

Paper 16 – Tax Management and Practice

Time Allowed: 3 Hours

Full Marks: 100

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

Working notes should form part of the relevant answer.

**Section A
(Answer all the Questions)**

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

Answer the following with the help of decided case law:

(a) Whether turpentine oil is manufactured with the aid of power and whether assessee will not be entitled the benefit of exemption? **[5]**

(b) CENVAT Credit cannot be utilized for paying sums payable under Section 11D of Central Excise Act, 1944. Comments. **[5]**

(c) Principle of law enunciated from the decision of Supreme Court is applicable to all cases, irrespective of stage of pendency as it is assumed that Supreme Court judgment is law from inception, unless, Supreme Court expressly states that the decision would have a prospective effect.

Whether CESTAT was correct in dismissing the appeal and application? **[5]**

(d) Will the two units of a single legal entity surrounded by a common boundary wall be considered as one factory for the purpose of availing CENVAT credit, if they have separate central excise registrations? **[5]**

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

(a) Chetan Ltd., which is engaged in the manufacture of excisable goods started its business in May, 2013. It availed small scale exemption in terms of Notification No. 8/2003-C.E. dated 01-03-2003 as amended for the financial year 2013-2014. The following details are provided:

(Amount in ₹)

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15,000 kg of inputs purchased @ ₹ 1011.24 per kg.

(inclusive of central excise duty @ 12.36%) 1,51,68,600

Capital goods purchased on 28-06-2013 (inclusive of excise duty at 12.36%) 44,94,400

Finished goods sold (at uniform transaction value throughout the year) 3,00,00,000

Calculate the amount of excise duty payable by M/s. Chetan Ltd. in cash, if any, during the year 2013-14. Rate of duty on finished goods sold may be taken at 12.36% for the year and you may assume that the selling price is exclusive of central excise duty. There is neither any processing loss nor any inventory of input and output. Show your workings and notes with suitable assumptions as required. **[5]**

(b) (i) Dhanraj & Co. furnish the following expenditure incurred by them and want you to find the assessable value for the purpose of paying excise duty on captive consumption. Determine the cost of production in terms of rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 and as per CAS-4 (Cost Accounting Standard - 4)

- Direct material cost per unit inclusive of excise duty at 12.36% - ₹ 2,400
- Direct wages - ₹ 500
- Other direct expenses - ₹ 200
- Indirect materials - ₹ 150
- Factory Overheads - ₹ 300
- Administrative overhead (25% relating to production capacity) ₹ 200
- Selling and distribution expenses - ₹ 200
- Quality Control - ₹ 50
- Sale of scrap realized - ₹ 40
- Actual profit margin - 20%. **[3]**

(ii) Nitu Ltd., manufactures two products A and B, A being a product specified under section 4A of the Central Excise Act, 1944. The sale prices of A and B are ₹ 60 and ₹ 40.80 per unit, respectively. The selling price of product B includes 12% basic excise duty, as increased by 3% education cess and secondary higher education cess, also 2% CST. For product A, 30% abatement is allowable under section 4A. 10,000 units of each product were removed from the factory to sales depots. Common inputs were used to manufacture product A and B. Total excise duty was paid on these inputs for ₹ 12,360. You are required to compute the excise duty liability. Product A is exempted from excise duty. Nitu Ltd. opted to pay an amount on exempted final product. **[2]**

(c) "A 100% Export-Oriented Undertaking (EOU) engaged in manufacture of excisable goods should pay excise duty in a special manner and general provisions do not apply to them." Discuss. **[5]**

3. Answer all Questions

(a) A commodity is imported into India from a country covered by a notification issued by

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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: ₹60=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 costs 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

Compute the customs duty payable from the following data -

Machinery imported from USA by air	US\$ 8,800
Accessories compulsorily supplied with Machine	US\$ 1,200
Air freight	US\$ 3,000
Insurance	US\$ 100
Local agent's commission	₹ 4,500
Exchange rate	1 US\$ = ₹ 40
Customs duty on machine	10% ad valorem
Customs duty on accessory	20% ad valorem
Additional duty of Customs 12%, but effective rate by exemption notification	8%
Additional duty of customs under section 3(5) of Customs Tariff Act, 1975	4%
Education Cess + Secondary and Higher Education Cess	2% + 1%

[5]

(b) A consignment of 900 metric tonnes of edible oil of Malaysian origin was imported by a charitable organization in India for free distribution to below poverty line citizens in a backward area under the scheme designed by the Food and Agricultural Organization. This being a special transaction, a nominal price of US\$ 10 per metric tonne was charged for the consignment to cover the freight and insurance charges. The Customs House found out that at or about the time of importation of this gift consignment, there were following imports of edible oil of Malaysian origin:

S. No.	Quantity imported in metric tons	Unit price in US \$ C.I.F.
1.	20	280
2.	100	260
3.	500	200
4.	900	175
5.	400	180
6.	780	160

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The rate of exchange on the relevant date was 1 US \$ = ₹43.00 and the rate of basic customs duty was 10% ad valorem. There is no countervailing duty or special additional duty.

Calculate the amount of duty leviable on the consignment under the Customs Act, 1962 with appropriate assumptions and explanations where required. **[5]**

(c) Discuss briefly with reference to decided case laws as to how the 'value' shall be determined under section 14 of the Customs Act, 1962 read with Customs Valuation Rules, 1988 in the following cases :

- (i) Goods are offered at specially reduced price to buyer and the buyer is asked not to disclose the specially reduced price to any other party in India.
- (ii) There has been a price rise between the date of contract and the date of importation.
- (iii) The contract was over 6 months before the date of shipment.
- (iv) The sale involves special discounts limited to exclusive agents. **[5]**

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

(a) Usha provides technical consultancy service in Maharashtra. In the financial year 2012-2013, aggregate value of taxable services provided by him was ₹ 47,00,000. Besides, he provided tax-free services of ₹5,00,000. In the financial year 2013-14, aggregate value of taxable services provided by him in the first quarter ending June 30,2013 is ₹50,00,000. From the information given below find out service tax payable by him for the quarter ending September 30, 2013

	₹
Amount received during July 2013 for services rendered before July 1, 2013	56,180**
Amount received during August 2013 for services rendered before July 1, 2013	37,079**
Amount received during September 2013 for services rendered before July 1, 2013	16,629**
Services completed during July 1, 2013 and September 30, 2013 (invoice issued within 30 days of providing service) (out of these services, advance of ₹ 2,00,000** was received on May 1,2013	38,50,000*
Advance received on September 5, 2013 (service not rendered up to September 30, 2013)	2,00,000**

*Exclusive of service tax. **Inclusive of service tax.

Usha always issues invoice within 30 days from the date of completion of service. **[5]**

(b) Compute the service tax liability from the following particulars for the financial year 2013-14:

Particulars	Amount (₹)
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Gross Amount (excluding all taxes) charged by the service provider for providing works contract service	1,50,000
Actual Value of material transferred in the above works contract (VAT under the relevant State VAT Law has been paid on this value)	1,05,000
Excise Duty paid on Inputs	13,125
Service Tax paid on input services	1,500
Excise Duty paid on the capital goods, purchased during the year, used in the provision of works contract service	1,500
Rate of Service Tax	12.36%

[5]

(c) Discuss whether the following services are chargeable to service tax -

- (i) Commission received for canvassing advertisement for publishing.
- (ii) Pre-school education provided by Star Play School. Star Play School is not recognized by any authority.
- (iii) Charges are collected by a developer for distribution of electricity within a residential complex.
- (iv) Publication of advertisement in Hindustan Times.

[5]

Section B (Answer all the Questions)

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

Answer the following with the help of decided case laws:

- (a)** Can an assessee make an additional/new claim before an appellate authority, which was not claimed by the assessee in the return of income (though he was legally entitled to), otherwise than by way of filing a revised return of income? **[5]**
- (b)** Can the rental income from the unsold flats of a builder be treated as its business income merely because the assessee has, in its wealth tax return, claimed that the unsold flats were stock-in-trade of its business? **[5]**
- (c)** Whether consideration for transfer of sales tax incentive taxable as revenue receipt? **[5]**
- (d)** Did the Income Tax Appellate Tribunal (ITAT) fall into error in not holding that the loss of ₹4,92,71,000/- on account of derivative transaction was a speculative loss, and was

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entitled to the benefit of Section 73, in view of the Explanation to Section 73 of the Income Tax Act. [5]

6. ABC Ltd. is engaged in manufacture of chemical (since 1960) and paper (since 2009). The following data is noted from the balance sheet of ABC Ltd. as on March 31, 2013 —

	(₹ in thousand)
Equity share capital	60,00
Preference share capital	10,00
General reserve	40,00
Revaluation reserve	6,00
Share premium Total	8,00
Total	1,24,00

	(₹ in thousand)		
	Chemical division	Paper division	Total
Land	30,00	20,00	50,00
Plant and machinery	16,00	36,00	52,00
Stock	5,00	9,00	14,00
Debtors and other current assets	4,00	11,00	15,00
Less : Creditors	4,00	3,00	7,00
Total	51,00	73,00	1,24,00

Revaluation reserve was created by making upward revision of land belonging to chemical division (₹1 lakh) and paper divisions (₹5 lakh). The company wants to transfer paper division on April 1, 2013 by way of slump sale for a total consideration of ₹108 lakh (transfer expenses being ₹38,000). By taking into consideration the following additional information, find out the amount of capital gains and other tax consequences.

1. Transfer agreement does not specify value of individual assets/liabilities. However, the value of land of paper division for the purpose of stamp duty is ₹46 lakh. The same amount is adopted by the stamp valuation authority of the MP Government.

2. The rate of depreciation on plant and machinery owned by ABC Ltd. is 15 per cent. The depreciated value of the block (consisting of chemical division and paper division) on April 1, 2013 is ₹70 lakh for income-tax purpose. Apart from transferring plant and machinery of paper division, the company purchases an old Plant P for ₹1 lakh and sells Plant Q for ₹20 lakh (situation 1) or ₹50 lakh (situation 2) in September 2013. Plant P and Q belong to chemical division.

Plant and machinery (old) of the paper division was purchased in May 2009 for ₹95 lakh. The division started commercial production in June 2009. However, one of the plants (cost ₹10 lakh) was put to use in March 2010. No other asset for paper division is purchased/ sold between May 2009 and March 2013. [10]

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

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- (a) (i)** Mr. Vinod Dutta, an Indian resident, won a Tata Indica worth ₹ 6 Lakhs, as the first prize in a lottery. According to Section 194B of the Income Tax Act, 1961, tax has to be deducted at source from the winnings of lottery at the time of payment of the prize money.

Explain the procedure to be adopted before handing over the Tata Indica (the lottery prize) to Mr. Vinod Dutta. **[3]**

- (ii)** For the assessment year 2009-10, assessment of X Ltd. is completed under section 143(1) [income assessed: ₹ 4,47,000]. On March 28, 2014, the Assessing Officer issues a notice under section 148 to X Ltd. that an income of ₹ 45,760 has escaped assessment. The said notice is received by X Ltd. on April 3, 2014. Is the notice valid? **[2]**

- (b)** Company X which has an accumulated business loss of ₹10,00,000 and unabsorbed depreciation of ₹7,00,000 wants to reorganize its business by amalgamating with a rival company Y, which is engaged in the same line of production but with a smaller capital, but has an efficient management set up and more modern machinery. Company Y is agreeable to the amalgamation.

What are the alternative courses available to the companies for effecting the merger and how would you advise them as to the best course of action? **[5]**

- (c)** The following information is submitted by X for the assessment year 2014 – 2015 (i.e., previous year ending March 31, 2014)-

	₹
Capital gain on sale of a property situated in Pune (amount is received in Mauritius)	18,10,000
Income from a business in Pune controlled from Mauritius	20,50,000
Income from a business in Mauritius controlled from Pune (amount is received in Mauritius)	15,90,000
Rent from a commercial property in UK received in Mauritius but later on remitted to India	28,80,000
Consultancy fees received from an Indian company (for a project situated in UK) (amount is deposited in his account with Citibank, Pune branch, however, it is withdrawn by him in Mauritius)	10,50,000
Interest from deposits with an Indian company received in Mauritius	1,30,000
Profits for the year 2012-13 of a business in Mauritius remitted to India during the previous year 2013-14 (not taxed in India earlier)	7,70,000
Gift received from parents of Mrs. X	10,00,000
Royalty received from the Government of West Bengal (paid to him in Mauritius for project situated in Mauritius)	3,00,000

Determine the net income of X for the assessment year 2014-15 in the following cases —
Case 1 - If X is resident and ordinarily resident in India,
Case 2 - If X is resident but not ordinarily resident in India,
Case 3 - If X is non-resident in India. **[5]**

8. Answer any one Question [1x5]

(a) XYZ 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) X furnishes the following particulars for the compilation of his wealth-tax return for assessment year 2014-15:

Particulars	₹
1. Gifts of jewellery made to wife from time to time aggregating ₹60,000 market value on valuation date	3,00,000
2. Flat purchased under installment payment scheme in 1972 for ₹7,50,000, used for purposes of his residence and market value as on March 31, 2014 (installment remaining unpaid : ₹50,000)	18,00,000
3. Urban land transferred to minor handicapped child valued on March 31, 2014	5,00,000

Explain how you will deal with these items. Make suitable assumptions, if required. **[5]**

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

(a) Ravi, aged 66 years and ordinarily resident in India, is a professional. He has earned ₹4,00,000 from services provided outside India. His foreign income was taxed at 20% in that country where services were rendered. India does not have any tax treaty with that country. Assuming that Indian income of Ravi is ₹3,00,000, what relief of tax under section 91 of the Income-tax Act, 1961 will be allowed to him? Ravi has contributed ₹32,000 towards public provident fund. **[5]**

(b) State the criteria which are to be satisfied to call a transaction as an international transaction. **[5]**

(c) Discuss taxation aspect in relation to the international mergers and acquisitions. **[5]**