

**NATIONAL LAW UNIVERSITY, JODHPUR**

End Term Examination-January-May-2025

PG-II Semester (LL.M Corporate Law)

Subject- Corporate 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). 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,25)

Q.2). Discuss the meaning and concept of resident under Income Tax Act, 1961. How it is different from OECD Model Convention. Discuss the impact of definition of 'Residence' on the foreign shell companies. Is the rule of interpretation of DTAA different from domestic legislation? (Marks,25)

Q.3). Sugar manufacturing factory of the assessee (L.M.Sugar Mills) was situated originally at one place in Meerut. As that place was found to be disadvantageous for the assessee's business as sugarcane of good quality was not available in sufficient quantity in the neighbourhoods and also as it suffered from ravages of flood, the assessee removed its factory from that place to another place. In the process of dismantling the building and machineries, transportation from one place to other and refitting the machinery at latter place, it incurred total expenses of 20 Lakh. Assessee claimed this as a revenue expenditure, which has been denied by department. Discuss this problem with the help of decided cases. If it is a capital expenditure than what will be impact of this on the capital assets of the business? (Marks,25)

(Marks,25)

Q.4). Conceptually, under the Income-Tax Act, 1961, foreign companies are taxable in India only if they have a 'business connection' (BC) as defined under Section 9(1)(i) of the Income Tax Act,1961 or a 'permanent establishment' (PE) as defined under the relevant Double Taxation Avoidance Agreement (DTAA). The question of what constitutes a permanent establishment is of crucial importance in the international taxation of business profits. Explain it. (Marks, 25)

Q.5). The appellant, Piramal Corporation USA (PC), a non-resident company, is part of the Piramal Group, one of the world's largest pharmaceutical conglomerates. The appellant owned the technology information pertaining to the manufacture of nutritional food supplement product manufactured and sold by Piramal India, another group company, under the "Murinnex" and "Guronex" trademarks. Both the trademarks are registered in India. The improvisation and improvements relating to trademark and brand has been made in India. The Market for the said product has been created in India. Under an arrangement, the Indian company has been using the technology information exclusively in respect of the above-mentioned products without payment of any royalty in India. In November, 2021, the MARC Nutrition Limited, a German company, acquired from the appellant the trademarks and technology information related to the said products by two separate agreements. A separate agreement was entered into between MARC Ltd and Piramal India for early termination of the licence granted to the Indian company to manufacture under the said trademarks. A sum of US \$ 9 million was paid as consideration for extinguishment of the licence by an Indian entity. The technology information, which is the subject matter of this appeal, was sold by Piramal Corp. USA for US \$ 6 million. One of the clauses of the agreement stipulates that in exchange for the purchase consideration, the appellant shall on the effective date, deliver, transfer or make available to MARC, the technology information in the form of a dossier with technical information and contents as to the satisfaction of the MARC. It is claimed that the handing over of the dossier containing technical information took place in Mauritius by another group company. MARC has withheld tax at 20 per cent, on payment of consideration to the appellant for the transfer of technology information and the tax has been deposited with the Government of India.

The appellant has objected to the tax deduction at source and has claimed a refund from Assessing officer of Mumbai office (Director General International Tax). The Assessing officer has rejected his claim and said that the income is liable to be taxed in India. Commissioner (Appeal) and ITAT Mumbai also upheld the decision of Assessing officer. Discuss it.

(Marks,25)

Q.6). Write short note on the followings.

(Marks, 12.5\*2=25)

- (i) Concept of Agricultural Income under Income Tax Act, 1961
- (ii) Depreciation Under Income Tax Act.