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## UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

### End Semester Examination – December, 2017

<b>Program:</b>	B. Com., LL.B. (Hons.) Taxation Law	<b>Semester</b>	- V
<b>Subject (Course):</b>	Taxation Laws	<b>Max. Marks</b>	: 100
<b>Course Code</b>	: LLBL 443	<b>Duration</b>	: 3 Hrs
<b>No. of page/s:</b>	3		

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#### Section A: 10 Marks

Question 1: Write a short note on the following: **(Attempt any 2)**

- i. Tax Management
- ii. Rule of literal interpretation
- iii. Essentials of Tax Planning
- iv. Indian Customs Waters and its significance.

[2\*5= 10 Marks]

#### Section B: 20 Marks

Question 2: State whether the following statements are true or false. **Support your answers with relevant legal principle or case law (if any):**

- i. Assessee is always a person but a person may or may not be an assessee.
- ii. Association of Persons should consist of individuals only.
- iii. Total Income of a person is determined on the basis of his citizenship in India.
- iv. Tax evasion is illegal.

[4\*5= 20 Marks]

#### Section C: 20 marks

Question 3: What is Input Tax Credit (ITC)? Illustrate how ITC helps to remove the cascading effect of taxes.

[10 Marks]

Question 4: What is tax avoidance? Discuss. Also explain the concept of tax avoidance in light of landmark judgments.

[10 Marks]

**Section D: 50 marks**

Question 5: A company 'A' in country 'X' invests in a company 'B' situated in country 'R'. Country 'R' has a provision of residence based taxation of capital gains in its tax treaty with India. 'B' further invests the funds in equities in India and earns capital gains. 'B' does not have substantive commercial substance in country 'R'. Will the revenue authorities invoke General Anti Avoidance Rule (GAAR) in this case? Discuss.

[15 Marks]

Question 6: Mr. M and Ms. N are settled outside India and they came to India on 15.10.2013 on a visit for 7 months. Both of them are Indian citizens. In the earlier years they were in India as follows:

Year	Mr. M	Ms. N
2012-13	235 days	365 days
2011-12	330 days	30 days
2010-11	Nil	28 days
2009-10	118 days	120 days

Find out the residential status of Mr. M and Ms. N for the assessment year 2014-15.

[15 Marks]

Question 7: Company 'A', is incorporated in country ABC as a wholly owned subsidiary of company 'B' which is not a resident of ABC or of India. The India-ABC tax treaty provides for non-taxation of capital gains in the source country and country ABC charges a minimal capital gains tax in its domestic law. Some shares of an Indian Company 'C' were acquired by 'A'. The entire funding for investment by 'A' in 'C' was done by 'B'. 'A' has not made any other transaction. These shares were subsequently disposed of by 'A', thus resulting in capital gains which 'A' claims as not being taxable in India by virtue of the India- ABC tax treaty. Can the revenue authorities question this transaction using General Anti Avoidance Rule (GAAR)? Discuss.

[10 Marks]

Question 8: On 01.06.2011, Mr. Z, a Malaysian citizen leaves India after stay of 10 years. During the financial year 2012-13 he comes to India for a period of 46 days. Later, he returns to India for one year on 10.10.2013.

Determine residential status of Mr. Z for the assessment year 2014-15.

**[10 Marks]**

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