## TAX MANAGEMENT AND PRACTICE

**Full Marks: 100**

## Section A
## Answer all Questions

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

Answer the following with the help of decided case laws-

**(a)** Does the fabrication, assembly and erection of waste water treatment plant amount to manufacture?

**(b)** Whether the carpet, in which jute is predominant by weight, but the surface is entirely of polypropylene, should be classified as jute carpet or polypropylene carpet?

**(c)** In case of combo-pack of bought out tooth brush sold alongwith tooth paste manufactured by assessee, is tooth brush eligible as input under the CENVAT Credit Rules, 2004?

**(d)** Merely because assessee has sustained loss more than the refund claim, is it justifiable to hold that it is not a case of unjust enrichment even though the assessee failed to establish non-inclusion of duty in the cost of production?

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

***(a)*** *Solid Shoes Co., a manufacturer of footwear, used to purchase various raw materials like fabrics, rubber, chemicals, solvent, etc., which were mixed together. The thin layer of such mixture was sandwiched between two sheets of textile fabric through a calendaring machine. The resultant product 'Double Textured Rubberized Fabric' (DTRF) was cut and stitched as per requirement and was used as shoe-uppers. At times, DTRF was sent to job-workers for stitching purposes. After completing the entire process, the vulcanisation of footwear was done and then, it would be available for sale as footwear.*

*Some of the DTRF was used in the manufacture of canvas shoes, which were exempt from duty. The department contended that the intermediate product DTRF was a distinct product with specific properties and was used in considerable quantities for making rain-coats, holdalls, hand-bags, etc., in the outside market. Since the DTRF was excisable good and it was used in the manufacture of exempted final product being canvas shoes, therefore DTRF was liable to excise duty. However, the department didn't have sufficient evidence to prove its marketability.*

*Examine whether contention of the department is correct by referring to case law, if any, in the light of explanation added to section 2(d) of the Central Excise Act, 1944 w.e.f. 10th May, 2008.*

***(b)*** *Discuss whether remission of duty shall be granted or not, in the following cases, under the Central Excise Rules, 2002:*

(i) *Excisable goods manufactured in the factory are claimed by the manufacturer as unfit for consumption or for marketing.*

(ii) *Duty paid goods were damaged due to breakage in handling.*

(iii) *Finished goods entered in Daily Stock Account (DSA) were stolen from the factory.*

***(c)*** *Briefly discuss purpose and periodicity of various Excise Returns (ERs) to be filed under the Central Excise Rules, 2002.*

***3. Answer all Questions***

***(a)*** *Compute the amount of interest, if any, u/s 18 of the Customs Act, 1962 in the following independent cases-*

***(i)*** *ABC ltd. imported goods valuing ₹250 lakh vide a Bill of Entry presented before the proper officer on 1.11.2011, on which the rate of customs duty was 10%. The proper officer decided that the goods are subject to chemical examination and therefore, the same were provisionally assessed at a value of ₹250 lakh and ABC Ltd. paid provisional duty ₹30 lakhs on the same date. ABC Ltd. wants to voluntarily pay duty of ₹10 lakhs on 15.12.2011. Can it do so what are the condition which are to be complied before such payment.*

***(ii)*** *In the above case, if the final duty is assessed on 31.12.12 amounting to ₹47 lakh, calculate the interest liability under section 18.* ***[5]***

***OR,***

*State briefly the provision relating to abatement of duty on damaged or deteriorated goods under Customs Act, 1962.* ***[5]***

***(b)*** M/s. Abanti Associates is a registered dealer engaged in the manufacturing of steel in the state of Maharastra. During the year 2011-12 the firm has procured raw material of ₹25,50,320 (VAT@4%) and purchased plant and machinery of ₹30,00,000 (VAT @4%) and ₹8,00,000 (CST @2%) for use in the manufacturing of steel. Sales of materials made during the year is ₹35,00,000 (VAT @ 4%) and interstate sales is ₹10,58,000 (@2% CST). Besides above, branch transfer of ₹4,80,000 was made to Kolkata, calculate the following as per white paper on vat law in India

(i) Output tax;

(ii) Input tax credit;

(iii) Balance tax payable; and

(iv) Input tax credit, if any, to be carried forward. **[5]**

**(c)** A show cause notice demanding customs duty was issued in case of clearances made by a 100% Export Oriented Undertaking (EOU) to Domestic Tariff Area (DTA). Is the show cause notice tenable? **[5]**

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

**(a)** Compute taxable value and service tax from following sums received by M/s. A Ltd. (exclusive of service tax) (Ignore small service provider's exemption)-

(i) Publication of advertisement in magazine run by it : ₹15 lakhs;

(ii) Preparation of advertisements: ₹7 lakhs;

(iii) Aerial advertisement: ₹3 lakhs;

(iv) Commission for arranging advertisement for newspapers: ₹17 lakhs;

(v) Advertisement charges for advertisement on conveyance run by it: ₹9 lakh;

(vi) Internet advertisement charges: ₹6 lakhs;

**(vii)** Canvassing Advertisement: ₹13 lakhs. **[5]**

**(b)** Bonne Ltd. is engaged in providing erection, commissioning or installation services. Compute the value of taxable services for the month of October, 2011 with the help of the following particulars furnished by it-

| Receipts | Amount (₹) |
|---|---|
| Installation of thermal insulation | 24,00,000 |
| Commissioning of Mechanized Food Grain Handling Systems | 11,00,000 |
| Installation of transformer | 31,00,000 |
| Installation of street lights for a local authority | 8,00,000 |
| Erection of fire proofing system in airport | 1,35,00,000 |

All the receipts are excluding service tax. Bonne Ltd. is not eligible for small service provider's exemption under notification No. 33/2012. Assume that all the aforesaid works were leviable to sales-tax as transfer of property involved in execution of works contract. **[5]**

**(c)** A life insurance company furnishes following data of its business of the year and requests you to compute its service tax liability assuming that it had opted for option under Rule 6(7A) of the Service Tax Rules, 1994 (premium received is exclusive of taxes)-

(i) Risk cover policies (only risk cover provided; no investment involved): ₹15 lakhs;

(ii) Investment/ Saving Policies where sum invested was 90% of the premium and was informed to the policyholders at the time of providing the service: ₹180 lakhs;

(iii) Other investment/ saving policies issued during the year: ₹70 lakhs;

(iv) Renewal premium received on investment/ saving policies issued during previous years: ₹18 lakhs. **[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 advance given to employees and security deposit paid to the landlord by the amalgamating company, which became irrecoverable, be allowed as a business loss in the hands of the amalgamated company?

(b) Is the commission paid to doctors by a diagnostic centre for referring patients for diagnosis be allowed as a business expenditure under section 37 or would it be treated as illegal and against public policy to attract disallowance?

(c) Is it permissible under section 147 to reopen the assessment of the assessee on the ground that income has escaped assessment, after a change of opinion as to a loss being a speculative loss and not a normal business loss, consequent to a mere re-look of accounts which were earlier furnished by the assessee during assessment under section 143(3)?

(d) 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?

**6.** Profit and Loss account of X Ltd., a public limited company, discloses a net profit of ₹11 lakh for the year ending March 31, 2013. From scrutiny of records the following position emerged:

(i) Workmen and staff welfare expenditure debited in profit and loss account includes a sum of ₹1,10,000 being the cost of construction of a primary school exclusively for the benefit of children of employees.

(ii) A sum of ₹20,000 was debited in profit and loss account, being penalty by was of 1 per cent reduction in selling price imposed by the purchaser for non-fulfillment of delivery conditions of contract of sale due to factors beyond the price imposed by the purchaser for non-fulfillment of delivery conditions of contract of sale due to factors beyond the control of the company.

(iii) General Manager was paid a monthly salary of ₹ 9,500 and was provided with perquisite of the total value of ₹20,000 during the previous year.

(iv) Foreign technician (appointment approved by the Central Government) covered under section 10(6) (viia) who has come for the first time for production of sophisticated products of the company, was paid salary of ₹1.50 lakh and perquisites ₹26,000 per annum.

(v) Guest house expenses of ₹60,000 was debited to profit and loss account.

(vi) Interest account includes payment of ₹25,000 in respect of funds borrowed separately for acquisition of machinery.

(vii) Company received remuneration of ₹1 lakh for supply of know-how in the installation of machinery in pursuance of an agreement approved by the Board from a foreign enterprise.

(viii) Managing Director incurred expenses on his foreign tour for promotion of sales outside India ₹90,000 debited to profit and loss account.

(ix) During the year one machinery (rate of depreciation: 15 per cent) was sold for ₹22,000. Its original cost and written down value on income-tax basis as on April 1, 2012 were ₹40,000 and ₹ 3,000 respectively and the surplus was credited to capital reserve account.

Compute the taxable income of the company for the assessment year 2013-14 after taking the following into account:

(i) Depreciation on all assets including all additions mode during the year on straight line basis charged to profit and loss account amounted to ₹2 lakh.

(ii) Depreciated value of assets on April 1, 2012 is as follows: Plant and Machinery: ₹18,00,000 (rate of depreciation : 15 per cent), building : ₹5,90,000 (rate of depreciation : 10 per cent).

(iii) Plant and machinery (new) additions during the year amounted to ₹80,000 (assume normal depreciation at 15 per cent on 3 shifts working, date of installation : April 10, 2012).

(iv) Plant and machinery (solar power generating system) additions during the year amounted to ₹1.20 lakh (assume normal depreciation at 100 per cent and 3 shifts working, date of installation: April 10, 2012).

Indicate the reasons for the particular treatment given by you to the different items.

**[10]**

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

**(a) (i)** For assessment year 2005-06, assessment of X Ltd. is completed under section 143(1) [income assessed ₹ 6,50,000]. On March 28, 2012, the assessing officer issues a notice under section 148 to X Ltd. that an income of ₹1,05,000 has escaped assessment. The said notice is received by X Ltd. on April 3, 2013. Is the notice valid? **[3]**

(ii) For the assessment year 2011-12, R could not file the return within the due date. The Assessing Officer passed the order under section 144 on 31.05.2012 which was received by the assessee on 5.6.2012. The assesss filed the return on 2.6.2012. Is the return valid? **[2]**

**(b)** Bombay Suburban Co-operative Society, which is engaged in processing agricultural produce of its members, without the aid of power, and its marketing, furnishes the following particulars, determine its net income for the assessment year 2013-14: income from processing of agricultural produce : ₹28,000; income from marketing agricultural produce: ₹7,000; dividends from another co-operative society : ₹67,000; income from letting of godowns: ₹15,000; and income from agency business : ₹87,000. **[5]**

**(c)** Find out the time-limit for imposition of penalty in the following cases:

(i) On February 10, 2011, the Assessing Officer completes the assessment for the assessment year 2009-10 under section 143(3). For imposing concealment penalty under section 271(1)(c), the Assessing Officer initiates penalty proceedings on February 10, 2011.

(ii) In the aforesaid case suppose the assessee files an appeal to the Commissioner (Appeals). The Commissioner (Appeals) passes the order on April 17, 2012 and which is received by the assessee and the Commissioner on April 28, 2012 and May 2, 2012, respectively.

(iii) Suppose in (1) supra, the Commissioner revises the assessment under section 263 by his order dated August 16, 2011 which is received by the assessee on September 3, 2011.

(iv) Suppose in (1) supra penalty proceedings have been stayed by the Bombay High Court on August 29, 2011. The Supreme Court, however, vacates the stay order on November 6, 2011.

(v) Suppose in (2) supra, the Bombay High Court has stayed penalty proceeding from August 18, 2012 to September 20, 2012. **[5]**

**(d)** TQ trust derives a total income of ₹8,40,000. Out of ₹8,40,000, ₹1,70,800 is meant for public charitable purposes and the balance ₹6,69,200 is for the benefits of T (29 years) and Q (31 years) whose individual shares are not known. The trust has actually applied ₹60,000 towards public charitable purposes during the previous year. Determine the tax liability of the trust for the assessment year 2013-14 under the following situations:

a. T and Q are neither beneficiaries under any other trust nor their taxable income exceeds ₹2,00,000.
b. T is member of another trust (no income is derived for the trust), though taxable income of T and Q does not exceed ₹2,00,000.
c. Taxable income of T and / or Q is ₹2,00,010 though they are not beneficiaries under any other trust. **[5]**

**8. Answer any one Question [1x5]**

**(a)** Mr. Shankar owns a house property at Patna, which is let out at ₹90,000 p.a. The annual value of the property as per municipal records also is ₹90,000. Municipal taxes are partly borne by the owner (₹3,000) and partly by the tenant (₹4,000). Repair expenses are borne entirely by the tenant (₹3,000). The difference between the unbuilt area and specified area does not exceed 5%. The property was acquired on 10.05.1992 for ₹12,50,000. Determine for the purposes of Wealth-tax Act, the value of the property as on 31.03.2013 in the following situations:

(i) The house is built on a freehold land;
(ii) It is build on a leasehold land, the unexpired period of lease of the land is more than 50 years;
(iii) If the area of the plot on which the house is built is sq. metres, FSI permissible is 1.4 and FSI utilized is 1088 Sq. metres (136 metres x 8 storey's);
(iv) The tenant had made interest free deposit of ₹ 50,000 with the landlord.

**(b)** When is a person deemed to have concealed the particulars of his net wealthy within the meaning of section 18 of the Wealth-tax Act, 1957? Explain the procedure with respect to imposition of penalty on concealment of income.

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

**(a)** Computation if more than one ALPs determined: Consider the tax effect of the following –

(i) M/s. ABC Ltd. of India imported 1,000 Mobile phones from US Inc. being its associated enterprise, @ ₹2,500 per Mobile phone. The ALP's thereof, determined as per the most appropriate method, are (per mobile phone): ₹2,350, ₹2,400 and ₹2,450.
(ii) M/s. PQR Ltd. of India exported 50,000 Handicraft items to US Inc. being its associated enterprise in US, @ ₹2,000 per price. The ALP's thereof, determined as per the most appropriate method, are : ₹2,020, ₹2,060 and ₹2,100.

Notified percentage by Central Government under section 92C – 3%.

**(b)** Explain the provisions of advance pricing agreement.

**(c)** Write a note on effect to advance pricing agreement.