

Paper-16 - TAX MANAGEMENT AND PRACTICE

Full Marks: 100

Section A
Answer all Questions

1. Answer any three Question [3x5=15]

(a) Whether the machine which is not assimilated in permanent structure would be considered to be moveable so as to be dutiable under the Central Excise Act? [5]

(b) In case of a specific entry viz-a-viz a residuary entry, which one should be preferred for classification purpose? [5]

(c) The assessee claimed the CENVAT credit on the duty paid on capital goods which were later destroyed by fire. The Insurance Company reimbursed the amount inclusive of excise duty. Is the CENVAT credit availed by the assessee required to be reversed? [5]

(d) Whether non-filing of appeal for some assessment years is a bar in filing appeal for other assessment years? [5]

2. Answer any two Questions [2x5=10]

(a) Explain the powers of the Central Government to increase the duty of excise under section 3 of the Central Excise Tariff Act, 1985 in following cases:

- (i) Where the rate of duty specified in First and Second Schedule is nil; and
- (ii) Where the rate of duty is 14%. [5]

(b) With reference to Section 4 of Central Excise Act, 1944, briefly explain the meaning of the following:

- (1) Assessee
- (2) Related person
- (3) Place of Removal
- (4) Transaction value [5]

(c) Compute assessable value for Central Excise purposes of Product A whose details are given below. Out of 1,000 units manufactured, 800 units of product A have been cleared to a sister unit for further production of excisable goods on assessee's behalf; the balance 200 units are lying in stock – (Amount in ₹)

Direct material consumed (inclusive of excise duty @ 8.24%)	2,16,480
Direct labour & direct expenses	1,80,000
Works overheads (inclusive of Quality Control costs of ₹25,000 and Research & Development Costs of ₹75,000)	1,60,000
Administrative Overheads (60% related to production)	1,50,000
Primary as well as secondary packing cost	40,000
Net value of non-excisable inputs received free of cost from sister unit for manufacture of A	80,000

MTP_Final_Syllabus 2012_Dec2013_Set 1

Value of moulds, dies, etc. received free of cost from sister unit for manufacture of A (25% of the value relates to current production)	2,00,000
Interest and financial charges	86,000
Abnormal losses (not included above)	14,000
VRS compensation to labour/employees (not included above)	1,00,000
Selling and Distribution Costs (including advertisement)	36,000
Realisable value of Scrap/Wastage	10,000

[5]

3. Answer all Questions [3x5 = 15]

(a) An importer provided the producer with a mould to be used in production of imported goods. The cost of mould is ₹5,00,000 which is expected to produce 25,000 pieces. The importer has imported 5,000 pieces in the first lot. Is it necessary to add the cost of mould in transaction value? If yes, what will be the amount to be added? The importer is expecting an increase in the rate of customs duty next month, so he has requested to the proper officer that if cost of mould is required to be added in transaction value, the full cost of mould, i.e., ₹5,00,000 may be added in the transaction value of first lot of 5,000 pieces itself. Is his demand valid in law? **[5]**

Or

Distinguish between transit and transshipment of goods? Under what conditions do they enjoy exemption from duty under Customs Act, 1962? **[5]**

(b) Who are not eligible for composition scheme under the VAT regime? Discuss briefly. **[5]**

(c) Explain the Powers of the registering authority to forfeit the security under the Central Sales Tax Act, 1956. **[5]**

4. Answer any two Question [2x5=10]

(a) M/s. P Ltd. received the following sums (exclusive of taxes). Compute its service tax liability (Ignore small service provider's exemption) –

- (1) Commission from selling of various goods belonging to other parties : ₹7 lakh;
- (2) Commission from acting as Clearing and Forwarding Agent : ₹4 lakh;
- (3) Commission from acting as clearing agent : ₹6 lakh;
- (4) Commission from acting as forwarding agent : ₹5 lakh;
- (5) Margin earned from trading in shares : ₹2 lakh;
- (6) Margin from trading in futures: ₹5.50 lakh;

[5]

(b) Calculate the value of taxable service of 'X' Transport Company engaged in the business of transport of goods by road. Give reasons for taxability or exemption of each item. No freight is

MTP_Final_Syllabus 2012_Dec2013_Set 1

received from any of the specified category of consignor / consignee. Suitable assumptions may be made wherever required. X does not avail CENVAT credit (₹):

1. Total freight charges received by 'X' during the year	16,50,000
2. Freight charges received for transporting fruits	1,25,000
3. Freight collected for transporting small consignment for persons who paid less than ₹ 750 for each consignment	75,000
4. Freight collected for transporting goods in small vehicles for persons who paid less than ₹ 1,500 per trip	1,50,000

[5]

(c) M/s. P. Ltd. received the following sums (exclusive of taxes). Compute its service tax liability (Ignore small service provider's exemption) –

- (1) Manufacture of exempted excisable goods: ₹4 lakh;
- (2) Manufacture of dutiable excisable goods: ₹5 lakh;
- (3) Job-work on goods on which duty is paid by principal manufacturer: ₹4 lakh;
- (4) Job-work on goods on which on duty is payable by principal manufacturer due to exemption: ₹16 lakh;
- (5) Manufacture of alcohol/wine: ₹11 lakh
- (6) Job-work in printing: ₹3 lakh;
- (7) Job-work of textile processing: ₹2 lakh.

[5]

Section B Answer all the Questions

5. Answer any three Questions [3x5=15]

(a) Whether the Tribunal was justified in deleting the addition of an amount represented rate difference payment in the purchase of milk paid by the assessee even though the said payment was paid at the end of the previous year? **[5]**

(b) Is the rental income from the sub-letting of a building taken on lease taxable under the head 'income from other sources' or 'income from house property' or 'income from business'? **[5]**

(c) Can the actual sale consideration recorded in the agreement to sell of the asset and received by the assessee be substituted by the value as adopted by the District Valuation Officer under section 55A of the Act for the purpose of computing the capital gains chargeable to tax? **[5]**

(d) Can the Assessing Officer issue notice under section 154 to rectify a mistake apparent from record in the intimation under section 143(1), after issue of a valid notice under section 143(2)? **[5]**

6. From the following information, compute the total income of Raghu Ltd., and the tax liability for the assessment year 2013-14.

MTP_Final_Syllabus 2012_Dec2013_Set 1

Profit and Loss Account			(₹)
Expenses relating to goods of unit in Special Economic Zone	9,00,000	Sale of goods of unit in Special Economic Zone	15,00,000
Expenses relating to other business	7,00,000	Sale of other business	10,60,000
I.T. Paid	1,00,000	Interest from Bank deposits	20,000
Interest on income tax	20,000		
General Reserve	4,00,000		
Provision for Contingent Liability	1,00,000		
Proposed Dividends	2,00,000		
Balance c/d	1,60,000		
	25,80,000		25,80,000

- i. B/f loss as per books of account ₹2,00,000
- ii. B/f depreciation as per books of account ₹1,60,000
- iii. B/f unabsorbed depreciation as per income-tax ₹4,60,000. [10]

7. Answer any two Questions [2x5=10]

(a) A non-resident individual was assessed originally on income arising in India on 8-3-2012 in respect of assessment year 2010-11. The Assessing Officer discovered an omission in the assessment and issued notice to the statutory agent on 10-12-2012 for re-assessment of the omitted income under section 147. Assuming that the statutory agent has been given notice of his appointment and has been heard u/s 163, how will he contest the validity of the re-assessment? [5]

(b) What is written down value to be adopted for the amalgamated company in cases, where the full eligible depreciation had not been availed by the amalgamating company? [5]

(c) Md. Aslam, a resident both in India and Malaysia in Previous Year 2012-2013, owns immovable properties (including residential house) at Malaysia and India. He has earned income of ₹60 lakh from rubber estates in Malaysia during the Previous Year 2012-2013. He also sold some property in Malaysia resulting in short-term capital gain of ₹30 lakh during the year. Aslam has no permanent establishment of business in India. However, he has derived rental income of ₹8 lakh from property let out in India and he has a house in Lucknow where he stays during his visit to India. The Article 4 of the Double Taxation Avoidance Agreement between India and Malaysia provides that where an individual is a resident of both the Contracting States, he shall be deemed to be resident of the Contracting State in which he has permanent home available to him. If he has permanent home in both the Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests). You are required to state with reasons whether the business income of Aslam arising in Malaysia and the capital gains in respect of sale of the property situated in Malaysia can be taxed in India. [5]

(d) The Madras High Court gave a judgment in the case of P Ltd. for 1977-78 under the Central Sales Act on August 23, 2012 as a result of which an income of ₹88,900 becomes taxable for the assessment year 1978-79. The Assessing Officer issue notice on January 1, 2013 under section 148 to P Ltd. to tax income of ₹88,900 which has escaped assessment. Discussed whether the notice under section 148 can be issued. **[5]**

8. Answer any one Question [1x5]

(a) X made a gift of a house property to Mrs. X on April 1, 2012. The value of the house property as on the date of gift was ₹31,50,000. Mrs. X, in her turn, made a gift of that property to her friend Mrs. Y on October 30, 2012. The valuation date for the purposes of wealth-tax assessments of both Mr. and Mrs. X happens to be March 31. In whose net wealth will the value of the house be included ? What would have been the position if-

- i. the house had been gifted by Mrs. X to her daughter-in-law; or
 - ii. the house had been sold to her daughter-in-law for a sum of ₹30,00,000 and she had lost the entire sale proceeds by gambling in horse races ; or
- the house had been sold by Mrs. X to her major son for ₹31,50,000 and she had purchased another house property with the sale proceeds, the value of the new house property as on March 31, 2013 being ₹31,95,000. **[5]**

(b) 'A' settles for the benefit of 'B', his minor son, certain house properties appointing P and Q as trustees. The settlement deed provides that the beneficiary would get the net income of the trust till he reached 30 years of age when the entire corpus or the remainder thereof would vest in the beneficiary. Till then the trustees have absolute discretion to expend the money out of the corpus of the trust fund and the annual income therefrom for the benefit of B for any of the various purposes enumerated in the deed. For the assessment year 2013-14 when B was 14 years of age, the Assessing Officer wants to add to the entire value of the corpus in the wealth-tax assessment of B on the ground that B held a vested interest in the corpus. **[5]**

9. Answer any two Questions [2x5=10]

(a) An assessee rendered certain services from abroad without parting with technology. The assessee does not have any permanent establishment in India. He claims that he is not liable to pay tax on income from rendering such services. **[5]**

(b) Write a note on profits and gains of foreign companies engaged in the business of civil construction, etc., in certain turnkey power projects. **[5]**

(c) Write a note on deduction of head office expenditure in the case of non-residents. **[5]**