

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination-October-November- 2023

PG-I Semester (LL.M Corporate Law)

Subject- Principles of Taxation

Time: Three Hours

Marks. 100

**Instructions:**

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

Q.1) The applicant, Haven Corporation USA, a non-resident company, is part of the Haven Group, one of the world's largest Beer manufacturing, packaging conglomerates. The applicant owned the technology information, trademarks, brand name pertaining to the manufacture, brew and packaging of Beer. The applicant entered into Indian market in 2005 by granting an exclusive license to an Indian company, Haven India, another group company, under their trademark and brand name. The trademark is registered in India. The improvisation and improvements relating to trademark and brand has been made in India. Under an arrangement, the Indian company has been using the technology information in respect of the above-mentioned product without payment of any royalty. In November, 2015, the MacDowell limited, a German company, acquired from the applicant the trademark and technology information related to the said product by two separate agreements. A separate agreement was entered into between MacDowell Ltd and Haven India for early termination of the license granted to the Indian company to manufacture and Sale under the said trademark. A sum of US \$ 15 million was paid as consideration for extinguishment of the license. The technology information, which is the subject matter of this appeal, was sold for US \$ 9 million. One of the clauses of the agreement stipulates that in exchange for the purchase consideration, the applicant shall on the effective date, deliver, and transfer or make available to MacDowell, the technology information in the form of a dossier with technical information and contents as to the satisfaction of the MacDowell. It is claimed that the handing over of the dossier containing technical information took place in Cyprus by another group company. MacDowell has withheld tax at 20 per cent, on payment of consideration to the applicant for the transfer of technology information and other intellectual properties and the tax has been deposited with the Government of India.

The applicant has objected to the tax deduction at source and filed an application before Authority for Advance Ruling to seek ruling on said tax liability. Discuss this issue.

(Marks 25)

Q.2) Discuss the methods of Determination of Gross Annual value of the house property provided under The Income Tax Act-1961. Discuss the tax treatment where actual rent received or receivable is less due to vacancy, as well as actual rent being less. Discuss also the deductions available for self-occupied property?

(Marks 25)



Q.3). Discuss the Followings:

(a) A corporation was setup by state Government transferring all the buses owned by it for a consideration of Rs. 75 lakhs, which was discharged by the corporation by issue of equity shares. There was additional consideration payable by corporation in form of licence fees to the State Government on an annual basis. The corporation in its assessment claimed depreciation on 75 lakhs and expenditure as payment towards licence fees. Can the depreciation be denied in the corporation hands on the ground that there was no registration of the buses in the favour of corporation? What will be treatment of Expenditure under the Income Tax Act.

(b) The Assessee Company shifted its factory from its original location which was found to be disadvantageous for the assessee business, as raw material of good quality was no more available in sufficient quantities in the neighbourhood and there was also problem of local crime etc. The company wants to know whether the cost of dismantling the assets, transportation to new site and refitting there, was capital or revenue expenditure.

(Marks 12.5\*2=25)

Q.4) Analyse the theory of Treaty shopping as one of the avoidance measures under the Double Taxation Avoidance Agreement. Is Treaty shopping legal or illegal. Discuss the concept of lifting of corporate veil in respect to Treaty shopping in the light of *Azadi Bachao Andolan* case.?

(Marks 25)

Q.5) "It was only for the good of his subjects that he collected taxes from them, just as the sun draws moisture from the earth gives it back a thousand-fold." In the light of this statement discuss the cardinal principles of taxation and their application under Income Tax Act.

(Marks 25)

Q.6). Write short note on **any two** of the followings:

(Marks, 12.5X2=25)

- (i) Concept of Business Connection under Income Tax
- (ii) Concept of Income under Income Tax
- (iii) Concept of Capital Asset under Income Tax