Question 1 is compulsory

Answer any four questions from the remaining five questions

Working Notes should form part of the answer. Wherever necessary, suitable assumptions may be made by the candidates and disclosed by way of a note.

All questions relate to Assessment Year 2018-19, unless stated otherwise in the question.

Total Marks: 100 Marks

Time Allowed: 3 Hours

1. (a) (i) Sai LLP, a limited liability partnership set up a unit in Special Economic Zone (SEZ) in the financial year 2013-14 for production of washing machines. The unit fulfills all the conditions of section 10AA of the Income-tax Act, 1961. During the financial year 2016-17, it has also set up a warehousing facility in a district of Tamil Nadu for storage of agricultural produce. It fulfills all the conditions of section 35AD. Capital expenditure in respect of warehouse amounted to Rs. 75 lakhs (including cost of land Rs. 10 lakhs). The warehouse became operational with effect from 1st April, 2017 and the expenditure of Rs. 75 lakhs was capitalized in the books on that date.

Relevant details for the financial year 2017-18 are as follows:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Rs.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Profit of unit located in SEZ</td>
<td>40,00,000</td>
</tr>
<tr>
<td>Export sales of above unit</td>
<td>80,00,000</td>
</tr>
<tr>
<td>Domestic sales of above unit</td>
<td>20,00,000</td>
</tr>
<tr>
<td>Profit from operation of warehousing facility (before considering deduction under Section 35AD).</td>
<td>1,05,00,000</td>
</tr>
</tbody>
</table>

Compute income tax (including AMT under Section 115JC) payable by Sai LLP for Assessment Year 2018-19. (10 Marks)

(ii) X Ltd. has a block of assets carrying 15% rate of depreciation, whose written down value on 01.04.2017 was Rs. 40 lacs. It purchased another asset (second-hand plant and machinery) of the same block on 01.11.2017 for Rs. 14.40 lacs and put to use on the same day. X Ltd. was amalgamated with Y Ltd. with effect from 01.01.2018.

You are required to compute the depreciation allowable to X Ltd. & Y Ltd. for the previous year ended on 31.03.2018 assuming that the assets were transferred to Y Ltd. at Rs. 60 lacs. (4 Marks)

(b) Examine with reasons whether the following transactions attract income-tax in India, in the hands of recipients under section 9 of Income-tax Act, 1961:

(i) A non-resident Australian company, which did not have a permanent establishment in India, entered into an agreement for execution of electrical work in India. Separate payments were made towards drawings & designs, which were described as “Engineering Fee”. The assessee contended that such business profits should be taxable in Australia as there is no business connection within the meaning of section 9(1)(i) of the Income-tax Act, 1961.
A firm of solicitors in Delhi engaged a barrister in Canada for arguing a case before Supreme Court of India. A payment of 5000 Canadian Dollars was made as per terms of professional engagement.

Dream Engineering, a non-resident foreign company entered into a collaboration agreement on 25/6/2017, with an Indian Company and was in receipt of interest on 8% debentures for Rs. 20 lakhs, issued by Indian Company, in consideration of providing technical know-how during previous year 2017-18. (6 Marks)

Avantika Hospitality Limited is engaged in the business of running hotels of 3-star category. The company's Statement of Profit and Loss for the previous year ended 31st March, 2018 shows a profit of Rs. 152 lakhs after debiting or crediting the following items:

(i) Payment of Rs. 0.25 lakh and Rs. 0.30 lakh in cash on 3rd December, 2017 and 10th December, 2017 respectively for purchase of crab, lobster and squid to Mr. Suraj, a fisherman, and Mr. Uday, a middleman for these products, respectively.

(ii) Contribution towards employees' pension scheme notified by the Central Government under section 80CCD for a sum of Rs. 3 lakhs calculated at 12% of basic salary and Dearness Allowance payable to the employees.

(iii) Payment of Rs. 6.50 lakhs towards transportation of various materials procured by one of its hotels to M/s. Bansal Transport, a partnership firm, without deduction of tax at source. The firm opts for presumptive taxation under section 44AE and has furnished a declaration to this effect. It also furnished its Permanent Account Number in the tender document.

(iv) Profit of Rs. 12 lakhs on sale of a plot of land to X Limited, a domestic company, the entire shares of which are held by the assesse company. The plot was acquired by Avantika Hospitality Limited on 1st June, 2016.

(v) Contribution of Rs. 2.50 lakhs to Indian Institute of Technology with a specific direction for use of the amount for scientific research programme approved by the prescribed authority.

(vi) Expense of Rs. 10 lakhs on foreign travel of two directors for a collaboration agreement with a foreign company for a brewery project to be set up. The negotiation did not succeed and the project was abandoned.

(vii) Fees of Rs. 1 lakh paid to independent directors for attending Board meeting without deduction of tax at source under section 194J.

(viii) Depreciation charged Rs. 10 lakhs.

(ix) Rs. 10 lakhs, being the additional compensation received from the State Government pursuant to an interim order of Court in respect of land acquired by the State Government in the previous year 2013-14.

(x) Dividend received from a foreign company Rs. 5 lakhs.

Additional information:

(i) As a corporate debt restructuring, the bank has converted unpaid interest of Rs. 10 lakhs upto 31st March, 2017 into a new loan account repayable in five equal annual installments. The first installment of Rs. 2 lakhs was paid in March, 2018 by debiting new loan account.

(ii) Depreciation as per Income-tax Act, 1961 Rs. 15 lakhs.

(iii) The company received a bill for Rs. 2 lakhs on 31st March 2018 from a supplier of vegetables for supply made in March, 2018. The bill was omitted to be recorded in the books in March, 2018. The bill was paid in April, 2018, by an A/c payee cheque and the necessary entry was made in the books then.
Compute total income of Avantika Hospitality Limited for the Assessment Year 2018-19 indicating the reason for treatment of each item. Ignore the provisions relating to minimum alternate tax.  

(14 Marks)

(b) The following are the particulars of income earned by Miss Aarika, a resident Indian aged 35, for the A.Y. 2018-19:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>(Rs. In lacs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income from playing hockey matches in country XYZ</td>
<td>15.00</td>
</tr>
<tr>
<td>Tax paid in country XYZ</td>
<td>3.00</td>
</tr>
<tr>
<td>Income from playing hockey matches in India</td>
<td>23.00</td>
</tr>
<tr>
<td>Deposit in PPF</td>
<td>1.50</td>
</tr>
<tr>
<td>Medical Insurance Premium paid for her mother aged 75 years (paid through credit card), who is not dependent on her.</td>
<td>0.40</td>
</tr>
</tbody>
</table>

Compute her total income and tax liability for the A.Y.2018-19. There is no Double Taxation Avoidance Agreement between India and country XYZ.  

(6 Marks)

3. (a) (i) A private limited company (not being an eligible start up referred to in section 80-IAC) has share capital in the form of equity share capital. The shares were held up till 31st March, 2016 by four members Aarav, Varun, Charan and Dinesh equally. The company made losses/profits for the past three assessment years as follows:

<table>
<thead>
<tr>
<th>Assessment Year</th>
<th>Business Loss Rs.</th>
<th>Unabsorbed Depreciation Rs.</th>
<th>Total Rs.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014-15</td>
<td>Nil</td>
<td>16,00,000</td>
<td>16,00,000</td>
</tr>
<tr>
<td>2015-16</td>
<td>Nil</td>
<td>12,00,000</td>
<td>12,00,000</td>
</tr>
<tr>
<td>2016-17</td>
<td>10,00,000</td>
<td>7,00,000</td>
<td>17,00,000</td>
</tr>
<tr>
<td>Total</td>
<td>10,00,000</td>
<td>35,00,000</td>
<td>45,00,000</td>
</tr>
</tbody>
</table>

The above figures have been accepted by the tax department.

During the previous year ended 31.3.2017, Aarav sold his shares to Ganesh and during the previous year ended 31.3.2018, Varun sold his shares to Rajesh. The profits for the P.Y. 2016-17 and P.Y.2017-18 are as follows:

31.3.2017 Rs. 20,00,000 (before charging depreciation of Rs. 8,00,000)
31.3.2018 Rs. 50,00,000 (before charging depreciation of Rs. 10,00,000)

Compute taxable income for A.Y.2018-19. Workings must form part of your answer. 

(8 Marks)

(ii) An institution having its main object as “advancement of general public utility” received Rs. 30 lakhs in aggregate during the P.Y.2017-18 from an activity in the nature of trade. The total receipts of the institution, including donations, was Rs. 140 lakhs. It applied 85% of its total receipts from such activity during the same year for its main object i.e. advancement of general public utility.

(i) What would be the tax consequence of such receipt and application thereof by the institution?
(II) Would your answer be different if the institution’s total receipts had been Rs. 150 lakhs (instead of Rs. 140 lakhs) in aggregate during the P.Y.2017-18?

(III) What would be your answer if the main object of the institution is “relief of the poor” and the institution receives Rs. 30 lakhs from a trading activity, when its total receipts are Rs. 140 lakhs and applies 85% of the said receipts for its main object? (6 Marks)

(b) (i) Mr. Bhuwan is a non-resident. The appeal pertaining to the assessment year 2013-14 is pending before the Income-tax Appellate Tribunal, the issue involved being computation of export profit and tax thereon. The same issue persists for the assessment year 2014-15 as well. Mr. Bhuwan’s brother Mr. Karan has obtained an advance ruling under Chapter XIX - B of Income-tax Act, 1961 from the Authority for Advance Ruling on an identical issue. Mr. Bhuwan proposes to use the said ruling for his assessment pertaining to the assessment year 2014-15. Can he do so? (3 Marks)

(ii) The net result of the business carried on by a branch of foreign company in India for the year ended 31.03.2018 was a loss of Rs. 100 lakhs after charge of head office expenses of Rs. 200 lakhs allocated to the branch. Explain with reasons the income to be declared by the branch in its return for the assessment year 2018-19. (3 Marks)

4. (a) (i) Mr. Verma, an employee of M/s. MNO Ltd. since 10-04-2014 resigned on 31-03-2018 and withdrew Rs. 60,000 being the balance in his Recognised EPF account. M/s MNO Ltd. is having his PAN. Examine with reasons whether the provisions of Chapter XVII-B are attracted and if so, what is the net amount receivable by the payee, Mr. Verma? (2 Marks)

(ii) TRI Bank credited Rs. 73,50,000 towards interest on the deposits in a separate account for macro-monitoring purposes by using Core-branch Banking Solutions (CBS) software. No tax was deducted at source in respect of interest on deposits so credited even where the interest in respect of some depositors exceeded the limit of Rs. 10,000.

The Assessing Officer disallowed 30% of interest expenditure, where the interest on time deposits credited exceeded the limit of Rs. 10,000 and also levied penalty under section 271C. Decide the correctness of action of the Assessing Officer. (4 Marks)

(iii) Discuss the following issues in the context of the provisions of the Income-tax Act, 1961, with specific reference to clarification given by the Central Board of Direct Taxes -

(I) Star TV, a television channel, made payment of Rs. 50 lakhs to a production house for production of programme for telecasting as per the specifications given by the channel. The copyright of the programme is also transferred to Star TV. Would such payment be liable for tax deduction at source under section 194C? Discuss.

Also, examine whether the provisions of tax deduction at source under section 194C would be attracted if the payment was made by Star TV for acquisition of telecasting rights of the content already produced by the production house.

(II) Shipra Ltd., an advertising company, has retained a sum of Rs. 15 lakhs, towards charges for procuring and canvassing advertisements, from payment of Rs. 1 crore due to Sky TV, a television channel, and remitted the balance amount of Rs. 85 lakhs to the television channel. Would the provisions of tax deduction at source under section 194H be attracted on the sum of Rs. 15 lakhs retained by the advertising company? (8 Marks)
(b) Examine the following transactions and discuss whether the transfer price declared by the following assesses, who have exercised a valid option for application of safe harbour rules, can be accepted by the Income-tax Authorities –

<table>
<thead>
<tr>
<th>Assessee</th>
<th>International transaction</th>
<th>Aggregate value/value of transactions entered into in the P.Y.2017-18</th>
<th>Declared Operating Profit Margin</th>
<th>Operating Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) B Ltd., an Indian company</td>
<td>Provision of data processing services with the use of information technology to Y Inc., its foreign subsidiary.</td>
<td>Rs. 180 crore</td>
<td>Rs. 30 crore</td>
<td>Rs. 150 crore</td>
</tr>
<tr>
<td>(2) D Ltd., an Indian company</td>
<td>Provision of contract R &amp; D services relating to generic pharmaceutical drug, to ABC Inc., a foreign company which guarantees 15% of the total borrowings of D Ltd.</td>
<td>Rs. 50 crore</td>
<td>Rs. 9 crore</td>
<td>Rs. 30 crore</td>
</tr>
</tbody>
</table>

5. (a) (i) The assessment of Mr. Sahaj for A.Y.2010-11 was made on 28.3.2012 making an addition of Rs. 3,25,000 for a certain income received during the P.Y.2009-10. The assessee contested the addition before Commissioner (Appeals) but lost the case. The Appellate Tribunal passed an order on 26.2.2017 holding that the said income was not taxable in the P.Y.2009-10 but the same was taxable in the year of accrual, being P.Y.2004-05 relevant to A.Y.2005-06. The Assessing Officer issued notice under section 148 for A.Y.2005-06 in March 2017 bringing to tax the sum of Rs. 3,25,000. Is the notice valid?

Would your answer change if in the said case, the assessment order for A.Y.2010-11 was made on 4.4.2012 instead of 28.3.2012? (4 Marks)

(ii) A petition for stay of demand was filed before ITAT by XYZ Ltd. in respect of a disputed demand for which appeal was pending before it, on which stay was granted by the ITAT vide order dated 1.1.2017. The bench could not function thereafter till 1.2.2018 and therefore, the disputed matter could not be disposed off. The Assessing Officer attached the bank account on 16.2.2018 and recovered the amount of Rs. 15 lacs against the arrear demand of Rs. 25 lacs. The assessee requested the Assessing Officer to refund back the amount as it holds stay over it. The Assessing Officer rejected the contention of the assessee. Now the assessee seeks your opinion. (4 Marks)

(iii) Neha was carrying on the textile business under a proprietorship concern, Neha Textiles. On 21.07.2017 the business of Neha Textiles was succeeded by New Look Textile Private Limited and all the assets and liabilities of Neha Textiles on that date became the assets and liabilities of New Look Textile Private Limited and Neha was given 52% share in the share capital of the company. No other consideration was given to Neha on account of this succession.
The assets and liabilities of Neha Textiles transferred to the company included an urban land which was acquired by Neha on 19.7.2011 for Rs. 9,80,000. The company sold the same on 30.03.2018 for Rs. 15,00,000.

Examine the tax implication of the above-mentioned transaction and compute the income chargeable to tax in such case(s).

**Cost Inflation Index:** 2011-12: 184; 2017-18: 272

(b) Can tax provisions be discriminatory merely because a person is a non-resident? Explain in the context of the OECD Model Convention.

6. (a) i) An order for A.Y. 2016-17 was passed by the Assessing Officer as per section 143(3), but the typist wrongly typed in the order, the assessment year as A.Y.2015-16 and the relevant previous year as ending on 31.3.2015. The assessee claimed in appeal that the same is an invalid order which was not accepted by the CIT (Appeals) on the ground of the error being of clerical nature. Discuss the correctness of the order of the CIT(Appeals).

(b) “In addition to allocating the taxing rights and elimination of double taxation, there are various other important considerations while entering into tax treaty”. Elucidate.