TAXATION-II

Time allowed – 3 hours
Total Marks – 100

*[N.B. – The figures in the margin indicate full marks. Questions must be answered in English. Examiner will take account of the quality of language and of the way in which the answers are presented. Different parts, if any, of the same question must be answered in one place in order of sequence. Tax and VAT law provisions as they are currently in force should be considered.]*

Marks

1. Silkway Group has two companies, Silkway Toiletries Ltd.(STL), an unlisted public limited company in toiletries manufacturing business and Silkway Chemicals Ltd.(subsidiary of STL with 80% equity). The subsidiary operates a factory in old Dhaka, closed due to Environment Directorate order not to run chemical factory in city area.

(a) Silkway Toiletries Ltd. filed its tax return showing total revenue of taka five crore; profit taka 5,000,000 for the year ended 30.06.2017 after debits and credits of the items revealed from the examination of accounts of the company as follows:

**DEBITS**

i) Depreciation on revaluation of assets Taka100,000/=
ii) COGS includes (a) taka 1,000,000 for direct materials bought from supplier on which tds was not done u/s 52, Rule 16, (b) taka 500,000 paid to an enlisted tailor for supply of uniforms for production floor workers on which tds was not done.
iii) Insurance premium paid to BGIC taka 250,000 on 02.02.2017 without doing tds.
iv) Paid taka 200,000 to Grameen phone Ltd. for mobile phone sets without doing tds.
v) Provision for loss in subsidiary – Taka 500,000/=
vi) Written off taka 50,000 representing the value of machinery missing from physical verification.
vii) Exchange loss linked to the income from foreign agent due to delay in remitting the income.
viii) Interest taka 100,000/= on overdraft to pay interest for failure to pay advance tax.
ix) Written off taka 200,000/= long due from a missing party who was advanced this sum fo raw material.
x) Commission paid taka 250,000/= to a bank for forward contract (dated 25.06.17) to hedge each risk involving settlement of import L/C dues due after a quarter.
xi) Taka 500,000/= on a/c of free samples of finished goods given to distributors(limited 1% of turnover)
xii) Trade discounts to customers taka 1,000,000/= and distributors commission paid taka 500,000/=.

**CREDITS**

xiii) Dividend taka 100,000/= on investment in an approved Alternative Investment Fund
xiv) Capital gain on sale of fixed assets taka 100,000/=
xv) Interest earned on security deposit at bank in Kenya, taka eqvt 100,000/=.

**OTHER INFORMATION**

- Unabsorbed depreciation brought forward from assessment year 2016-2017 taka two lacs.
- Return filed for the income y/e 30.06.17 on 30.09.2017; assessment completed on 30.11.17. Company's assessed income in the previous income year was taka 6,000,000/=.
- For the reported income year, the opening stock of toiletries was valued at taka 35 lacs and closing stock of toiletries raw materials at taka 15 lacs. These opening stock and closing stock were wrongly overvalued and undervalued respectively by 5% and 10%.
- Tds done on rent payment of taka 500,000/= but did not deposit to treasury for about six months.

- A Chinese supplier breached L/C terms to supply toiletries machineries on order. Company received a liquidated damage for this eqvt taka 1,500,000/= which has not been credited to P&L. This machinery L/C was done under 50% margin (taka 75 lacs) with a bank, funded by a separate short term loan for same amount at 10% p.a. Company paid interest on such loan taka five lacs and charged to revenue.
- Company acquired a delivery van under lease finance from a NBFI. Registration was done in the name of the Company. Depreciation charged taka 400,000/=.
- Company made exports of selected item of toiletries to Africa through an agent in Kenya. Under permission from Bangladesh Bank, company made an interest bearing security deposit with the agent's bank in Kenya to cover product warranty in which interest earned was taka 100,000/=(tax paid thereon in Kenya, taka eqvt 15,000/= at 15%). Customers total tds including tds by bank on exports realization taka 700,000/=. Company paid advance tax taka 500,000/= during the income year.

(b) Silkway Toiletries Ltd.(STL) and its Managing Director own Silkway Chemical Ltd. for 80% and 20% equity respectively. In the attempt to consolidate the business in the face of closure of the Chemical subsidiary, the shareholders of Silkway Chemical Ltd. resolved to wind up the subsidiary voluntarily vide EGM dated 31.08.2017. STL and its MD acquired shares of SCL four years ago at 10% premium over the par value. Factory land was registered to the shareholders at market value. Liquidator closed his account on 30.11.17 having paid off all liabilities as they are and disposed of all assets. Expenses incurred during winding up process taka 100,000/= Net assets on EGM date prior to the distribution to shareholders were as follows:

**ASSETS:**
Machineries net taka 500,000 (Original cost taka 4,500,000, Sold by Liquidator taka 300,000). Factory land taka 5,000,000 (market value taka 8,500,000/=). Cash and Bank balance taka 1,500,000. Due from Silkway Toiletries Ltd. taka 1,000,000 against chemical sale(r/m for toiletries)

**LIABILITIES:**
Share capital taka 5,000,000 (taka100 share). General Reserve taka 500,000. P&L App taka 1,500,000. Payables to employees taka 500,000/=. VAT liability taka 500,000.

**Requirements:**
i) Compute total income and tax liability of Silkway Toiletries Ltd separately showing computation of excess or shortfall of advance tax and explanation for consequence. 20
ii) Show distribution upon liquidation, tax implication on Silkway Chemical Ltd. and shareholders. 10

2. ABC & Co. ("Firm"), Chartered Accountants, acts as tax consultant of XYZ Ltd. ("Company"), a private limited company incorporated in Bangladesh. The Company is engaged in the business of yarn dyeing. You are a Chartered Accountant and working as Tax Partner of the Firm. Assessment and appeal proceedings of the Company for the assessment year 2013-2014 are complete. There were cross appeals before the taxes appellate tribunal for AY 2013-2014 relating to addition of current liabilities to taxable income and application of 35% tax rate on business income from sale of fixed assets. The assessment order analyzed the components of current liabilities that consist of working capital loan, term loan, lease finance, trade creditors and liabilities for expenses and are disclosed under separate notes to the audited financial statements. The sale of fixed assets was also recorded in detail. The Deputy Commissioner of Taxes ("DCT") added back taka 20,000,000/= out of current liabilities and the Commissioner of Taxes (Appeals) reduced the same to Taka 15,000,000/=. In the cross appeal, the Taxes Appellate Tribunal further reduced the addition under current liabilities to Taka 5,000,000/=. Subsequently the Director General of Inspection (Taxes) called for the file and reviewed the same where he did not find supporting documents as regards the appealed issues. Being advised by the office of the Director General of Inspection (Taxes), the DCT reopened the case and issued notice under Section 93 of the ITO, 1984, on the ground that tax was evaded by non-submission of evidences.

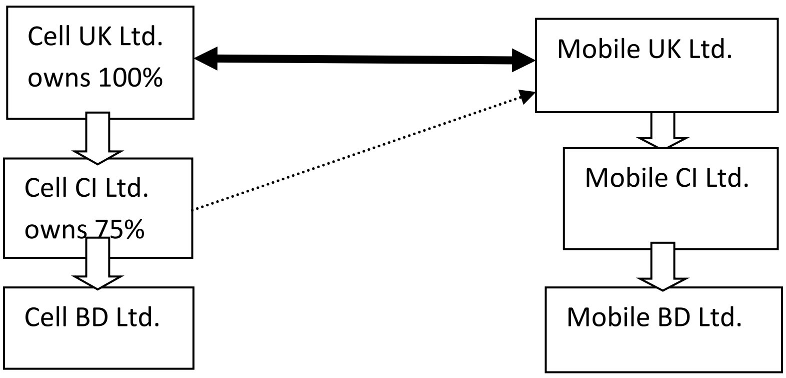
**Requirement:**

Prepare a reply to the notice of the DCT considering the grounds for reopening the case and applicability of Section 93 of the ITO, 1984, for XYZ Ltd. 10

3. Tax heaves or Offshore Financial Centres (OFC) are financial jurisdictions outside the regulations of one's own nation used by companies and individuals to lower their taxes on profits and assets. They are often small islands, such as, Cayman Island, mostly in the Caribbean. After 'panama paper leaks in 2016, now hit the headlines are 'Paradise Papers' which contain millions of documents reportedly from offshore legal and corporate service providers. Names are up in the media in ref to Paradise papers including name of an accounting firm which allegedly worked for dodging assessees. You, a CA, involve in cross-country tax practice.

One of your clients, 'Cell BD Ltd', a Bangladeshi public limited JV company, is a mobile operator in Bangladesh. Cell BD Ltd. is owned 75% by 'Cell CI Ltd.', a Cayman Island (tax heaven) company which is 100% owned by Cell UK Ltd. As BTRC stopped issuing new license, Mobile UK Ltd., which is wanting to enter Bangladesh market hammered out a strategic investment deal with Cell UK Ltd. to take control in Cell BD Ltd. through 'Cell CI Ltd'

**Pre-Transfer Structure** **Post-Transfer Structure**




Share capital of 'Cell CI Ltd.' is US$1.0 million. 'Mobile UK Ltd.' bought the entire share of Cell CI Ltd. for US$2.0 million from Cell UK Ltd. Mobile UK Ltd. made full payment to Cell UK Ltd. in UK for the transfer and then changed the name of Cell CI Ltd. to 'Mobile CI Ltd.' in Cayman Island and from Cell BD Ltd. to Mobile BD Ltd. in Bangladesh. Cell UK Ltd. made a huge gain on the transfer which is in public through media. You have filed tax return for your client (Cell BD Ltd.) with the audited accounts for the relevant income year which depicts information about the ownership change and subsequent name change. Tax Dept issued a show-cause notice to Mobile UK Ltd and to your client to explain why tax was not withheld u/s 56 on payments made by Mobile UK Ltd. to Cell UK Ltd. in relation to the share transfer in Cell CI Ltd. Tax department contended that the share transfer in Cell CI Ltd. derived its value from assets in Cell BD Ltd. and thus it implicated a connection u/s 18(2). Department argued, the controlling shareholding obtained by Mobile UK Ltd. in Cell BD Ltd.(75%) has its situs in Bangladesh and, therefore, the capital gain arising on this share transfer outside Bangladesh is liable to tax in Bangladesh as an 'indirect transfer'. Mobile UK Ltd. is considering a HC writ in Bangladesh challenging department's demand and approached you, as tax lawyer of their Bangladesh subsidiary, for technical tax views.

**Requirements:**

a. Brief your views about the legality of investment in tax heavens by Bangladesh resident assessee having overseas operations in ref to IT Ordinance. What are the ethical implications of a Professional Accountant in practice and your position if approached by such a client. 5

b. Consider share transfer case of Cell CI Ltd. Write technical inputs in ref to applicable tax provisions, treaty and case decision, if any, giving your views on the validity of tax demand on such share transfer. 5

4. Mr. PQ used to compute his income tax and prepare return of income on his own. While computing income tax for the assessment year 2017-2018, he was confused about the computation and presentation of the tax collected at source on transfer of inherited property and at the time of import of goods. Therefore, he appointed XYZ & Co. ("Firm"), Chartered Accountants, for assisting him in computation of taxable income, tax liability and preparation of return of income. You are a Chartered Accountant and working as a tax consultant of the Firm. Mr. PQ sent you an email furnishing the following information on transfer of inherited property:

| Particulars | Tk. |
|---|---|
| Tax Collected/Deducted at Source on transfer of property | 10,000,000 |
| Sale proceeds received in cash and by bank transfer | 250,000,000 |

In addition to the above, Mr. PQ also provided you with the following information on income and tax deducted at source relating to the assessment year 2017-2018:

| Particulars | Tk. |
|---|---|
| Remuneration as a member of the Board of Directors of a private limited company | 6,000,000 |
| Interest on fixed deposits | 3,000,000 |
| Income from dividend of a publicly listed company | 1,000,000 |
| Interest on savings instruments | 1,500,000 |
| Income from a mutual fund | 500,000 |
| Income from lease of vacant land | 1,200,000 |

Taxes deducted at source from remuneration, interest, dividend and lease income were as per applicable rates

Mr. PQ imported goods of Tk.10,000,000/= during the income year 2016-2017 and tax was collected at source amounting to Tk.500,000/= at import stage applying 5% rate. He made profit of Tk.3,000,000/= from import business in the same period.

Net wealth of Mr. PQ was computed at Tk.30,050,000/= as of 30 June 2017 which you should consider for computation of surcharge. During the income year 2016-2017, Tk.10,000,000/= was invested by him in acquisition of shares of companies listed on Dhaka Stock Exchange. He also invested Tk.1,000,000/= in deposit pension scheme sponsored by a scheduled bank. He was 67 years old on 30 June 2017 and has been submitting return of income for last 20 years.

**Requirements:**
Write a reply to the email of Mr. PQ along with computations of the following:
(i) Minimum tax on income from import business. 5
(ii) Total taxable income from all sources and total tax liabilities. 3
(iii) Investment Tax Credit. 6
(iv) Surcharge and Net Tax Payable. 4

5. ABC Ltd. is a Bangladeshi RMG company, having its factory in Jessore, in which XYZ Inc., a UK based company has 28% shareholding and voting power. The management of these two company is going to enter into an agreement on the following transactions:

a) ABC Ltd. will sell 1,000,000 pieces of T-shirts @ $2 per T-shirt to XYZ Inc. This type of T-shirts is generally sold to unrelated parties namely @ $3 per T-shirt.
b) ABC Ltd. will borrow $200,000 from a foreign lender based on the guarantee of XYZ Inc. For this, ABC Ltd. will pay $10,000 as guarantee fee to XYZ Inc. To an unrelated party for the same amount of loan, XYZ Inc. collects $7000 as guarantee fee.
c) ABC Ltd. will pay $15,000 to XYZ Inc. for getting various potential customers details to improve its business. XYZ Inc. provides the same to same services to unrelated parties for $10,000.
d) ABC Ltd. will procure used machineries from XYZ Inc. costing $150,000 which will be paid in four installments.

Furthermore, in the current year, ABC Ltd. will need to write off receivable amount from XYZ Ltd. amounting to Tk. 1,000,000.

MAT & Co, Chartered Accountants, acts as tax consultant of ABC Ltd. You are a Chartered Accountant and currently working as Director of Transfer Pricing Department of MAT & Co. The CFO of ABC Ltd. requested you to provide your opinion in the report form on the above matters, which will assist ABC Ltd. to get an extensive idea on tax exposure according to Bangladeshi Tax Law. On the basis of your report, ABC Ltd. will make their tax planning and determine their decision. [Consider 1$= BDT 78]

**Requirements:**

Your report should cover the following issues:

a. Brief discussion on area of implication of TP regulations. 6

b. Elaboration of TP aspects on the above issues, demonstrating financial impact of tax exposure. 6

6. (a) You are a VAT adviser to PQ Ltd. ("Company"). A taxable service provider is unwilling to issue a valid VAT invoice (Mushak-11) and has asked the Company to deduct VAT at source from the amount payable thereto. The Chief Financial Officer ("CFO") of the Company has requested you to discuss the issue in more detail at the next meeting.

**Requirements:**

Prepare a note for discussion at the meeting with the CFO of the Company, addressing the consequence of entering into a transaction with a registered person who/which does not issue a valid VAT invoice (Mushak-11). 5

(b) Electric bike is a bicycle powered by lightweight lithium-ion battery which has gained popularity in many countries. A motor cycle importer imported 100 pieces of electric bicycle to try first time in Bangladesh market. Cost per piece including VAT at import point 100 US dollar. He incurred 15% import VAT. The importer incurred C&F charges taka 50,000 to clear the consignment. He sold 90 units to wholesaler at 10% profit. Wholesaler incurred indirect fixed overhead of taka 15,000 in a tax period in which he sold 90 units of electric bike. As a pricing policy, he aims to recover the fixed overhead from margin charged to retail. Wholesale margin is 10% on his sale to retailer. Retailer sold his entire stock of 90 units in one tax period. He engaged a technician at monthly salary of taka 5,000/= (direct cost) to service the new electric bike. Retailer's direct cost including technician salary amount to taka 50,000/=. Retailer margin is 15%. Exchange rate Taka 80 to a US dollar.

The wholesaler maintains full statutory VAT records and operates on full VAT system. Wholesaler has 10 units unsold stock of electric bike purchase. In one later evening, his shop got fire fully damaging (consider nothing recoverable) the entire stock of electric bike. Wholesaler approached you for legal advice what to do under the circumstances.

Wholesaler's indirect fixed overhead taka 15,000/= include estd taka 2000/= insurance cover (including 15% VAT), taka 3000/= for electricity (including VAT 5%) and taka 10000/= (including VAT 15%) paid to part timer CA application level student to provide bookkeeping support. This wholesaler can take rebate of input VAT in the product cost but he is unsure if he can claim rebate of VAT he paid on the indirect expenses of taka 15,000/=.

**<u>Requirements:</u>**

i. Compute VAT to be borne by consumer for the stock of electric bike actually sold by retailer. 10

ii. Can wholesaler claim rebate of the input VAT included in damaged stock? Describe procedure in ref to the applicable provisions of the VAT law to deal with electric bike stock is damaged by fire. 5