

Paper-14: Indirect and Direct - Tax Management

Whenever required, the candidate may make suitable assumptions and state them clearly on the answers.

Working notes should form part of the relevant answer.

[Answer Question No. 1 (carrying 25 marks), which is compulsory and any five from the rest]

Question 1.

(a) Fill up the blanks:

[25 × 1]

- (i) The maximum amount of deduction is allowed under section 80C of the Income-tax Act in a previous year is _____.
- (ii) 15% of Advance Tax should be paid by a corporate assessee on or before _____.
- (iii) Loss in a speculation business can be carried forward to the subsequent year and set off only against the profits of a _____ carried on in that year.
- (iv) Employer's contribution towards an approved superannuation fund is chargeable to tax in the hands of employees to the extent such contribution exceeds ₹ _____ per assessment year.
- (v) Sitting fees paid to directors for attending Board Meeting is not a salary but taxable as _____.
- (vi) The effective rate of service tax _____ % of the value of taxable service.
- (vii) Form _____ is prescribed for application to get registered u/s 7 of CST Act.
- (viii) Services rendered by a foreign diplomatic mission located in India are included in the _____ list of service in the context of service tax.
- (ix) As per the definition of goods in excise, the two essential elements of goods are it should be movable and _____.
- (x) _____ means a person engaged in the manufacture or production of goods on behalf of a principal manufacturer from any inputs or goods supplied by the said principal manufacturer or by any other person authorised by him.
- (xi) There are two types of registration in the context of VAT, one is Compulsory Registration and another is _____ Registration.
- (xii) In case of Anti-dumping, margin of dumping means the difference between normal value and _____.
- (xiii) The _____ sale price should be the maximum price at which excisable goods in packaged forms are sold to ultimate consumer.
- (xiv) Unbranded software is _____ (goods/ service)
- (xv) VAT prevents the _____ effect of tax by providing set-off/ input credit of tax paid earlier.

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- (xvi) In customs, _____ means transfer from one conveyance to another with or without payment of duty.
- (xvii) In excise, Design and Engineering Charges being an essential process/activity for the purpose of manufacture shall be _____ (included/ excluded) in the Assessable value.
- (xviii) _____ products are such products, which are produced in a process naturally in the course of manufacture of a finished product, which involves more than one process.
- (xix) Surcharge at the rate of _____ is applicable in case total income of a foreign company exceeds ₹1 crore, but does not exceed ₹10 crore for the Assessment Year 2015-16.
- (xx) Recovery of unrealized rent is chargeable to tax under the head _____.
- (xxi) Where bonus shares are issued prior to 01.04.81, the cost of acquisition shall be the _____ as on _____.
- (xxii) In case of an individual cash in hand on the last moment of the valuation date in excess of _____ is an 'asset' u/s 2(ea) of Wealth Tax Act.
- (xxiii) A company whose gross total income consists mainly of income which is chargeable under the heads 'Income from House Property', 'Capital Gains', and 'Income from other sources', is called _____.
- (xxiv) Section 80GGB of the Income Tax Act, 1961 provides for deduction in respect of contribution given by a/an _____, to a political party, or an electoral trust.

Answer to 1(a):

- (i) ₹ 1,50,000
- (ii) 15th June
- (iii) speculation business
- (iv) one lakh
- (v) Other Income
- (vi) 12.36
- (vii) A
- (viii) negative
- (ix) marketable
- (x) Job worker
- (xi) Voluntary
- (xii) export price
- (xiii) retail
- (xiv) service
- (xv) cascading
- (xvi) transshipment
- (xvii) included

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- (xviii) Intermediate
- (xix) 2%
- (xx) Income from House Property
- (xxi) fair market value, 01.04.81
- (xxii) ₹ 50,000
- (xxiii) Investment Company
- (xxiv) Indian Company

Question 2.

(a) 'U' was born in 1977 in India. His parents were also born in India in 1948. His grandparents were, however, born in England. 'U' was residing in India till 15.3.2012. Thereafter, he migrated to England and took the citizenship of that country on 15.3.2014. He visits India during 2014-15 for 90 days. Determine the residential status of 'U' for assessment year 2015-16. [5]

Solution:

In this case, U is neither a citizen of India nor a person of Indian origin, because neither he nor his parents nor his grandparents were born in undivided India.

Although in this case, he does not satisfy the first condition of category A but he satisfies the second condition as he was in India for more than 60 days during the relevant previous year and his stay in the four preceding previous years was as under:

	₹
2013 – 14	Nil
2012 – 13	Nil
2011 – 12	349 days
2010 - 11	365 days
	714 days

He is therefore, resident in India.

For determining whether he is "ordinarily resident in India", he has to satisfy both the conditions of category B. He is resident for more than one previous year in the preceding 10 years and the second condition is also satisfied as he is in India for 730 days or more in the 7 preceding previous years. Hence, he is resident and ordinarily resident in India.

(b) Describe how indirect taxes are administered in India. [2]

Answer:

The Department of Revenue of the Ministry of Finance exercises control in respect of matters relating to the indirect taxes through a Statutory Boards, namely, the Central Board of Excise and Customs (CBEC). Matters relating to the levy and collection of all the indirect taxes (customs duties, central excise duties, service tax) fall within the purview of CBEC. The Board has been constituted under the Central Board of Revenue Act, 1963.

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CBEC deals with the tasks of formulation of policy concerning levy and collection of customs and central excise duties and service tax, prevention of smuggling and administration of matters relating to customs, central excise, narcotics to the extent under CBEC's purview and service tax. The Board is the administrative authority for its subordinate organizations, including Custom Houses, Central Excise and Service Tax Commissionerates.

The State level indirect taxes are administered by Commercial Tax Departments of the respective States.

(c) Write the advantages of indirect taxes (any two).

[2]

Answer:

Advantages of Indirect Taxes:

- (i) **Easy management:** Indirect taxes mainly relate to organized sector. Hence, it is convenient to control, i.e., levy, control and collection of indirect taxes are easy.
- (ii) **Assured Collection:** Being easier to control, the incidence of tax evasion is comparatively less. So, the contribution of indirect taxes to the Government shows an increasing trend, as the business progress.

(d) Boral Ltd., which is engaged in the manufacture of excisable goods started its business in May, 2014. It availed small scale exemption in terms of Notification No. 8/2003-C.E. dated 01-03-2003. The following details are provided (₹);

15,000 kg of inputs purchased @ ₹ 992.70 per kg. (inclusive of excise duty @ 12.36%)	1,48,90,500
Capital goods purchased on 25-06-2014 (inclusive of excise duty at 12.36%)	45,60,000
Finished goods sold (at uniform transaction value throughout the year)	2,50,00,000

Calculate excise duty payable by M/s. Boral Ltd. in cash, if any, during year 2014-15. Rate of duty on finished goods sold may be taken at 12.36% and you may assume that selling price is exclusive of central excise duty. There is neither any processing loss nor any inventory of input and output. Show your workings notes with suitable assumptions as required. **[6]**

Solution:

Computation of duty payable by Boral Ltd. during financial year 2014-15

Particulars	Units	₹/unit	₹
Total value of all finished goods Less:	15,000	1,666.67	2,50,00,000
Exemption of ₹150 lakhs	9,000	1,666.67	1,50,00,000
Dutiable clearances (60% clearances are exempt and 40% dutiable)	6,000	1,666.67	1,00,00,000
Duty @ 12.36% on final product		206.00	12,36,000

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Total Credit on inputs [Duty = ₹ 992.70 x 12.36 ÷ 112.36]	15,000	109.20	16,38,000
Less: 60% credit relating to exempted clearances [Reversal under Rule 6 of the CENVAT CREDIT Rules, 2004]	9,000	109.20	9,82,800
Credit relating to dutiable clearances	6,000	109.20	6,55,200
Add: Credit relating to capital goods [100% credit available in first year to SSI- units] [₹ 45,60,000 x 12.36 ÷ 112.36]			5,01,616
Total CENVAT Credit			11,56,816
Duty payable in cash [Duty on Final Product – CENVAT Credit]			79,184

Question 3.

(a) When is the CENVAT Credit on inputs not admissible?

[4]

Answer:

CENVAT Credit is not admissible on the following:-

- (1) Light diesel oil, high speed diesel oil, Motor spirit commonly known as petrol.
- (2) Any goods used for –
 - (i) Construction of a building or a civil structure or part thereof; or
 - (ii) laying of foundation or making of structure for support of capital goods.
 - (iii) Capital goods (unless the same are used as parts or components in the manufacture of a final products.
 - (iv) Motor Vehicles
 - (v) Any goods are used primarily for personal use or consumption of any employee including food articles etc.
 - (vi) Goods having no relationship with whatsoever with the manufacture of final product.
- (3) If nthe final products is exempt from excise duty except in relation to removals to EOU/FTZ/SEZ or clearance under the bond/LUT etc.
- (4) Whan inputs are not received at the point of manufacture.
- (5) When received on documents which do not specify the duty paid or where there is no duty paying document.
- (6) When not used to manufacture of excisable goods.

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(b) A sole proprietary concern, whose written down value of the block of assets as on 1.04.2014 carrying 15% rate of depreciation was ₹5,00,000, purchased another asset of the same block on 1.04.2014 for ₹2,00,000. The said concern was succeeded by the company on 1.09.2014. After the succession, the company purchased another asset of the same block on 1.1.2015 for ₹1,60,000. Compute the depreciation available to the proprietary concern and the company for the assessment year 2015-16. [6]

Solution:

As there is a succession of the proprietary concern during the previous year, it will be first assumed as if no succession had taken place and the depreciation will be calculated as under:

	₹
Written down value at the beginning of the year	5,00,000
Additions during the year for 180 days or more	2,00,000
W.D.V. for the purpose of charging depreciation	7,00,000
Depreciation on ₹7,00,000 @ 15%	1,05,000

Apportionment between the predecessor and successor

(1) Depreciation allowed to sole proprietary concern (predecessor) (Number of days assets used by the concern i.e. April 1 to 31 st August = 153 days) $1,05,000 \times \frac{153}{365}$	44,014
(2) Depreciation allowable to company (Successor)	
(i) assets which were used by both the assessee: Number of days asset used by the company (01.09.14 to 31.03.15) $1,05,00 \times \frac{212}{365}$	60,986
(ii) asset which was used by company assessee only Depreciation on ₹1,60,000 @ 7.5% (50% of the normal rate as it is acquired and put to use for less than 180 days)	12,000
	72,986

(c) S. Kumar has the following assets on 31st March, 2015:

Asset	Market Value (₹)	Loan Outstanding (₹)
Gold	87,00,000	10,00,000
Residential House at Pune	45,00,000	2,00,000
Residential House at Andheri	90,00,000	27,00,000
Residential House at Mahape (Let out though out the year)	65,00,000	11,00,000
Commercial House at Thane used for his own business	1,15,00,000	50,00,000
Shares	25,00,000	5,00,000
Boat	1,50,000	2,50,000
Motor Car	9,00,000	3,00,000
Bank deposit	58,00,000	Nil
Commercial complex at Andheri having 25 offices	2,50,00,000	1,55,00,000

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Besides above mentioned loans, S. Kumar took a loan of ₹1,00,000 from his bank for his brother's marriage. Moreover, out of loan of ₹2,50,000 taken for boat, he utilized ₹50,000 for financing expenses on his foreign visit.

Determine his Net Wealth.

[5]

Solution:

Net wealth of S. Kumar shall be determined as under:

Asset	Market Value (₹)	Loan outstanding (₹)
Gold	87,00,000	10,00,000
Residential House at Pune	45,00,000	2,00,000
Residential House at Andheri [exempt u/s 5(vi)]	—	—
Residential House at Mahape (Let out though out the year) [not an asset]	—	—
Commercial House at Thane used for his own business [not an asset]	—	—
Shares [not an asset]	—	—
Boat	1,50,000	2,00,000
Motor Car	9,00,000	3,00,000
Bank deposit [not an asset]	—	—
Commercial complex at Andheri having 25 offices [not an asset]	—	—
Total	1,42,50,000	17,00,000

$$\begin{aligned}\text{Net Wealth} &= \text{Market value of assets} - \text{Loan outstanding} \\ &= ₹(1,42,50,000 - 17,00,000) = ₹1,25,50,000\end{aligned}$$

Note: Loan for brother's marriage and loan utilised for foreign visit are not deductible.

Question 4.

(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]

Solution:

Grasim Industries Ltd. vs. UOI 2011 (273) E.L. T. 10 (S.C.)

Facts of the case:

The assessee was the manufacturer of the white cement. He repaired his worn out machineries/ parts of the cement manufacturing plant at its workshop such as damaged roller, shafts and coupling with the help of welding electrodes, mild steel, cutting tools, M.S. Angles, M.S. Channels, M.S. Beams, etc. In this process of repair, M.S. scrap and Iron scrap were generated. The assessee cleared this metal scrap and waste without paying any excise duty. The Department issued a show cause notice demanding duty on the said waste contending that

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the process of generation of scrap and waste amounted to the manufacture in terms of section 2(f) of the Central Excise Act.

Decision of the case:

The Apex Court observed that manufacture in terms of section 2(f) includes any process incidental or ancillary to the completion of the manufactured product. This 'any process' can be a process in manufacture or process in relation to manufacture of the end product, which involves bringing some kind of change to the raw material at various stages by different operations. The process in relation to manufacture means a process which is so integrally connected to the manufacturing of the end product without which, the manufacture of the end product would be impossible or commercially inexpedient.

However, in the present case, it is clear that the process of repair and maintenance of the machinery of the cement manufacturing plant, in which M.S. scrap and Iron scrap arise, has no contribution or effect on the process of manufacturing of the cement, (the end product). The repairing activity in any possible manner cannot be called as a part of manufacturing activity in relation to production of end product. Therefore, the M.S. scrap and Iron scrap cannot be said to be a by-product of the final product. At the best, it is the by-product of the repairing process.

Hence, it held that the generation of metal scrap or waste during the repair of the worn out machineries/parts of cement manufacturing plant does not amount to manufacture.

(b) ABC Ltd. is engaged in the manufacture of 'paracetamol' tablets that has an MRP of ₹ 50 per strip. The company cleared 1,00,000 tablets and distributed as physician's samples. The goods are not covered by MRP, but the MRP includes 12.36% Excise Duty and 2% CST. If the cost of production of the tablet is ₹ 2 per tablet, determine the total duty payable. [3]

Solution:

If the product is not covered under MRP provisions, valuation provisions under section 4A of the Central Excise Act, do not apply. In that case, valuation is required to be done as per Central Excise Valuation Rules.

As per the CBEC's circular, any physicians samples or other samples distributed free of cost are to be valued under Rule 11 read with Rule 8 of Central Excise Valuation Rules, 2000.

As per Rule 8, such samples are to be valued at 110% of cost of production or manufacture. The given cost of production is ₹ 2, Assessable Value will be ₹ 2.20. Therefore, duty payable @ 12.36% on ₹ 2.20 = ₹ 0.27 per tablet.

(c) Anu purchased 5,000 shares of S Ltd. @ ₹200 per share on 5.7.2014. S Ltd. declares a dividend of ₹10 per share. The record date is fixed as 4.9.2014. Anu received the dividend immediately after the record date. The above shares were sold by Anu on 5.11.2014 for:

(a) ₹175 per share

(b) ₹192 per share

(c) ₹205 per share

Compute the income/loss in each case.

[7]

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Solution:

As the shares have been acquired within 3 months prior to the record date and sold within 3 months after the record date, section 94(7) shall be applicable.

Situation I

Dividend of ₹50,000 shall be exempt in the hands of Anu.

Short term capital loss on shares

$$₹8,75,000 - ₹ 10,00,000 = (-) ₹ 1,25,000$$

Dividend received = ₹50,000

Loss to the extent of dividend claimed as exempt shall not be allowed to be carried forward

Therefore, capital loss of ₹75,000 (₹1,25,000 - ₹50,000) shall be allowed to be carried forward.

Situation II

Dividend of ₹50,000 shall be exempt in the hands of Anu.

Short term capital loss on shares

$$₹9,60,000 - ₹10,00,000 = (-) ₹40,000$$

Dividend received = ₹50,000

Therefore, capital loss of ₹40,000 on shares shall not be allowed to be carried forward.

Situation III

Dividend of ₹50,000 shall be exempt in the hands of Anu.

Short term capital gain on shares

$$₹10,25,000 - ₹10,00,000 = ₹25,000$$

As there is capital gain instead of capital loss, section 94(7) is not applicable and such capital gain shall be taxable.

Question 5.

(a) Following transactions took place in the factory of Pisco Ltd. —

- (i) An imported consignment of Raw Materials was received vide Bill of Entry dated 2nd Dec, showing the following Customs Duty payments —
- | | |
|-------------------------|----------|
| Basic Customs Duty | ₹ 10,000 |
| Additional Duty (CVD) | ₹ 12,000 |
| Special Additional Duty | ₹ 4,000 |

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- (ii) A consignment of 1,000 kgs of inputs was received. The Excise Duty paid as per the invoice was ₹ 12,360. While the input was being unloaded 45 kgs were damaged, and were found to be not usable.
- (iii) Some inputs for final product were received. These were accompanied by a certified Xerox Copy (photo copy) of Invoice No. 270 dated 23rd Dec. indicating the Excise duty of ₹ 5,500 has been paid on inputs. The original for duplicate copy of invoice are not traceable.

Indicate the eligibility of CENVAT Credit under the CENVAT Credit Rules, 2004 with explanations where necessary. [5]

Solution:

Eligibility of Cenvat credit

Situation	Eligible Amount	Reasoning
Imported Consignment	₹ 16,000	Countervailing Duty for Excise Duty and VAT Equivalent will be eligible for credit under CENVAT Credit Rules. Basic Customs Duty of ₹ 10,000 is not eligible.
Loss of Inputs	₹ 11,804	<ul style="list-style-type: none"> • Inputs used in the manufacture of dutiable finished products alone are eligible for CENVAT Credit. • When inputs are damaged irretrievably before usage in the manufacturing process, duty attributable to such goods cannot be claimed as CENVAT Credit. • Therefore, duty for 955 Kgs alone is eligible for CENVAT Credit = ₹ 12,360 x 955 Kgs used / 1,000 Kgs received.
Inputs received under Photocopy of Invoice	₹ 5,500	<ul style="list-style-type: none"> • Duty can be claimed only if inputs have been received and documents evidencing payment of duty is available. • CENVAT Credit is allowable on Photostat copies of authenticated invoices. <p style="text-align: center;">[Kothari General Foods Corpn Ltd 144 ELT 338 (Tri.)]</p>
Total Credit	₹ 33,304	

(b) Akhtar owns three cars and silver furniture (value of cars being ₹25,00,000 and of silver furniture being ₹35,00,000 of 31.03.2015). He take loan of ₹4,70,000 by pledging there to invest in shares. You are requested by Akhtar to calculate amount of wealth tax payable by him for the assessment year 2014-15. [5]

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Solution:

Assessee: Akhtar

Valuation Date: 31.03.2015

Assessment Year: 2015-16

Calculation of Net Wealth

Particulars	Amount (₹)
Car	25,00,000
Silver Furniture	35,00,000
Shares (not an asset)	Nil
Gross Wealth	60,00,000
Less: Debt (loan of ₹4,70,000 is not deductible as it is taken to purchase shares which are not assets)	Nil
Net Wealth	60,00,000
Less: Basic Exemption	30,00,000
Net Taxable Wealth	30,00,000
Tax @ 1%	30,000

(c) A, B and C are three partners in a firm of lawyers having an equal share in profits. For the assessment year 2015-16 income of the firm from profession is ₹40,000 after paying salary of ₹72,000 to A and ₹48,000 to B. The interest income of the firm is ₹60,000. The personal incomes of A, B, and C are ₹ 1,98,000; ₹ 1,96,000 and ₹ 1,95,000 respectively. They have deposited a sum of ₹10,000 each in Public Provident Fund Account. Determine the taxable income of the firm and its partners. [5]

Solution:

	₹
Calculation of book profit	
Net profit	40,000
Add: Salary to A and B	1,20,000
Book profit	1,60,000
Remuneration allowable (i) Actual amount paid, or (ii) ₹1,44,000 (90% of book profits of ₹ 1,60,000) whichever is less	1,20,000
Profit and gains from B/P	
Income from Profession	
(Book profit - Remuneration allowable) (1,60,000-1,20,000)	40,000
Income from other sources	
Interest	60,000
Gross total income	1,00,000
Less: Deduction u/s 80C to 80U	Nil
Total income	1,00,000

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Income of partners - Income from B/P

	A ₹	B ₹	C ₹
Remuneration from Firm	72,000	48,000	-
Other income	1,98,000	1,96,000	1,95,000
Gross total income	2,70,000	2,44,000	1,95,000
Less: Deduction u/s 80C	10,000	10,000	10,000
Taxable income	2,60,000	2,34,000	1,85,000

Question 6.

(a) R, S, G are three members of an AOP sharing profit and losses in the ratio of 2:2:1. The profit and loss account of the AOP for year ending 31.3.2015 is as follows:

	₹		₹
Cost of good sold	52,00,000	Sales	63,00,000
Interest to members @ 24%		Long-term capital gain	1,60,000
R	48,000		
S	72,000		
G	24,000		
Salary to members			
R	90,000		
G	40,000		
Other expenses	3,80,000		
Net Profit	6,06,000		
	64,60,000		64,60,000

Other Information:

- The AOP gives a donation of ₹40,000 to a public charitable trust (not debited to P/L A/c) which is eligible u/s 80G.
- Out of other expenses ₹20,000 are not deductible by virtue of section 43B.

Other incomes and particulars of the members are given below.

	Amount ₹	Nature of Income	Deduction u/s 80D	PPF contribution ₹
R	1,22,000	Saving bank Interest	₹3,000 medical	12,000
S	1,16,000	Saving bank Interest		4,000
	10,000	Dividend from U.T.I		
G	1,10,000	Interest on company Deposits	₹4,000 medical insurance premium	5,000

Find out the liability of the AOP and members for the assessment year 2015 –16.

[12]

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Solution:

A. Computation of Total Income of AOP

1. Profits & gains	₹	₹	₹
Net Profit as per P and L A/c		6,06,000	
Add: Disallowed expenses			
Interest to members			
R	48,000		
S	72,000		
G	24,000		
Salary to members			
R	90,000		
G	40,000		
Other expenses not allowed u/s 43B	20,000	2,94,000	
		9,00,000	
Less: Income not taxable under this head			
Long-term capital gain		1,60,000	
Business Income		7,40,000	
2. Capital gains			
Long-term capital gain		1,60,000	
Gross Total Income		9,00,000	
Deduction u/s 80G			
Donation ₹40,000 @ 50%		20,000	
Total Income		8,80,000	

A. Computation of Tax of AOP

As no member of AOP has income exceeding the maximum exemption limit nor any member is taxable at a rate higher than the maximum marginal rate, the tax shall be charged on the total income of AOP at the rate applicable to individuals.

Tax on first ₹2,50,000	Nil
Next ₹2,50,000@10%	25,000
Next ₹2,20,000 @ 20%	44,000
Long-term capital gain ₹ 1,60,000 @ 20%	32,000
Total Tax	1,01,000
Add: Education cess & SHEC @ 3%	3,030
	1,04,030

B. Allocation of AOP's total income

	R	S	G
Interest on capital	48,000	72,000	24,000
Salary	90,000	-	40,000
Share [2:2:1] (8,80,000 - 1,60,000 (LTCG) - 2,74,000)	1,78,400	1,78,400	89,200

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Business income	3,16,400	2,50,400	1,53,200
Long-term capital gain	64,000	64,000	32,000
Share of profit of each member	3,80,400	3,14,400	1,85,200

Member R

	₹	₹
Business income	3,16,400	
Long-term capital gain	64,000	
Share from AOP		3,80,400
Other Income: Bank Interest		1,22,000
Gross Total Income		5,02,400
Deductions		
(i) U/s 80C	12,000	
(ii) U/s 80D	3,000	
(iii) U/s 80TTA	10,000	25,000
Total Income		4,77,400
Tax on ₹2,50,000 of total income	Nil	
On next 1,63,400 of total income @ 10%	16,340	
Tax on Long-term capital gain ₹64,000 @ 20%	12,800	29,140
Less: Rebate u/s 86 [$₹29,140 \times 3,80,400/4,77,400$]		23,219
Net tax		5,921
Less: Rebate u/s 87A		2,000
		3,921
Add: Education cess & SHEC @ 3%		118
Tax rounded off		4,040

Member S

	₹	₹
Share from AOP		
Business income	2,50,400	
Long-term capital gain	64,000	3,14,400
Other Income: Bank interest		1,16,000
Dividend from UTI		Exempt
Gross Total Income		4,30,400
Deduction u/s 80C	4,000	
Deduction u/s 80TTA	10,000	14,000
Total Income		4,16,400
Tax on ₹3,52,400	10,240	
Tax on long-term capital gain ₹64,000 @ 20%	12,800	23,040
Less: Rebate of tax u/s 86 [$₹23,040 \times 3,14,400/4,16,400$]		17,396
		5,644

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Less: Rebate u/s 87A		2,000
		3,644
Add: Education cess & SHEC @ 3%		109
Tax rounded off		3750

Member G

	₹	₹
Share from AOP		
Business income	1,53,200	
Long-term capital gain	32,000	1,85,200
Other income: Interest on deposits		1,10,000
Gross total income		2,95,200
Less: Deduction u/s 80C	5,000	
Deduction u/s 80D	4,000	9,000
Taxable Income		2,86,200
Tax on ₹4,200	420	
Tax on long-term capital gain ₹32,000 @ 20%	6,400	6,820
Less: Rebate u/s 86 $[6,820 \times 1,85,200/2,86,200]$		4,413
Net Tax Payable		2,407
Less: Rebate u/s 87A		2,000
		407
Add: Education cess and SHEC @ 3%		12
Tax rounded off		420

(b) Describe the benefits in case of supply to EOUs (Export Oriented units) from DTA (Domestic tariff Area) units? [3]

Answer:

The benefits of Supply to EOUs (Export Oriented units) from DTA (Domestic tariff Area) units:

- 1. Deemed Export:** Supplies from DTA to EOU/ EHTP/ STP/ BTP units will be regarded as "Deemed Exports". The DTA Supplier shall be eligible for relevant entitlements under the FTP, besides discharge of export obligation, if any, on the Supplier. Also, the EOU/ EHTP/ STP/ BTP units shall, on production of a suitable disclaimer from DTA Supplier, be eligible for obtaining entitlements specified under the provisions relating to deemed exports in FTP. For claiming deemed export duty drawback, they shall get brand rates fixed by the DC, wherever All Industry Rates of Drawback are not available.
- 2. Additional Benefits:** In addition, EOU/ EHTP/ STP/ BTP units shall be entitled to following:
 - (i) Reimbursement of Central Sales Tax (CST) on goods manufactured in India. Interest at 6% will be payable on delay refund of CST, if the case is not settled within 30 days of receipt of complete application.
 - (ii) Exemption from payment of Central Excise Duty on goods procured from DTA on goods manufactured in India.
 - (iii) Reimbursement of duty paid on fuel procured from Domestic Oil Companies/ Depots of Domestic Oil Public Sector Undertakings as per Drawback Rate notified by DGFT from

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time to time. Reimbursement of Additional Duty of Excise levied on fuel under the Finance Acts would also be admissible.

- (iv) CENVAT Credit on Service Tax paid.

Question 7.

(a) DEB Ltd. has a manufacturing unit situated in Lucknow. In the financial year 2014-15, the total value of clearances from the unit was ₹ 465 lakhs.

The breakup of clearances is as under:

- i. Clearances worth ₹ 85 lakhs of certain non-excisable goods manufactured by it.
- ii. Clearances worth ₹ 55 lakhs exempted under specified job work notification.
- iii. Exports worth ₹ 100 lakhs (₹ 75 lakhs to USA and ₹ 25 lakhs to Nepal).
- iv. Clearances worth ₹ 50 lakhs which were used captively to manufacture finished products those are exempt under notifications other than Notification No. 8/2003-CE., dated 01-03-2003 as amended.
- v. Clearances worth ₹ 200 lakhs of excisable goods in the normal course.

Explain briefly, the treatment for various items and state, whether the unit will be eligible for the benefits of exemption under Notification No. 8/2003-CE dated 1-3-2003 as amended for the financial year 2015-16. [5]

Solution:

In order to claim the benefit of SSI exemption in a financial year, the total turnover of a unit should not exceed ₹ 400 lakh in the preceding year.

For this purpose, the total value of clearances shall be calculated as follows – (₹ lakhs)

Total value of clearances	465
Less:	
(i) Clearances of certain non-excisable goods manufactured by it	85
(ii) Clearances exempted under specified job-work notification	55
(iii) Exports clearances to USA	75
(iv) Clearances of goods used captively to manufacture finished products, which are exempt under Notification other than SSI- exemption notification	Nil
Value of clearances	250

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Unit eligible for exemption: Since the aggregate value of clearances during the preceding financial year doesn't exceed ₹ 400 lakhs, therefore, the unit is eligible for SSI - exemption in the financial year 2015-16.

(b) M/s. SURYA 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 : ₹ 6.5 lakh ;
- (2) Commission from acting as Clearing and Forwarding Agent: ₹ 6.8 lakh ;
- (3) Commission from acting as clearing agent: ₹ 4.8 lakh ;
- (4) Commission from acting as forwarding agent: ₹ 2 lakh ;
- (5) Margin earned from trading in shares : ₹ 4.6 lakh ;
- (6) Margin from trading in futures : ₹ 4.8 lakh ;

[4]

Solution:

Computation of service tax liability:

- (1) Commission from selling of various goods belonging to other parties : ₹ 6.5 lakh - Taxable;
- (2) Commission from acting as Clearing and Forwarding Agent: ₹ 6.8 lakh - Taxable;
- (3) Commission from acting as clearing agent: ₹ 4.8 lakh - Taxable;
- (4) Commission from acting as forwarding agent: ₹ 2 lakh - Taxable;
- (5) Margin earned from trading in shares : ₹ 4.6 lakh - Shares are securities and "goods" and trading in goods is a service covered within negative list u/s 66D(e) - Not taxable;
- (6) Margin from trading in futures: ₹ 4.8 lakh - Futures are securities and "goods" and trading in goods is a service covered within negative list u/s 66D(e) - Not taxable;

Taxable Value = ₹ (6.5+6.8+4.8+2) lakhs = ₹ 20.10 lakhs; and service tax thereon @ 12.36% = ₹2,48,436.

(c) Assessee a company entered into a collaboration agreement with owner of an immovable property, who executed a General Power of Attorney (GPA) in assessee's favour - Sub-Registrar resisted to register GPA on basis of circular issued by Government of NCT of Delhi, holding that transaction was, in effect, a transaction of sale, and it was sought to evade stamp duty - Whether, circular directing Registrars not to register conveyance of immovable property based on a GPA, was contrary to observation of Supreme Court and was liable to be set aside. [6]

Solution:

Pace Developers & Promoters (P.) Ltd. v. Government of NCT (2013) 215 Taxman 554 (Delhi)(HC)

The petitioner company entered into a collaboration agreement with 'R', owner of an immovable property, who executed a General Power of Attorney (GPA) in favour of the assessee. The GPA was duly registered and stamped. 'R' also executed a will, as per which 25 per cent of the land on which the said property was built, was to devolve on the director of the

Answer to MTP_Final_Syllabus 2008_Jun 2015_Set 2

petitioner company on her death. The Divisional Commissioner, Government of NCT of Delhi (respondent) issued a circular, which is claimed to be contrary to the judgment of the Supreme Court in the case of Suraj Lamp & Industries (P.) Ltd. v. State of Haryana [2012] 340 ITR 1/[2011] 202 Taxman 607/14 taxmann. com 103 by the assessee. The assessee filed instant writ petition requesting the Court to direct the sub-registrar to register the GPA. The respondents claimed that the transaction between assessee and 'R' was entered into to evade stamp duty and it was in effect, a transaction of sale; rate of stamp duty being 6 per cent and not 3 per cent. Therefore, there was resistance by the sub-registrar to register the document.

A bare reading of the circular would show that the respondents have issued across the board, a directive to all Registrars and Sub-Registrar not to register any conveyance vis-à-vis an immovable property which is based on a GPA, Will or Agreement to Sell. This direction clearly misconstrues the observations of the Supreme Court in the case of Suraj Lamp & Industries (P.) Ltd. (supra), wherein the Supreme Court has not said that in no case a conveyance can be registered by taking recourse to a GPA. As long as the transaction is genuine, the same will have to be registered by the sub-registrar. There is distinctly a specific reference to the fact that, a person may enter into a development agreement with a land developer or builder for development of a parcel of land or for construction of apartments in a building, and for this purpose, a power of attorney empowering the developer to execute sale agreements can be executed. Therefore, the directions contained in the impugned circular dated 27-4-2012, are quite contrary to the observations made by the Supreme Court in Suraj Lamp & Industries (P.) Ltd. (supra). Accordingly, the same are set aside.

Question 8.

(a) Uday Ltd. of Mumbai (having diversified business) has provided the following services, whose values are listed below. Compute its service tax liability:

- (1) Services provided to a company located in Colombo in relation to organization of a sport event in Colombo: ₹ 25 lakh;**
- (2) Services provided to a company located in Srinagar in relation to festival celebration in Srinagar: ₹ 5 lakh;**
- (3) Services provided to a company located in Chennai in relation to fashion show in Dubai: ₹12 lakh;**
- (4) Services of online database access and retrieval services provided from its website: ₹17 lakhs (out of this, ₹10 lakh was provided to recipients located outside India). [3]**

Solution:

The taxable value and service tax is computed below (amount in ₹) —

(1)	Services provided to a company located in Colombo in relation to organization of a sport event in Colombo: As per Rule 6 of the Place of Provisions Rules, 2012, in case of services provided in relation to organization of events, the services shall be taxable at the place of location of event. Since event is held in non-taxable territory, it is not liable to service tax.	Nil
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(2)	Services provided to a company located in Srinagar in relation to festival celebration in Srinagar: As per Rule 6 of the Place of Provisions Rules, 2012, in case of services provided in relation to organization of events, the services shall be taxable at the place of location of event. Since event is held in non-taxable territory, it is not liable to service tax.	Nil
(3)	Services provided to a company located in Chennai in relation to fashion show in Dubai: Since services are in relation to event held in Dubai, hence, as per Rule 6, they are not taxable. But, since the services are provided to a recipient located in taxable territory (Chennai) and both service provider and recipient are located in taxable territory, hence, as per Rule 8, these services are liable to service tax.	₹ 12,00,000
(4)	Services of online database access and retrieval services provided from its website: As per Rule 9, the place of provision is the place of location of service provider. Since service provider Navin Ltd. is located in Mumbai (taxable territory), hence, these services will be taxable in full irrespective of location of the service recipient.	₹ 17,00,000
	Total Taxable Value	29,00,000
	Service tax @ 12.36%	3,58,440

(b) Umar Constructions undertakes works contracts and maintains sufficient records to quantify the labour and other service charges. From the details given below, calculate the taxable turnover, input tax credit and net VAT payable under the State VAT Law.

Sl. No.	Particulars	Amount (₹)
(i)	Total contract price (excluding VAT @ 12.5%)	1,95,00,000
(ii)	Materials purchased and used for the contract taxable at 12.5% VAT (inclusive of VAT)	33,75,000
(iii)	Labour charges paid for execution of the contract (excluding VAT @12.5%)	40,00,000
(iv)	Other service charges paid for the execution of the contract (excluding VAT @12.5%)	20,00,000
(v)	Cost of consumables used not involving transfer of property in goods (excluding VAT @12.5%)	15,00,000

Umar Constructions also purchased a plant for use in the contract for ₹ 20,80,000 (inclusive of VAT). In the VAT invoice relating to the same VAT was charged at 4% separately.

Assume 100% input tax credit is available on capital goods immediately.

[4]

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Solution:

The question states that -

- ◆ contractor maintains sufficient records to quantify the labour charges;
- ◆ hence, value of transfer of property in goods involved in execution of works contract is to be computed by deducting labour and service charges from total contract price.

The computations in this regard are as follows -

	Value (excl. VAT) (₹)	VAT Rate	VAT (₹)
Total Contract Price	1,95,00,000		
Less: Labour charges (assumed inclusive of normal profit)	40,00,000		
Other service charges (assumed inclusive of normal profit)	20,00,000		
Cost of consumables (assumed inclusive of normal profit)	15,00,000		
Value of goods involved in works contract	1,20,00,000	12.50%	15,00,000
Materials purchased and used for contract (eligible for credit) [Value excluding VAT = ₹ 33,75,000 × 100 ÷ 112.5]	30,00,000	12.50%	3,75,000
Capital goods used for contract (eligible for credit; in fact, question itself states that capital goods are eligible for 100% credit) [Value excluding VAT = ₹20,80,000 × 100 ÷ 104]	20,00,000	4.00%	80,000
Net VAT payable in cash			10,45,000

(c) Under Central Excise Tariff Act goods are classified using 8-digit system as headings under 'Harmonised System of Nomenclature' — Justify. [3]

Answer:

In case of harmonised system of nomenclature under Central Excise Tariff Act, goods are classified using 4 digit system as headings. Further 2 digits are added for sub-classification, called 'sub – headings' and further 2 digits are added for sub-sub-classification, which is termed as 'tariff item'. Thus Goods are classified under Central Excise Tariff Act under the —Harmonized System of Nomenclature having eight digit classifications. Rate of duty is indicated against each 'tariff item' and not against heading or sub-heading.

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(d) From the following particulars, calculate assessable value and total customs duty payable:

- (i) Date of presentation of Bill of entry : 14-05-2014 [Rate of BCD 25%; Exchange Rate: ₹43.40 and rate notified by CBEC ₹ 43.80]
- (ii) Date of arrival of goods in India: 27-05-2014 [Rate of BCD 20%; Exchange Rate; ₹ 44.10 and rate notified by CBEC ₹ 44.20]
- (iii) Rate of Additional Customs Duty : 12%;
- (iv) CIF value 2,000 US Dollar; Air Freight 500 US Dollars, Insurance cost 100 US Dollars [Landing Charges no ascertainable].
- (v) Education Cess applicable 3%
- (vi) Assume there is no special CVD.

Also determine the Cenvat credit eligibility if the buyer is — (1) manufacturer (2) service provider and (3) trader. [Provide working notes as and when required] [5]

Solution:

Computation of assessable value and the total customs duty payable –

CIF value	US \$	2,000
Less: Freight	US \$	500
Insurance	US \$	100
FOB Value	US \$	1,400
Add: Air Freight restricted @ 20% of FOB value	US \$	280
Insurance (actual amount)	US \$	100
CIF value	US \$	1,780
CIF Value in Indian ₹ (CIF Value in US\$ x ₹ 43.80 per US\$)	₹	77,964
Add: 1% for landing charges	₹	780
Assessable value	[A]	₹ 78,744
Add: Basic Customs duty @ 20% of [A]	[B]	₹ 15,749
Total for additional duty of customs u/s 3(1) Customs Tariff Act, 1975 [C]	₹	94,493
Add: Additional Customs Duty (@ 12% of ₹ 94,493 i.e., [C])	[D]	₹ 11,339

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Add: Education Cess on total customs duty i.e., 3% of [B+D]	[E]	₹	813
Total for the levy of additional duty of customs u/s 3(5) of Customs Tariff Act, 1975	[F=C+D+E]	₹	1,06,645
Add: Additional duty of customs equal to sales tax etc.	[G]	₹	---
Total cost of imported goods		₹	1,06,645
Total Customs duty [B+D+E+G] (rounded off)		₹	27,901

Cenvat credit eligibility:

- (1) Buyer, who is manufacturer, is eligible to avail Cenvat credit of [D] and [G] above. As there is no Special CVD as per section 3(5) of the Customs Tariff Act, 1975, he will be eligible to avail credit of [D] only.
- (2) A buyer who is service provider is eligible to avail Cenvat credit of [D] above.
- (3) A trader who sells imported goods in India after charging VAT/ sales tax can get refund of Special CVD of 4%, i.e. [G] above. Alternatively, he can pass on the credit of Special CVD also to his customer. In this case, as there is no Special CVD, the trader cannot avail the said benefit.

Working Notes:

- (1) Rate of exchange notified by CBEC on the date of presentation of bill of entry has been considered.
- (2) Rate of duty as applicable on the arrival of aircraft which is later than the date of submission of the bill of entry has been considered.
- (3) Landing charges @ 1% have been considered as per Rule 10(2)(b) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (4) Since Air freight exceeds 20% of FOB value of goods, it shall be restricted to 20% of FOB value of goods.