

**Paper-14: Indirect and Direct - Tax Management**

Time Allowed: 3 hours

Full Marks: 100

**All the questions relate to the assessment year 2014-15, unless stated otherwise.**

**Working notes should form part of the answers.**

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

**1. Fill up the blanks:**

**[1×25]**

- (i) For SSI exemption benefits, the value of clearances in the previous year should not be exceed the limit of ₹400 lakhs. (₹150 lakhs; ₹450 lakhs; ₹400 lakhs).
- (ii) For the purpose of levy tax on income other than agricultural income, Union list contain entry Entry No. 82. (Entry No. 92C; Entry No. 82; Entry No. 97)
- (iii) A partnership firm is taxable at the rate of 30%. (30%; 35%; 40%)
- (iv) A person can be said to have substantial interest, if he is entitle for 20% or more. (20% or more; 10% or more; 50% or more) of share of profit.
- (v) The term income includes the following types of incomes- Legal and illegal both. (Legal and illegal both; Legal only; Illegal only).
- (vi) If total income of Mr. X is Rs. 3,00,000, his tax liability including surcharge and cess shall be 8,240. (10,300; 11,330; 8,240)
- (vii) The way to reduce tax liability by taking full advantage provided by the Act is Tax Planning. (Tax Planning; Tax evasion; tax management).
- (viii) Determine the status of X and Y who are the legal heir of Z is Body of individual. (Body of individual; Individual; Association of person).
- (ix) Capital receipt is Compensation received for compulsory evacuation of place of business. (Dividend from investment; Bonus shares; Sale of technological know-how; Compensation received for compulsory evacuation of place of business)
- (x) Capital receipt does not include Dividend on investment. (Dividend on investment; Bonus shares; Sale of know-how; Compensation received for vacating business place)
- (xi) If an assessee earns rent from a sub-tenant in respect to tenanted property let out as a residence, the said rent is Taxable as income from other sources, unless the assessee is in the business of subletting properties on a regular basis. (Exempt under Section 10; Taxable under the head income from house property; Taxable as business income, as the letting out is a commercial activity; Taxable as income from other sources, unless the assessee is in the business of subletting properties on a regular basis)
- (xii) if any expenditure is incurred by an Indian company wholly and exclusively for purpose of amalgamation or demerger, the said expenditure is allowable as a deduction, spread over five successive years beginning with the previous year in which the amalgamation or demerger taken place. (not allowable as a deduction as a deduction in computing "Profits and gains from business or profession; Fully deductible as revenue expenditure in the year in which it is incurred; allowable as a

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deduction, spread over eight successive previous years beginning if the previous year in which the amalgamation or demerger taken place; allowable as a deduction, spread over five successive years beginning with the previous year in which the amalgamation or demerger taken place)

- (xiii) Under Section 41(4) of the Income-tax Act, 1961, where a bad debt allowed as a deduction under Section 36(1)(vii) in an earlier year is subsequently recovered, It is taxable as business income in the year of recovery. (It is taxable to the extent of 50% of recovery, in the year of receipt, as business income; It is taxable as business income in the year of recovery; It is added back to the income of the year when it was written off and taxed as business income; It is taxable as income from other sources in the year of receipt)
- (xiv) Long-term capital gains arising on compulsory acquisition of agricultural land held by a domestic company within specified urban limits is not exempt under Section 10(37). (not exempt under Section 10(37); exempt under Section 10(37) in full; 50% of the receipt is exempt under Section 10(37); 25% of the receipt is exempt under Section 10(37))
- (xv) Goods specified under Standards of Weights and Measures Act, 1976 as well as in the notification issued by the Government of India along with rate of abatement can be assessed under Maximum Retail Price. (Maximum Retail Price; Transaction Value; Retail Price; Whole Sale Price)
- (xvi) Interconnected undertakings means Holding and subsidiary companies. (Head office and Branch office; Holding and subsidiary companies; Group of companies; Companies under the same management)
- (xvii) Part of transaction value includes Transportation charges from the place of factory to the place of branch. (Transportation charges from the place of removal to the place of buyer; Transportation charges from the place of factory to the place of branch; Transportation charges from the place of distributor to the place of buyer; Transportation charges from the place of buyer to any other place)
- (xviii) Excisable goods removed for re-warehousing and export therefrom without payment of duty by using the B-3 Bond. (B-3 Bond; B-2 Bond; B-4 Bond; B-7 Bond)
- (xix) CT-1 form received by the manufacturer from Merchant exporter. (Merchant exporter; EOU unit; Manufacturer; First stage dealer)
- (xx) If proper invoice for export along with the packing list and ARE -1 form in Sixuplicate. (Sixuplicate; Duplicate; Triplicate; Quadruplicate)
- (xxi) No rebate is allowed if the rebate amount is less than ₹ 500. (₹ 500; ₹ 1,000; ₹ 2,000; ₹ 4,000)
- (xxii) The unutilized CENVAT Credit can be carried forward Without any time limit. (Up to 6 months; Up to 8 years; Without any time limit; Up to 10 years)
- (xxiii) Cenvat Credit on capital goods can be claimed in the year in which it is purchased is Up to 50%. (Up to 50%; Up to 100%; Up to 25%; Up to 75%)
- (xxiv) Cenvat Credit on goods other than capital goods can be utilized As soon as goods received into the factory. (As soon as goods received into the factory; Only after payment actually made; Only after the goods actually sold; As soon as manufacture takes place.)
- (xxv) Cenvat Credit is not applicable if the purchased goods are Light Diesel Oil. (Light Diesel Oil; Steel products; Plastic products; Wood products)

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### Question 2.

- (a) Ram Ltd., a closely held Indian company, is engaged in the business of manufacture of paints in India. A profit or loss account for the year ending 31.3.2014 is given below:

#### Profit and Loss Account

Figures in lakhs

Particulars	₹	Particulars	₹
Salary and wages	7.50	Sales	48.00
Postage and Telegrams	0.40	Amount withdrawn from	3.00
Travelling and Conveyance	0.50	General Reserve	
Depreciation	5.00		
Income-tax	4.00		
Wealth tax	0.10		
Excise duty due	1.00		
Provisions for future losses	0.60		
Proposed dividend	0.80		
Loss of subsidiary company	0.50		
Audit fee	0.25		
Director remuneration	8.00		
Deferred tax liability	1.35		
Net profit	21.00		
<b>Total</b>	<b>51.00</b>		<b>51.00</b>

#### Additional information

1. The excise duty due on 31.3.2014 was paid on 2.12.2014.
2. Custom duty of ₹ 1,20,000 which was due on 31.3.2012 was paid during the financial year 2013-14
3. Depreciation as per income tax is ₹11.43 lakhs.
4. The company wants to set off the following losses/allowances:

	For tax purposes (₹)	For accounting purposes (₹)
Brought forward loss of assessment year 2013-14	12,00,000	10,00,000
Unabsorbed depreciation	3,00,000	3,00,000

Compute the total income of the assessee and the tax liability for the assessment year 2014-15.

[10]

#### Solution:

#### Computation of taxable income of R Ltd. as per normal provisions

Net profit as per profit and loss account	₹	₹
		21,00,000
<b>Add:</b> Amount disallowed		
Income-tax	4,00,000	
Wealth tax	10,000	
Outstanding excise duty	1,00,000	
Provision for future losses	60,000	
Proposed dividend	80,000	
Loss of subsidiary company	50,000	
Deferred tax liability	1,35,000	

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Depreciation for separate consideration	5,00,000	13,35,000
		34,35,000
<b>Less:</b>		
Depreciation as per income-tax	11,43,000	
Amount withdrawn from General Reserve	3,00,000	
Custom duty of 2011 -12 paid	<u>1,20,000</u>	<u>15,63,000</u>
		18,72,000
Less: B/f business loss and unabsorbed depreciation (fully set off)		<u>15,00,000</u>
Gross total income		3,72,000
<b>Less:</b> Deduction under Chapter VIA		<u>Nil</u>
Total income		<u>3,72,000</u>

### Book profit under section 115JB

Net profit as per profit and loss account		21,00,000
<b>Add:</b>		
Income-tax	4,00,000	
Provision for future losses	60,000	
Loss of subsidiary company	50,000	
Proposed dividend	80,000	
Deferred tax liability	1,35,000	
Depreciation	<u>5,00,000</u>	<u>12,25,000</u>
		33,25,000
<b>Less:</b>		
Depreciation (same amount as there is no revaluation)	5,00,000	
Amount withdrawn from general reserve	3,00,000	
Unabsorbed depreciation (Business loss or unabsorbed depreciation as per books whichever is less)	<u>3,00,000</u>	<u>11,00,000</u>
Book profit		<u>22,25,000</u>

### Computation of tax liability

Total income computed	3,72,000
Tax on total income @ 30.9% (30% + surcharge Nil + EC + SHEC@3%)	1,14,950
Tax @ 19.055% (18.5% + surcharge Nil + EC + SHEC @ 3%) on ₹22,25,000 as per provisions of section 115JB	4,23,974
∴ Tax payable for assessment year 2014-15 is ₹4,23,970.	

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(b) A owns a house property situated in Delhi which is not let at all during the previous year. Compute the net maintainable rent of the house property assuming:

(i) The annual rent assessed by the local authority is ₹2,00,000 and the tax levied is ₹30,000.

(ii) The property has not yet been assessed by the local authority.

The fair market rent of the property is ₹ 2,40,000 and the standard rent is ₹2,20,000.

[5]

**Solution:**

	₹	₹
<b>Case (i)</b>		
Gross Maintainable Rent		2,00,000
<b>Less:</b> (1) taxes levied	30,000	
(2) 15% of Gross Maintainable Rent	<u>30,000</u>	<u>60,000</u>
Net maintainable rent		<u>1,40,000</u>
 <b>Case (ii)</b>		
Gross Maintainable Rent		2,20,000
<b>Less:</b> (1) taxes levied	Nil	
(2) 15% of Gross Maintainable Rent	<u>33,000</u>	<u>33,000</u>
Net maintainable rent		<u>1,87,000</u>

**Questions 3.**

(a) Mr. X presents following details for quarter ending 31st March, 2013 -

- (1) Opening Balance of Input VAT credit as on 1-1-2013 : ₹ 25,000.
- (2) Inputs purchased during 1-1-2013 to 31-3-2013 : ₹ 40 lakh.
- (3) Within the state sales of manufactured goods : ₹ 50 lakh.
- (4) Inter-state Sales : ₹ 6 lakh.

CST rate is 2%. There was no inventory as on 1-1-2013 or 31-3-2013. The VAT laws governing Mr. X provide for the refund of input-VAT credit after the end of the first financial year itself.

VAT rate is 12.5% on inputs and 4% on sales. Compute the amount of refund available to Mr. X. [7]

**Solution:**

**Computation of refund available to Mr. X (amounts in ₹):**

<b>Output VAT -</b>		
VAT payable on sales (₹50,00,000 × 4%)		2,00,000
CST payable on sales (₹ 6,00,000 × 2%)		12,000
<b>Total output tax</b>		<b>2,12,000</b>
Less: Input tax credit -		
Opening balance of input VAT credit as on 01-01-2013	25,000	
Inputs purchased during 01-01-2013 to 31-3-2013 (₹ 40,00,000 × 12.5%)	5,00,000	5,25,000
<b>Balance lying as VAT-credit as on 31-3-2013 eligible for refund</b>		<b>-3,13,000</b>

**(b) Write a short note on rebate of duty on goods exported out of India under the Central Excise. What are the conditions and limitations subject to which rebate is granted on finished goods?**

**[8]**

**Answer:**

**(1)** According to Rule 18 of the Central Excise Rules, 2002, the Central Government may, by a notification, grant rebate of -

- (i) Duty paid on such excisable goods which are exported out of India, or
- (ii) Duty paid on materials used in the manufacturing or processing of such goods.

The rebate shall be subject to such conditions or limitations, if any, and fulfillment of such procedure, as may be specified in the notification.

**(2) Conditions and Limitations for grant of refund**

Rebate of the whole of the duty paid on all excisable goods, falling under First Schedule to Central Excise Tariff Act, 1985, exported to any country other than Bhutan, is granted subject to the conditions and limitations, specified hereunder -

- (i) The excisable goods shall be exported, after payment of duty, directly from a factory/warehouse except as otherwise permitted by the CBEC by a general or special order;
- (ii) The excisable goods shall be exported within 6 months from the date on which they were cleared for export from the factory of manufacture or warehouse or within such extended period as the Commissioner of Central Excise may, in any particular case, allow;
- (iii) The excisable goods supplied as ship's stores for consumption on board a vessel bound for any foreign port are in such quantities as the Commissioner of Customs at the port of shipment may consider reasonable;
- (iv) The rebate claim by filing electronic declaration shall be allowed from such place of export and such date, as may be specified by the Board in this behalf;
- (v) The market price of the excisable goods at the time of exportation is not less than the amount of rebate of duty claimed;
- (vi) The amount of rebate of duty admissible is not less than ₹500;
- (vii) The rebate of duty paid on those excisable goods, export of which is prohibited under any law for the time being in force, shall not be made.
- (viii) In case if a manufacturer is availing area-based exemption and exporting goods therefrom, no rebate of duty shall be admissible.

**Questions 4.**

**(a) Mention the various export promotion schemes under FTP.**

**[5]**

**Answer:**

Various Export Promotion Schemes have been introduced to encourage exports. Some of these are –

- (i) Duty Exemption and Remission Schemes

- (ii) Reward Schemes
- (iii) EPCG Schemes
- (iv) EOU/SEZ Schemes
- (v) Deemed exports

**(b) Explain the 'Principle of Restriction' under FTP.**

**[5]**

**Answer:**

FTP provides for certain restrictions on exports and imports for various strategic and health and other reasons.

**(1) Purpose of Restrictions :** DGFT is authorised to impose restrictions, through notification, for -

**(a) Protection of -**

- (i) public morals.
- (ii) human, animal or plant life or health.
- (iii) patents, trademarks and copyrights and the prevention of deceptive practices.
- (iv) national treasures of artistic, historic or archaeological value.
- (v) trade of fissionable material or material from which they are derived.

**(b)** Prevention of traffic in arms, ammunition and implements of war and use of prison labour.

**(c)** Conservation of exhaustible natural resources.

**(2) Export/Import of restricted goods/services:** Any goods/services, export or import of which is restricted under ITC (HS) may be exported or imported only in accordance with an Authorization or in terms of a public notice in this regard.

**(c) Briefly discuss duty remission schemes.**

**[5]**

**Answer:**

The provisions are as under -

**(1) Duty remission schemes:** Duty remission schemes enables post export replenishment or remission of duty on inputs used in export product. Duty remission schemes consists of -

**(a)** Duty Drawback (DBK) Scheme.

**(b)** Duty Entitlement Passbook (DEPB) Scheme.

**(2) Re-import of goods exported under duty exemption/remission scheme:** Goods exported under Advance Authorization/DFIA/DEPB may be re-imported in same or substantially the same form. The RA which has issued AA/DFIA/DEPB, should also be kept informed of such re-importation within one month of the re-importation.

**(3) Value Addition :** For the purpose of duty exemption and remission schemes, Value Addition (VA) shall be calculated as follows -

$$\text{Value addition} = \frac{A - B}{B} = 100$$

**Where-**

A = FOB value of export realized/ FOR value of supply received

B = CIF value of inputs covered by Authorization, plus any other imported materials used on which benefit of DBK is claimed.

**Question 5.**

**(a) Who are the residents eligible to file an application for advance ruling under the Customs Act, 1962? [7]**

**Answer:**

**Residents eligible to file an application for advance ruling:** The Central Government has, by notification, specified that the following resident persons shall be eligible to file an application for advance ruling, -

- (1) Any public sector company; (applicable for Excise, Customs and Service Tax)
- (2) A resident who proposes to import goods claiming for assessment under heading 9801 of First Schedule to Customs Tariff Act, 1975 (i.e. Project Imports by residents), (applicable only for Customs)
- (3) Resident public limited company.

The expression 'resident public limited company' means,-

- (i) a public company defined in the Companies Act and includes a private company, which is a subsidiary of a public company, and
- (ii) which is resident in India in terms of Income-tax Act, 1961.

**(b) Explain the procedure in appeal to be followed by the Commissioner (Appeals). [8]**

**Answer:**

The procedure in appeal [Section 35A of Central Excise Act, 1944/Section 128A of Customs Act, 1962/ Section 85 of Finance Act, 1994] is as under,-

- (1) Opportunity of hearing:** The Commissioner (Appeals) shall give an opportunity to the appellant to be heard, if the appellant so desires.
- (2) Additional grounds can be admitted :** The Commissioner (Appeals) may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not already specified in the grounds of appeal, if the Commissioner (Appeals) is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.
- (3) Granting of time and Adjournment of hearing :** The Commissioner (Appeals) may, if sufficient cause is shown at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing.

Maximum adjournment - 3 times : However, no such adjournment shall be granted more than three times to a party during hearing of the appeal.



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- (4) **Time limit of disposal of appeal:** The Commissioner (Appeals) shall, where it is possible to do so, hear and decide every appeal within a period of six months from the date on which it is filed.
- (5) **Order of Commissioner (Appeals):** The Commissioner (Appeals) shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against.
- **Enhancement by Commissioner (Appeals) :** An order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund shall not be passed by Commissioner (Appeals) unless the appellant has been given a reasonable opportunity of showing cause against the proposed order.
  - **Issuance of show cause notice :** Where the Commissioner (Appeals) is of opinion that any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, no order requiring the appellant to pay any duty not levied or paid, short-levied or short-paid or erroneously refunded shall be passed unless the appellant is given notice within the time-limit specified in section 11A to show cause against the proposed order.  
The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.
  - **Service Tax provisions relating to order of Commissioner (Appeals) [Section 85(4)]:** The Commissioner of Central Excise (Appeals) shall hear and determine the appeal and, subject to the provisions of this Chapter, pass such orders as he thinks fit and such orders may include an order enhancing the service tax, interest or penalty. The order of enhancement can be passed only after the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.
- (6) **Communication of order passed by Commissioner (Appeal):** On the disposal of the appeal, the Commissioner (Appeals) shall communicate the order passed by him to the appellant, the adjudicating authority, the Chief Commissioner and the Commissioner.
- (7) **Commissioner (Appeals) doesn't have power to refer the case back:** The Supreme Court in **MIL India Ltd. v. CCE**. [2007] 210 ELT188 (SC), has held that the Commissioner Appeals does not have power to refer the case back to the adjudicating authority for fresh adjudication. The statutory power of remand has been taken away by the Finance Act, 2001, by making necessary amendment in the statute. The same view has been expressed by CBEC vide Circular No. 275/34/2006-CX. 8A, dated 18-2-2010.  
However Commissioner (Appeals) has power to remand the case back in service tax law.

### Question 6.

(a) **Profit and Loss A/c of R G and Sons, a partnership firm is as follows:**

Particulars	₹	Particulars	₹
<b>Establishment and other expenses</b>	<b>3,00,000</b>	<b>Gross Profit</b>	<b>11,60,000</b>
<b>Interest on Capital to partners @ 24% p.a.</b>	<b>48,000</b>	<b>Rent from House Property</b>	<b>60,000</b>
<b>Interest on loan to partners @ 20%</b>	<b>20,000</b>	<b>Interest from Government Securities</b>	<b>32,000</b>
<b>Interest on loan to Mrs. @ 16%</b>	<b>24,000</b>		
<b>Municipal taxes of let out house property</b>	<b>10,000</b>		
<b>Repairs of the house property</b>	<b>5,000</b>		

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Donations to National Children's Fund	10,000		
Remuneration to partners	5,60,000		
Interest on money borrowed for investment in Government Securities	10,000		
Sales tax	25,000		
Net Profit	2,40,000		
	12,52,000		12,52,000

### Other information

- (a) Out of municipal taxes of ₹10,000; ₹6,000 was payable on 31.3.2014 and the same was paid on 30.6.2014.
- (b) Sales tax includes a sum of ₹10,000 payable on 31.3.2014. ₹6,000 was paid on 31.7.2014 and ₹4,000 was paid on 30.11.2014, although the due date of payment under the Sales-tax Act was 14.5.2014.

### Compute:

- (i) The book-profit.
- (ii) The maximum amount of remuneration deductible u/s 40(b).
- (iii) The Total Income of the firm assuming that the maximum remuneration allowable u/s 40(b) is paid to the partners.
- (iv) Also state the income from the firm which will be taxable in the hands of the partners. [10]

### Solution:

	₹	₹	₹
(a) Calculation of book-profit:			
Net Profit as per P & L A/c			2,40,000
Less: Income credited to P & L A/c but taxable under other heads			
(i) Rent from house property	60,000		
(ii) Interest from Government Securities	<u>32,000</u>	<u>92,000</u>	
			1,48,000
Add: 1. Inadmissible expenses			
(a) Interest to partners in excess of 12% on capital	24,000		
(b) Interest on loan in excess of 12% $\frac{20,000 \times 8}{20}$	8,000		
(c) Remuneration to partners	5,60,000		
(d) Sales-tax subject to section 43B	4,000		
(e) Donation to NCF to be allowed as deduction from GTI	<u>10,000</u>	6,06,000	
2. Expenses debited to P & L A/c but allowable under other heads			
(a) Municipal taxes of house property	10,000		
(b) Repairs of house property	5,000		
(c) Interest on money borrowed for investment in Govt. Securities	<u>10,000</u>	<u>25,000</u>	<u>6,31,000</u>
<b>Book Profit</b>			<b><u>7,79,000</u></b>

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(b) Maximum amount allowable on account of remuneration	
First ₹3,00,000 @ 90%	2,70,000
On balance ₹4,79,000 @ 60%	<u>2,87,400</u>
	<u>5,57,400</u>
(c) Computation of Total Income of the Firm	
(i) Income from house property:	
Annual Value	60,000
Less: Municipal taxes paid	<u>4,000</u>
	56,000
Less: deduction u/s 24(a) 30% as statutory deduction	<u>16,800</u> 39,200
(ii) Profit and gains of business or profession:	
Book Profit as calculated above	7,79,000
Less: Remuneration to partners allowable as calculated under Step (b) above	<u>5,57,400</u> 2,21,600
(iii) Income from other sources:	
Interest from Government Securities	32,000
Less: Interest on money borrowed	<u>10,000</u> <u>22,000</u>
<b>Gross Total Income</b>	<b>2,82,800</b>
Less: Deductions u/s 80C to 80U	
U/s 80G —50% of ₹10,000	<u>5,000</u>
<b>Total Income</b>	<b><u>2,77,800</u></b>
(d) (i) Share of profit from firm	
50% of (Total Income - Tax paid) i.e., (₹2,77,800 - ₹85,840) = ₹95,980 shall be fully exempt for each partner.	
(ii) Interest and remuneration of each partner will be taxable in their individual assessment under the head 'profits and gains of business or profession'. Assuming that both R and G have contributed equal capital/loan and both are entitled to equal remuneration, the amount includible as business income will be as under:	
(a) 50% of interest on capital and loan, which was allowed to the firm u/s 40(b), i.e. (24,000+ 12,000) ₹36,000	
Therefore 50% of ₹36,000	₹ 18,000
(b) 50% of total remuneration allowed to the firm i.e. 50% of ₹5,57,400	
Amount includible in the Total Income of each partner as business income	<u>2,78,700</u>
	<u>2,96,700</u>

**(b) The Assessing Officer has reasons to believe that the following incomes of the assessment year have escaped assessment:**

	Amount of income escaped assessment
<b>Assessment year 2007-08</b>	<b>1,90,000</b>
<b>Assessment year 2008-09</b>	<b>95,000</b>
<b>Assessment year 2009-10</b>	<b>5,20,000</b>

**The Assessing Officer has issued 3 notices on 15.11.2013. Are these notices valid?**

**What will be your answer if the person has some assets located outside.**

**[5]**

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### Solution:

Assessment year 2007-08, notice could be issued upto 31.3.2014, as the income escaped assessment is more than ₹1 lakhs. Hence, it is a valid notice provided it has been issued after getting proper sanction.

For assessment year 2008-09, notice could be issued upto 31.3.2013 as the income escaped assessment is less than 1 lakh. Hence, notice issued on 15.11.2013 is not a valid notice.

For assessment year 2009-10, notice can be issued upto 31.3.2016 for any income which has escaped assessment. Hence, notice issued on 15.11.2013 is a valid notice provided it has been issued after getting proper sanction, if required.

(b) The assessment can be opened in all the cases upto 6 years from the end of the previous year in which income has escaped assessment irrespective of the amount of income which has escaped assessment/reassessment provided the necessary sanction from the higher authority has been taken.

### Question 7.

(a) Rahim, a resident Indian, has derived the following incomes for the previous year relevant to the assessment year 2014-15.

Sl. No.	Particulars	₹
1.	Income from profession	2,84,000
2.	Rent from house property in Country X ₹ 10,000 p.m. received there, municipal tax paid in that country ₹20,000 (Tax paid in Country X for his income in equivalent Indian rupees 10,000 on the net income of ₹ 1,00,000)	
3.	Royalty on books from foreign country Y (eligible for deduction under section 80QQB) (Tax paid in country Y @ 20%) converted in Indian rupees	10,00,000
4.	The expenses incurred for earning royalty	1,00,000
5.	Interest from scheduled banks	18,000

Rahim wishes to know whether he is eligible to any double taxation relief and if so, its quantum.

India does not have any Double Taxation Avoidance Agreement with Countries X and Y. [7]

### Solution:

#### Computation of relief u/s 91 of Rahim for assessment year 2014-15

	₹	₹
Income from house property in country X		
Gross Annual value 10,000 x 12	1,20,000	
Less: Municipal tax paid in country X	20,000	
	1,00,000	
Less: Standard deduction @ 30%	30,000	70,000
Profits and Gains of Business or Profession		
Income from professions	2,84,000	
Royalty on books from country Y (₹10,00,000 - ₹1,00,000)	9,00,000	11,84,000
Income from other sources		
Interest from Schedule Banks		18,000
Gross total income		12,72,000
Less: Deduction under Chapter VIA (Section 80QQB)		3,00,000

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Total income		9,72,000
Tax on total income of ₹9,72,000		1,24,400
Add: Education cess & SHEC @ 3%		3,732
Total tax payable		1,28,132
Average rate of income tax (₹1,28,132/₹9,72,000)	13.1823%	
Average rate of tax of country (10,000/1,00,000) x 100	10%	
Average rate of foreign tax of country Y (₹2,00,000/₹ 10,00,000)x 100	20%	
Relief under section 91 @ 10% on foreign income of ₹70,000	7,000	
Less: Relief under section 91@ 13.18237% on Foreign Income of ₹6,00,000	79,094	86,094
Balance tax payable (rounded off)		42,040

**(b) Punjab National Bank provides the following information for the month of June:**

<b>CENVAT Credit available on Inputs</b>	<b>₹ 2,00,000</b>
<b>CENVAT Credit available on Inputs Services</b>	<b>₹ 4,00,000</b>
<b>Service Tax liability before availing eligible CENVAT</b>	<b>₹10,00,000</b>

**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. [8]**

**Solution:**

According to Rule 6(3B) of CCR, 2004, a banking company and a financial institution including a non-banking financial company engaged in providing services by way of extending deposits, loans or advances, shall pay for every month, an amount equal to 50% of the CENVAT credit available on inputs and input service in that month. Therefore, a banking company is entitled to avail only 50% of CENVAT credit in respect of inputs and input services.

In view of above statutory provisions, CENVAT Credit available to bank for the month of June and its net service tax liability will be computed as under (*amount in ₹*) :

CENVAT Credit available on Inputs	2,00,000
Less: Payment of 50% of CENVAT Credit available on Input by virtue of Rule 6(3B). It effectively means 50% of available CENVAT Credit is to be disallowed	1,00,000
<b>Net CENVAT Credit available on Inputs</b>	<b>1,00,000</b>
CENVAT Credit available on input Services	4,00,000
Less: Payment of 50% of CENVAT Credit available on Input Services by virtue of Rule 6(3B). It effectively means 50% of available CENVAT Credit is to be disallowed.	2,00,000
<b>Net CENVAT Credit available on input services</b>	<b>2,00,000</b>

**Determination of Net Service Tax liability of Bank for the month of June (amount in ₹):**

Service Tax liability of bank before availing eligible CENVAT Credit	10,00,000
Less: Net/ Eligible CENVAT Credit available on Inputs	1,00,000
Less: Net/ Eligible CENVAT Credit available on Input Services	2,00,000
<b>Net Service Tax liability of bank after availing eligible CENVAT Credit</b>	<b>7,00,000</b>