

10 MAY 2023

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination-April-May- 2023

UG-VIII Semester

Subject- Direct Taxation (Compulsory)

Time: Three Hours

Marks. 100

Instructions:

1. Attempt any **five** questions... Marks have been indicated against each question.
2. No clarifications can be sought during the examination.
3. Bare Act is not allowed.

Q1). B Ltd, the holding company of A Ltd, had entered into an agreement by which the textile unit belonging to it was transferred to A Ltd. The agreement besides other also stipulates for the protection of service condition and continuity of service of the workmen employed in the textile unit so transferred to, or taken over, by A Ltd. B Ltd. delivered the possession of the properties to A Ltd. and also transferred all the employees working in the textile unit with the benefit of continuity of service and protection of service condition. A Ltd. claimed deduction for the amount of gratuity payment in respect of the workers of erstwhile textile unit of B Ltd, who had retired during the relevant previous year. The assessing officer disallowed the claim of A Ltd. on the ground that the liability towards gratuity payment to the employees of erstwhile company for the period prior to the takeover of the unit is not revenue expenditure but it is capital expenditure. Decide the validity of the claim of A Ltd. (Marks 20)

Q2). The applicant is a non-resident in India and is a resident of Singapore. He carries on proprietorship business in the manufacture and sale of gold jewellery in Chennai. Through that business concern, he sells the jewellery in the local market as well as by export, mostly to Singapore. The applicant has also established a company in Singapore and holds bulk of shares therein. Apart from the proprietary business in Chennai, he is also engaged in the activity of purchasing gold ornaments and exporting the same to Singapore. The applicant states that he maintains separate accounts for his proprietary business and in regard to purchases meant for export. He seeks your valuable advice on the questions as to whether the income arising to him on the (1) purchase and export of gold jewellery, and (2) on the purchase of gold for the purpose of manufacturing gold jewellery and export of the same by him would constitute income accruing or arising through or from the operations which are confined to the purchase of the goods in India for the purpose of export falling within clauses (a) and (b) of the *Explanation 1*



to section 9(1)(i) of Income Tax Act, 1961 and whether such income is taxable in India ?
(Marks 20)

Discuss it.

Q3). 'Although the terms Agriculture and Agricultural Purposes have not been defined in the Act yet Agricultural Income is totally exempt from tax.' Discuss the above comment with the help of case laws which establish the criteria to exempt the income as agricultural income from tax purposes.
(Marks 20)

Q4). "House Owning is howsoever profitable cannot be termed as business income. It is the nature of transaction important not the capacity of owner". Discuss this statement in the light of chargeability provision for taxability of Income from House Property verses Business income.
(Marks 20)

Q5). In May 2018 Ms. Deepika Verma, an Indian resident, had applied to "America's Got Talent", which was a State-owned entity as a production assistant. She was informed that she had also cleared the competitive exam. She was awaiting her joining but she was subsequently never offered a job. On enquiry she found that a number of female applicants who had applied to the company had not been offered jobs even after clearing the competitive test. Thus, all the similar situated female applicants along with Deepika filed a class action suit in the District Court of Columbia against the State claiming discrimination in employment on the basis of sex and race.

The matter went from the District Court of Columbia right up to the United States Supreme Court. While the case was still being heard in the United States Supreme Court, the United States Government offered a settlement proposal to the women who had brought the class action suit. They offer to all the women in the class action suit was for \$850 million as a compensation for the loss of their job to settle the entire suit. The settlement proposal was subsequently accepted by all the women and a consent decree was approved by the District Court of Columbia on July 2020. Deepika Verma received \$8 million as part of the settlement in her bank account of SBI branch Juhu Mumbai. In the previous year 2020 -21 Deepika came back to India on 15 of December, 2020 and stay back here in India for entire year. Deepika had visited India at many occasions from 2015 to 2020 to attend some family functions and other related issues. She was present in India in the last 4 years amounting in all more than 365 days. The Indian Income Tax Department wanted to classify the settlement as 'income' and tax the same. Deepika on the other hand contended that the settlement amount constituted a 'capital

receipt'. Deepika also claimed that this income accrues or arise or deemed to accrue or arise outside India so it is not taxable in India. The Commissioner of Income Tax (Appeals) found that the said amount could be classified under the head of 'Salary' from employer as a profit in lieu of salary and hence was income of the assessee which could be taxed. Deepika has also contended before the authority that she is non-resident in the relevant year and because income had accrued outside India, she is not liable here. Discuss it with the help of relevant provisions and cases if any. (Marks 20)

Q6). Write short note on the followings.

(Marks, $10 \times 2 = 20$)

- (i) Concept of Actual Cost for the Purpose of Depreciation
- (ii) Deemed Full value of Consideration and deemed cost of acquisition under Capital Gain.