

**Paper 16 – Tax Management and Practice**

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**Full Marks: 100**

**Time allowed: 3 hours**

**Answer Question No. 1 which is compulsory and any five from the rest**

**1.(a) Fill in the blanks:**

**[5×1=5]**

- (i) In case of goods liable for confiscation amounting upto ₹ 50,000, the adjudicating authority for confiscating goods u/s 122 of the Customs Act, 1962 will be the \_\_\_\_\_ of Customs.
- (ii) \_\_\_\_\_ area means the whole of India (including the territorial waters and continental shelf) but does not include the areas of the Special Economic Zones, 100% Export Oriented Units /Electronic Hardware Technology Park /Software Technology Park /Bio Technology Park.
- (iii) When service receiver is liable to pay service tax instead of service provider, it is termed as \_\_\_\_\_.
- (iv) An appeal can be filed to \_\_\_\_\_ against the penalty order passed by commissioner (Appeals) or CIT.
- (v) No \_\_\_\_\_ can be filed against the directors issued by Joint Commissioner under section 144A.

**(b) Choose the most appropriate alternative:**

**[5×1=5]**

- (i) If the invoice is issued within the prescribed period of 30 days from the date of completion of the provision of service, the point of taxation will be:
  - (a) Date of invoice
  - (b) Date of invoice or date of payment, whichever is earlier
  - (c) Date of completion of the provision of service
  - (d) Date of completion of the provision of service or date of payment, whichever is earlier.
- (ii) Indian Institute of Management, Ahmedabad provided services by way of Executive Development Programme for ₹ 55 lakhs. The amount of Service Tax liability (@15%) will be:
  - (a) Nil
  - (b) ₹ 5.78 lakhs
  - (c) ₹ 8.25 lakhs
  - (d) None of the above.
- (iii) If senior advocate provide service of ₹ 1,50,000/- to business entity for Legal services, then who is liable to pay service tax?
  - (a) Senior advocate
  - (b) Business entity
  - (c) Exempted service
  - (d) None of the above.
- (iv) The Board has prescribed that the information and documents shall be kept and maintained for a period of \_\_\_\_\_ years from the end of the relevant assessment year.
  - (a) 5 yrs
  - (b) 6 yrs
  - (c) 8 yrs
  - (d) 10 yrs
- (v) The Settlement Commission \_\_\_\_\_ grant immunity from prosecution for an offence under the Indian Penal Code or under any Central Act.
  - (a) Shall
  - (b) Shall not.

**(c) State true or false with reasons:**

**[5×2=10]**

- (i) In FTP, advance authorization scheme is a type of duty remission scheme.
- (ii) Leasing and Hire Purchase Transactions are deemed sales under VAT.
- (iii) In CST, subsidy given by Government to manufacturers to compensate cost of production will form part of sale price.
- (iv) An appeal to the Commissioner (Appeal) shall be made in Form No 35.
- (v) The General Clauses Act accepts the thumb impression as one of the modes of signing, valid and binding, therefore it is not to be considered as a ground of rejecting the application of the assessee.

**2.** The Profit & Loss account of Amit Private limited for the year ended 31.3.2017 shows a profit of ₹ 75 Lakhs after debiting the following items;

1. ₹ 2 Lakhs contributed to Employee Welfare Trust.
2. ₹ 12 Lakhs paid towards course fee and hostel expenses for MBA course of a close relative of a director. The relative is not in employment with the company.
3. ₹ 3.50 Lakhs being expenses incurred on installation of a traffic signal, so as to facilitate its employees coming to overcome traffic jam and save office time.
4. ₹ 3 Lakhs spent on gift items distributed to various dealers under the company's sales incentive scheme.
5. ₹ 6 Lakhs being expenses incurred on the travelling of the wife of MD, who accompanied him on tour to Singapore on invitation of trade and commerce chamber, Singapore.
6. ₹ 3 Lakhs being amount paid in March 2017 consequent upon change in currency rate due to exchange fluctuation in excess of the amount due to the supplier of the machinery.
7. ₹ 18,000 and ₹ 9,000 paid in cash on 25.10.2016 by two separate vouchers to a contractor who carried out certain repair work in the office premises.
8. Interest of ₹ 2 Lakhs was paid in March, 2017 to a company on a loan taken from a company. Tax deducted at source from such interest was deposited in July, 2017.

Additional Information:

- (a) Provision for audit fees of ₹ 6 Lakhs was made in the books for the year ended 31.3.2016 without deducting tax at source. Such fees were paid to the auditors in September, 2016 after deducting tax under section 194J and the tax so deducted was deposited on 7.10.2016. 30% of audit fees was disallowed in the assessment year 2017-18.
- (b) During the year the company purchased 10,000 shares of Pankaj Ltd. at ₹ 40 per share. The fair market value of such shares on the date of transaction was ₹ 60 per share.

Compute total income of Amit Private limited for the A.Y 2017-18 and tax payable on such income indicating reasons for treatment of each item. Ignore the provisions relating to minimum alternate tax. **[16]**

**3.(a)** The regular assessment of Pankaj Ltd for the assessment year 2015-16 was completed under section 143(3) on 13<sup>th</sup> April, 2016. There was an audit objection by the Revenue Audit team that interest on loan should be partly disallowed as there was diversion of borrowed fund to sister concern without charge of interest.

Based on the above facts;

- (i) State, with reasons, whether the Assessing Officer can issue notice under section 148 (on 12<sup>th</sup> March, 2016) on the basis of audit objection of the Revenue Audit team.
- (ii) If the action stated in (i) above is not permitted, what is the option open to the Revenue Department to deal with the said audit objection? **[8]**

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- (b) Rajat, whose Gross Total Income for the Assessment Year 2017-18 is ₹ 3,85,000 (which includes long term capital gain of ₹ 40,000 and short term capital gain of ₹ 20,000) submits the following information: [8]

Particulars	Amount (₹)
Contribution towards PPF	10,000
Lip paid for married son not dependant on him.	5,000
Mediclaime Premium paid by cheque for	
(a) Himself	2,000
(b) For married son not dependant on him	3,000
Total	5,000
He has made the following donations;	
(a) National Defense Fund	5,000
(b) PM's National Relief Fund	2,000
(c) Swachh Bharat Kosh	2,000
(d) Indira Gandhi Memorial Trust	5,000
(e) Delhi University	
(declared as an institution of national eminence)	2,000
(f) Zila Saksharta Samiti	4,000
(g) An approved charitable institution	25,000
(h) Government for family planning	20,000
(i) Donation of blanket to an orphanage	4,000
(j) Donations to National Children Fund	2,000
Compute Total Income for the A.Y 2017-18	

- 4.(a)(i) What do you understand by Deemed Exports under Foreign Trade Policy? [4]  
(ii) Describe SION (Standard Input Output Norms) in the context of foreign trade policy. [4]

- (b) Macline Cola Co. of UK entered into contracts with three Indian companies namely ABC Ltd., Pepsi Co. Ltd, Coca Cola Ltd. for supplying known-how. Macline Cola Co. made an application to the Authority for Advance Rulings (AAR) on the rate of withholding tax on receipts applicable to it.  
Also, Coco Cola Ltd also made an application to the Assessing Officer for determination the rate at which tax is deductible on the payment made to non- resident company i.e Macline Cola Co.  
The Authority for Advance Rulings (AAR) rejected the application of Macline Cola Co. on the ground that the question raised in the application is already pending before an Income tax authority. [8]

- 5.(a)(i) Mr. Ram has provided the following services during the year 2016-17. Determine whether he is eligible for small service provider exemption during the year 2017-18:
1. Service exported to USA ₹ 25,00,000
  2. Fee from agricultural activities ₹ 2,50,000
  3. Services provided by way of transport of defence material in a vessel for ₹ 4,50,000
  4. Declared services (value as determined under valuation rules is 40% of the total amount charged) for ₹ 6,00,000
  5. Value of construction services (in which 70% abatement has been provided) for ₹ 2,00,000.
  6. Legal consultancy services (reverse charge applicable) for ₹ 7,00,000. [8]
- (ii) Sri Hanuman is a practicing Cost Accountant. His Gross taxable services during the year 2016-17 are ₹ 9,50,000. Is registration compulsory for him? If so in which year?

**[2]**

**(b)** State briefly the provisions of the CENVAT Credit Rules, 2004 in respect of removal of inputs and capital goods on which CENVAT credit has been availed in the following cases:

- (i) Capital goods removed in good condition after being put to use for a period of two years, in respect of which period, depreciation under the Income-tax Act, 1961 was claimed.
- (ii) An input becomes a waste and is sold as scrap.
- (iii) Sale of the factory along with the said inputs and capital goods.

**[6]**

**6.(a)** XYZ Industries Ltd., has imported certain equipment from Japan at an FOB cost of 2,00,000 Yen (Japanese). The other expenses incurred by M/s. XYZ Industries in this connection are as follows:

- (i) Freight from Japan to India Port 20,000 Yen
- (ii) Insurance paid to Insurer in India ₹ 10,000
- (iii) Designing charges paid to Consultancy firm in Japan 30,000 Yen
- (iv) M/s. XYZ Industries had expended ₹ 1,00,000 in India for certain development activities with respect to the imported equipment
- (v) XYZ Industries had incurred road transport cost from Mumbai port to their factory in Karnataka ₹ 30,000
- (vi) The Central Board of Excise and Customs had notified for purpose of section 14(3)\* of the Customs Act, 1962 exchange rate of 1 Yen = ₹ 0.3948. The interbank rate was 1 Yen = ₹ 0.40
- (vii) M/s XYZ Industries had effected payment to the Bank based on exchange rate 1 Yen = ₹ 0.4150.
- (viii) The commission payable to the agent in India was 5% of FOB cost of the equipment in Indian Rupees.

Arrive at the assessable value for purposes of customs duty under the Customs Act, 1962 providing brief notes wherever required with appropriate assumptions. **[9]**

**(b)** The following information relates to purchases and sales of K.K. Ltd. for the month of September 2016:

	₹
(i) Purchases for resale within the State	8,00,000
(ii) Purchases from registered dealers who opted for composition scheme	4,00,000
(iii) Purchases to be used as consumable stores for manufacture of taxable goods	6,00,000
(iv) Purchases of goods where invoices does not show the amount of taxes separately	5,00,000
(v) Purchases of goods for personal consumption	2,00,000
(vi) Purchases of capital goods (not eligible for input credit)	5,50,000
(vii) Purchases of capital goods (eligible for input credit)	5,76,000
Sales made within the State during the month of September 2016 was ₹ 50,00,000 on which VAT @ 4% was payable.	

Assuming that all purchases given above are exclusive of VAT @ 12.5%, Calculate:

- (i) The amount of input tax credit available for the month of September 2016.
- (ii) VAT payable for the month of September 2016.
- (iii) Input tax credit carried forward.

Note: The input VAT credit on eligible capital goods is available in 24 equal monthly installments. (Make suitable assumptions where required and show the workings) **[7]**

**7.(a)(i)** Rishabh Dev & Co. is engaged in the manufacture of liquid mosquitoes' destroyer. It obtains concentrated alletherin and converts it into diluted alletherin by adding

solvent deodorized kerosene oil, perfume (as a masking agent) and DHT (as a stabilizing agent). Revenue alleges that the addition of stabilizing agent, masking agent etc. amounts to manufacture within the meaning of section 2(f) of the Central Excise Act, 1944. Do you think that Revenue's allegation is tenable in law? **[6]**

**(ii)** Assessee imported Compact Disk Read Only Memory (CD ROMs) containing images of drawings and designs of engineering goods. The Appellant (i.e. assessee), filed a Bill of Entry for the clearance of the CD ROM containing drawings, designs of engineering goods. The assessee claimed classification under Custom Tariff heading 4906, or, heading 4911, or, as Information Technology Software, or as CD ROM, where exemption is given from duty. However, the Department classified the same under Customs Tariff heading 8524.39 thereby recorded CD ROMs, liable to duty. Discuss in the light of decided case law, if any, whether the classification of the department is correct in law? **[5]**

**(b)** The assessee was engaged in the manufacture of sugar. The Central Government directed him to maintain buffer stock of free sale sugar for the specified period. The Government of India extended buffer subsidy towards storage, interest and insurance charges for the said buffer stock of sugar. Department issued a show cause notice to the assessee raising the demand of service tax alleging that amount received by the assessee as buffer subsidy was for the services covered within the definition of 'storage and warehousing services'. **[5]**

**8.(a)** Doc solutions Inc a US company, sells laser printer cartridge drums to its Indian Subsidiary quality printing ltd at \$10 per drum. Doc solutions Inc.has other takers in India for its cartridge Drums, for whom the price is \$15 per drum. During the year, Doc solutions had supplied 10,000 cartridge to Quality printing ltd. Determine the Arm length price and taxable income of quality printing ltd if its income after considering the above is ₹ 35,00,000. Compliance with TDS provisions may be assumed and rate per USD is ₹ 65. **[8]**

**(b)** US Ltd. a US Company has a subsidiary, IND Ltd in India. US Ltd sells computer Monitors to IND Ltd, for resale in India. US Ltd also sells computer Monitor to CMI Ltd, another computer reseller. Its sells 50,000 computer monitor to IND Ltd at ₹ 11,000 p.u. The price fixed for CMI Ltd is ₹ 10,000 per unit. The warranty in case of sale of monitors by IND Ltd is handled by IND Ltd however, for sale of monitors by CMI Ltd, US Ltd is responsible for warranty for 3 months. Both US Ltd and IND Ltd offer extended warranty at a standard rate of ₹ 1,000 per annum. On these facts, how the assessment of IND Ltd is going to be affected? **[8]**