

Roll No.

Total No. of Printed Pages – 15

Total No. of Questions – 6

Maximum Marks – 70

GENERAL INSTRUCTIONS TO CANDIDATES

1. The question paper comprises two parts, Part I and Part II.
2. Part I comprises Multiple Choice Questions (MCQs).
3. Part II comprises questions which require descriptive type answers.
4. Ensure that you receive the question paper relating to both the parts. If you have not received both, bring it to the notice of the invigilator.
5. Answers to MCQs in Part I are to be marked on the OMR answer sheet as given on the cover page of descriptive answer book only. Answers to questions in Part II are to be written in the same descriptive answer book. Answers to MCQs, if written inside the descriptive answer book, will not be evaluated.
6. OMR answer sheet given on the cover page of descriptive answer book will be in English only for all candidates, including for Hindi medium candidates.
7. **The bar coded sticker provided in the attendance register, is to be affixed only on the descriptive answer book.**
8. You will be allowed to leave the examination hall only after the conclusion of the exam. If you have completed the paper before time, remain in your seat till the conclusion of the exam.
9. Duration of the examination is 3 hours. You will be required to submit (a) Part I of the question paper containing MCQs, and (b) the answer book in respect of descriptive answer book with OMR cover page to the invigilator before leaving the exam hall, after the conclusion of the exam.
10. The invigilator will give you acknowledgement on Page 2 of the admit card, upon receipt of the above-mentioned items.
11. Candidate found copying or receiving or giving any help or defying instructions of the invigilators will be expelled from the examination and will also be liable for further punitive action.

PART – II

70 Marks

1. Question paper comprises 6 questions. Answer Question No. 1 which is compulsory and any 4 out of the remaining 5 questions.
2. Working notes should form part of the answer.
3. Answers to the questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate has not opted for Hindi Medium, his/her answers in Hindi will not be evaluated.
4. All questions relate to Assessment Year 2022-23 unless stated otherwise in the question.

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PART – II

1. M/s MPK Pharma Ltd, a company resident in India, in which the public are not substantially interested, is engaged in the manufacture of pharmaceutical products. The Statement of Profit & Loss for the year ended 31st March, 2022 shows a net profit of ₹ 50,75,000 after debiting or crediting the following items :
- (i) One-time license fee of ₹ 12 lakhs paid to a foreign company for obtaining a franchise on 28th July, 2021.
 - (ii) Convertible debentures were issued by the company on which expenditure of issue and collection of ₹ 3,15,000 was incurred.
 - (iii) The company has paid ₹ 2,25,000 to share brokers for transactions in relation to equity shares listed in stock exchange and ₹ 1,20,000 to commodity broker for transactions in relation to commodities at MCX. Tax was not deducted at source on such transactions.
 - (iv) Contributed 15% of basic salary in National Pension Scheme referred in section 80CCD towards salary paid to an employee Mr. Gaurav whose basic salary was ₹ 6,00,000 p.a. and Dearness allowance of 30% of basic salary was considered. 50% of Dearness allowance formed part of the salary.
 - (v) Expense of ₹ 7,00,000 has been incurred for providing freebies to medical practitioners.
 - (vi) Expenditure of ₹ 5,20,000 incurred on feasibility study conducted for examining proposals for technological advancement for existing business. The project was abandoned without creating a new asset.

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- (vii) Depreciation of ₹ 13,00,000 on the basis of useful life of assets has been charged.
- (viii) Employees Provident Fund (EPF) for the month of March, 2022 amounting to ₹ 5,20,000 was remitted on 17th May, 2022 which includes ₹ 2,60,000 of employer's contribution and ₹ 2,60,000 of employee's contribution.
- (ix) Donation to Swachh Bharat Kosh ₹ 2,00,000.
- (x) Industrial power tariff concession of ₹ 4,50,000 is received from Central Government.
- (xi) Interest and borrowing costs amounting to ₹ 6,85,000 and ₹ 5,65,000 though not meeting the criteria for recognition as a component of cost, is included in the cost of opening and closing inventory, respectively.
- (xii) The profit from setting of warehouse in rural area for storage of sugar (before claiming deduction under section 35AD) is ₹ 10,00,000. The warehouse commenced operations on 24th October, 2021.

The Company has furnished the following additional information :

- (i) The company has collected ₹ 14,00,000 as GST from its customers and remitted to the Government before due the dates. Consequent to an appeal filed, the Honourable High Court ordered the GST department to refund ₹ 5,00,000 to the Company. The Company in turn refunded ₹ 3,00,000 to its customers from whom GST was collected. Balance amount is shown under "current liabilities".
- (ii) On 14.01.2022, the company has issued 2,00,000 equity shares of ₹ 10 each at ₹ 22 per share. The fair market value of the shares determined as per Income Tax Rules, 1962 was ₹ 19 per share.

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- (iii) The company has brought forward losses of ₹ 13,00,000 relating to assessment year 2019-20. Mr. X who continuously held 55% shares carrying voting power since incorporation of the company, had sold his entire shareholding to Mr. Y on 25.11.2021.
- (iv) Depreciation allowable as per Income Tax Rules : ₹ 14,50,000.
- (v) The company has invested ₹ 35 lakhs in the construction of warehouse in a rural area for storage of sugar as an additional line of business. The investment includes land value of ₹ 20 lakhs.

You are required to compute the Total Income of M/s MPK Pharma Ltd. for the Assessment Year 2022-23. The company has not opted for tax u/s 115B AA of the Income Tax Act, 1961.

2. (a) M/s PRK LLP, a limited liability partnership, set up a unit in Special Economic Zone (SEZ) on 1st April, 2019 to develop and export computer software. The unit complied with all the conditions of section 10AA. The net profit of the unit as per Statement of Profit & Loss for the year ended 31st March, 2022 was ₹ 65 lakhs after debiting/crediting the following items :
- (i) Profit on sale of import entitlement ₹ 9 lakhs.
- (ii) Remuneration to its working partners ₹ 58 lakhs.
- (iii) Interest at the rate of 16% per annum on partners' capital ₹ 20 lakhs.

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(iv) Donation to a political party ₹ 3 lakhs.

(v) Depreciation ₹ 17 lakhs.

Additional Information :

(i) Payment of remuneration to working partners and interest on capital are authorized by the partnership deed.

(ii) Brought forward business loss from assessment year 2017-18 was ₹ 4 lakhs.

(iii) Unabsorbed depreciation brought forward from assessment year 2016-17 was ₹ 35 lakhs.

(iv) Total export turnover was ₹ 45 crores and the sale proceeds in convertible foreign exchange received in India by 30th September, 2022 was ₹ 38 crores. Total export turnover of ₹ 45 crores include telecommunication charges of ₹ 5 crores attributable to delivery of software. Sale proceeds realization of ₹ 38 crores also include such telecommunication charges of ₹ 2 crores.

(v) Depreciation allowable as per Income-tax Rules is ₹ 26 lakhs.

You are required to compute :

(i) Income tax (including AMT under section 115JC) payable by M/s PRK LLP for the Assessment Year 2022-23.

(ii) Amount of tax credit allowed to be carried forward.

Necessary working notes should form part of your answer.

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(b) Mr. Robert, a non-resident and German citizen, is employed in a German company. The German company has a PE in India and accordingly the income of the PE is chargeable to tax in India. Robert visited India during the FY 2021-22 on official work and stayed for 85 days. His salary for that period was ₹ 28,00,000 which is borne by the Indian PE. 6

Robert held 1200 shares of Nalapir Pvt. Ltd. (NP), an Indian company since 28.11.2015 which he acquired for ₹ 15 per share. For acquiring the shares, he remitted USD 50,000 to India on 1.11.2015. He sold these shares on 23.6.2021 for ₹ 43 per share.

Robert also held 2000 equity shares of Aribitz GmbH (AG), a German company which he had acquired for ₹ 145 per share in 2018. AG follows April to March as its financial year. He sold all these shares for ₹ 615 per share to David, another non-resident on 26.08.2021. The relevant information of AG as on 31.3.2021 is given below :

- (i) Total value of assets – ₹ 15 crores.
- (ii) Total value of immovable properties worldwide – ₹ 12 crores.
- (iii) Immovable properties held in India (included in (ii) above – ₹ 8 crores.

Dividend from Aribitz GmbH received in India on 28.06.2021 was – ₹ 1,11,000.

You are required to compute the total income taxable in India of Mr. Robert ignoring the provisions of DTAA between India and Germany, if any.

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Exchange rates for 1 USD on the relevant dates is given as hereunder :

Date	Buying Rate (1 US \$)	Selling Rate (1 US \$)
28.11.2015	₹ 59	₹ 61
1.11.2015	₹ 61	₹ 64
23.6.2021	₹ 74	₹ 76

3. (a) The Head of Accounts of Fit Me Foundation, a trust, established for the purpose of promotion of Yoga has approached you to guide him about the tax implications of the following :

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(i) During the financial year 2021-22 it received a voluntary contribution of ₹ 125 lakhs with a specific direction that it should form part of the corpus of the trust. The trust invested such amount in the shares of M/s Bend and Blend Private Ltd., a private sector company.

(ii) Apart from the above-mentioned ₹ 125 lakhs, during the financial year 2021-22 it received ₹ 95 lakhs from other voluntary contributions and ₹ 60 lakhs of fees towards providing Yoga classes.

(b) Mr. Nagaraj is the founder of SSVB Trust, a public charitable trust registered u/s 12A of the Income Tax Act. The trust runs a hospital for the treatment of various diseases. Mr. Ram son of Mr. Nagaraj was admitted in May 2021 in the hospital due to COVID for treatment. He was charged a total fee of ₹ 3 lakhs as against the amount of ₹ 5 lakhs charged by the hospital for similar treatment to the general public.

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The Board of trustees were served with a notice by the Income Tax Authorities for cancellation of registration u/s 12A.

Discuss whether registration can be denied to the trust. What are the further tax implications ?

- (c) Mr. Ritesh, a resident individual, aged 42 years, received the following sums during the previous year 2021-22 : 6

Income from a business in India ₹ 4,85,000

Royalty from Country N ₹ 7,80,000 (Rate of Tax in Country N 10%, Tax deducted ₹ 78,000)

Interest from Country Y US \$ 9,500 (interest became due on 01.04.2021) Tax deducted (on 21.02.2022) : US \$ 950 (Rate of Tax 10%)

Agriculture income in Country M: ₹ 1,09,000

Additional Information :

- (i) As per the DTAA between India and Country N, the royalty will only be taxable in the Source State.
- (ii) As per the DTAA between India and Country Y, interest can be taxed in both the states and tax credit will be available in respect of tax payable in resident state.
- (iii) Agriculture income is exempt in country M. India does not have a DTAA with Country M.

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Telegraphic transfer buying rate on different dates of US :

Date	Rate (₹)
31.03.2021	75
31.01.2022	78
21.02.2022	79
31.03.2022	80
01.01.2022	80

You are required to calculate the total income and tax payable by Mr. Ritesh assuming that he did not opt to be governed by provisions of Section 115BAC.

4. (a) In respect of the following independent case scenarios, you are required to discuss the provisions related to tax deducted at source for the year ended 31st March, 2022 :

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- (i) Tam Electronics Ltd., an Indian company, imports certain computer software from Jam Electronics Inc., a non-resident company based in USA for reselling it to the end users in India. During the FY 2021-22, Tam Electronics Ltd. paid a sum of ₹ 85 crores to Jam Electronics Inc.

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(ii) DEHP Ltd., a public sector bank in India, paid ₹ 20 crores to M/s NFGS Ltd., an organisation that provides ATM networks to the banks as commission for facilitating ATM credit/debit cards. NGFS Ltd. also facilitates online convenience banking. It links together the country's ATM in a single network.

(iii) Mr. A received an order from PQR Ltd. to stitch T-shirts. To complete such order, he purchased cloth of ₹ 35 lakhs from Fashion Ltd. on 24th May 2021. He stitched T-shirts as per given specifications and supplied to PQR Ltd. He raised a consolidated invoice in the following manner :

Sale of 8000 T-shirt @ ₹ 500 each = ₹ 40,00,000

Fashion Ltd. is closely related to PQR Ltd. as specified under section 40A(2) (b).

(iv) Mr. David, a Canadian citizen and a non-resident sportsman, received the following sums during the FY 2021-22 from India :

(i) Income from participation in matches ₹ 4,58,000

(ii) Honorarium from writing an article related to sports for a sports magazine ₹ 1,25,000.

(b) MNO Ltd., Mumbai is engaged in providing IT and communication services. It is a subsidiary company of MNO Inc., USA. During the previous year 2021-22, MNO Ltd. has provided such services to MNO Inc. and similar type of services were also provided to HTY Ltd., Hong Kong. Billing details and other information are given below :

(i) Billing per month to MNO Inc. : USD 85,000

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- (ii) Billing per month to HTY Ltd. : USD 92,000
- (iii) MNO Inc. has given a loan of USD 1,20,000 to MNO Ltd. to purchase hardware for execution of its project. Rate of interest is 4% p.a.
- (iv) Direct and indirect cost incurred are USD 120 and USD 210 per hour respectively.
- (v) MNO Ltd. works 9 hours per day for 18 days to execute the projects for MNO Inc. and 8 hours per day for 18 days to execute projects for HTY Ltd. MNO Ltd. has provided such services throughout the year to both the customers.
- (vi) Warranty was provided to HTY Ltd. for a period of 2 years. Cost of warranty is calculated at the rate of 1.5% of direct cost incurred. The cost of warranty is neither included in the direct nor indirect cost.

Assume all the cost and billing are even throughout the year.

Compute Arm's Length Price as per the cost-plus method and the amount to be added, if any, to the income of MNO Ltd. Assume conversion rate 1 USD = ₹ 75.

5. (a) Answer any two out of the following three sub-parts, viz. (i), (ii) and (iii).

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Your answer should cover

- (a) Issue involved
 - (b) Provision applicable
 - (c) Analysis
 - (d) Conclusion
- (i) During the scrutiny assessment of Refresh Me Ltd., a company engaged in manufacture and distribution of packaged juices, the

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Assessing Officer (AO) increased the income and thus passed an order of demand. Aggrieved by the order, the assessee filed an appeal to CIT(A), who confirmed the order of A.O. Assessee further appealed to ITAT and requested ITAT for the stay of collection of tax, which the Honourable ITAT provided initially for 180 days which was further extended till 365 days as provided in section 254(2A) of the Act. The ITAT did not dispose off the appeal before the time extended for collection of tax. The revenue served an order of demand citing the reason that the order of stay automatically gets vacated post the expiry of 365 days. The assessee seeks your opinion as to whether the contention of the revenue is justified ?

- (ii) On 31.12.2021, a search under Section 132 of the Income-tax Act was conducted in the business and residential premises of Mr. Rajshekaran and some gold bars were seized from the locker. Mr. Rajshekaran voluntarily disclosed ₹ 12.50 crores of income during the course of search. Later on he filed an application for sale of the gold bars worth 5 kgs for adjustment “towards the automatic tax liability”, even before the completion of the assessment by the AO. However, AO rejected the application and observed that such action can be taken only after the assessment is completed and a demand has been quantified.

Is the AO justified in rejecting the application?

- (iii) On 31.3.2021, Pastro Ltd. (the assessee) had an outstanding interest liability of ₹ 2 crores towards loan payable to financial institutions. It issued debentures to the financial institutions in lieu of the outstanding interest on 1.5.2021 and deducted the same from the taxable income as payment thereof. The Assessing Officer, however, rejected the deduction claimed by the assessee, by invoking Explanation 3C of section 43B of the Income-tax Act. You are required to discuss the validity of the Assessing Officer's claim.

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(b) (i) Explain the correctness or otherwise of the following statements giving proper reasons thereof :

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(A) Mr. Rikky, a resident individual is aggrieved by an order passed by the Board for Advance Ruling on 1.10.2021. Since the decision of the Board is binding on the applicant, he has no other option but to accept the ruling of the Board.

(B) M/s Aritri Ltd., an Indian public sector company wants to seek advance ruling from the Board for Advance Ruling (BOAR) in respect of a matter relating to computation of its total income involving a question of law relating to such computation. However, the matter is already pending before the Income-Tax Appellate Tribunal (ITAT) as on the date of application for advance ruling i.e, 12.12.2021. It cannot seek the BOAR ruling till the matter is pending before the ITAT.

(ii) M/s Boggle LLC., an entity resident in the USA, owns and operates an online shopping app, Flipzone. On this platform, it facilitates the sale of various kinds of goods owned by different entities. M/s Boggle LLC does not have a permanent establishment in India. During the FY 2021-22, it gives you the following details :

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Particulars	Amount in ₹
Receipts from sale of good to persons resident in India using internet from India	1,96,00,000
Sale proceeds received from persons resident in India, while visiting some other neighboring countries.	7,00,000

You are required to discuss the tax implications of these transactions in respect of M/s Boggle LLC.

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6. (a) In the following independent circumstances, discuss whether the provisions of GAAR would be applicable : 4

(i) Milo Ltd., an Indian company, is making losses for the past several years. Tilo Ltd., another Indian company having huge profits acquired Ms. Milo Ltd.

(ii) DAMP Inc., a company incorporated in Country A, holds 1000 equity shares in MAP Ltd., an Indian listed entity since 1.4.2016. On 1.5.2021, MAP Ltd. issued 1000 bonus shares to DAMP Inc. As per the treaty between India and Country A, the capital gain is taxable in the country where the transferor of shares is a resident. The tax laws of Country A, exempt capital gains. DAMP Inc. sells all the shareholding in MAP Ltd. on 1.1.2022 and earned a capital gain of ₹ 5 crores.

(iii) A Ltd., an Indian company, incorporates a wholly owned subsidiary Company B, in Country B which is a Low Tax Jurisdiction with equity share capital of ₹ 1 crore. Out of the equity capital, company B gives loan to C Ltd., an Indian company at the rate of 5%. There is no other activity in Company B.

(iv) Bee Ltd., an Indian company sets up a unit in SEZ in FY 2018-19 for manufacturing of chemicals. It claims 100% deduction of profits of ₹ 100 crores earned from that unit in FY 2021-22, u/s 10AA of the Act.

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- (b) The jurisdictional Assessing Officer of Mr. Albert, a non-resident, wants to treat the following persons as his agent in India for AY 2022-23 as per the provisions of section 163 of the Income-tax Act, 1961. You are required to discuss the validity of the Assessing Officer's claims. 4
- (i) Mr. Albert owned a residential house in Goa, India. During the financial year 2021-22, he sold the house to Mr. D'Souza, another non-resident. AO wants to treat Mr. D'Souza as an agent of Mr. Albert.
- (ii) Mr. Albert employed Mr. Rakesh, a resident of India, to work for him on 1.4.2020. Mr. Rakesh left India to be employed by Mr. Albert on 1.4.2021.
- (c) Explain the action plan for taxation of income arising from intellectual property rights in India on the basis of OECD recommendations for BEPS action plan-5. 2
- (d) Significant economic presence of a non-resident in India shall also constitute business connection in India. Explain. 2
- (e) What is Static approach and Ambulatory approach in interpreting tax treaties? 2

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