Final Paper 7: Direct Tax Laws

Practice Questions

Question 1
An appeal was preferred by the assessee to the Commissioner (Appeals) against the order of assessment made by the Assessing Officer. The appeal was allowed by the Commissioner (Appeals). The assessee later found that he was entitled to a certain deduction, which was neither claimed by him nor allowed by the Assessing Officer in the course of assessment. The issue of deduction was not raised by the assessee in the appeal before the Commissioner (Appeals) and was not considered by the Commissioner (Appeals). Examine the power of the Commissioner to revise under section 264 the order of assessment in order to allow such deduction on an application by the assessee.

Question 2
The assessment of Ashok for assessment year 2016-17 was completed under section 143(3) on 15th January, 2018. The Commissioner acting under section 263 directed the Assessing Officer to add a certain amount appearing in the Balance Sheet in the total income of Ashok.

Ashok did not challenge the order of the Commissioner under section 263 by filing appeal to the Tribunal. The Assessing Officer passed a fresh assessment order on 1st October, 2018 including the said amount in the total income of Ashok pursuant to the order of the Commissioner.

Ashok disputed the fresh assessment order in appeal to Commissioner (Appeals) under Section 246A. The Commissioner (Appeals) dismissed the appeal on the ground that the Assessing Officer only complied with direction of the Commissioner under section 263, which was not disputed by Ashok in appeal to Tribunal. Examine the correctness of the stand taken by the Commissioner (Appeals).

Question 3
Examine the following propositions:

(i) The Income Tax Appellate Tribunal cannot admit additional evidence during the hearing of the appeal.

(ii) The Commissioner of Income-tax can revise an order during the pendency of an appeal before the First Appellate Authority.

(iii) The Commissioner of Appeals cannot admit an appeal filed beyond 30 days from the date of receipt of order by an assessee.

Question 4
The assessment of South West Bank Limited for Assessment Year 2014-15 was made under section
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143(3) on 30th November, 2015 allowing deduction under section 36(1)(viia) on account of provision for doubtful debts and deduction in respect of foreign exchange rate difference as claimed in the return of income. Subsequently, the Assessing Officer initiated reassessment proceeding under section 147 in respect of deduction under section 36(1)(viii) for special reserve created by the bank. The order under section 147 was passed on 31st December, 2017. Later, the Principal Commissioner, after examining the record of assessment, initiated revisionary proceeding under section 263 by issue of show cause notice to the bank and passed an order under section 263 on 31st August, 2018 for disallowing in part deduction under section 36(1)(viia) and deduction for foreign exchange rate difference. The bank claims that the order passed by the Principal Commissioner under section 263 is barred by limitation.

Examine the correctness or otherwise of the claim of the bank.

**Question 5**

Can Commissioner (Appeals) refuse to admit an appeal even though such appeal is filed within time? Examine.

**Question 6**

M, an individual, had let out his building on a monthly rent of ₹ 20,000. The tenant deducted tax under section 194-I from the rent paid to M, but did not remit such tax to the credit of the Central Government. M filed his return of income for the assessment year 2018-19 including therein the rental income from the said building and paid the balance tax on his total income after taking credit for tax deducted at source by the tenant. The Assessing Officer has called upon M to pay the tax to the extent of tax deducted at source. Is the Assessing Officer justified in doing so?

**Question 7**

A sum of ₹ 60,000 was paid to Mr. Dastur, an advocate, on 1st July, 2017 towards fees for his professional services without deducting tax at source. Later on, a further sum of ₹ 70,000 was due to him on 28th February, 2018 from which tax of ₹ 13,000 was deducted at source. The tax so deducted was deposited on 25th June, 2018. Compute interest payable by the deductor under section 201(1A).

**Question 8**

The Assessing Officer within his jurisdiction surveyed a popular Cyber Café at 12 o’clock in night for the purpose of collecting information which may be useful for the purposes of the Income-tax Act, 1961. The Cyber Café is kept open for business every day between 2 p.m. and 2 a.m. The owner of the Cyber Café claims that the Assessing Officer could not enter the café in late night. The Assessing Officer wanted to take away with him the books of account kept at the Cyber Café. Examine the validity of the claim made by the owner and the proposed action of the Assessing Officer.

**Question 9**
T, an individual, filed his return of income for the assessment year 2018-19 on 18.10.2018 declaring a total income of ₹ 1,20,000. He later discovered that he had not claimed a particular deduction amounting to ₹ 2,10,000 while computing his business income in the said return. He filed a revised return on 29.3.2019 declaring a total loss of ₹ 90,000. The Assessing Officer proposes to disallow the claim of T for carry forward of the business loss under section 72(1) amounting to ₹ 90,000 for the reason that the revised return declaring loss for the first time was filed beyond the time prescribed under section 139(3). Examine the validity of the proposed action of the Assessing Officer.

Question 10

ElH Private Ltd.’s assessment for assessment year 2011-12 was completed under section 143(3) on 31st August, 2012. The company went in appeal to the Commissioner (Appeals) and the appeal was decided on 16th August, 2013 and the appeal effect was duly given by the Assessing Officer on 25th August, 2013. Thereafter, on 1st September, 2017 the Assessing Officer noticed a mistake in calculation of depreciation on a particular block of assets, which reduced the income excessively by ₹ 1.10 lacs. The Assessing Officer issued notice under section 154 for the purpose of rectifying the mistake. Is such rectification permissible?