

Paper 16 - TAX MANAGEMENT AND PRACTICE

Full Marks: 100

Section A
Answer all Questions

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

(a) Whether the metal scrap or waste generated during the repair of his worn out machineries/ parts of cement manufacturing plant by a cement manufacturer amounts to manufacture? [5]

(b) Whether CENVAT credit can be denied on the ground that the weight of the inputs recorded on receipt in the premises of the manufacturer of the final products shows a shortage as compared to the weight recorded in the relevant invoice? [5]

(c) Whether non-disclosure of a statutory requirement under law would amount to suppression for invoking the larger period of limitation under section 11A? [5]

(d) Whether subsequent increase in the market price of the imported goods due to inflation would lead to increase in customs duty although the contract price between the parties has not increased accordingly? [5]

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

(a) How are the goods valued when they are sold to related person? [5]

(b) Clean & Clean Ltd. manufactures tooth pastes at its factory in Nagpur. The following maximum retail prices (MRP) are printed on the packet:

| | | |
|----------------------------|---|-----|
| MRP in Punjab | : | ₹35 |
| MRP in Assam | : | ₹37 |
| MRP in other places Punjab | : | ₹33 |

What is the assessable value of tooth paste cleared for sale in the State of Andhra Pradesh as per section 4A of the Central Excise Act, 1944? Give reasons for your answer. [5]

(c) Reversal of Cenvat credit and computation of service tax liability: Punjab National Bank provides the following information for the month of June 2012:

| | |
|---|------------|
| CENVAT Credit available on Inputs | ₹2,00,000 |
| CENVAT Credit available on Inputs Services | ₹4,00,000 |
| Service Tax liability before availing eligible CENVAT | ₹10,00,000 |

Determine the amount of CENVAT Credit available to Punjab National Bank for the month of June, 2012 in view of Rule 6(3B) of Cenvat Credit Rules, 2004. Also determine the net service tax liability of the bank after availing the eligible CENVAT Credit. [5]

3. Answer all Questions [3x5 = 15]

(a) A commodity is imported into India from a country covered by a notification issued by the Central Government under section 9A of the Customs Tariff Act, 1975. Following particulars are made available:

CIF value of the consignment: US\$ 25,000

Quantity imported: 500 Kgs.

Exchange rate applicable: ₹ 50 = US\$1

Basic customs duty: 20%

Education and secondary and higher education cess as applicable.

As per the notification, the anti-dumping duty will be equal to the difference between the cost of commodity calculated @ US\$70 per kg. and the landed value of the commodity as imported. Appraise the liability on account of normal duties, cess and the anti-dumping duty.

Assume that only 'Basic Customs Duty' (BCD) and education and secondary and higher education cess are payable. **[5]**

OR,

Mr. Ravi, an Indian resident and an Engineer by profession who was engaged in his profession in USA for 9 months, brought with him on 05-05-2012 the following items on his return on India:

(i) Used personal effects like clothes etc. of ₹1,00,000;

(ii) A camera of ₹45,000;

(iii) Jewellery of ₹25,000;

(iv) Used household articles of ₹20,000;

(v) Professional equipments ₹40,000;

(vi) A Laptop worth ₹1,20,000.

Calculate the custom duty payable by him.

(b) State briefly the key principles adopted by the State under the VAT laws with regard to incentive schemes. **[5]**

(c) Explain the term "Place of business" under CST Act, 1956. **[5]**

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

(a) Compute the service tax liability from the following receipts, exclusive of service tax of M/s. A Ltd. (Ignore small service provider's exemption) –

(1) Services by way of breeding of fish: ₹8 lakh;

(2) Services of rearing of horses: ₹13 lakh;

(3) Supply of farm labour: ₹3 lakh;

(4) Job-work in relation of agriculture: ₹5 lakh;

(5) Leasing of vacant land for storage of agricultural produce: ₹2 lakh;

(6) Loading and Unloading of agricultural produce: ₹4 lakh;

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- (7) Processing of potato chips: ₹1.5 lakh.
(8) Farmer education and training: ₹7 lakh.

[5]

(b) A Ltd. Collected following sums (exclusive of taxes)-

- (1) Transport of passengers on vessel from Chennai to Port Blair : ₹ 10 lakh;
- (2) Transport of passengers by vessels from Chennai to Dubai : ₹ 60 lakhs (services of ₹ 7 lakh were provided after crossing maritime zones of India);
- (3) Transport of passengers by vessels from Dubai to Chennai : ₹ 45 lakhs (services of ₹ 8 lakh were provided after crossing maritime zones of India);
- (4) Transport of passengers by stage carriage : ₹ 10 lakh;
- (5) Transport of passengers by contract carriage : ₹ 4 lakh;
- (6) Transport of passengers by contract carriage for tour : ₹ 3 lakh;
- (7) Transport of passengers by ropeway : ₹ 4 lakh;
- (8) Running cruise ships : ₹ 7 lakh (within territorial waters of India);
- (9) Metro transport of passengers : ₹ 55 lakh;
- (10) Running of metered cabs and taxis : ₹ 11 lakh;
- (11) Transport through national water-ways: ₹ 18 lakh.

[5]

(C) ZEE Bank Ltd., furnishes the following information relating of services provided and the gross amount received:

| | ₹ (lakhs) |
|---|-----------|
| Merchant Banking Services | 17 |
| Asset Management (including portfolio management) | 8 |
| Service charges for services to the Government of India | 2.5 |
| Interest on overdraft and cash credits | 2 |
| Banker to the issue | 9 |
| Locker rent | 2 |

Repayment of financial lease made by the customer to the bank ₹90 lacks which includes a principal amount of ₹70 Lakhs.

Compute the value of taxable service under the Finance Act, 1994, and the service tax liability of ZEE Bank Ltd., considering the rate of service tax at 12.36%.

[5]

Section B
Answer all the Questions

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

(a) Can expenditure incurred on alteration of a dam to ensure adequate supply of water for the smelter plant owned by the assessee be allowed as revenue expenditure? **[5]**

(b) Would sale of a plot of land held as stock-in-trade by an assessee engaged in the business of real estate and construction of plots, be treated as sale of capital assets, to attract the provisions of section 50C? **[5]**

(c) Whether the Tribunal was right in law in upholding the order of the CIT(A) in deleting the trading addition made by the Assessing Officer, as the assessee failed to produce the quantitative details of raw materials and finished products? **[5]**

(d) Can the Assessing Officer reassess issues other than the issues in respect of which proceedings were initiated under section 147 when the original "reason to believe" on basis of which the notice was issued ceased to exist? **[5]**

6. Following are the particulars of the income of Mr. Kapil for the Previous Year 2012-2013

| | ₹ |
|--|--------------|
| 1. Income from House Property | |
| (a) Property R | (+) 1,12,000 |
| (b) Property J | (-) 1,20,000 |
| 2. Profits and Gains from Business: | |
| (A) Non-speculation: | |
| (i) Business X | 2,40,000 |
| (ii) Business Y | (-) 1,50,000 |
| (B) Speculation: | |
| (i) Silver | 1,40,000 |
| (ii) Bullion | (-) 10,000 |
| 3. Capital Gains: | |
| (i) Long-term Capital Gains | (+) 2,30,000 |
| (ii) Short-term Loss | (-) 1,10,000 |
| 4. Income from Other Sources: | |
| (i) Card games-loss | (-) 10,000 |
| (ii) From the activity of owing and maintaining race horses: | |
| (a) Loss at Mumbai | (-) 50,000 |

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| | | |
|--|-----|----------|
| (b) Profit at Kolkata | (+) | 40,000 |
| (iii) Dividend from Indian companies | | 20,000 |
| (iv) Income by letting out plant and machinery | | 2,22,000 |
| The following losses have been carried forward: | | |
| (i) Long-term Capital Loss from the Assessment Year 2009-2010 | | 18,000 |
| (ii) Loss from silver speculation from the Assessment Year 2009-2010 and which was discontinued in the Assessment Year 2010-2011 | | 25,000 |

Compute the Gross Total Income for the Assessment Year 2013-2014.

[10]

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

(a) A discloses the following incomes from business or profession for the Previous Year 2012-2013:

₹

| | |
|---|--------------|
| (i) Profit from A business | 16,00,000 |
| (ii) Loss from B business | (-) 7,00,000 |
| (iii) Loss from profession C | (-) 6,50,000 |
| (iv) Profit from speculation business – M | 5,00,000 |
| (v) Loss from speculation business – N | (-) 7,00,000 |

Determine the Income from Business or Profession for the Assessment Year 2013-2014.

[5]

(b) Orange Ltd., an Indian company, starts an industrial undertaking on 1st April, 2012. During the Previous Year, it earns profits of ₹ 87 lakh before allowing any deduction for wages. Compute its Total Income for the Previous Year 2012-2013 taking into account the following employment schedules of workers:

| Date of employment | Number of workers | Status of workers | Rate of wages |
|--------------------|-------------------|-------------------|---------------|
| 1-5-2012 | 90 | Casual | 3000 p.m. |
| 1-6-2012 | 20 | Regular | 4000 p.m. |
| 1-7-2012 | 10 | Regular | 4000 p.m. |

[5]

(c) Unexplained investment of ₹35,00,000 was found for Assessment Year 2013-14 and the source of such investment was claimed to have come from intangible additions made in the past. The following addition has been made and penalty imposed in the past years:

| Assessment Year | Total addition | Amount of addition on which penalty levied |
|-----------------|----------------|--|
| | | |

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| | | |
|---------|-----------|--|
| 2012-13 | 15,00,000 | Penalty levied on intangible additions of ₹5,00,000 only |
| 2011-12 | 15,00,000 | Penalty levied on intangible addition of ₹6,00,000 |
| 2010-11 | 5,00,000 | Nil |

You are required to describe how will penalty proceeding be initiated in this case? **[5]**

(d) Mr. Iyer, ordinarily resident in India, furnished the following particulars of his income/savings during the Previous Year 2012-2013.

| | |
|---|--------------|
| (i) Income from foreign business (Including ₹4,00,000 from business connection in India) accruing outside India | 24,00,000 |
| (ii) Loss from Indian business | (-) 4,00,000 |
| (iii) Income from house property | 8,00,000 |
| (iv) Dividends gross from Indian companies | 1,20,000 |
| (v) Deposit in Public Provident Fund | ,70,000 |
| (vi) Tax paid in foreign country | 5,00,000 |

There is no double taxation avoidance treaty. Compute the tax liability. **[5]**

8. Answer any one Question [1x5]

(a) ABC is a charitable society registered under the Societies Registration Act. On the ground that it was pursuing an objective that involved the carrying of an activity for profit, the Assessing Officer wants to levy wealth-tax on it. Is such a society liable to wealth-tax? **[5]**

(b) P, belonging to the Northern School of Mitakshara law, inherited certain ancestral house properties from his father. His mother was alive when he married under the Special Marriage Act and subsequently solemnised this marriage according to Hindu rites. Subsequent to this, after the birth of two sons, P gifted the aforesaid family properties to his wife and minor sons and claimed exclusion of the gifted properties in the wealth-tax assessment of his HUF. His mother was dead then. He claimed before the Assessing Officer that his marriage under the Special Marriage Act amounted to severance of his joint family status making the inherited properties his separate property which he could deal with in any manner he liked. Discuss the liability to wealth-tax of the properties in HUF's hands. **[5]**

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

(a) H Ltd., engaged in providing cellular phone facilities to their subscribers, had been granted licenses by the Department of Telecommunication for operating in specific circles. For providing inter connection, H Ltd. entered into agreement with MTNL/BSNL, which were regulated by the TRAI and under the agreement, H Ltd. had to pay interconnection, access charges and port charges to the interconnection providers. The income-tax department was of the view that interconnection/ port/access charges were liable for tax deduction at source in view of the provisions of section 194J and that these charges were in the nature of fees for technical services. Whether the contention taken by the Income-tax department is tenable in law? Discuss. Support your answer with citation of relevant case law. **[5]**

(b) Write a note on profits and gains of shipping business in case of non-residents. **[5]**

(c) Write a note on profits and gains in connection with business of exploration, etc. of mineral oils. **[5]**