FINAL EXAMINATION

December 2013

P–16(TMP)
Syllabus 2012

Tax Management and Practice

Time Allowed: 3 Hours | Full Marks: 100

The figures in the margin on the right side indicate full marks.

Wherever required, the candidate may make suitable assumptions and state them clearly in the answers.

Working notes should form part of the relevant answer.

All sub-divisions of a question should be answered continuously.

Section A

Answer ***all*** questions.

1. Answer ***any three*** sub-divisions: 5×3=15

(a) Techno Pvt. Ltd. manufactures microwave ovens of 15 litres capacity. The following dispatches were made from its factory in Nagpur on 29-12-2012:

— 10 units were sold to a customer in Delhi at an ex-factory agreed sale price of Rs. 15,000 each.

— 100 units were sent to its depot in Chennai. As per the price list of the company in respect of the Chennai depot valid for the month of December, 2012, the per unit price was Rs. 15,750. 5 units had been sold from Chennai depot on 28-12-2012 at the aforesaid ex-depot price of Rs. 15,750 each.

— 50 units were sent to its other factory in Indore for fitment of further attachments and subequent sale to various customers. The cost of production of the microwave ovens (worked out as per CAS-4) was Rs. 12,000 each.

With effect from 01-01-2013, the ex-factory price was revised to Rs. 15,500 each and the ex-depot price of Chennai depot was revised to Rs. 16,500 each. From the same date the rate of Central Excise duty on microwave ovens was increased to 12% from 10%. All the above dispatches reached their destinations after 01-01-2013. Accordingly the ovens sent to Chennai depot were sold to customers at the revised price of Rs. 16,500 each.

Calculate the excise duty payable by the Nagpur factory of Techno Pvt. Ltd. on the above transactions along with suitable explanations on the basis of calculation. Ignore application cess and Cenvat credit.

(b) A is a manufacturer of weighing machines. Its value of clearances is above the exemption limit. During February, 2013, A obtained a large order for Rs. 50 lacs from a customer X. Since it did not have facilities in its factory for executing the order, A outsourced the entire job to a job worker B. For this purpose, it was arranged that A would instruct the suppliers of all raw materials in respect of X's order to send them directly to B's factory. B would manufacture the completed weighing machines in its factory and dispatch them directly to X on payment of appropriate excise duty as applicable. The order was duly executed within February, 2013.

For executing the above order, the following transactions took place during February, 2013:

Raw materials supplied to B worth Rs. 30 lacs.

Processing charges charged by B from A (including profit margin)—Rs. 10 lacs.

Excise duty rate on the raw materials and the finished goods is 10% (ignore cess).

Assuming that the above were the only transactions carried out by B during the month, calculate the excise duty payable by B for February, 2013 along with suitable explanations on the basis of calculation.

Ignore opening balance of Cenvat credit and Education Cess.

(c) (i) Excel Ltd. started business on 01-04-2012. Its clearances during the year 2012-13 were Rs. 350 lacs which include exports of Rs. 200 lacs (including export of Rs. 150 lacs to Bhutan) and sales Rs. 100 lacs to 100% EOU. Excel Ltd. (which fulfills all other conditions of small scale exemption as required under Notification 8/2003-CE dated 01-03-2003), is of the view that it is not liable to pay any excise duty on its clearances in the financial year 2012-13 since it would opt for the aforesaid exemption and that the value of its clearances during the said year is below the exemption limit. Is the view taken by Excel Ltd. correct? 3

(ii) The Commissioner (Appeals) has passed an order confirming denial of an export rebate claim of Rs. 60 lacs. What is the appellate remedy available to the assessee? 2

(d) Write a short note on Special Audit u/s 14AA (Cenvat Credit Audit) of the Central Excise Act, 1944.

2. Answer *any two* sub-divisions: 5×2=10

(a) Explain whether the following items can be included in/excluded from the transaction value under section 4 of the Central Excise Act, 1944:

(i) Collection expenses incurred in respect of empty bottles for filling aerated waters from the premises of buyers to the manufacturer.

(ii) Delivery and collection charges of gas cylinders and collection of empty cylinders.

(iii) Interest, notional or real, accruing on deposits for sales return of gas cylinders as well as rentals.

(iv) Cash discount known at the time of clearance of goods, but not availed by the customers.

(b) Snow White Ltd., manufactures paper and in the course of such manufacture, waste paper is also produced (paper being the main product and a dutiable good). Assume that the Central Excise Tariff Act, 1985 (CETA) was amended w.e.f. 01-03-2013, so as to include waste paper also. The assessee was issued show cause notice (SCN) by the central excise officer, demanding duty of Rs. 2 lacs on waste paper produced during October, 2012 to February, 2013, but cleared during April to May, 2013. A reply is due to be filed immediately to the notice. As the Cost Accountant of Snow White Ltd., you are required to advise the company suitably for the SCN received from the Department.

(c) What is the procedure to be followed for export of goods free from taxes and duties?

3. Answer *all* sub-dvisions: 5×3=15

(a) M/s Uzagar Ltd. has provided following information related to importation of a machine during financial year 2012-13:

FOB Price of the machine	US$ 10.00 lacs
Air freight paid	US$ 2.50 lacs
Insurance for transit of machine	Not ascertainable
Cost of development work in India	Rs. 4.00 lacs
Local agent commission	Rs. 5.00 lacs
Cost of local transport	Rs. 0.50 lacs
Exchange rate applicable	$ 1 = Rs. 51

(i) Compute the Assessable Value of the machine imported under the Customs Act, 1962.

(ii) Provide explanation in support of treatment of different items in the computation of Assessable Value.

Or

M/s. Excel IT Company Ltd. imported Laptops with Hard Disk Drives (HDD) pre-loaded with operating software like Windows, XP, etc. The department of Customs claimed that the said laptop along with the operating softwares was classifiable and assessable as a single unit. It is the claim of the assessee that the software loaded HDD should be classified and assessed separately as an exemption is available as per notification issued under section 25(1) of the Customs Act, 1962. Decide with a brief note whether the action proposed by the Department is correct in law.

(b) From the following transactions compute net VAT payable by M/s. S. Kumar & Co. for the month of March, 2013. Also provide explanation wherever required to justify your answer:

Particulars	*Amount in Rs.*
Inputs Purchased:	
Raw materials at Nil VAT	10,00,000
Raw materials at 4% VAT	40,00,000
Raw materials at 12% VAT	20,00,000
Output:	
Inter-state sale of finished goods at 4% VAT (these goods were produced entirely from raw material at NIL VAT rate procured as Inputs)	15,00,000
Exempted Sales (these goods were produced entirely from raw material at 4% VAT to the extent of 50%)	20,00,000
Sale of finished goods Intra State at 12% VAT	20,00,000
Intra State Sale of raw materials purchased at 4% VAT	10,00,000
50% of the raw material procured at 4% VAT has been utilized to produce capital goods for the manufacturing process in M/s. S. Kumar & Co.'s factory (market value)	15,00,000

(c) (i) While importing goods under Duty Free Import Authorisation (DFIA), is it required to pay any customs duty? Is the DFIA transferable? 2

(ii) A bill of entry was presented on 4th August, 2013. The vessel carrying goods arrived on 11th August, 2013. Entry inwards was granted on 13th August, 2013, and the bill of entry was assessed on that date and was also returned to the importer for payment of duty on that date. The duty amounting to Rs. 5,00,000 was paid by the importer on 22nd August, 2013. Calculate the amount of interest payable under section 47(2) of the Customs Act, 1962, given that there were four holidays during the period from 14th August to 22nd August, 2013. 3

4. Answer ***any two*** sub-divisions: 5×2=10

(a) Mr. Vaibhav Vasudevan, registered service provider, has furnished the following details of receipts (excluding service tax), for the half year ended 31-03-2013:

Particulars	**Amount (Rs. in lacs)**
For arranging manpower to projects undertaken by:	
Central Government	10
United Nations Organisation	2
Public charitable trusts	3
From private individuals for supply of farm labour	4
Advance received from X Ltd., no services were rendered till the year end	5
Director sitting fees from a company (not employed)	6

Ascertain the total value of taxable services for the second half year. He had rendered taxable services of Rs. 23 lacs in the earlier year.

(b) What is the taxable event and arisal of tax liability in service tax, when payment is received after the services have been rendered? Is there any concession from service tax liability for bad debt?

(c) Explain the service tax liability of 'bundled service', with an example of services which are normally bundled in the ordinary course of hotel business.

Section B

Answer ***all*** the questions.

5. Answer ***any three*** sub-divisions: 5×3=15

Answer the following with the help of decided case law:

(a) Can, the benefit of self-occupation of house property under section 23(2) of the Income-tax Act, 1961 be denied to HUF on the ground that it cannot occupy a house property, being a fictional entity?

(b) For claiming deduction of bad debts, under section 36(1)(vii) of the Income-tax Act, 1961, is it necessary for the assessee to establish that the debt had, in fact, become irrecoverable?

(c) In case of a house property registered in joint names, will the exemption under section 54F of the Income-tax Act, 1961 be allowed fully to the co-owner who has paid whole of the purchase consideration of the property or will it be restricted to a proportionate share only?

(d) Can interest under sections 234B and 234C of the Income-tax Act, 1961 be levied where a company is assessed on the basis of book profits under section 115JB?

6. VKS Polymers LLP is a LLP consisting of the partners L, M and N. The LLP derives income from a trading unit (D) as well as a manufacturing unit (E). The summarised details of the profits and other related aspects for the year ended are as under:

	Rs. in lacs
Profits from unit D	40
Profits from unit E	60

The turnover of the company is 120 crores and transfer pricing provisions are not attracted. Unit E is eligible to claim 100% deduction under section 80-ID and all necessary conditions stand fulfilled.

The assessee is planning to file the return of income on 30th September, 2013. Compute the total income and tax payable for the assessment year 2013-14.

There is some doubt in the mind of the Taxation Manager over two issues relating to unit D. The assessee seeks your view whether it can file the return of income on 1st November, 2013, after the issues are settled. The assessee has prepaid taxes to the extent of Rs. 13 lacs and hence it is felt that there will be no interest chargeable under sections 234A, 234B and 234C. Advise the assessee suitable. 10

7. Answer *any two* sub-divisions: 5×2=10

(a) State the circumstances under which the Authority for Advance Ruling (AAR) shall not allow the application for advance ruling and the duties of AAR in such case.

(b) Better Ltd. was amalgamated with Best Ltd. with effect from 15th September, 2012 (the appointed date). Amalgamation was in accordance with section 2(1B) of the Income-tax Act. The details regarding block of assets are given below:

Block of Asset	***Rate of Depreciation***	***WDV in the hands of Better Ltd. u/s 43(6) of the Income-tax Act as on 1st April, 2012 (Rs.)***	***Value at which assets were transfered to Best Ltd. (Rs.)***
Building		10%	15,00,000
14,00,000			
Plant & Machinery	15%	30,00,000	25,00,000
Furniture	10%	5,00,000	3,00,000

Compute depreciation admissible under section 32 to Better Ltd. and Best Ltd. in respect of each block of assets for the assessment year 2013-14.

(c) The following are the broad details pertaining to Excel Pvt. Ltd., for the assessment year 2012-13 (*all amounts are Rs. in lacs*):

From specified business covered by section 35AD: Loss	12
From other non-speculation business:	
Unabsorbed depreciation	8
Business loss excluding depreciation	7

The return of income had been filed on 11.01.2013.

For the assessment year 2013-14, the broad position is as under:

From specified business covered by section 35AD: Profit	9
From other non-speculation business:	
Depreciation of FY 2012-13 alone	3
Business income before depreciation	22

How will the brought forward items be set off in the assessment year 2013-14 and what is the business income for the assessment year 2013-14?

8. Answer ***any one*** sub-division: 5

(a) Mr. Sudhir furnishes the following particulars for the computation of his wealth tax return for the assessment year 2013-14:

(i) Gifts of jewellery made to his wife from time to time aggregating Rs. 1,00,000. Market value on valuation date Rs. 4,00,000.

(ii) Flat purchased under instalment payment scheme in 1990 for Rs. 10,00,000, used for purposes of his residence and market value as on 31.03.2013 (Instalment remaining unpaid Rs. 1,00,000) Rs. 12,00,000.

(iii) Cash balance Rs. 2,50,000.

(iv) Bank balance Rs. 1,50,000.

(v) Urban land transferred to minor handicapped child, value as on 31.03.2013 Rs. 7,00,000.

You are required to compute his net wealth as on 31.03.2013.

(b) The Customs Departments confiscated the gold held by Mr. Basu:

Situation	***Date of confiscation***
1	30.03.2013
2	31.03.2013
3	01.04.2013

(i) Will this gold shall be included in the net wealth of Mr. Basu as on the valuation date 31.03.2013?

(ii) Would your answer be different, if the gold is seized, but not confiscated?

9. Answer ***any two*** sub-divisions: 5×2=10

(a) In the context of transfer pricing provisions, discuss whether the following are associated enterprises of R Ltd. an Indian company:

(i) Goods are sold to N & Co., a firm based in Singapore; N & Co., is a partner in this firm with 8% share;

(ii) There are 8 directors in N Inc., a company at USA. R Ltd. holds enough clout to appoint five directors; will your answer change if only 3 directors can be appointed?

(b) What are the difficulties involved in applying arm's length principle in the context of taxation of international transactions under the Income-tax Act, 1961?

(c) Alpha Ltd., the assessee has sold goods on 23.01.2013 to Beta Ltd., which is situated in a notified jurisdictional area. The CIF value of the goods (4,000 MT) sold is Rs. 4 crores. Beta Ltd., is an absolute stranger to Alpha Ltd. Will the transfer pricing provisions apply and will these two companies be regarded as associated enterprises? Following further data are available:

(i) Identical goods have been sold to H Ltd., in Sydney, at Rs. 10,200 per MT, the trade terms being the same;

(ii) As per TNM method, the price arrived at is Rs. 10,180 per MT.

If transfer pricing provisions are applicable, what will be the impact on the profits of Alpha Ltd., for the assessment year 2013-14?