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Answer Paper	
Direct Tax Laws	Duration: 60
Details: Test – 4	Marks: 30

**Instructions:**

- All the questions are compulsory
- Properly mention test number and page number on your answer sheet, Try to upload sheets in arranged manner.
- In case of multiple choice questions, mention option number only Working notes are compulsory wherever required in support of your solution
- Do not copy any solution from any material. Attempt as much as you know to fairly judge your performance.

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**ANS 1:-**

Gross payment (before deducting commission) is subject to TDS under section 194-O at the rate of 1% (in non-PAN cases, tax is deductible at the rate of 5%). Tax is deductible under section 194-O in different situations as follows –

**Situation 1** - Tax is deductible at the rate of 1% of Rs.54 lakh on 31-03-2022.

**Situation 2** - One has to find out gross payment pertaining to Rs.23.80 lakh, Rs.9.35 lakh and Rs.12.75 lakh. In this situation, tax is deductible as follows –

Date of payment to e-commerce participant and date of TDS	Net amount of payment (Rs.)	Gross amount (i.e., net amount ÷ 0.85)	Amount of TDS (Rs.)
1 <sup>st</sup> January, 2022	23,80,000	28,00,000	28,000
1 <sup>st</sup> March, 2022	9,35,000	11,00,000	11,000
31 <sup>st</sup> March, 2022	12,75,000	15,00,000	15,000
<b>Total</b>	<b>45,90,000</b>	<b>54,00,000</b>	<b>54,000</b>

**Situation 3** - E-commerce participant is an individual. However, gross amount of sale through Flipkart Ltd, during the year exceeds Rs.5 lakh. Consequently, tax is deductible by Flipkart Ltd. as discussed in Situation 2.

**Situation 4** - E-Commerce participant is Y (an individual). Gross amount of sales through e-commerce operator does not exceed Rs.5 lakh. Consequently, tax is not deductible under section 194-O.

**Situation 5** - E-commerce participant is Z (an individual) Gross amount of sales through e-commerce operator does not exceed Rs.5 lakh. Consequently, tax is not deductible under section 194-O.

**Situation 6** - Even if the payment of 20 lakh is received directly by C Ltd. (e-commerce participant), tax will be deducted by Klipkart Ltd. on the entire Rs. 60 lakh. Schedule for tax deduction under section 194-O is as follows –

**Payment of Rs. 18 lakh** - It is received by C Ltd. on 06-10-2021. Date of tax deduction by Klipkart Ltd. is 06-10-2021 amount of TDS is Rs.18000, being 1% of Rs.18 lakh).

**Payment of Rs. 12 lakh** - It is received by C Ltd. on 10-01-2022. Date of tax deduction by Klipkart Ltd. is 10-01-2022 (amount of TDS is Rs.12000, being 1% of Rs.12 lakh).

**Amount of Rs. 50 lakh** - Net amount of payment is Rs.38 lakh (i.e., Rs.50 lakh - commission which is 15% of Rs.80 lakh). Tax is deductible by Klipkart Ltd. on 31-03-2022 is Rs. 50000 (being 1% of Rs.50 lakh).

**(6 Marks)**

**ANS 2:-**

The above mentioned cases have been discussed as follows –

**(1) Stay vacated:** Here, the proceedings have been stayed by the ITAT for 120 days vide order dated 1-1-2021. The said period shall expire on 30-4-2021.

Hence, the stay shall vacated on 1-5-2021 and proceedings for recovery of demand may be continued by the Assessing Officer after the said date.

Therefore, Mr. X is advised to apply to the Appellate Tribunal for grant of new stay or extension of previous stay, he is not responsible for non-disposal of the appeal. However, the total period of further stay cannot exceed 245 days (365 days - 120 days).

**(2) Rectificatory order passed within the time:** In case the Appellate Tribunal rectifies any order passed by it same must be rectified within 6 months from the end of the month in which the appellate order was passed.

In the given case, the original order is passed on 2-2-2022 and the period of 6 months expires on 31-8-2022. Hence, the rectificatory order is passed by the Tribunal within the prescribed time limit.

**(3) Tribunal does not have power to review its own order:** The application filed by the assessee for review of the order passed by the Tribunal shall be rejected as the Tribunal does not have the power to review the orders passed by it.

**(4) Matter to be heard by two-member bench:** An appeal can be heard by a single member bench if the total income assessed by the Assessing Officer is upto Rs.50 lakhs.

In the given case, the total income of Mr. X as assessed by Assessing Officer is Rs 56 lakhs; hence, the matter should be heard by bench consisting of one judicial member and one accountant member.

**(4 Marks)**

**ANS 3:-**

The aforesaid points have been discussed here in below –

- 1) As per the provisions of Section 143(1), the return will be processed electronically under 'centralized processing of returns', the computer system will correct the arithmetical mistake and re-determine the total income/loss and tax payable/refundable accordingly.

Therefore, in view of Section 143(1) the Assessing Officer need not make any correction himself and leave it for the computer system to detect and correct the same as and when the return is centrally processed.

- 2) Section 143(1) provides that where a return has been made under section 139, such return shall be processed whereby there will be disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under Section 139(1).

However, no such adjustments shall be made unless intimation is given to the assessee of such adjustments either in writing or in electronic mode. In a case where no response is received within 30 days of the issue of such intimation, such adjustments shall be made.

In this case since Suresh has not responded to the intimation received on 1-10-2022 upto 31-10-2022, hence set-off of loss shall be disallowed.

- 3) An intimation under Section 143(1) shall be sent within a period of 9 months from the end of the financial year in which the return is made. Mr. Suresh can expect the receipt of intimation in respect of amount of refund within one year from the end of the financial year in which return was made i.e. upto 31<sup>st</sup> December 2022.
- 4) **An Intimation u/s 143(1) - deemed notice of demand - Munish must pay the amount due:**  
Intimation under section 143(1) may be served within nine months from the end of the financial year in which return was made. Hence, in this case, intimation could be served upto 31<sup>st</sup> December 2022 and thus, the intimation served on 1<sup>st</sup> April 2022 is within time. The intimation under section 143(1) specifying the sum payable by the assessee is deemed to be notice of demand u/s 156. Hence, no separate notice of demand is required to be furnished u/s 156. Mr. Munish should pay the sum so payable; otherwise the consequences of failure to comply with notice of demand shall begin.
- 5) The notice issued under section 143(2) is bad in law since no notice can be served under section 143(2) to a person who has not furnished return of income.

**(5 Marks)**

**ANS 4:-**

- I. There is no violation of section 269SS at the time of acceptance of the first deposit of Rs. 15,000 by bearer cheque on 1.5.2017, since it is not in excess of the threshold limit of Rs. 20,000. However, violation under section 269SS is attracted at the time of acceptance of the second deposit in cash on 30th June, 2020, since as on that date, there is already an outstanding deposit of Rs.15,000 and another cash deposit of Rs. 15,000 would take the aggregate to Rs. 30,000, which exceeds the threshold limit of Rs. 20,000. Therefore, penalty under section 271D of a sum equal to the amount of deposit taken from Mr. A is attracted for failure to comply with the provisions of section 269SS.
- II. In this case, there is a violation of the provisions of section 269T at the time of first repayment by bearer cheque on 23rd March, 2020, since on that date, the aggregate amount of deposits held by Mr. A with the non-banking company (together with interest payable on such deposits) is more than Rs. 20,000. Therefore, penalty under section 271E equal to the amount of deposit so repaid will be attracted for failure to comply with the provisions of section 269T.

However, the second repayment of Rs. 15,500 on 25th March, 2021 in cash cannot be considered as a violation of section 269T, since neither the amount of deposit with interest thereon nor the aggregate amount of deposits held by Mr. A on that date together with interest exceeds the threshold limit of Rs. 20,000.

The provisions of section 269T will be attracted at the time of first repayment of bearer cheque even if the certificate is being held by Mr. A in joint name with his wife.

**(5 Marks)**



**ANS 5:-**

- (a) The authorised officer being DDI, Delhi is not having any jurisdiction over Shri Krishna Ltd., Mumbai, and therefore as per section 132(9A), the papers seized relating to this company shall be handed over by him to the Assessing Officer having jurisdiction over Shri Krishna Ltd., Mumbai within a period of 60 days from the date on which the last of the authorizations for search was executed for taking further necessary action thereon.
- (b) The contention raised by the Director will not be acceptable because as per section 132(4A), where any books of account, other documents, money, bullion, jewellery or other valuables are found in the possession or control of any person in the course of search, then, in respect thereof, it may be presumed that the same belongs to that person.
- (c) As per section 132(4A), the presumptions in respect of the papers, indicating transactions not recorded in the books but having direct nexus with the business of the company, are that the same belong to the company, contents of such papers are true and the handwriting in which the same are written is/are of the persons(s) whose premises have been searched.
- (d) As per clause (iiia) in the *Explanation* to section 245A, the assessee can approach the Settlement Commission at any time after the date of issue of notice under section 153A or section 153C initiating the assessment proceedings. Therefore, an application can be made to the Settlement Commission where search has been initiated under section 132 followed by assessment under section 153A or section 153C.

The proviso to section 245C(1) specifies the monetary limit for making application for settlement of cases, in respect of search cases. Accordingly, the additional amount of income-tax payable on the income disclosed in the application must exceed ` 50 lacs so that application for settlement of the case is eligible for admission.

**(5 Marks)**

## MCQ's

1: A

**Explanation:** Tax has to be deducted u/s 194A by TP Bank on the interest of Rs. 42,590/- falling due on recurring deposit on 31-03-2022 Mr. Rajesh, since –

(a) Recurring deposit has been included in the definition of 'time deposit'; and

(b) Such interest exceeds the threshold limit of Rs. 40,000/-.

2: C

**Explanation:** In case of assessment of a person where search is initiated u/s 132 and requisition is made u/s 132A. the Assessing officer shall issue a notice to such person requiring him to furnish a return of income within such period as may be specified in the notice for 6 assessment years immediately preceding the assessment year relevant to the previous year in which the search is conducted or the requisition is made and of the relevant assessment year or years.

3: B

4: B

5: C

**Explanation:** No order u/s 263 shall be made after the expiry of 2 years from the end of the financial year in which the order sought to be revised was passed. Thus, the time limit will be 2 years from F.Y. 2021-22 i.e. 31-03-2024

(1 × 5 = 5 Marks)