ 20% (lower of average Indian-tax rate or average foreign tax rate)		3,00,000
<b>Tax payable in India (Rs.9,25,455 –Rs.3,00,000)</b>		<b>6,25,455</b>

**Answer 4(c) (4 Marks)****(i) Computation of tax liability of Mr. William Jones for the A.Y.2018-19**

Particulars	Rs.	Rs.
<b>Income taxable u/s 115BBA</b>		
Income from participation in cricket tournaments in India	45,00,000	
Contribution of article in a magazine in India	10,000	
<b>Income taxable u/s 115BB</b>		
Winnings from lotteries [Rs. 69,100 / (100 - 30.9%)]	1,00,000	
<b>Total Income</b>	<b>46,10,000</b>	
Tax@20% u/s 115BBA on Rs. 45,10,000		9,02,000
Tax@30% u/s 115BB on income of Rs. 1,00,000 by way of winnings from lotteries		30,000

		<b>9,32,000</b>
Add: Education cess@2% and SHEC@1%		27,960
<b>Total tax liability of Mr. William Jones</b>		<b>9,59,960</b>

Mr. Frederick Jones is a non-resident entertainer, whose income of ` 3 lakh from a music show in India is taxable@20% under section 115BBA. Therefore, his tax liability is ` 61,800 (being 20% of ` 3 lakh plus education cess@2% and secondary and higher education cess@1%)

(ii) Yes, the above incomes are subject to deduction of tax at source.

(iii) He cannot avail the benefit of exemption from filing of return of income as contained in section 115BBA. Hence, he has to file his return of income for A.Y.2018-19.

**Answer 4(d) (4 Marks)**

Section 133B of the Income-tax Act, 1961 the **claim made by the hotelier** to the effect that the Assessing Officer could not enter the hotel after sunset **is not in accordance with law.**

Section 133B, In view of this clear prohibition in section 133B, the proposed action of the Assessing Officer to **take away with him the books of account kept at the hotel is not valid in law.**

**Answer 5(a) (8 Marks)**

(i) **Mysore Minerals**

The Corporation cannot, therefore, be denied depreciation on the buses.

(ii) **T. Veerabhadra Rao, K. Koteswara Rao and Co**

Ravi is eligible for deduction in respect of the amount due in the name of Y which is written off in the books of account as bad debt, even though the debt represents the amount due for the supplies made by previous owner viz. deceased father of Ravi.



**Answer 5(b) (8 Marks)**

(a) **Gujarat Guardian Ltd.**

The assessee's claim for deduction has to be allowed in the year in which the payment has actually been made.

(b) **Insilco Ltd**

Once the spares are considered as emergency spares required for plant and machinery, the assessee would be entitled to capitalize the entire cost of such spares and claim depreciation thereon.

**Answer 6(a) (8 Marks)**

- (i) Even when an appeal is pending before Commissioner (Appeals), the Assessing Officer can initiate reassessment proceedings in respect of income chargeable to tax which has escaped assessment, provided such income is not the subject matter of the appeal before the Commissioner (Appeals)
- (ii) Since the issue under consideration in this case relates to rectification of a mistake in respect of a matter which is not the subject matter of appeal, the Assessing Officer can pass an order under section 154 for rectification of the same provided the same is a mistake apparent from the record.
- (iii) Under section 264, the Commissioner cannot revise an order which is pending before the Commissioner (Appeals), even if the revision pertains to a matter, other than the matter(s) covered in the appeal.
- (iv) In a case where the appeal is pending but not yet decided, the Commissioner cannot exercise his revisionary jurisdiction in respect of those issues which are the subject matter of appeal

**Answer 6(b) (4 Marks)**

Since the capital asset, in respect of which deduction of Rs. 50 lacs was claimed under section 35AD, has been transferred by Unit A carrying on specified business to Unit B carrying on non specified business in the P.Y. 2017-18, the deeming provision under section 35AD is attracted during the A.Y. 2018-19.

Particulars	Rs.
Deduction allowed under section 35AD for A.Y. 2017-18	50,00,000
Less: Depreciation allowable u/s 32 for A.Y. 2017-18 [10% of Rs. 50 lacs]	5,00,000
<b>Deemed income under section 35AD(7B)</b>	<b>45,00,000</b>

ABC Ltd., however, by virtue of proviso to Explanation 13 to section 43(1), can claim depreciation under section 32 on the building in Unit B. For the purpose of claiming depreciation on building in Unit B, the actual cost of the building would be:

Particulars	Rs.
Actual cost to the assessee	50,00,000
Less: Depreciation allowable u/s 32 for A.Y.2017-18 [10% of Rs. 50 lacs]	5,00,000
<b>Actual cost in the hands of ABC Ltd. in respect of building in its Unit B</b>	<b>45,00,000</b>

**Answer 6(c) (4 Marks)**

- (i) Rs. 10 lakhs received by S Ltd. from K Ltd. for agreeing not to carry on any business relating to computer software in India for the next three years is chargeable to income-tax under the head "Profits and gains of business or profession".

The amount shall be allowed as deduction in the hands of K Ltd. provided tax has been deducted at source under section 194J on the payment so made to S Ltd. If tax is not deducted at source, 30% of the expenditure shall be disallowed under section 40(a)(ia).

- (ii) Secret commission is one of the forms of commission payment generally made by business organizations. Secret commission is a payment for obtaining business orders or contracts from parties and /or customers and paid to employees and / or officials of those parties and / or customers or companies from whom business orders are obtained by the assessee.
- (iii) A foreign agent of an Indian exporter operates in his own country and no part of his income accrues or arises in India. His commission is usually remitted directly to him and is, therefore, not received by him or on his behalf in India. The commission paid to the non-resident agent for services rendered outside India is, thus, not chargeable to tax in India.

**Answer 7(a) (6 Marks)**

**Computation of taxable capital gains of Mr. Shakti for A.Y. 2018-19**

Particulars	Rs.
Gross sale consideration	1,00,00,000
Less: Expenses on transfer (2% of the gross sale consideration)	2,00,000
<b>Net sale consideration</b>	<b>98,00,000</b>

Less: Indexed cost of acquisition (Rs.22,00,000 × 272/100)	59,84,000
Long term capital gains	38,16,000
Less: Exemption under section 54GB (Rs.38,16,000 × Rs.80,00,000 / Rs.98,00,000)	31,15,102
<b>Taxable capital gains</b>	<b>7,00,898</b>

**Deemed cost of new plant and machinery for exemption under section 54GB**

	Particulars	Rs.
1.	Purchase cost of new plant and machinery acquired in April, 2018	70,00,000
2.	Amount deposited in the specified bank before the due date of filing of return	10,00,000
	<b>Deemed cost of new plant and machinery for exemption u/s 54GB</b>	<b>80,00,000</b>

**Answer 7(b) (6 Marks)**

**Computation of total income and tax liability of PQR LLP for A.Y.2018-19 (under the regular provisions of the Income-tax Act, 1961)**

Particulars	Rs.	Rs.
<b>Profits and gains of business or profession</b>		
Unit in SEZ	40,00,000	
Less: Deduction under section 10AA 40 Lac x 80 Lac / 100 Lac	32,00,000	
Business income of SEZ unit chargeable to tax		8,00,000
Profit from operation of warehousing facility	1,05,00,000	
Less: Deduction under section 35AD	65,00,000	40,00,000
<b>Total Income</b>		<b>48,00,000</b>
<b>Computation of tax liability (Normal)</b>		
Tax@30% on Rs. 48,00,000		14,40,000
Add: Education cess@2% and SHEC@1%		43,200
<b>Total tax liability</b>		<b>14,83,200</b>

**Computation of ATI of PQR LLP for levy of Alternate Minimum Tax**

Particulars	Rs.	Rs.
<b>Total Income (as computed above)</b>		<b>48,00,000</b>
Add: Deduction under section 10AA		32,00,000
		80,00,000
Add: Deduction under section 35AD	65,00,000	

<b>Less: Depreciation under section 32</b>		
On building @10% of Rs. 65 lakhs	6,50,000	58,50,000
<b>Adjusted Total Income</b>		<b>1,38,50,000</b>
Alternate Minimum Tax@18.5%		25,62,250
Add: Surcharge@12%		3,07,470
		28,69,720
Add: Education cess@2% and SHEC@1%		86,092
		29,55,812
<b>Tax liability under section 115JC (rounded off)</b>		<b>29,55,810</b>

<b>AMT Credit to be carried forward under section 115JEE</b>	<b>Rs.</b>
Tax liability under section 115JC	29,55,810
Less: Tax liability under the regular provisions of the Income-tax Act, 1961	14,83,200
	<b>14,72,610</b>

**Answer 7(c) (4 Marks)**

Therefore, the expenditure of Rs. 30 lakh incurred by him in the financial year 2017-18 in hosting a grand cruise party may be deemed as his income for P.Y. 2017-18 as per section 69C.

Where the total income of Mr. Rajiv includes such unexplained expenditure of Rs. 30 lakh, which is deemed as his income under section 69C, such deemed income would be taxed at the rate of 60% as per section 115BBE plus surcharge@25% and cess@3%. The effective rate of tax would be 77.25%.