

Paper 16- Tax Management and Practice

Question 1

- (a) Explain the cases, where the income of the previous year is assessable in the previous year itself instead of the assessment year.
- (b) Mr. Anand & Mr. Vijay earned the following incomes during the previous year 2014-15. Mr. Anand is settled in Germany since 1995 and Mr. Vijay is settled in Mumbai. Compute the total income for the Assessment Year 2015-16.

Sl. No	Particulars	Amount (₹)	
		Mr. Anand	Mr. Vijay
1.	Interest on Canada Development Bonds (only 50% of interest received in India)	70,000	80,000
2.	Dividend from a British Company, received in London	56,000	40,000
3.	Profit from a business in Nagpur, but managed directly from London	2,00,000	2,80,000
4.	Short Term Capital gain on sale of shares of an Indian Company, received in India	1,20,000	1,80,000
5.	Income from a business in Chennai	1,60,000	1,40,000
6.	Fees for technical service rendered in India, but received in Germany	2,00,000	---
7.	Interest on savings bank deposit in UCO Bank, Delhi	14,000	24,000
8.	Agricultural income from a land situated in Andhra Pradesh	1,10,000	90,000
9.	Rent received in respect of house property at Bhopal	2,00,000	1,20,000
10.	Life Insurance Premium paid	---	60,000

Solution to Question 1(a)

The income of an assessee for a previous year is charged to income-tax in the assessment year, following the previous year. However, in certain cases, the income is taxed in the previous year in which it is earned. These exceptions have been made to protect the interests of revenue. The exceptions are as follows:

- (i) Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof. 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf, whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.

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- (ii) Where it appears to the Assessing Officer that any individual may leave India during the current assessment year or shortly after its expiry and he has no present intention of returning to India, the total income of such individual for the period from the expiry of the respective previous year up to the probable date of departure from India is chargeable to tax in that assessment year,
- (iii) If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that AOP/BOI is likely to be dissolved in the same year or, in the next year, he can make assessment of the income up to the date of dissolution as income of the relevant assessment year.
- (iv) During the current assessment year, if it appears to the Assessing Officer that a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets to avoid payment of any liability under this Act, the total income of such person for the period from the expiry of the previous year to the date, when the Assessing Officer commences proceedings, is chargeable to tax in that Assessment Year.
- (v) Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year up to the date of such discontinuance may, at the discretion of the assessing Officer, be charged to tax in that assessment year.

Solution to Question 1(b)

Computation of total income of Mr. Anand and Mr. Vijay for the Assessment year 2015-16

Sl. No	Particulars	Note No.	Amount (₹)	
			Mr. Anand	Mr. Vijay
1.	Interest on Canada Development Bonds	2	35,000	80,000
2.	Dividend from a British Company, received in London	3	NIL	40,000
3.	Profit from a business in Nagpur, but managed directly from London	2	2,00,000	2,80,000
4.	Short Term Capital gain on sale of shares of an Indian Company, received in India	2	1,20,000	1,80,000
5.	Income from a business in Chennai	2	1,60,000	1,40,000
6.	Fees for technical service rendered in India, but received in Germany	2	2,00,000	---
7.	Interest on savings bank deposit in UCO Bank, Delhi	2	14,000	24,000
8.	Agricultural income from a land situated in Andhra Pradesh	4	NIL	NIL
9.	Rent received in respect of house property at Bhopal	5	1,40,000	84,000
GROSS TOTAL INCOME			8,69,000	8,28,000
10.	Less: Deductions under Chapter Vi-A	6		
	(i) Section 80C- Life Insurance Premium paid			60,000
	(ii) Section 80TTA		10,000	10,000

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TOTAL INCOME		8,59,000	3,44,000
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NOTE:

1. Mr. Anand is a non-resident, since he is settled in Germany, since, 1995. Mr. Vijay is resident and ordinarily resident, since, he is settled in Mumbai.
2. In case of a resident, his global income is taxable as per Section 5(1) of the Income Tax act, 1961. However, as per Section 5(2) of the Income Tax act, 1961, in case of a non-resident, only the following incomes are chargeable to tax:
 - (i) Income received or deemed to be received in India; and
 - (ii) Income accruing or arising or deemed to accrue or arise in India.

Therefore, fees for technical services rendered in India would be taxable in the hands of Mr. Anand, even though, he is a non-resident.

Accordingly, interest on Canada Development Bond would be fully taxable in the hands of Mr. Vijay, whereas only 50%, which is received in India is taxable in the hands of Mr. Anand.

3. Dividend received from a British Company in London, by Mr. Anand, is not taxable, since it accrues and is received outside India. However, dividend received by Mr. Vijay is taxable, since he is a resident. Exemption under Section 10(34) would not be available in respect of dividend received from a foreign company.
4. Agricultural income from a land situated in India is exempt under Section 10(1) of the Income Tax act, 1961, in the case of both residents and non-residents.

5.

Particulars	Mr. Anand (₹)	Mr. Vijay (₹)
Rent Received	2,00,000	1,20,000
Less: Deduction under Section 24 @ 30%	60,000	36,000
Net Income from House Property	1,40,000	84,000

The net income from house property shall be taxable in the hands of both Mr. Anand and Mr. Vijay, since the accrual and receipt of the same are in India.

6. In the case of an individual, interest up to ₹10,000 from savings account, with inter alia, a bank is allowable as deduction under Section 80TTA of the Income Tax Act, 1961.

Question 2

- (a) **What are the conditions to be fulfilled by a Charitable Trust under Section 12A of the Income Tax Act, 1961, for applicability of exemption provisions contained in Sections 11 and 12 of the Act?**

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(b) Mr. Avay Chawhan retired from the services of M/s Erudite Ltd. on 31.01.2015, after completing service of 30 years and one month. He had joined the company on 01.01.1985, at the age of 30 years and received the following on his retirement:

(i) Gratuity ₹6,00,000. He was covered under the Payment of Gratuity Act, 1972.

(ii) Leave encashment of ₹3,30,000 for 330 days leave balance in his account. He was credited 30 days leave for each completed year of service.

(iii) As per the scheme of the company, he was offered a car which was purchased on 01.02.2012, by the company for ₹5,00,000. Company had recovered ₹2,00,000 from him for the car. Company depreciates the vehicles at the rate of 15% on Straight Line method.

(iv) An amount of ₹3,00,000 as commutation of pension for 2/3 of his pension commutation.

(v) Company presented him a gift voucher worth ₹6,000 on his retirement.

(vi) His colleagues also gifted him a LCD TV worth ₹50,000 from their own contribution.

Following are the other particulars:

(i) He has drawn a basic salary of ₹20,000 and 50% dearness allowance per month for the period 01.04.2014 to 31.03.2015.

(ii) Received pension of ₹5,000 per month for the period 01.02.2015 to 31.03.2015 after commutation of pension.

Compute his taxable salary from the above for the Assessment Year 2015-16.

Solution to Question 2(a)

Conditions for applicability of Section 11 and Section 12 [Section 12A]

(1) The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the [Principal Commissioner or] Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, whichever is later and such trust or institution is registered under section 12AA.

Provided that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution,—

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- (i) from the date of the creation of the trust or the establishment of the institution if the [Principal Commissioner or] Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;
- (ii) from the 1st day of the financial year in which the application is made, if the [Principal Commissioner or] Commissioner is not so satisfied.

Provided further that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;

- (aa) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the [Principal Commissioner or] Commissioner and such trust or institution is registered under section 12AA;
- (b) where the total income of the trust or institution as computed under this Act without giving effect to [the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year], the accounts of the trust or institution for that year have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.]

(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made.

Provided that where registration has been granted to the trust or institution under section 12AA, then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year.

Provided further that no action under section 147 shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year.

Provided also that provisions contained in the first and second proviso shall not apply in case of any trust or institution which was refused registration or the registration granted to it was cancelled at any time under section 12AA.

Solution to Question 2(b)

Computation of Gross Total Income of Mr. Avay Chawhan, for the A.Y 2015-16

Particulars	Note No.	Amount (₹)
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Basic Salary (₹20,000 × 10)		2,00,000
Dearness Allowance = 50% of Basic Salary		1,00,000
Gift Voucher	1	6,000
Transfer of car	2	56,000
Gratuity	3	80,769
Leave Encashment	4	1,30,000
Uncommuted Pension (₹5000 × 2)		10,000
Commutated Pension	5	1,50,000
TAXABLE SALARY		7,32,769

NOTE:

- As per Rule 3(7)(iv) of the Income Tax Rules, the value of any gift or voucher or token in lieu of gift received by the employee or by member of his household not exceeding ₹5,000 in aggregate during the previous year is exempt. In this case, the amount was received on retirement and the sum exceeds the limit of ₹5,000.

Therefore, the entire amount of ₹6,000 is taxable as a perquisite.

- The taxable value of perquisite under Rule 3(7)(viii), in respect of transfer of car, has been computed as follows:

Particulars	Amount (₹)
Purchase Price as on 01.02.2012	5,00,000
Less: Depreciation @ 20%	1,00,000
WDV as on 31.01.2013	4,00,000
Less: Depreciation @ 20%	80,000
WDV as on 31.01.2014	3,20,000
Less: Depreciation @ 20%	64,000
WDV as on 31.01.2015	2,56,000
Less: Amount received	2,00,000
Value of perquisite	56,000

3. Taxable Gratuity

Particulars	Amount (₹)	Amount (₹)
Gratuity received		6,00,000
Less: Exemption under Section 10(10) – Least of the following		
(i) Notified Limit	10,00,000	
(ii) Actual Gratuity	6,00,000	
(iii) $15/26 \times 30,000 \times 30$	5,19,231	5,19,231
Taxable Gratuity		80,769

4. Taxable Leave Encashment

Particulars	Amount (₹)	Amount (₹)
Leave Salary received		3,30,000
Less: Exemption under Section 10(10AA) – Least of the		

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following			
(i)	Notified Limit	3,00,000	
(ii)	Actual Gratuity	3,30,000	
(iii)	10 months × ₹20,000 (assuming that dearness allowance does not form part of pay for retirement benefit)	2,00,000	
(iv)	Cash equivalent of leave of credit (330/30 × 20,000)	2,20,000	2,00,000
Taxable Leave Encashment			1,30,000

5. Commuted Pension

Particulars	Amount (₹)	Amount (₹)
Amount received		3,00,000
Less: Exemption under Section 10(10A) = 1/3 [3,00,000×3/2]		1,50,000
Taxable Amount		1,50,000

6. The taxability provisions under Section 56(2)(vii) are not attracted in respect of LCD TV received from colleagues, since television is not included in the definition of property therein.

Question 3

- (a) Mr. Gyan Dinesh, an Indian resident individual, is employed in a PSU. He furnishes the following particulars for the previous year 2014-15:

Particulars	Amount (₹)
(i) Salary income for the year	20,00,000
(ii) Salary, pertaining to the financial year 2009-10, received during the previous year 2014-15	1,00,000
(iii) Assessed income for the financial year 2009-10	3,00,000

Compute the relief available to the assessee under Section 89 of the Income Tax Act, 1961 and the tax liability for the assessment year 2015-16.

The rates of income tax for the assessment year 2010-11 are:

	Tax Rate (%)
On first ₹1,60,000	Nil
On ₹1,60,000 - ₹3,00,000	10
On ₹3,00,000 - ₹5,00,000	20
Above ₹5,00,000	30
Education Cess	3

- (b) Mr. Patik owns a house property whose Municipal Value, Fair Rent and Standard Rent are ₹1,00,000, ₹1,30,000, ₹1,14,000, respectively. During the financial year 2014-15, one-third of the portion of the house was let out for residential purpose at a monthly rent of ₹9,000. The remaining two-third portion was self-occupied by him. Municipal Tax @ 11% of municipal value was paid during the year.

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The construction of the house began in June 2007 and was completed on 31.05.2010. Mr. Patik took a loan of ₹1,00,000 on 01.07.2007 for the construction of the building.

He paid interest on loan @ 12% per annum and every month such interest was paid.

Compute the income from house property of Mr. Sourav for the A.Y 2014-15.

Solution to Question 3 (a)

Computation of relief under Section 89 of Mr. Gyan Dinesh for the A.Y 2015-16

Particulars	₹	₹
Assessment Year 2015-16		
Salary Income for the year excluding arrears		20,00,000
Add: Arrears for the financial year 2009-10		1,00,000
Gross Salary (including arrears)		21,00,000
Computation of tax on ₹ 21,00,000		
On first ₹2,50,000- Nil	Nil	
On next ₹2,50,000- 10%	25,000	
On next ₹5,00,000- 20%	1,00,000	
On balance ₹11,00,000- 30%	3,30,000	4,55,000
Add: Education Cess @ 2%	9,100	
Add: Senior and Higher Education Cess@1%	4,550	13,650
(A) Tax on total income including arrears		4,68,650
Gross Salary excluding arrears	20,00,000	
Computation of tax on ₹20,00,000		
On first ₹2,50,000- Nil	Nil	
On next ₹2,50,000- 10%	25,000	
On next ₹5,00,000- 20%	1,00,000	
On balance ₹10,00,000- 30%	3,00,000	
	4,25,000	
Education Cess @2%	8,500	
SHEC@ 1%	4,250	
(B) Tax on total income excluding arrears		4,37,750
(C) Difference between (A) and (B)		30,900
Total Income assessed	3,00,000	
Add: Arrears relating to the financial year 2009-10	1,00,000	
	4,00,000	4,00,000

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Computation of tax for A.Y 2010-11		
(D) Tax on Total Income (including arrears)		
On first ₹1,60,000	Nil	
On next ₹1,40,000 @ 10%	14,000	
On balance ₹1,00,000 @ 20%	20,000	
	34,000	
Education Cess @ 3%	1,020	35,020
(E) Tax on Total Income (excluding arrears)		
On first ₹1,60,000	Nil	
On balance ₹1,40,000 @ 10%	14,000	
Education Cess @ 3%	420	14,420
(F) Difference between (D) and (E)		20,600
(G) Relief available under Section 89 [Difference between (C) and (F)]		10,300

Solution to Question 3 (b)

Computation of income from house property of Mr. Patik for the A.Y 2015-16

Particulars	Amount (₹)	Amount (₹)
Income from House Property		
I. Self-Occupied Property (Two-third)		
Net Annual Value		Nil
Less: Deduction under Section 24(b)		
Interest on Loan [Note] (₹18,600 × 2/3)		12,400
Loss from self-occupied property		(12,400)
II. Let-Out Portion (Two-third)		
Gross Annual Value:		
(a) Actual rent received [₹9,000 × 12 months]	1,08,000	
(b) Annual Letting Value, shall be the higher of municipal valuation or, fair rent, but restricted to standard rent [₹1,14,000 × 1/3]	38,000	
		1,08,000
Less: Municipal Taxes [₹1,00,000 × 11% × 1/3]		3,667
Net Annual Value		1,04,333
Less: Deductions under Section 24		
(a) 30% of NAV	31,300	
(b) Interest on loan (₹18,600 × 1/3)	6,200	
		37,500
Income from House Property		66,833

NOTE:

Interest for the year (01.04.2014 to 31.03.2015) = 12% of ₹1,00,000 = ₹12,000.

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Pre-construction period interest = 12% of ₹1,00,000 for 33 months (from 01.07.2007 to 31.03.2010)= ₹33,000.

Pre-construction period interest, to be allowed in 5 equal annual installments of ₹6,600 from the year of completion of construction i.e from F.Y 2010-11 till 2014-15.

Therefore, total interest deduction under Section 24 of the Income Tax Act, 1961

=₹12,000 + ₹6600 = ₹18,600

Question 4

(a) M/s XYZ & Co., a sole proprietary concern is converted into a company XYZ Ltd. with effect from 29.11.2014. The written down value of assets as on 01.04.2014, is as follows:

ITEMS	RATE OF DEPRECIATION	WDV AS ON 01.04.2014(₹)
Building	10%	4,50,000
Furniture	10%	1,50,000
Plant and Machinery	15%	3,00,000

Further, on October 15, 2014 M/s XYZ & Co. purchased a plant for ₹2,00,000 (rate of depreciation 15%). After conversion, the company added another plant worth ₹1,50,000 (rate of depreciation 15%).

Compute the depreciation available in the Assessment Year 2015-16, to:

- (i) M/s XYZ & Co.
- (ii) XYZ Ltd.

(b) Mr. Abhishek has furnished the following particulars relating to payments made towards scientific research for the year ended 31.03.2015:

Sl. No	Particulars	Amount (₹ in Lakhs)
(i)	Payments made to TER Research Ltd. for scientific research (TER Research Ltd. is an approved research institution)	40
(ii)	Payments made to P.Q.R College for scientific research (P.Q.R College is an approved research institution)	30
(iii)	Payments made to S.T.U College	20
(iv)	Payments made to National Laboratory	16
(v)	Machinery purchased for in-house scientific research	50
(vi)	Salaries paid to research staff engaged in in-house scientific research	24

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Compute the amount of deduction available under Section 35 of the Income Tax Act, 1961 while arriving at the business income of the assessee.

Solution to Question 4(a)

In the case of conversion of sole proprietary concern into a company as per Section 47(xiv) of the Income Tax Act 1961, the depreciation would be first calculated for the whole year assuming that no succession had taken place. Thereafter, the depreciation should be apportioned between the sole proprietary concern and the company in the ratio of the number of days for which the assets were used by them. It is assumed that in this case, the conditions specified under Section 47(xiv) are satisfied.

Computation of depreciation allowable to M/s. XYZ & Co. for A.Y 2015-16

Block of Asset	Particulars	Amount (₹)	Amount (₹)
Building	WDV as on 01.04.2014	4,50,000	
	Depreciation for the P.Y 2014-15 (10%)		45,000
Furniture	WDV as on 01.04.2014	1,50,000	
	Depreciation for the P.Y 2014-15 (10%)		15,000
Plant & Machinery	WDV as on 01.04.2014	3,00,000	
	Add: Additions during the year	2,00,000	
		5,00,000	
	Depreciation for the P.Y 2014-15 (10%) = ₹[(3,00,000 × 15%) + (2,00,000 × 15% × 1/2)] = ₹(45,000 + 15,000)		60,000
	[Depreciation on new machinery is restricted to 50% of eligible depreciation, since the asset is put to use for less than 180 days.]		
Total Depreciation for the year			1,20,000
Proportionate Depreciation allowable to M/s XYZ & Co. for 242 days			
	On existing assets (from 01.04.2014 to 28.11.2014) = ₹(1,05,000 × 242/365)	69,616	
	On new Machine = ₹(15,000 × 45/168)	4,018	73,634

Computation of depreciation allowable to XYZ Ltd. for A.Y 2015-16

Particulars	Amount (₹)
Depreciation on assets on conversion	
Proportionately for 123 days i.e. after conversion period	

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$= ₹(1,05,000 \times 123/365) + ₹(15,000 \times 123/168)$ $= ₹(35,384 + 10,982)$	46,366
Depreciation on assets brought after conversion	
Since, the assets have been put to use for less than 180 days, depreciation shall be charged at 50% of the normal rate. Depreciation charged = $₹(1,50,000 \times 15\% \times \frac{1}{2})$	11,250
Depreciation allowable to XYZ & Co. Ltd	57,615

NOTE:

It has been assumed that XYZ & Co. Ltd. and its predecessor, is/ was not engaged in manufacturing processes or in the business of generation and distribution of power. Hence, additional depreciation has not been provided for.

Solution to Question 4(b)

Computation of deduction allowed to Mr. Abhishek under Section 35 of the Income Tax Act, 1961

Particulars	Section	Note no.	Amount paid (₹ in Lakhs)	Percentage of Weighted Deduction	Amount of Deduction (₹ in Lakhs)
Payment for scientific research:	35(1)(ii)				
(i) TER Research Ltd			40	175%	70
(ii) P.Q.R College			30	175%	52.50
Payment made to S.T.U College	Nil	1	20	Nil	Nil
Payment made to National Laboratory	35(2AA)	3	16	200%	32
In-House Research					
(i) Capital Expenditure	35(1)(iv) , 35(2)	2	50	100%	50
(ii) Revenue Expenditure					
Deduction allowed under Section 35 of the Income Tax Act,					228.50

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NOTE:

- 1. Payment to S.T.U College:** It is assumed that, S.T.U College is not an approved research institution. Therefore, payment to S.T.U College is not eligible for deduction under Section 35 of the Income Tax Act, 1961.
- 2. Deduction for in-house research and development:** Since, Mr. Abhishek is an individual (a non-corporate assessee), he would be entitled to claim a deduction of 100% of the revenue expenditure incurred and 100% of the capital expenditure incurred, in respect of the in-house research and development, under Section 35 of the Income Tax Act, 1961.
- 3. Payment to National Laboratory:** The percentage of weighted deduction under Section 35(2AA), in respect of amount paid to National Laboratory is 200%.

Question 5

- (a) Dilshan & Pritam, a partnership firm consisted of two partners D & K. The partnership firm reported a net profit of ₹14,00,000, before deduction of the following items:
- (1) Salary of ₹40,000 each per month was payable to two working partners of the firm (as authorized by the deed of partnership).
 - (2) Depreciation on plant and machinery under Section 32 of the Income Tax Act, 1961 (computed) ₹3,00,000.
 - (3) Interest on capital at 15% per annum (as per the partnership deed). The amount of capital eligible for interest ₹ 10,00,000.

Compute:

- (i) Book Profit of the firm under Section 40(b) of the Income Tax Act, 1961.
 - (ii) Allowable working partner salary for the assessment year 2015-16, as per Section 40(b) of the Income Tax Act, 1961.
- (b) Kishor is a person carrying on profession as film artist. His gross receipts from profession are as under:
- Financial Year 2012-13: ₹2,30,000.
Financial Year 2013-14: ₹3,60,000.
Financial Year 2014-15: ₹4,20,000.

What is his obligation regarding maintenance of books of accounts for each Assessment Year under Section 44AA of the Income-Tax Act, 1961?

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Solution to Question 5(a)

(i) **Computation of Book Profit of the firm under Section 40(b) of the Income Tax Act, 1961**

Particulars	Amount (₹)	Amount (₹)
Net profit of the firm		14,00,000
Less:		
(i) Depreciation under Section 32 of the Income Tax Act, 1961	3,00,000	
(ii) Interest @ 12% p.a. [being the maximum allowable as per Section 40(b)] (₹10,00,000 × 12%)	1,20,000	4,20,000
Book Profit		9,80,000

(ii) Salary actually paid to working partners = ₹ 40,000 × 2 × 12 = ₹9,60,000.

As per the provisions of Section 40(b)(v) of the Income Tax Act, 1961, the maximum allowable salary for the working partners for the A.Y 2015-16, has been computed as follows:

Particulars	Amount (₹)
On the first ₹3,00,000 of book profit [(₹1,50,000 or 90% of ₹3,00,000) whichever is more].	2,70,000
On the balance of book profit [60% of (₹9,80,000 - ₹3,00,000)]	4,08,000
Book Profit	6,78,000

Hence, allowable working partner's salary for the A.Y 2015-16, as per the provisions of Section 40(b)(v) of the Income Tax Act, 1961 is ₹6,78,000.

Solution to Question 5(b)

Section 44AA(1) of the Income Tax Act, 1961 requires every person carrying on any profession, notified by the Board in the Official Gazette (in addition to the professions already specified therein), to maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of the Income Tax act, 1961.

Thus, a person carrying on a notified profession shall be required to maintain specified books of accounts:

- (i) If his gross receipts in all the three years immediately preceding the relevant previous year has exceeded ₹1,50,000; or
- (ii) If it is a new profession which is setup in the relevant previous year, it is likely to exceed ₹1,50,000 in that previous year.

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In the present case, Mr. Kishor is a person carrying on a profession as a film artist, which is a notified profession. Since, his gross receipts have exceeded ₹1,50,000 in all the three previous years, the requirement under Section 44AA to compulsorily maintain the prescribed books of account is as are prescribed by rule 6F, is applicable to him.

Question 6

- (a) Somnath, an Indian resident (aged 45 years), owned a residential house in Bangalore. It was acquired by Somnath, on 15.10.1986 for ₹8,40,000. It was sold for ₹ 70,00,000 on 09.11.2014. The State Stamp Valuation Authority fixed the value of property to be at ₹75,00,000. The assessee paid 2% of the sale consideration as brokerage for the sale of the said property.

Somnath acquired a residential house in Chennai on 15.12.2014 for ₹2,00,000 and deposited ₹4,00,000 on 10.04.2015 in the capital gain bond of Rural Electrification Corporation Ltd. (RECL). He deposited ₹5,55,000 on 10.07.2015 in the Capital Gain Deposit Scheme in a nationalized bank for construction of additional floor on the residential house property acquired in Chennai.

Compute the capital gain chargeable to tax in the hands of Mr. Somnath for the assessment year 2015-16.

Cost inflation Index: Financial year 1986-87= 140, Financial Year 2014-15= 1024

- (b) Mr. Jagmohan furnishes the following data for the previous year ending 31.03.2015:

- 10,000 unlisted Equity shares of CD Ltd., were sold on 31.05.2014 at ₹500 per share.
- The above shares were acquired by Mr. Jagmohan in the following manner:
 - 5000 shares were gifted to him on 01.06.1980. The Fair Market Value as on 01.04.1981, per share was ₹ 50.
 - 2,000 bonus shares were issued by CD Ltd. on 21.07.1985.
 - 3,000 shares were acquired at ₹125 per share on 01.02.1994.
- A residential house was purchased on 01.05.2015, for ₹25 Lakhs, out of the sale proceeds of the shares. Mr. Jagmohan was already owning a residential house, before the purchase of this house.

Compute the capital gain chargeable to tax in the hands of Mr. Jagmohan for the assessment year 2015-16.

Cost inflation Index: Financial year 1993-94= 244, Financial Year 2014-15= 1024

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Solution to Question 6(a)

(a) Computation of capital gains in the hands of Mr. Somnath for the A.Y 2015-16

Particulars	₹	₹
Deemed Sale consideration (under Section 50C)		75,00,000
Less: Brokerage @ 2% of ₹70,00,000		1,40,000
Net Sale Consideration		73,60,000
Less: Indexed Cost of Acquisition (₹8,40,000 × 1024/140)		61,44,000
Long Term Capital Gain on sale of property situated in Bangalore		12,16,000
Less: Exemption under Section 54 in respect of – (i) Residential house acquired in Chennai on 15.12.2014 (ii) Amount deposited in Capital Gains Deposit Scheme on 10.07.2015 (before the due date of filing return)	2,00,000 5,55,000 <hr/> 7,55,000	
Less: Deduction under Section 54EC Amount deposited in RECL Bonds on 10.04.2015 (within six months from the date of transfer)	4,00,000	9,55,000
Long Term Capital Gain		2,61,000

Solution to Question 6(b)

Computation of taxable capital gain of Mr. Jagmohan for the A.Y 2015-16

Particulars	Amount(₹)	Amount(₹)
Sale consideration received on sale of 10,000 shares		50,00,000
Less: Indexed Cost of Acquisition		
(i) 5,000 Shares received as gift (5,000 × ₹50 × 1024/100)	25,60,000	
(ii) 2,000 Bonus Shares received	Nil	
(iii) 3,000 shares purchased on 01.12.1994 (3,000 × ₹125 × 1024/244)	15,73,770	41,33,770
Long Term Capital Gain		8,66,230
Less: Exemption under Section 54F (₹8,66,230 × ₹25,00,000 / ₹50,00,000)		4,33,115

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Taxable Long Term Capital Gain		4,33,115
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NOTE:

Exemption under Section 54F of the Income Tax Act, 1961 can be availed by the assessee subject to fulfillment of the following conditions:

1. The assessee should not own more than one residential house on the date of transfer of the long term capital asset;
2. The assessee should purchase a residential house within a period of 1 year before or two years after the date of transfer or construct a residential house within a period of 3 years from the date of transfer of the long term capital asset.

In this case, the assessee fulfilled the two conditions mentioned above. Therefore, he is entitled to exemption under Section 54F.

Question 7

(a) Smt. Priya reports the following transactions :

- (i) She received gifts on the occasion of her marriage on 18.07.2014 of ₹2,40,000. It includes gift of ₹40,000 received from non-relatives.
- (ii) Her mother's maternal uncle gifted her a cheque of ₹45,000, on her birthday, on 01.08.2014.
- (iii) On 01.12.2014, she acquired a vacant site from her friend at ₹1,25,000. The State Stamp Valuation Authority fixed the value of the site at ₹2,00,000 for stamp duty purpose.
- (iv) She bought 100 equity shares of a listed company from another friend for ₹70,000. The value of share in the stock exchange on the date of purchase was ₹1,20,000.

Determine the amounts chargeable to tax in the hands of Smt. Priya for the A.Y 2015-16.

(b) Explain the provisions relating to "dividend stripping", as contained in the provisions of Section 94(7) of the Income Tax act, 1961.

Solution to Question 7(a)

Sl. No	Particulars	Amount(₹)
(i)	Gift of ₹2,40,000 received on the occasion of her marriage is not taxable, since gifts received by an individual on the occasion of marriage is excluded under Section 56(2)(vii), even if the same are received from non-relatives.	Nil

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(ii)	Even though mother's maternal uncle does not fall within the definition of 'relative' under Section 56(2)(vii) of the Income Tax Act, 1961, gift of ₹45,000 received from him by cheque is not chargeable to tax, since the aggregate sum of money received by Smt. Priya without consideration from non-relatives (other than on the occasion of marriage) during the previous year 2014-15 does not exceed ₹50,000.	Nil
(iii)	Purchase of land for inadequate consideration on 01.12.2014 would attract the provisions of Section 56(2)(vii) of the Income Tax Act, 1961. Where any immovable property is received for consideration which is less than the stamp duty value of the property by amount exceeding ₹50,000, the difference between the stamp duty value and consideration is chargeable to tax in the hands of the individual. Thus, in the given case ₹75,000 is taxable in the hands of Smt. Priya.	75,000
(iv)	Since, shares are included in the definition of "property" and difference between the purchase value and fair market value of shares is ₹50,000, it shall not be taxed under Section 56(2)(vii) of the Income Tax Act, 1961.	Nil
Amount chargeable to Tax		75,000

Solution to Question 7(b)

According to Section 94(7) of the Income Tax Act, 1961, where:

- (a) Any person buys or acquires any securities or units within a period of three months prior to the record date; and
- (b) Such person sells or transfers such securities within a period of three months after such record date or transfers such units within a period of nine months after such record date; and
- (c) the dividend or income on such securities or units received or receivable by such person is exempt from tax,

then, the loss, if any, arising to him on account of such purchase or sale of securities or units, to the extent such loss does not exceed the amount of dividend or income received or receivable on such securities or units, has to be ignored for purposes of computing his income chargeable to tax.

Question 8

(a) Mr. Kumar and his wife Mrs. Anchal furnish the following information:

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Sl. No	Particulars	Amount(₹)
(i)	Salary income of Mrs. Anchal	5,00,000
(ii)	Income of minor son 'B', who suffers from disability specified in Section 80U	1,20,000
(iii)	Income of minor daughter Sonam from dance performances	90,000
(iv)	Income from profession of Mr. Kumar	8,00,000
(v)	Cash gift received by Sonam, on 02.10.2014, from friend of Mrs. Anchal, on winning of dance competition	48,000
(vi)	Income of minor married daughter Neha from company deposit	40,000

Compute the total income of Mr. Kumar and Mrs. Anchal for the A.Y 2015-16.

(b) Mr. Amal submits the following details of his income for the A.Y. 2015-16:

Particulars	₹
Income from salary	8,00,000
Loss from house property	(80,000)
Income from sugar business	1,00,000
Loss from iron ore business (b/f)(discontinued in 2008-09)	(2,40,000)
Short term capital loss	(1,20,000)
Long term capital gain	80,000
Dividend	10,000
Lottery Winnings	1,50,000
Winnings from card games	24,000
Agricultural Income	80,000
Long term capital Gain on sale of shares	20,000
Short term Capital Loss under Section 111A	20,000
Bank Interest	10,000

Calculate gross total income and losses to be carried forward for the A.Y 2015-16.

Solution to Question 8(a)

Computation of total income of Mr. Kumar and Mrs. Anchal for the A.Y 2015-16

Particulars	Note No.	Amount(₹)	Mr. Kumar	Mrs. Anchal
Salaries				5,00,000
Profits and Gains of Business or Profession			8,00,000	

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Income from other sources:				
Interest from company deposit earned by minor daughter	1	40,000		
Less: Exemption under Section 10(32)		1,500	38,500	
Total Income			8,38,500	5,00,000

Notes:

1. The clubbing provisions are attracted, even in respect of income of minor married daughter. The income of the minor will be included in the income of that parent, whose total income is greater. Hence, the income of Neha from company deposit shall be clubbed in the hands of Mr. Kumar and exemption under Section 10(32) of the Income tax act, 1961 of ₹ 1,500 per child shall be allowed in respect of such income.

2. Under Section 56(2)(vii) of the Income Tax Act, 1961, cash gifts received from any person(s) exceeding ₹50,000 during the year in aggregate is taxable. Since, cash gift received by Sonam, from friend of Mrs. Anchal, on winning of dance competition, does not exceed ₹50,000, the same is not taxable.

3. The income of Miss. Sonam and minor son suffering from disability under Section 80U, shall not be clubbed with the income of their parents, because, the following are not included in the income of the parents, by virtue of the provisions of the Income Tax Act, 1961:
 - (i) The income of the minor children suffering from any disability specified in Section 80U and,
 - (ii) The income derived by the minor from manual work or from any activity involving exercise of his talent, skill or specialized knowledge or experience.

Solution to Question 8(b)

Computation of Gross Total Income of Mr. Amal for the A.Y 2015-16

Particulars	₹	₹
Salaries:		
Income from salary	8,00,000	7,20,000
Income from house property		
Loss from house property	(80,000)	
Profits and Gains of Business of profession:		

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Income from sugar business	1,00,000	
Less: Brought forward loss from iron ore business	(2,40,000)	---
Balance business loss of ₹1,40,000 carried forward to A.Y 2016-17		
Capital Gains		
Long term capital gain	80,000	---
Less: Short term capital loss	(1,20,000)	
Capital Losses to be carried forward:		
<p style="margin-left: 40px;">i. Short Term Capital Loss of ₹40,000 to be carried forward</p> <p style="margin-left: 40px;">ii. Short term Capital Loss under Section 111A, of ₹20,000 to be carried forward</p>		
Income from other sources:		
Lottery Winnings	1,50,000	
Winnings from card games	24,000	
Bank Interest	10,000	1,84,000
GROSS TOTAL INCOME		9,04,000
Losses to be carried forward to A.Y 2016-17		
<p style="margin-left: 40px;">i. Loss of ₹1,40,000 from iron-ore business</p> <p style="margin-left: 40px;">ii. Short term Capital Loss of ₹40,000</p> <p style="margin-left: 40px;">iii. Short term Capital Loss under Section 111A, of ₹20,000 to be carried forward</p>		

NOTES:

1. Dividend Income is exempt under Section 10(34), assuming that dividend is received from a domestic company.
2. Agricultural Income is exempt under Section 10(1).
3. Long term Capital gain, on which STT is paid is exempt under Section 10(38).
4. It is presumed that, loss from iron-ore business relates to the previous year 2008-09, the year in which the business is discontinued.

Question 9

(a) Mr. Sumit, (aged 69 years) is an Indian resident, who has a Gross Total Income of ₹6,90,000. This includes long term capital gain of ₹90,000 and short-term capital gain of ₹16,000. The Gross Total Income also includes interest income of ₹24,000 from savings bank deposits with banks. The assessee has invested ₹1,50,000 in PPF and also paid a medical insurance premium of ₹15,000. ₹20,000 was contributed to Public Charitable Trust, eligible for deduction under Section 80G by way of an account payee cheque. Compute the total income and tax thereon of Mr. Sumit, for the Assessment Year 2015-16.

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(b) Ms. Madhuri, aged 55 years, is a Cost and Management Accountant in practice. She maintains her accounts on cash basis. Her Income and Expenditure account for the year ended March 31, 2015 reads as follows:

Dr.	Cr.			
Expenditure	(₹)	Income	(₹)	(₹)
Salary to staff	5,50,000	Fees earned:		
Stipend to apprentices	37,000	Audit	7,88,000	
Incentive to apprentices	3,000	Taxation services	5,40,300	
Office rent	24,000	Consultancy	2,70,000	15,98,300
Printing and stationery	22,000			
Meeting, seminar and Conference	31,600	Dividend on shares of Indian companies (Gross)		10,524
Purchase of car	80,000	Income from UTI		7,600
Repair, maintenance and petrol of car	4,000	Honorarium received from various institutions for valuation of answer papers		15,800
Travelling expenses	35,000	Rent received from residential flat let out		85,600
Municipal tax paid in respect of house property	3,000			
Net Profit	9,28,224			
	17,17,824			17,17,824

Other Information:

- (i) Allowable rate of depreciation on motor car is 15%.
- (ii) Value of benefits received from clients during the course of profession is ₹ 10,500.
- (iii) Incentives to apprentices represent amount paid to two apprentices for passing CMA Final Examination at first attempt.
- (iv) Repairs and maintenance of car include ₹ 2,000 for the period from 1-10-2014 to 30-09-2015.
- (v) Salary includes ₹ 30,000 to a computer specialist in cash for assisting Ms. Madhuri in one professional assignment.
- (vi) The total travelling expenses incurred on foreign tour was ₹ 32,000 which was within the RBI norms.
- (vii) Medical Insurance Premium on the health of dependent brother and major son dependent on her amounts to ₹ 5,000 and ₹ 10,000, respectively, paid in cash.
- (viii) She invested an amount of ₹ 10,000 in National Saving Certificate.

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Compute the total income and tax payable of Ms. Madhuri for the Assessment Year 2015-2016.

Answer to Question 9 (a)

Computation of total income and tax liability

Assessee: Mr. Sumit Assessment Year: 2015-16	Previous Year: 2014-15	
Particulars	₹	₹
Gross Total Income including long term capital gain		6,90,000
Less: Long Term Capital gain		90,000
		6,00,000
Less: Deductions under Chapter VI-A		
Under Section 80C: PPF Deposit	1,50,000	
Under Section 80D: Medical Insurance premium (it is assumed that, the premium is paid by otherwise than by cash)	15,000	
Under Section 80G: [Note 1 & Note 2]	10,000	
Under Section 80TTA: [Note 3]	10,000	1,85,000
Total income (excluding long term capital gains)		4,15,000
Total income (including long term capital gains)		5,05,000
Tax on total income (including long term capital gains of ₹90,000)		
20% of ₹90,000	18,000	
Tax on balance ₹4,15,000		
Upto ₹3,00,000 - Nil		
Next ₹1,15,000 @ 10% - ₹11,500	11,500	29,500
Add: Education Cess @2%	590	
Add: Senior and Higher Education cess @1%	295	885
TAX PAYABLE ON TOTAL INCOME		30,385

NOTE:

1. Computation of deduction under Section 80G

Particulars	₹
Gross Total income (excluding long term capital gains)	6,00,000
Less: Deductions under Section 80C, 80D and 80TTA	1,25,000
	4,75,000
10% of the above	47,500
Contribution made	20,000
Lower of the two eligible for deduction under Section 80G	20,000
Deduction under Section 80G- 50% of ₹20,000	10,000

- 2.** Deduction under Section 80G is allowed only if amount is paid by any mode other than cash, in case of amount exceeding ₹10,000. Therefore the contribution made to public charitable trust is eligible for deduction since it is made by way of an account payee cheque.

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3. Deduction of up to ₹10,000 under Section 80TTA is allowed, inter alia to an individual assessee, if the gross total income includes interest income from deposits in a saving account with bank.

Solution to Question 9 (b)

Computation of total income and tax liability of Ms. Madhuri for the A.Y. 2015-16

Particulars	Amount(₹)	Amount(₹)
Income from house property (Working Note 1)		57,820
Profit and gains of business or profession (Working Note 2)		9,20,200
Income from other sources (Working Note 3)		15,800
Gross Total Income		9,93,820
Less: Deductions under Chapter VI-A (Working Note 4)		10,000
Total Income		9,83,820
Tax on total income		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000 @10%	25,000	
₹ 5,00,001 – ₹ 9,83,820 @20%	96,764	1,21,764
Add: Education cess @ 2%		2,435
Secondary and higher education cess @ 1%		1,218
Total tax liability		1,25,417

Working Notes:

(1) Income from House Property

Particulars	₹	₹
Gross annual value under Section 23(1)	85,600	
Less: Municipal taxes paid	3,000	
Net Annual Value (NAV)	82,600	
Less: Deduction under Section 24 @ 30% of NAV	24,780	57,820

Note - Rent received has been taken as the Gross Annual Value in the absence of other information relating to Municipal Value, Fair Rent and Standard Rent.

(2) Income under the head "Profits & Gains of Business or Profession"

Particulars	₹	₹
Net profit as per Income and Expenditure account		9,28,224

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Add: Expenses debited but not allowable		
(i) Salary paid to computer specialist in cash disallowed under Section 40A(3), since such cash payment exceeds ₹ 20,000	30,000	
(ii) Amount paid for purchase of car is not allowable under Section 37(1) since it is a capital expenditure	80,000	
(iii) Municipal Taxes paid in respect of residential flat let out	3,000	1,13,000
		10,41,224
Add: Value of benefit received from clients during the course of profession [taxable as business income under Section 28(iv)]		10,500
		10,51,724
Less: Income credited but not taxable under this head:		
(i) Dividend on shares of Indian companies	10,524	
(ii) Income from UTI	7,600	
(iii) Honorarium for valuation of answer papers	15,800	
(iv) Rent received from letting out of residential flat	85,600	1,19,524
		9,32,200
Less: Depreciation on motor car @15% (See Note (i) below)		12,000
		9,20,200

Notes:

- (i) It has been assumed that the motor car was put to use for more than 180 days during the previous year and hence, full depreciation @ 15% has been provided for under Section 32(1)(ii).
- (ii) Incentive to apprentices for passing CMA Final examination in their first attempt is deductible under Section 37(1).
- (iii) Repairs and maintenance paid in advance for the period 1.4.2015 to 30.9.2015 i.e. for 6 months amounting to ₹ 1,000 is allowable since, Ms. Madhuri is following the cash system of accounting.
- (iv) ₹ 32,000 expended on foreign tour is allowable as deduction assuming that it was incurred in connection with her professional work. Since it has already been debited to income and expenditure account, no further adjustment is required.

(3) Income from other sources

Particulars	₹	₹
Dividend on shares of Indian companies	10,524	
	10,524	

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Less: Exempt under Section 10(34)		Nil
Income from UTI	7,600	
Less: Exempt under Section 10(35)	7,600	
Honorarium for valuation of answer papers		Nil
		15,800

(4) Deduction under Chapter VI-A:

Particulars	₹
Deduction under Section 80C (Investment in NSC)	10,000
Deduction under Section 80D (See Notes (i) & (ii) below)	Nil
Total deduction under Chapter VI-A	10,000

Notes:

(i) Premium paid to insure the health of brother is not eligible for deduction under Section 80D, even though he is a dependent, since brother is not included in the definition of "family" under Section 80D.

(ii) Premium paid to insure the health of major son is not eligible for deduction, even though he is a dependent, since payment is made in cash.

Question 10

(a) Compute the amount of tax deduction at source on the following payments made by M/s. Sovan Ltd. during the previous year 2014-15, as per the provisions of the Income Tax Act, 1961:

Sl. No	Date	Nature of Payment
(i)	01.10.2014	Payment of ₹2,00,000 to Mr. Manoj, a transporter, who is having PAN.
(ii)	01.11.2014	Payment of fee for technical services of ₹25,000 and royalty of ₹20,000 to Mr. Thaper, who is having PAN.
(iii)	30.06.2014	Payment of ₹25,000 to M/s ABC Ltd. for repair of building.
(iv)	01.01.2015	Payment of ₹2,00,000 made to Mr. Ashok for purchase of diaries made according to the specifications of M/s Sovan Ltd. However, no material was supplied to such diaries to Mr. Ashok by M/s. Sovan Ltd.
(v)	01.01.2015	Payment of ₹1,80,000 made to Mr. Vishwas for compulsory acquisition of his house, as per law of the State Government,
(vi)	01.02.2015	Payment of commission of ₹6,000 to Mr. Anil.

(b) State in brief the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the previous year 2014-15:

(i) Winning by way of jackpot in a horse race ₹1,00,000.

(ii) Payment made by a firm to sub-contractor ₹3,00,000 with outstanding balance of ₹1,20,000 shown in the books as on 31.03.2015.

(iii) Rent paid for plant and machinery ₹1,50,000 by partnership firm having sales turnover of ₹2,00,000 and net loss of ₹15,000.

(iv) Payment made to Shane Watson, a cricketer, by a newspaper for contribution of articles ₹25,000.

Solution to Question 10 (a):

(i) No tax is required to be deducted at source under **Section 194C** by M/s Sovan Ltd. on payment to transporter Mr. Manoj, provided he furnishes his PAN to M/s Sovan Ltd.

(ii) As per **Section 194J** of the Income Tax Act, 1961, liability to deduct tax is attracted only in case the payment made as fees for technical services and royalty, individually exceed ₹30,000 during the financial year. In the given case, since, the individual payments for fee of technical services ₹25,000 and royalty of ₹20,000, is less than ₹30,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for technical services and royalty were made during that year to Mr. Thaper.

(iii) Provisions of **Section 194C** are not attracted in this case, since the payment for repair of building on 30.06.2014 to M/s. ABC Ltd is less than the threshold limit of ₹30,000.

(iv) According to **Section 194C** of the Income Tax Act, 1961, the definition of "work" does not include the manufacturing or supply of product according to the specification by customer in case the material is purchased from a person other than the customer.

Therefore, there is no liability to deduct tax at source in respect of payment of ₹2,00,000 to Mr. Ashok, since the contract is a contract for 'sale'.

(v) As per **Section 194LA** of the Income Tax Act, 1961, any person liable for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is responsible for deduction of tax at source if such payment or aggregate amount of such payments, to the resident during the financial year exceeds ₹2,00,000.

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In the given case, no liability to deduct tax at source is attracted as the payment does not exceed ₹2,00,000.

(vi) As per Section 194H of the Income Tax Act, 1961, any person (other than an individual or HUF), who is responsible for paying commission or brokerage to a resident shall deduct tax at source, if the amount of such income or, the aggregate of the amounts of such income credited or paid during the financial year exceeds ₹5,000.

Since, the commission payment made to Mr. Anil exceeds ₹5,000, the provisions of Section 194H are attracted.

The tax to be deducted at source shall be = ₹6,000 × 10% = ₹600.

Solution to Question 10 (b):

(i) Provisions for tax deduction at source under Section 194BB of the Income Tax Act, 1961 @ 30% are attracted if the amount exceeds ₹5,000 in respect of income arising by way of winning a jackpot in horse races.

Tax to be deducted = ₹1,00,000 × 30% = ₹30,000.

(ii) Provisions for tax deduction at source under Section 194C of the Income Tax Act, 1961 are attracted in respect of payment by a firm to a sub-contractor. Under Section 194C of the Income Tax Act, 1961 tax is deductible at the time of credit or payment, whichever is earlier @ 1%, if the payment is made to an individual or HUF and 2% for others.

Assuming that the sub-contractor to whom the payment has been made is an individual and the aggregate amount credited during the year is ₹4,20,000, tax is deductible @ 1% on ₹4,20,000.

Tax to be deducted = ₹4,20,000 × 1% = ₹4,200.

(iii) As per Section 194-I of the Income Tax Act, 1961, tax is to be deducted at source @ 2% on payment of rent for plant and machinery, only if the payment exceeds ₹1,80,000 during the financial year. Since, rent of ₹1,50,000 paid by a partnership firm does not exceed ₹1,80,000, tax is not deductible.

(iv) Under Section 194-E the person responsible for payment of any amount to a non-resident sportsman for contribution to articles relating to any game or sport in India in a newspaper shall deduct tax at source @ 20%. Further, since Shane Watson is a non-resident, education cess @ 2% and secondary and higher education cess @ 1% on TDS would also be added.

Therefore, tax to be deducted = ₹25,000 × 20.60% = ₹5,150.

Question 11

- (a) In certain cases, unexplained cash credit, unexplained investment, unexplained money or unexplained jewellery etc. is detected by the Assessing Officer. What is the previous year for charging such income to tax? Explain.
- (b) Mcmillan, an international cricket player visits India for 100 days in every financial year. This has been his practice for the past 10 financial years. Find out his residential status for the assessment year 2015-16.

Solution to Question 11 (a)

There are many occasions when the Assessing Officer detects cash credits, unexplained investments, unexplained expenditure etc, the source for which is not satisfactorily explained by the assessee to the Assessing Officer. The Act contains a series of provisions to provide for these contingencies:

- (i) **Cash Credits [Section 68]:** Where any sum is found credited in the books of the assessee and the assessee offers no explanation about the nature and source or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the sum so credited may be charged as income of the assessee of that previous year.

Further, any explanation offered by a closely held company in respect of any sum credited as share application money, share capital, share premium or such amount, by whatever name called, in the accounts of such company shall be deemed to be not satisfactory unless the person, being a resident, in whose name such credit is recorded in the books of such company also explains, to the satisfaction of the Assessing Officer, the source of sum so credited as share application money, share capital, etc. in his hands.

Otherwise, the explanation offered by the assessee-company shall be deemed as not satisfactory, consequent to which the sum shall be treated as income of the company. However, this deeming provision would not apply if the person in whose name such sum is recorded in the books of the closely held company is a Venture Capital Fund (VCF) or a Venture Capital Company (VCC) registered with SEBI.

- (ii) **Unexplained Investments [Section 69]:** Where in the financial year immediately preceding the assessment year, the assessee has made investments which are not recorded in the books of account and the assessee offers no explanation about the nature and the source of investments or the explanation offered is not satisfactory, the value of the investments are taxed as income of the assessee of such financial year.

- (iii) **Unexplained money etc. [Section 69A]:** Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and the same is

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not recorded in the books of account and the assessee offers no explanation about the nature and source of acquisition of such money, bullion etc. or the explanation offered is not satisfactory, the money and the value of bullion etc. may be deemed to be the income of the assessee for such financial year. Ownership is important and mere possession is not enough.

(iv) Amount of investments etc., not fully disclosed in the books of account [Section 69B]:

Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article and the Assessing Officer finds that the amount spent on making such investments or in acquiring such articles exceeds the amount recorded in the books of account maintained by the assessee and he offers no explanation for the difference or the explanation offered is unsatisfactory, such excess may be deemed to be the income of the assessee for such financial year.

For example, if the assessee is found to be the owner of say 300 gms of gold (market value of which is ₹50,000) during the financial year ending 31.3.2014 but he has recorded to have spent ₹30,000 in acquiring it, the Assessing Officer can add ₹20,000 (i.e. the difference of the market value of such gold and ₹30,000) as the income of the assessee, if the assessee offers no satisfactory explanation thereof.

(v) Unexplained expenditure [Section 69C]: Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or the explanation is unsatisfactory the Assessing Officer can treat such unexplained expenditure as the income of the assessee for such financial year. Such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as deduction under any head of income.

(vi) Amount borrowed or repaid on hundi [Section 69D]: Where any amount is borrowed on a hundi or any amount due thereon is repaid other than through an account-payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying for the previous year in which the amount was borrowed or repaid, as the case may be.

However, where any amount borrowed on a hundi has been deemed to be the income of any person, he will not be again liable to be assessed in respect of such amount on repayment of such amount. The amount repaid shall include interest paid on the amount borrowed.

Unexplained money, investments etc. to attract maximum marginal rate of tax @30% [Section 115BBE]

(i) In order to control laundering of unaccounted money by availing the benefit of basic exemption limit, the unexplained money, investment, expenditure, etc. deemed as income under Section 68 or Section 69 or Section 69A or Section 69B or Section 69C or Section 69D would be taxed at the maximum marginal rate of 30% (plus surcharge and

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cesses).

- (ii) No basic exemption or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act, 1961 in computing such deemed income

Solution to Question 11 (b)

Determination of Residential Status of Mr. Mcmillan for the A.Y. 2015-16:-

Period of stay during previous year 2014-15 = 100 days.

Calculation of period of stay during 4 preceding previous years (100 x 4=400 days)

2013-14	100 days
2012-13	100 days
2011-12	100 days
2010-11	100 days
Total	400 days

Mr. Mcmillan has been in India for a period more than 60 days during previous year 2014-15 and for a period of more than 365 days during the 4 immediately preceding previous years. Therefore, since he satisfies one of the basic conditions under Section 6(1) of the Income Tax Act, 1961. This implies, he is a resident for the assessment year 2015-16.

Computation of period of stay during 7 preceding previous years = 100 x 7=700 days

2013-14	100 days
2012-13	100 days
2011-12	100 days
2010-11	100 days
2009-10	100 days
2008-09	100 days
2007-08	100 days
Total	700 days

Since his period of stay in India during the past 7 previous years is less than 730 days, he is a not-ordinarily resident during the assessment year 2015-16.

Therefore, Mr. Mcmillan is a resident but not ordinarily resident during the previous year 2014-15 relevant to the Assessment Year 2015-16.

Note:

A not-ordinarily resident person is one who satisfies any one of the conditions specified under Section 6(6) of the Income Tax Act, 1961, i.e.,

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- (i) If such individual has been non-resident in India in any 9 out of the 10 previous years preceding the relevant previous year, or
- (ii) If such individual has during the 7 previous years preceding the relevant previous year been in India for a period of 729 days or less.

In this case, since Mr. Mcmillan satisfies condition (ii), he is a not-ordinary resident for the A.Y. 2015-16.

Question 12

- (a) International Stark Ltd. has one undertaking in Special Economic Zone (SEZ) and another at Domestic Tariff Area. Following are the details for the financial year 2014-15:

	Amount (₹ in Lakhs)	
	Unit in SEZ	Unit in Domestic Tariff Area
Total Sales	300	200
Export Sales	250	180
Net Profit	140	110

Compute the quantum of eligible deduction under Section 10AA for A.Y 2015-16 in the following situations:

- (i) Both the units were set up and began manufacturing from 25.07.2007.
- (ii) Both the units were set up and began manufacturing from 10.04.2011.

- (b) Mr. Arun employed with Power Ltd. on a basic salary of ₹10,000 p.m. He is also entitled to dearness allowance @ 100% of basic salary, 50% of which is included in salary as per terms of employment. The company gives him house rent allowance of ₹ 6,000 p.m. which was increased to ₹ 7,000p.m. with effect from 1.01.2015. He also got an increment of ₹ 1,000p.m. in his basic salary with effect from 1.02.2015. Rent paid by him during the previous year 2014-15 is as under:

April and May, 2014 - Nil, as he stayed with his parents
June to October, 2014 - ₹6,000 p. m. for an accommodation in Ghaziabad
November, 2014 to March, 2015 - ₹ 8,000p.m. for an accommodation in Delhi.

Compute his gross salary for assessment year 2015-16.

Solution to Question 12 (a)

As per Section 10AA of the Income Tax Act, 1961, in computing the total income of Regal Industries Ltd. from its unit located in a Special Economic Zone (SEZ), which begins to

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manufacture or produce any article or thing on or after 01.04.2005, there shall be allowed a deduction of 100% of the profit derived from export of such article or thing for the first five year period commencing from the year of manufacture or production of articles or things by the Unit in SEZ and 50% of such profits for further five years subject to fulfillment of other conditions specified in Section 10AA of the Income Tax Act, 1961.

(i) If unit in SEZ were set up and began manufacturing from 25.07.2007:

Since it is the 8th year of operation of the eligible unit, it shall be eligible for deduction up to 50% of the profit of such unit, assuming all the other conditions specified in Section 10AA are fulfilled.

Quantum of eligible deduction under Section 10AA of the Income Tax Act, 1961

$$\begin{aligned} &= \text{Profits of unit of SEZ} \times \frac{\text{Export Turnover of Unit in SEZ}}{\text{Total Turnover of Unit in SEZ}} \times 50\% \\ &= ₹[140 \text{ Lakh} \times 250 \text{ Lakh}/300 \text{ Lakh} \times 50\%] \\ &= ₹58.33 \text{ Lakh.} \end{aligned}$$

(ii) If unit in SEZ were set up and began manufacturing from 10.04.2011:

Since it is the 4th year of operation of the eligible unit, it shall be eligible for deduction up to 100% of the profit of such unit, assuming all the other conditions specified in Section 10AA are fulfilled.

Quantum of eligible deduction under Section 10AA of the Income Tax Act, 1961

$$\begin{aligned} &= \text{Profits of unit of SEZ} \times \frac{\text{Export Turnover of Unit in SEZ}}{\text{Total Turnover of Unit in SEZ}} \times 100\% \\ &= ₹[140 \text{ Lakh} \times 250 \text{ Lakh}/300 \text{ Lakh} \times 100\%] \\ &= ₹116.67 \text{ Lakh.} \end{aligned}$$

Solution to Question 12(b)

Computation of Gross salary of Mr. Arun for A.Y. 2015-16

Particulars	₹
Basic salary [(₹ 10,000 x 10) + (₹ 11,000 x 2)]	1,22,000
Dearness Allowance (100% of basic salary)	1,22,000
	21,300

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House Rent Allowance (See Note below)	2,65,300
Gross Salary	

Note: Computation of Taxable House Rent Allowance (HRA)

	April-May (₹)	June-Oct (₹)	Nov-Dec (₹)	Jan (₹)	Feb-March (₹)
Basic salary per month	10,000	10,000	10,000	10,000	11,000
Dearness allowance (included in salary as per terms of employment) (50% of basic salary)	5,000	5,000	5,000	5,000	5,500
Salary per month for the purpose of computation of house rent allowance	15,000	15,000	15,000	15,000	16,500
Relevant period (in months)	2	5	2	1	2
Salary for the relevant period (Salary per month x relevant period)	30,000	75,000	30,000	15,000	33,000
Rent paid for the relevant period	Nil	30,000 (₹6,000 x 5)	16,000 (₹8,000 x 2)	8,000 (₹8,000 x 1)	16,000 (₹8,000 x 2)
House rent allowance (HRA) received during the relevant period (A)	12,000 (₹6,000 x 2)	30,000 (₹6,000 x 5)	12,000 (₹6,000 x 2)	7,000 (₹7,000 x 1)	14,000 (₹7,000 x 2)
Least of the following is exempt [u/s 10(13A)]					
1. Actual HRA received	12,000	30,000	12,000	7,000	14,000
2. Rent paid - 10% of salary	N.A.	22,500	13,000	6,500	12,700
3. 40% of salary (Residence at Ghaziabad: June to Oct, 2014)	N.A.	30,000 (40% x ₹75,000)			
50% of salary (Residence at Delhi: Nov'14 – March'15)			15,000 (50% x ₹30,000)	7,500 (50% x ₹15,000)	16,500 (50% x ₹33,000)
Exempt HRA (B)	Nil	22,500	12,000	6,500	12,700
Taxable HRA (Actual HRA – Exempt HRA) (A – B)	12,000	7,500	Nil	500	1,300

Taxable HRA (total) = ₹ 12,000 + ₹ 7,500 + ₹ 500 + ₹ 1,300 = ₹ 21,300

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Question 13

- (a) Two brothers Rakesh and Dinesh are co-owners of a house property with equal share. The property was constructed during the financial year 1998-1999. The property consisted of eight identical units and is situated at Mangalore.

During the financial year 2014-15, each co-owner occupied one unit for residence and the balance of six units were let out at a rent of ₹12,000 per month per unit. The municipal value of the house property is ₹9,00,000 and the municipal taxes are 20% of municipal value, which were paid during the year. The other expenses were as follows:

- (i) Repairs - ₹40,000.
- (ii) Insurance Premium paid - ₹15,000.
- (iii) Interest payable on loan taken for construction of house - ₹3,00,000.

One of the let out units remained vacant for four months during the year.

Rakesh could not occupy his unit for six months, as he was transferred to Hyderabad. He does not own any other house.

Compute the income under the head "Income from House Property", for Mr. Rakesh and Mr. Dinesh.

- (b) Mr. Rohit, a non-resident, operates an aircraft between New York and Mumbai. For the financial year ended 31.03.2015, he received the amounts as under:

- (i) For carrying passengers from Mumbai ₹60 Lakhs.
- (ii) For carrying passengers from New York ₹75 Lakhs received in India.
- (iii) For carrying of goods from Mumbai ₹25 Lakhs.

The total expenditure incurred by Mr. Rohit for the purposes of the business for the financial year 2014-15 was ₹1.4 crores.

Compute the income of Mr. Rohit under the head "Profit and Gains of Business or Profession" for the financial year ended 31.03.2015, relevant to the A.Y 2015-16.

Solution to Question 13(a)

Computation of income from house property for the A.Y 2015-16

Particulars	Rakesh (₹)	Dinesh (₹)
Income from House Property		
I. Self-Occupied Portion (25%)		
Annual Value	Nil	Nil

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Less: Deduction under Section 24(b)

Interest on loan taken for construction ₹37,500 (being 25% of ₹1.5 Lakh) restricted to a maximum of ₹30,000 for each co-owner, since the property was constructed before 01.04.1999	30,000	30,000
Loss from self occupied property	(30,000)	(30,000)
II. Let-out Portion (75%) [Note]	1,25,850	1,25,850
Income from House Property	95,850	95,850

Working Note:

Let-out Portion (75%)		
Gross Annual Value		
Higher of:		
(i) Municipal Value (75% of ₹9 Lakh)	6,75,000	
(ii) Actual Rent [(₹12,000 × 6 × 12) – (₹12,000 × 1 × 4)]	8,16,000	8,16,000
Less: Municipal taxes (75% × 20% × ₹9 Lakh)		1,35,000
Net Annual Value		6,81,000
Less: Deduction under Section 24		
(i) 30% of NAV	2,04,300	
(ii) Interest on loan taken for house (75% of ₹3 Lakh)	2,25,000	4,29,300
Income from let-out portion		2,51,700
Share of each co-owner (50%)		1,25,850

Solution to Question 13(b)

Under Section 44BBA, in case of an assessee, being a non-resident, engaged in the business of operation of aircraft, a sum equal to 5% of the aggregate of the following amounts shall be deemed to be his business income:

- (i) The amount paid or payable, whether in or out of India, to the assessee on account of carriage of passengers, goods, etc. from any place in India; and
- (ii) The amount received or deemed to be received in India by the assessee on account of carriage of passengers, goods etc. from any place outside India.

Hence, the income of Mr. Rohit, chargeable to tax in India under the head "Profits and Gains of Business or Profession" is determined as under:

Particulars	Amount(₹)
(i) For carrying passengers from Mumbai	60,00,000
(ii) For carrying passengers from New York	75,00,000
(iii) For carrying of goods from Mumbai	25,00,000

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	1,60,00,000
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Hence, income from business computed on presumptive basis as per Section 44BBA is ₹8,00,000, being 5% of ₹1,60,00,000.

Question 14

- (a) From the following particulars of Mr. Gautam, for the previous year ended 31.03.2015, compute the income chargeable under the head "Income from other Sources":

Sl. No	Particulars	Amount (₹)
(i)	Director's fees from a company	10,000
(ii)	Interest on bank deposits	3,000
(iii)	Income from undisclosed sources	12,000
(iv)	Winnings from lotteries (Net)	35,000
(v)	Royalty on a book written by him	9,000
(vi)	Lectures in seminars	5,000
(vii)	Interest on loan given to relative	7,000
(viii)	Interest on debentures of a company (listed in a recognized stock exchange) net of taxes	3,600
(ix)	Interest on Post Office Savings Bank Account	500
(x)	Interest on Government Securities	2,200
(xi)	Interest on Monthly Income Scheme of Post Office	33,000

He paid ₹1,000 for typing the manuscript of book written by him.

- (b) Mr. Ansh has estates in Rubber, Tea and Coffee, from which he derives income. He has also a nursery wherein he grows and sells plants. For the previous year ending 31.03.2015, he furnishes the following particulars of his income from estates and sale of plants. You are requested to compute the taxable income for the A.Y 2015-16:

SL. No	Particulars	Amount(₹)
(i)	Manufacture of Rubber	5,00,000
(ii)	Manufacture of Coffee grown and cured	3,50,000
(iii)	Manufacture of Tea	7,00,000
(iv)	Sale of plants from nursery	1,00,000

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Solution to Question 14(a)

Computation of Total Income of Mr. Gautam, chargeable under the head "Income from other Sources" for the A.Y 2015-16

Particulars	Amount (₹)	Amount (₹)
Director's fees from a company		10,000
Interest on bank deposits		3,000
Income from undisclosed sources (taxable @ 30% under Section 115BBE)		12,000
Winnings from lotteries (Net) (taxable @ 30% under Section 115BB)	35,000	
Add: T.D.S @ 30%[35,000 × 30/70]	15,000	50,000
Royalty on a book written by him	9,000	
Less: Expenses	1,000	8,000
Lectures in seminars		5,000
Interest on loan given to relative		7,000
Interest on debentures of a listed company	3,600	
Add: TDS @ 10% [3,600 × 10/90]	400	4,000
Interest on Post Office Savings Bank Account (exempt under Section 10(15) of the Income Tax Act, 1961)		Nil
Interest on Government Securities		2,200
Interest on Monthly Income Scheme of Post Office		33,000
Income from other sources		1,34,200

NOTE: It has been assumed that royalty income has not been charged under the head "Profits and Gains of Business or Profession", and accordingly the same has been charged under the head "Income from other sources".

Solution to Question 14(b)

Computation of Taxable Income of Mr. Ansh, for the A.Y 2015-16

SL No	Particulars	Business Income Amount (₹)	Agricultural Income Amount (₹)
(a)	Income from manufacture of Rubber (Rule 7A) Business Income is 35% of ₹5,00,000 Agricultural Income is 65% of ₹5,00,000	1,75,000	3,25,000

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(b)	Income from growing and curing of coffee (Rule 7B) Business Income is 25% of ₹3,50,000 Agricultural Income is 75% of ₹3,50,000	87,500	2,62,500
(c)	Income from manufacture of Tea (Rule 8) Business Income is 40% of ₹7,00,000 Agricultural Income is 60% of ₹7,00,000	2,80,000	4,20,000
(d)	Income from sale of plants in nursery is agricultural income	Nil	1,00,000
TOTAL INCOME		5,42,500	11,07,500

NOTE:

Explanation 3 to Section 2(1A) provides that the income derived from saplings or seedlings grown in a nursery would be deemed to be agricultural income whether or not, the basic operations were carried out.

Question 15

- (a) Mr. Om Prakash started a proprietary business on 01.04.2013 with a capital of ₹5,00,000. During the financial year 2013-14, his business incurred a loss of ₹2,00,000. His wife, Mrs. Rajni, gave him a gift of ₹5,00,000 on 01.04.2014, to help him overcome his financial difficulties in business, which was immediately invested by him in his business. He earned a profit of ₹4,00,000 during the year 2014-15. Compute the amount to be clubbed in the hands of Mrs. Rajni for the A.Y 2015-16. If the amount was given by Mrs. Rajni, as loan to Mr. Om Prakash, would the amount be clubbed in the hands of Mrs. Rajni.
- (b) Mr. Shivam holding 28% of equity shares in a company, took a loan of ₹5,00,000 from the same company. On the date of granting the loan, the company had accumulated profit of ₹4,00,000. The company is engaged in some manufacturing activity.
- (i) Is the amount of loan taxable as deemed dividend in the hands of Mr. Shivam, if the company is a company in which the public is substantially interested?
- (ii) What would be the answer, if the lending company is a private limited company (i.e. a company in which the public are not substantially interested)?

Solution to Question 15(a)

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Section 64(1)(iv) of the Income Tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets (other than house property) transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration or in connection with an agreement to live apart.

Accordingly, the amount of income to be clubbed in the hands of Mrs. Rajni for the A.Y 2015-16, has been computed as under:

Particulars	Mr. Om's capital contribution (₹)	Capital Contribution out of gift of Mrs. Rajni (₹)	Total (₹)
Capital as on 01.04.2014	₹3,00,000 (₹5,00,000- ₹2,00,000)	₹5,00,000	₹8,00,000
Apportionment of Profit	$(4,00,000 \times 3/8)$ =1,50,000	$(4,00,000 \times 5/8)$ =2,50,000	4,00,000

Therefore, the income to be clubbed in the hands of Mrs. Rajni for the A.Y 2015-16 is ₹2,50,000.

In case, Mrs. Rajni had given the same amount as loan to Mr. Om, then clubbing provisions would not be attracted.

Solution to Question 15(b)

Any payment by a company, other than a company in which the public are substantially interested, of any sum by way of advance or loan to an equity shareholder, being a person who is the beneficial owner of shares not less than 10% of the voting power, is deemed as dividend under Section 2(22)(e), to the extent the company possesses accumulated profits.

- (i) The provisions of Section 2(22)(e), however will not apply where the loan is given by a company in which the public are substantially interested. In such case, the loan would not be taxable as deemed dividend in the hands of Mr. Shivam.
- (ii) However, if the loan is taken from a private company (i.e. a company in which the public are substantially interested), which is a manufacturing company and not a company where lending of money is a substantial part of the business of the company, then the provisions of Section 2(22)(e) of the Income Tax Act, 1961 would be attracted., since Mr. Shivam holds more than 10% of the equity shares of the company.

The amount chargeable as deemed dividend cannot, however exceed the accumulated profits held by the company on the date of giving the loan. Therefore,

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the amount taxable as deemed dividend in the hands of Mr. Shivam, would be limited to the accumulated profit i.e., ₹4,00,000 and not the amount of loan which is ₹5,00,000.

Question 16

(a) The gross total income of Mr. Anup for the Assessment Year 2015-16, was ₹12,00,000. He has made the following investment/payments during the year 2014-15.

	Particulars	₹
1.	L. I. C premium paid (Policy value ₹ 1.00,000) (taken on 1.04.2007)	25,000
2.	Contribution to Public Provident Fund (PPF)	25,000
3.	Repayment of housing loan to Indian Bank	50,000
4.	Payment made to L. I. C. pension fund	20,000
5.	Medical insurance premium for self, wife and dependent children	18,000
6.	Mediclaim premium for parents (aged over 80 years)	30,000

Compute eligible deduction under Chapter VI- A for the Assessment Year 2015-16.

(b) Explain how contributions to political parties are deductible in the hands of corporate and non- corporate assesseees under the income-tax law.

Solution to Question 16 (a)

Computation of eligible deduction under Chapter – VIA of the Income Tax Act, for Mr. Anup for
A.Y. 2015-16

Particulars	₹	₹
Deduction under Section 80C		
LIC premium paid ₹ 25,000 [Limited to 20% of policy value, since policy has been taken before 1.04.2012 (20% x ₹ 1,00,000)]	20,000	
Contribution to P.P.F.	25,000	
Repayment of housing loan to Indian Bank	50,000	
	95,000	

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Deduction under Section 80CCC Payment to LIC Pension Fund	20,000	1,15,000
	1,15,000	
Deduction under Section 80D		
Payment of medical insurance premium ₹18,000 for self, wife and dependent children. Deduction limited to ₹15,000.	15,000	
Medical insurance premium paid for parents ₹ 30,000 (limited to ₹ 20,000, being the limit applicable for senior citizens)	20,000	35,000
Eligible deduction under Chapter VIA		1,50,000

Solution to Question 16 (b)

Section 80GGB provides for deduction of any sum contributed in the previous year by an Indian company to a political party.

Section 80GGB provides for deduction of any sum contributed by any other person to a political party. However, this deduction will not be available in respect of sum contributed by a local authority and every artificial juridical person, wholly or partly funded by the Government.

It may be noted that cash donations to political parties would not qualify for deduction under Section 80GGB and Section 80GGB.

Deduction under Sections 80GGB and 80GGB would be available in respect of contributions made to a political party registered under Section 29A of the Representation of the People Act, 1951.

Note: For the purpose of Section 80GGB, the word "contribute" shall have the same meaning assigned to it under Section 293A of the Companies Act, 1956, which provides that –

- (a) a donation or subscription or payment given by a company to a person for carrying on any activity which is likely to effect public support for a political party shall also be deemed to be contribution for a political purpose;
- (b) the expenditure incurred, directly or indirectly, by a company on advertisement in any publication (being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like) by or on behalf of a political party or for its advantage shall also be deemed to be a contribution to such political party or a contribution for a political purpose to the person publishing it.

However, it may be noted that as per Section 37(2B), no allowance shall be allowed in respect of expenses incurred by him on advertisement in any souvenir, brochure, tract or the

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like published by any political party. It is only after computation of gross total income, contribution to a registered political party is allowed as deduction under Section 80GGB to a company.

Question 17

(a) Mr. Khan carries on his own business. An analysis of his trading and profit & loss for the year ended 31-3-2015 revealed the following information:

- (1) The net profit was ₹ 11,20,000.
- (2) The following incomes were credited in the profit and loss account :
 - (i) Dividend from UTI: ₹ 22,000.
 - (ii) Interest on debentures: ₹ 17,500.
 - (iii) Winnings from races: ₹ 15,000.
- (3) It was found that some stocks were omitted to be included in both the opening and closing stocks, the value of which were:
Opening stock: ₹ 8,000.
Closing stock: ₹ 12,000.
- (4) ₹ 1,00,000 was debited in the profit and loss account, being contribution to a University approved and notified under Section 35(1)(ii).
- (5) Salary includes ₹ 20,000 paid to his brother which is excess, as compared to market standards, to the extent of ₹ 2,500.
- (6) Advertisement expenses include 15 gift packets of dry fruits costing ₹ 1,000 per packet presented to important customers.
- (7) Total expenses on car was ₹ 78,000. The car was used both for business and personal purposes. $\frac{3}{4}$ th is for business purposes.
- (8) Miscellaneous expenses included ₹ 30,000 paid to Roadtravel Co., a goods transport operator in cash on 31-1-2015 for distribution of the company's product to the warehouses.
- (9) Depreciation debited in the books was ₹ 55,000. Depreciation allowed as per Income-tax Rules, 1962 was ₹ 50,000.
- (10) Drawings ₹ 10,000.
- (11) Investment in NSC ₹ 15,000.

Compute the total income of Mr. Khan for the A.Y 2015-16.

(b) Raunak Bajaj doing textiles business furnishes you the following information:

Total turnover for the financial year:

	₹
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2013 -2014	1,25,00,000
2014 – 2015	92,00,000

State whether the provisions of tax deduction at source are attracted for the following expenses incurred during the previous year 2014 – 2015:

	₹
Interest on term loan paid to Alliance bank	95,000
Advertisement expenses to Rupa (two individual payments of ₹25,000 and ₹45,000)	70,000
Factory rent paid to Ansh	2,00,000
Brokerage paid to Deepak Singh, a sub – broker	10,000

Solution to Question 17 (a)

Computation of total income of Mr. Khan for the A.Y. 2015-16

Particulars	₹
Profits and gains of business or profession (Working Note 1)	10,46,500
Income from other sources (Working Note 2)	32,500
Gross Total Income	10,79,000
Less: Deduction under Section 80C (Investment in NSC)	15,000
Total Income	10,64,000

Working Notes:

1. Computation of profits and gains of business or profession

Particulars	₹	₹
Net profit as per profit and loss account		11,20,000
Add: Expenses debited to profit and loss account but not allowable as deduction		
Salary paid to brother disallowed to the extent considered unreasonable [Section 40A(2)]	2,500	
Motor car expenses attributable to personal use not allowable (₹ 78,000 x ¼)	19,500	
Depreciation debited in the books of account	55,000	
Drawings (not allowable since it is personal in nature) [Note (iii)]	10,000	
Investment in NSC [See Note(iii)]	15,000	1,02,000
		12,22,000
Add: Under statement of closing stock		12,000
		12,34,000
Less: Under statement of opening stock		8,000
		12,26,000

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Less: Contribution to a University approved and notified under Section 35(1)(ii) is eligible for weighted deduction @ 175%. Since only the actual contribution (100%) has been debited to profit and loss account, the additional 75% has to be deducted.		75,000
Less: Incomes credited to profit and loss account but not taxable as business income		11,51,000
Income from UTI [Exempt under Section 10(35)]	22,000	
Interest on debentures (taxable under the head "Income from other sources")	17,500	
Winnings from races (taxable under the head "Income from other sources")	15,000	54,500
Less: Depreciation allowable under the Income-tax Rules, 1962		10,96,500
		50,000
		10,46,500

Notes:

- (i) Advertisement expenses of revenue nature, namely, gift of dry fruits to important customers, is incurred wholly and exclusively for business purposes. Hence, the same is allowable as deduction under Section 37.
- (ii) Disallowance under Section 40A(3) is not attracted in respect of cash payment of ₹ 30,000 to Road Travel Co., a goods transport operator, since, in case of payment made for plying, hiring or leasing goods carriages, an increased limit of ₹ 35,000 is applicable (i.e. payment of upto ₹ 35,000 can be made in cash without attracting disallowance under Section 40A(3)).
- (iii) Since drawings and investment in NSC have been given effect to in the profit and loss account, the same have to be added back to arrive at the business income.

2. Computation of "Income from other sources"

Particulars	₹
Interest on debentures	17,500
Winnings from races	15,000
	32,500

Note:

The following assumptions have been made in the above solution:

1. The figures of interest on debentures and winnings from races represent the gross income (i.e., amount received plus tax deducted at source).
2. As per the question, depreciation as per Income-tax Rules, 1962 is ₹ 50,000. It has been assumed that, in the said figure of ₹ 50,000, only the proportional depreciation (i.e., 75% for business purposes) has been included in respect of motor car.

Solution to Question 17 (b)

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Since the turnover of Mr. Raunak Bajaj for F.Y.2013-14, i.e., ₹125 lakhs, has exceeded the monetary limit of ₹100 lakhs prescribed under Section 44AB, he has to comply with the tax deduction provisions during the financial year 2014-15, subject to, however, the exemptions provided for under the relevant Sections for applicability of TDS provisions.

(i) Interest paid on term loan to Alliance Bank

TDS under Section 194A is not attracted in respect of interest paid to a banking company.

(ii) Advertisement expenses to Rupa (two individual payments of ₹25,000 and ₹45,000)

Under Section 194C, the provisions for tax deduction at source would not be attracted if the amount paid to a contractor does not exceed ₹30,000 in a single payment or ₹ 75,000 in the aggregate during the financial year. Therefore, provisions for deduction of tax at source under Section 194C are not attracted in respect of payment of ₹25,000 to Rupa.

However, payment of ₹45,000 to Rupa would attract TDS@1% under Section 194C, since it exceeds ₹30,000.

Note - The tax to be deducted would be ₹450, being 1% of ₹45,000.

(iii) Factory rent of ₹2,00,000 paid to Ansh

Tax has to be deducted under Section 194-I as the rental payment exceeds ₹1,80,000.

Note- The tax to be deducted is ₹20,000, being 10% of ₹2,00,000.

(iv) Brokerage of ₹10,000 paid to Deepak Singh, a sub-broker

Tax has to be deducted @10% under Section 194-H as the brokerage exceeds ₹ 5,000 during the F.Y. 2014-15.

Note - The tax to be deducted is ₹1,000, being 10% of ₹10,000.

Question 18

(a) Explain with brief reasons whether the return of income can be revised under Section 139(5) of the Income-tax Act, 1961 in the following cases:

- (i) Belated return filed under Section 139(4),**
- (ii) Return already revised once under Section 139(5).**
- (iii) Return of loss filed under Section 139(3).**

(b) Mr. Ashish (aged 48) owned 6 heavy goods vehicles as on 01.04.2014. He acquired 2 more heavy goods vehicles on 1.7.2014. He is solely engaged in the business of plying goods vehicles on hire since financial year 2009-10.

He did not opt for presumptive provision contained in section 44AE for the financial year 2013-14. His books were audited under section 44AB and the return of income was filed on 5.8.2014. He has unabsorbed depreciation of ₹ 70,000 and business loss of ₹ 1,00,000 for the financial year 2013-14.

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Following further information is provided to you:

- (i) Deposited ₹ 20,000 in Tax Saver Deposit with UCO Bank in the name of married son.
- (ii) Paid medical insurance premium of ₹ 23,000 for his parents (both aged above 70) by means of bank demand draft.
- (iii) Paid premium on life insurance policy of his married daughter ₹ 25,000. The policy was taken on 1.04.2013 and the minimum sum assured is ₹ 2,00,000.
- (iv) Repaid principal of ₹ 40,000 and interest of ₹ 15,000 to Canara Bank towards education loan of his daughter, who completed B.E. two years ago. She is employed after completion of her studies.

Assuming that Mr. Ashish has opted for presumptive provision contained in section 44AE of the Income-tax Act, 1961, compute the total income of Mr. Ashish for the assessment year 2015-16.

Solution To Question 18(a)

Any person who has furnished a return under Section 139(1) or in pursuance of a notice issued under Section 142(1) can file a revised return if he discovers any omission or any wrong statement in the return filed earlier. Accordingly,

- (i) A belated return filed under Section 139(4) cannot be revised. Only a return furnished under Section 139(1) or in pursuance of a notice issued under Section 142(1) can be revised.
- (ii) A return revised earlier can be revised again as the first revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. within one year from the end of the relevant assessment year or before the completion of assessment, whichever is earlier.
- (iii) A return of loss filed under Section 139(3) is deemed to be return filed under Section 139(1), and therefore, can be revised under Section 139(5).

Solution to Question 18(b)

Computation of total income of Mr. Ashish for the A. Y. 2015-16

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Particulars	₹	₹
Income from business of plying goods vehicle (Note 1)		6,75,000
Less: Brought forward business loss of financial year 2013-14 (Note 2 & 3)		1,00,000
Gross Total Income		5,75,000
Less: Deduction under Chapter VI-A		
Section 80C		
Life insurance premium paid for insurance of married daughter (Note 5)	20,000	
Section 80D		
Medical insurance premium paid for parents (Note 6)	20,000	
Section 80E		
Interest paid towards education loan taken for studies of his daughter (Note 7)	15,000	55,000
Total Income		5,20,000

Working Notes:

- (1) Computation of income from business of plying goods vehicles under section 44AE.

Particulars	₹
6 heavy goods vehicle held throughout the year (₹ 7,500 x 6 x 12)	5,40,000
2 heavy goods vehicle - held for 9 months (₹ 7,500 x 2 x 9)	1,35,000
Income under section 44AE	6,75,000

- (2) As per Section 44AE, any deduction allowable under the provisions of sections 30 to 38 shall be deemed to have been already allowed. Therefore, the unabsorbed depreciation of ₹ 70,000 shall not be allowed as a deduction since it is covered by section 32.
- (3) Brought forward business loss of ₹ 1,00,000 shall be allowed as deduction, by virtue of section 72, as it is allowed to be carried forward for 8 assessment years following the assessment year to which it relates, since the return for A.Y. 2014-15 was filed before the due date specified under section 139(1).
- (4) Fixed deposit in the name of married son does not qualify for deduction under section 80C.
- (5) Premium paid for insurance on the life of any child of the individual, whether married or not, qualifies for deduction under section 80C. In respect of policies issued on or after 1.04.2013, only premium paid to the extent of 10% of "minimum capital sum assured" qualifies for deduction under section 80C. Therefore, out of the life insurance premium of ₹

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25,000 paid for insurance policy of married daughter, only ₹ 20,000 (being 10% of ₹ 2,00,000) is allowed as deduction under section 80C.

- (6) Deduction is allowed under section 80D for payment made for medical insurance of parents. Medical insurance premium paid for insuring the health of a person who is a senior citizen i.e. of age 60 years or more, qualifies for deduction under section 80D, subject to a maximum of ₹ 20,000. Hence, deduction of ₹ 20,000 is provided to Mr. Ashish, as his parents are senior citizens.
- (7) It is only the payment of interest on education loan which qualifies for deduction under section 80E. Deduction under section 80E is allowed in respect of interest on loan taken for education of children of the individual even if they are not dependent. Principal repayment of the education loan is not eligible for deduction under section 80E.

Question 19

- (a) Enumerate the circumstances in which an individual assessee is empowered to sign and verify his return of income under Section 139 by himself or otherwise by an authorized signatory.
- (b) Ms. Salini, an individual resident Indian, aged 62 years, frequently visits foreign countries to conduct motivational seminars and receives honorarium of ₹4,00,000 for the same. Tax of ₹ 40,000 was deducted in the foreign country. India did not have any double taxation avoidance agreement with that foreign country. The particulars of income earned in India are stated as follows:
- (i) In India, her total income amounted to ₹12,00,000.
 - (ii) Contribution to the Public Provident fund - ₹ 1,50,000.
 - (iii) Contribution to the approved Pension Fund of LIC- ₹70,000.
 - (iv) Contribution to Central Government Health Scheme during the previous year- ₹36,000.
 - (v) Payment of medical Insurance premium, for mother (who is not dependent on her) – ₹21,000.

Compute the tax liability of Ms. Salini for the Assessment Year 2015-16.

Solution to Question 19(a)

The following table enumerates the specific circumstances and the authorized signatories empowered to sign and verify the return of income of an individual assessee filed under Section 139(1), in each such circumstance:

Sl. No.	Circumstance	Return of income, to be signed by
(i)	Where he is absent from India	1. The individual himself; or

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		2. Any person duly authorized by him in this behalf holding a valid power of attorney from the individual (such power of attorney should be attached to the return of income).
(ii)	Where he is mentally incapacitated from attending to his affairs	1. His guardian; or 2. Any other person competent to act on his behalf.
(iii)	Where, for any other reason, it is not possible for the individual to sign the return	Any person duly authorized by him in this behalf, holding a valid power of attorney from the individual (such power of attorney should be attached to the return of income).
(iv)	In circumstances, not covered above.	The individual himself

Solution to Question 19(b)

Computation of tax liability of Ms. Salini for the Assessment Year 2015-16

Assessee: Ms. Salini

Assessment Year: 2015-16	Previous Year: 2014-15	
Particulars	₹	
Indian Income		12,00,000
Foreign Income		4,00,000
Gross Total Income		16,00,000
Less: Deductions		
Deposit in PPF [Section 80C]	1,50,000	
Contribution to approved Pension Fund of LIC [Section 80CCC]	70,000	
	2,20,000	
The aggregate deduction under Sections 80C, 80CCC and 80CCD(1) has to be restricted to ₹1,50,000 [Section 80CCE]	1,50,000	1,50,000
Contribution to Central Government Health Scheme.[Section 80D] (Under Section 80D, the maximum deduction allowed to a senior citizen is ₹20,000)	20,000	20,000
Medical insurance premium paid for mother [Section 80D]	20,000	20,000
GROSS DEDUCTIONS		1,90,000
TOTAL INCOME		14,10,000
TAX ON TOTAL INCOME		
Income Tax payable	2,43,000	
Education Cess @ 2%	4,860	
Secondary and Higher Education Cess@ 1%	2,430	2,50,290

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Average rate of tax in India [₹2,50,290/14,10,000 x 100]		17.75%
Average rate of tax in foreign country [₹40,000/4,00,000 x 100]		10%
Rebate under Section 91 shall be limited to the lower of average Indian tax rate or average foreign tax rate		
Hence, rebate under Section 91 shall be = (₹4,00,000 x 10%)		40,000
Tax payable in India (₹2,50,290- ₹ 40,000)		2,10,290

Question 20

(a) The Profit & Loss Account of Royal Industries Ltd. for the previous year 2014-15, shows a net profit of ₹70 Lakhs after accounting for the following items:

- (i) Depreciation of ₹40 Lakhs, was charged in the Profit and Loss Account. This amount included additional depreciation of ₹10 Lakhs on revalued assets. The amount of depreciation chargeable under Section 32 of the Income Tax Act, 1961, amounted to ₹30 Lakhs.
- (ii) Interest of ₹10 lakhs due to a financial institution, was not paid before the due date of filing return of income.
- (iii) Provision for doubtful debts was made at ₹1 lakh.
- (iv) Provision for unascertained liabilities amounted to ₹1 lakh.
- (v) ₹6 lakhs was transferred to the General Reserve.
- (vi) Net Agricultural Income amounted to ₹20 lakhs.
- (vii) ₹5 lakhs was withdrawn from reserve created during the financial year 2011-12.
(Book profit was increased by the amount transferred to such reserve in Assessment year 2012 - 13.)

Other Information:

Brought forward loss and unabsorbed depreciation as per books are ₹16 Lakhs and ₹15 Lakhs, respectively.

Compute Minimum Alternate Tax under Section 115JB of the Income Tax Act, 1961 for the A.Y. 2015 - 16.

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- (b) Mr. Raghav, an Indian resident, is a free-lance management consultant. He was paid ₹70,000 on 1st September, 2014 towards fees for his professional services, without deducting tax at source. Later on, a further sum of ₹50,000, was due to him on 1st March, 2015, from which tax of ₹12,000 was deducted at source. The tax so deducted, was deposited on 26th June, 2015. Compute interest payable by the deductor under Section 201(1A) of the Income Tax Act, 1961.

Solution to Question 20(a)

Computation of Book Profit under Section 115JB of the Income tax Act, 1961

Assessee: Royal Industries Limited

Assessment Year: 2015-16

Previous Year: 2014-15

Particulars	₹	₹
Net Profit as per Profit and Loss account		70,00,000
Add: Net Profit to be increased by the following amounts as per Explanation 1 to section 115JB		
Transfer to general reserve	6,00,000	
Provision for unascertained liabilities	1,00,000	
Provision for doubtful debts	1,00,000	
Depreciation charged in the Profit and Loss Account (including the depreciation charged on revalued assets)	40,00,000	48,00,000
Less: Net Profit to be reduced by the following amounts as per Explanation 1 to Section 115JB		1,18,00,000
Amount transferred from reserve and credited to profit and loss account [since the book profit was increased by the amount transferred to such reserve in the Assessment Year 2011 –12]	5,00,000	
Depreciation, as per Section 32 of the Income Tax Act, 1961	30,00,000	
Net Agricultural Income [Exempt under section 10 (1)]	20,00,000	
Loss brought forward (₹16 lakhs) or unabsorbed depreciation (₹15 lakhs) as per books, whichever is less	15,00,000	70,00,000
Book Profit for computation of MAT under section 115JB		48,00,000

Computation of Minimum Alternate Tax (MAT) under Section 115JB of the Income Tax Act, 1961

Particulars	₹	₹
18.50% of book profit (18.5% of ₹48,00,000)		8,88,000
Add: Education cess @ 2%	17,760	

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Secondary and higher education cess @ 1%	8,880	26,640
Minimum Alternate Tax payable under Section 115JB		9,14,640
Note – Explanation 1 to section 115JB does not require adjustment of interest not paid before due date of filling return of income, while computing book profit.		

Solution to Question 20(b)

Section 194J of the Income Tax Act, 1961 provides for deduction of tax at source @ 10%, in respect of fees for professional services. Since, there is delay in deduction and deposit of tax, interest under Section 201(1A) is attracted.

As per the provisions of Section 201(1A), if a person, who is liable to deduct tax at source, fails to deduct tax at source or after deducting such tax, fails to pay the tax required by the Act, then he is liable to pay interest as follows:

- (i) 1% for every month or part of month, on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually deducted.

- (ii) 1.5% for every month or part of the month on the amount of such tax from the date on which such tax was deducted to the date on which tax is actually paid.

Therefore, in the given case, interest under **Section 201(1A)** would be computed as follows:

Particulars	Computation	Amount (₹)
1% on tax deductible, but not deducted	1% on ₹7,000 for 7 months	490
1.5% on tax deducted, but not deposited	1.5% on ₹12,000 for 4 months	720
TOTAL		1,210

Thus, interest payable by the person liable to deduct tax at source, amounts to ₹1,210.

Question 21

(a) Packer Limited engaged in both manufacturing operations and construction business, has the following immovable properties as on 31st March, 2015. Compute the net wealth of Packer Limited, as on 31.03.2015, stating reasons for inclusion or, exclusion of items, in the computation of net wealth:

- (i) **A plot of agricultural land in Bengaluru was acquired on 01.01.2013, for conversion into non-agricultural land to be used for opening a new factory. The approval of the Karnataka State Government for conversion into industrial land was obtained on 01.11.2014. The development activity for conversion was in progress on 31.03.2014. The value of land as on 31.03.2015 was ₹ 88 Lakh. A loan of ₹ 68 Lakh was taken to acquire the plot of agricultural land in Bengaluru.**

- (ii) **A building is under construction in Pune. The land on which the building is constructed is of the value of ₹53 Lakh, as on 31.03.2015.**

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- (iii) A farm house is situated at a distance of 30 Kilometers from the local limits of Bhopal Municipal Corporation. The value of the farm house stood at ₹65 Lakh on 31.03.2015.
- (iv) A guest house is situated at a distance of 40 Kilometers from the local limits of Bengaluru Municipal Corporation. The value of the guest house stood at ₹75 Lakh on 31.03.2015.
- (v) Three residential flats (of value ₹35 Lakh each) were purchased in Mumbai, in the financial year 2007-08, for the purpose of resale.
- (vi) Packer Limited held shares of group companies, break up value of which is ₹ 12 Lakh.
- (vii) Cash at office, which was not accounted for, in the books of accounts of Packer Ltd., amounted to ₹ 5.5 Lakh. Cash in hand (as per cash book) stood at ₹5 Lakh.
- (viii) Packer Ltd. held motor cars, of value ₹ 43 Lakh, on 31.03.2015. Among these cars, it possessed an imported car (which was used for hire purposes) worth ₹ 32 Lakh.
- (ix) Packer Ltd. acquired 125 acres of land in Pune township on 15.05.2014 for construction of commercial complex. The value of land on 31.03.2015, stood at ₹150 Lakh. For acquiring this land, Packer Ltd. borrowed an amount of ₹100 Lakh.
- (x) Packer Ltd. provided residential flats of 950 square feet each, to its two employees. One of the employees received a remuneration of ₹12 Lakh per annum. The other employee received a remuneration of ₹8Lakh per annum. The value of each flat as on 31.03.2015, stood at ₹44Lakh.
- (b) Mr. Rajesh, an individual, furnishes the following information, relating to the assets and liabilities as on 31.03.2015:

Sl. No	Particulars	Amount (₹)
(i)	Plot of land at Mumbai, comprising an area of 1200 square meters, (on which building has been constructed without the approval of the appropriate authority).	50,00,000
(ii)	Building constructed on land at Mumbai, without the approval of the appropriate authority, and used for his business purposes.	20,00,000
(iii)	Two residential house properties, (one of the house properties is used for the purpose of business, by Mr. Rajesh)	10,00,000 (each)
(iv)	Urban Land was purchased in August 2011 located in Pune, in the name of his son who is suffering from a disability specified under Section 80U of the Income Tax Act, 1961. The age of his son on 31.03.2015 was 17 years.	5,00,000
(v)	House located in Ahmedabad, shown in his wealth-tax return for the A.Y 2014-15 at ₹50 Lakh was sold on 20.03.2015 for ₹60 Lakh, but the sale deed thereof	55,00,000

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	was executed on 03.04.2015.	
(vi)	Motor cars held as stock-in-trade.	75,00,000
(vii)	Gold jewellery brought into India from Singapore, where he was residing, on his return to India on 01.11.2010, for permanently residing in India.	12,00,000
(viii)	Jewellery made of platinum.	18,00,000
(ix)	Jewellery gifted to wife from time to time, were available with her on the valuation date. The jewellery was acquired for ₹10 Lakhs.	35,00,000 (Fair Market Value)
(x)	Interest in the coparcenary property of the Hindu Undivided Family, of which he is a member.	25,00,000
(xi)	Cash in hand, recorded in the books of account.	10,00,000
(xii)	Fixed Deposits in a co-operative bank.	20,00,000
Liabilities		
(xiii)	Loan borrowed for marriage of daughter	12,00,000
(xiv)	Loan borrowed for construction of building at Mumbai	10,00,000

The minor married daughter of Mr. Rajesh holds a plot of land at Bhopal, valued at ₹40 Lakhs. The amounts stated against the assets, except cash in hand, are the values determined as per Section 7 of the Wealth Tax Act, 1957 read with Schedule III thereto.

Compute the net wealth of Mr. Rajesh, as on the valuation date 31.03.2015.

State the reasons for inclusion, or exclusion of the various items.

Solution to Question 21 (a):

Assessee: Packer Limited

Valuation Date: 31.03.2015

Assessment Year: 2015-16

Computation of Net Wealth

Sl. No.	Particulars	Note	Amount (₹)	Amount (₹)
ASSETS (as per the definition of "Assets", under Section 2(ea) of the Wealth Tax Act, 1957)				
(i)	Plot of agricultural land in Bengaluru	1		88,00,000
(ii)	Building under construction in Pune.	2		NIL
(iii)	Farm house situated at a distance of 30 Kilometers from the local limits of Bhopal Municipal Corporation.	3		NIL

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(iv)	Guest house situated at a distance of 40 Kilometers from the local limits of Bengaluru Municipal Corporation.	4		75,00,000
(v)	Three residential flats in Mumbai, purchased for the purpose of resale.	5		NIL
(vi)	Shares of group companies	6		NIL
(vii)	Cash in office, not accounted for in the books of account Cash in hand, recorded in the cash book	7	5,50,000 NIL	5,50,000
(viii)	Motor Cars Less: Imported cars used for hiring purposes	8	43,00,000 32,00,000	11,00,000
(ix)	125 acres of land, acquired in Pune township, for construction of commercial complex	9		NIL
(x)	Residential flats provided to employees	10		44,00,000
(A) TOTAL ASSETS				2,23,50,000
Liabilities				
(i)	Debts incurred for acquisition of land in Bengaluru	1		68,00,000
(ii)	Debts incurred for land acquired in Pune Township, for the construction of commercial complex	9		NIL
(B) TOTAL LIABILITIES				68,00,000
(C) NET WEALTH [(A)- (B)]				1,55,50,000

NOTE:

1. A plot of agricultural land in Bengaluru is chargeable to wealth tax, on the valuation date 31.03.2015, since it is an urban land within the definition of 'Asset', under Section 2(ea) of the Wealth Tax Act, 1957.

Unused land held for industrial purposes for a period of two years is not included in the definition of urban land held for industrial purposes. However, this exception does not apply in this case, as the period of two years has elapsed from the acquisition of the agricultural land in Bengaluru. The period of holding shall be reckoned from the date of acquisition, and not from the date of receipt of approval for conversion, from the State Government. Therefore, plot of agricultural land, in Bengaluru, is an 'asset', as on 31.03.2015.

Debts incurred for acquisition of land in Bengaluru, shall be admissible as a deduction, from the value of the agricultural land in Bengaluru, in the computation of the net wealth of the assessee.

2. Building under construction is an incomplete building which, neither falls within the meaning of 'building', nor within the meaning of urban land under Section 2(ea) of the Wealth Tax Act, 1957. An incomplete building cannot be used for residential or commercial purposes, or for the purposes of maintaining a 'guest house'. Hence, it is not

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an asset chargeable to wealth tax, as on the valuation date 31.03.2015. This position, regarding the taxability of building under construction, under the Wealth Tax provisions was established in the case of CIT v. Smt. Neena Jain (2011) 330 ITR 157.

3. Farm house, situated at a distance of 30 Kilometers from the local limits of Bhopal Municipal Corporation, is not chargeable to wealth tax. A farm house situated beyond 25 Kms from the local limits of a municipality shall not be chargeable to wealth tax.
4. A guest house, regardless of its distance from the municipal corporation is always chargeable to wealth tax.
5. Three residential flats purchased in Mumbai, in the financial year 2007-08, for the purpose of resale, shall not be chargeable to wealth tax. Though, building or land appurtenant thereto, is an asset under Section 2(ea) of the Wealth Tax Act, 1957, any house for residential or commercial purposes, which forms part of stock-in-trade is specifically excluded from the scope of 'building'.
6. Shares are not included in the definition of 'Asset', under Section 2(ea) of the Wealth Tax Act, 1957. Hence, shares of group companies, held by Packer Ltd., shall not be included in the computation of the 'net wealth' of Packer Ltd.
7. In case of persons, other than individual and HUFs, any amount not recorded in the books of account, is an asset, under Section 2(ea) of the Wealth Tax Act, 1957. Hence, the amount of ₹5.50 Lakh, which is not accounted for by Packer Ltd., shall be included in the computation of the net wealth of Packer Ltd. Cash-in-hand as per cash book, is not an asset chargeable to wealth tax.
8. Motor Cars are chargeable to wealth tax. Only, the car used by Packer Ltd, for purposes of hiring, shall be exempt from the levy of wealth tax.
9. Since, Packer Ltd. is engaged in construction business, land acquired in Pune Township on 15.05.2014 for construction of commercial complex, shall constitute part of the stock-in-trade. Hence, land acquired in Pune Township, for construction of commercial complex, shall not be an 'asset' under Section 2(ea) of the Wealth Tax Act, 1957. Debts incurred for acquisition of land in the township, shall also not be allowed as deduction.
10. Residential flat provided by Packer Ltd. for residential purposes, to one of his employees, whose annual remuneration is of ₹12 Lakh, shall be chargeable to wealth tax. The other residential flat, provided to his employee, whose annual remuneration is of ₹8 Lakh, shall not be chargeable to wealth tax.

Solution to Question 21(b):

Assessee: Mr. Rajesh

Valuation Date: 31.03.2015

Assessment Year: 2015-16

Computation of Net Wealth

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Sl. No.	Particulars	Note	Amount (₹)	Amount (₹)
ASSETS (as per the definition of "Assets", under Section 2(ea) of the Wealth Tax Act, 1957)				
(i)	Plot of land in Mumbai.	1		50,00,000
(ii)	Building constructed on land at Mumbai, without the approval of the appropriate authority.	2		NIL
(iii)	Residential house properties.	3		NIL
(iv)	Urban Land was purchased in Pune, in the name of his son who is suffering from a disability specified under Section 80U of the Income Tax Act, 1961.	4		NIL
(v)	House located in Ahmedabad, which has already been sold.	5		NIL
(vi)	Motor cars held as stock-in-trade.	6		NIL
(vii)	Gold jewellery brought into India from Singapore	7		NIL
(viii)	Jewellery made of platinum.	8		18,00,000
(ix)	Jewellery gifted to wife	9		35,00,000
(x)	Interest in the coparcenary property of the Hindu Undivided Family	10		NIL
(xi)	Cash in hand, in excess of ₹50,000	11		9,50,000
(xii)	Fixed Deposits in a co-operative bank	12		NIL
(A) TOTAL ASSETS				1,12,50,000
Liabilities				
(xiii)	Loan borrowed for marriage of daughter	13		NIL
(xiv)	Loan borrowed for construction of building at Mumbai	14		NIL
(B) TOTAL LIABILITIES				NIL
(C) NET WEALTH [(A)- (B)]				1,12,50,000

NOTE:

- Plot of land at Mumbai, comprising an area of 1200 square meters, (on which building has been constructed without the approval of the appropriate authority), is an asset under Section 2(ea) of the Wealth Tax Act, 1957, and is therefore, included in the computation of the net wealth of the assessee. Since, the plot of land comprises an area of more than 500 square meters, it is not eligible for exemption under Section 5(vi) of the Wealth Tax Act, 1957.

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2. Building constructed on land at Mumbai, without the approval of the appropriate authority, is not an asset under Section 2(ea) of the Wealth Tax Act, 1957, since the building is being used for the purposes of business.
3. The assessee owns two residential house properties. One of the house property shall be exempt from the levy of wealth tax. This is so because, a house used exclusively for residential purpose is treated as an 'Asset' under Section 2(ea) of the Wealth Tax Act, 1957, but is exempt under Section 5(vi) of the Wealth Tax Act, 1957.

The other house property shall also be exempt from the levy of wealth tax, because, the residential property is used for the purposes of business.

4. Urban Land is an asset, by virtue of Section 2(ea)(v) of the Wealth Tax Act, 1957. However, since, the same is in the name of his minor son, who suffers from a disability specified under Section 80U of the Income Tax Act, 1961, the clubbing provisions are not applicable as per Section 4(1)(a)(ii) of the Wealth tax Act, 1957.
5. The house property, located in Ahmedabad, was sold during the year and is, therefore, not an asset of the assessee, but is an asset of the beneficial owner, since ownership of the property passes on sale of property and execution of sale deed only confirms the act of the parties.
6. Motor cars held as stock-in-trade do not fall within the meaning of the definition of an 'Asset', under Section 2(ea) of the Wealth Tax Act, 1957, and hence, is not chargeable to wealth tax.
7. Gold jewellery brought into India on 01.11.2010, from Singapore is exempt under Section 5(v) of the Wealth Tax Act, 1957, for seven successive assessment years, beginning with the Assessment Year 2011-12.
8. Jewellery made of platinum, is an asset under Section 2(ea) of the Wealth Tax Act, 1957, and is, therefore, included in the net wealth.
9. The fair market value of the Jewellery gifted to wife, will be included in the computation of the net wealth of Mr. Rajesh, as per the provisions of Section 4(1)(a)(i), read with Rule 18 of Schedule III of the Wealth Tax act, 1957.
10. Interest in the coparcenary property of the Hindu Undivided Family, of which Mr. Rajesh is a member, is exempt under Section 5(ii) of the Wealth Tax Act, 1957.
11. Cash in hand, in excess of ₹50,000, is includible in the net wealth of an individual, whether such cash is recorded in the books of account, or not.
12. Fixed Deposits in a co-operative bank do not constitute 'assets' within the meaning of Section 2(ea) of the Wealth Tax Act, 1957, and is hence, not included in the computation of the net wealth of the assessee.

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13. Loan borrowed for marriage of daughter, is not deductible, since, only loans in relation to assets (under Section 2(ea) of the Wealth Tax Act, 1957) are deductible.
14. Since, building constructed in Mumbai, is used for business purposes, it is excluded from the computation of the net wealth of the assessee. Hence, the loan taken for construction of such property shall also not be admissible as a deduction.
15. Assets held by a minor married daughter are not includible in the computation of the net wealth of the any parent under Section 4(1)(a)(ii) of the Wealth Tax Act, 1957. Hence, the value of plot of land at Bhopal, held by the minor married daughter, does not form part of the net wealth of Mr. Rajesh.

Question 22

(a) In light of the provisions of the Wealth Tax Act, 1957, answer the following questions:

(i) A Cooperative Society formed for the purpose of construction of residential flats for its members acquired a large area of urban land for ₹5 crores. The society had a membership of 10 members, all having equal share. The Assessing Officer proposes to tax urban land in the hands of the society.

1. What is meant by urban land?
2. Is the action of the Assessing Officer correct?

(ii) A company incorporated outside India is not liable to wealth tax in India. Discuss.

(iii) Define "Net wealth" under the Wealth-tax Act, 1957.

(iv) An Association of Persons (AOP), comprising of two members Raju and Patik, owns an urban land valued at ₹70 Lakh, on the valuation date 31.03.2015. The share of the members in this AOP is not known. Examine the tax implications under the Wealth Tax Act, 1957.

(b) With reference to the provisions of the Wealth Tax Act, 1957, discuss the tax treatment in the following situations:

(i) There is a private specific trust in which the shares of the beneficiaries are certain. Mr. Sourav and Mr. Gaurav are the trustees. The beneficiaries are all minors and the trust holds assets as envisaged by Section 2(ea) of the Wealth Tax Act, 1957. Mr. Vijay, the father of the minor children also has taxable net wealth. In whose hands should the Assessing Officer complete the assessment of the trust?

(ii) Mr. Pratap gifted ₹40,00,000 on 10.01.2015, to his wife, which his wife utilized for purchase of jewellery on 31.01.2015. The fair market value of such jewellery as on 31.03.2015 was ₹50,00,000. Mr. Pratap claims that since his wife has not held the sum of ₹40,00,000

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(which he gifted to her) on 31.03.2015, no amount is includible in the net wealth of Mr. Pratap. Examine the claim of Mr. Pratap.

(iii) Mona, an 8-year old child artist, acting in films, accumulated income of ₹40 Lakhs, over a short span of time. The same was put into securities by her father, who is also her guardian. Securities were sold in the Previous Year 2014-15 resulting in capital gain of ₹10 Lakh, which was invested in a plot of land in urban area. The Assessing Officer proposes to include the value of the land in computation of net wealth of the father under Section 4(1) on the valuation date. Is the proposition of the Assessing Officer justified in law?

(iv) Mr. X gifted a gold chain worth ₹1,00,000 to the adopted minor child of his son. On 31st March, 2014, the net wealth of Mr. X is ₹60 Lakhs, whereas the net wealth of Mr. X's wife is ₹70 Lakhs. Besides, the net wealth of Mr. X's son is ₹45 Lakhs, while the net wealth of Mr. X's daughter-in-law is ₹60 Lakhs. In whose net wealth, shall the value of the gifted chain will be included.

(v) Vivek gifted a house property valued at ₹150 Lakhs to his wife on 01.04.2015 in an agreement to live apart. In whose hands, the said property will be assessed to wealth tax in the A.Y 2015-16?

(c) With reference to the provisions of the Wealth Tax Act, 1957, answer the following questions:

(i) What are the cases where it is deemed that net wealth has escaped assessment under Section 17 of the Wealth Tax Act, 1957?

(ii) Can a Valuation Officer issue summons, enforcing attendance and provision of evidence on oath, to the seller of a building, for which reference under Section 16A has been made by the Wealth Tax Officer?

Solution to Question 22.(a)

(i) Urban Land is included in the definition of the 'assets' under Section 2(ea)(v) of the Wealth tax Act, 1957.

"Urban land" means –

1) Land situated in any area which is comprised within the jurisdiction of a municipality or a cantonment board and which has a population of not less than 10,000, according to the last preceding census of which relevant figures have been published before the

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valuation date.

- 2) Land situated in any area, within the distance, measured aerially, in relation to the range of population according to the last preceding census as shown hereunder -

Shortest aerial distance from the local limits of a municipality or cantonment board referred to in item (a)		Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.
(1)	≤ 2 kilometers	Is more than 10,000, but not exceeding 1,00,000
(2)	≤ 6 kilometers	Is more than 1,00,000, but not exceeding 10,00,000
(3)	≤ 8 kilometers	Exceeding 10,00,000

However, the following are specifically excluded from the definition of "urban land" –

- 1) Land classified as agricultural land in the records of the Government and used for agricultural purposes;
- 2) Land on which construction of building is not permissible under any law for the time being in force in the area in which such land is situated;
- 3) Land occupied by a building which has been constructed with the approval of the appropriate authority;
- 4) Any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him;
- 5) Any land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him.

2. No wealth tax can be levied on a co-operative society as Section 45 of the Wealth Tax Act, 1957 specifically excludes co-operative societies from the meaning of wealth tax. Therefore, the action of the Assessing Officer proposing to tax urban land in the hands of the society is incorrect.

- (ii) Under Section 2(h) of the Wealth-tax Act, 1957, a company shall have the same meaning as assigned to it in clause (17) of Section 2 of the Income-tax Act, 1961. As per Section 2(17), a company means, inter alia, any Indian company or any body corporate incorporated by or under the laws of a country outside India.

Therefore, a company incorporated outside India will be liable to wealth tax in respect of assets located in India and which are subject to wealth tax under Section 2(ea) of the Wealth-tax Act, 1957.

- (iii) Section 2(m) of the Wealth Tax Act, 1957, defines 'net wealth' to mean the amount by

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which the aggregate value, computed in accordance with the provisions of the Wealth-tax Act, 1957, of all the assets, wherever located, belonging to the assessee on the valuation date (including assets required to be included under Section 4 in his net wealth as on that date under the Act), is in excess of the aggregate value of all the debts owed by the assessee, on the valuation date which have been incurred in relation to the said assets.

(iv) The tax implications of an asset, owned by an Association of Persons (AOP), under the Wealth Tax Act, 1957 are as follows:

1. As per Section 3 of the Wealth Tax Act, 1957, only individuals, Hindu Undivided Family and Companies are liable to wealth tax. Therefore, an AOP is not chargeable to wealth tax.
2. However, as per Section 4(1)(b), the value of interest of a member of an AOP, in the assets of the AOP is to be included in the net wealth of the assessee. Schedule III lays down the manner of determination of the value of such interest.
3. Section 21AA deals with a situation, where the shares of the members of the AOP are indeterminate or unknown, Where the assets chargeable to wealth tax are held by an AOP and the individual shares of the members are indeterminate or unknown on the date of formation or at any time thereafter, wealth tax is levied in the like manner and to the same extent as applicable to an individual.

Since, the shares of members of the AOP is unknown, therefore, the urban land shall be assessed to wealth tax in the hands of the AOP in the like manner and to the same extent as applicable to an individual.

Solution to Question 22. (b)

(i) Section 3 of the Wealth Tax Act, 1957 holds an 'individual' to be a taxable entity. As per the General Clauses Act, 'individual' includes "individuals" as well as trustees of a trust. In this case, Mr. Sourav and Mr. Gaurav are trustees of the trust. Hence, the trustees of the trust shall be chargeable to wealth tax, only in respect of those assets held by the trust, which have been included in the definition of 'Assets', under Section 2(ea) of the Wealth Tax Act, 1957.

(ii) Section 4(1)(a) of the Wealth Tax Act, 1957 provides that the value of assets which are transferred, directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live apart, by a husband to his wife or vice-versa, are to be clubbed in the hands of the transferor, whether the assets are held in the form in which they are transferred or otherwise.

The Supreme Court has, in CWT v. Kishan Lal Bubna (1993) 204 ITR 600, held that where the assessee transfers money and the transferee utilizes that money to acquire an

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asset, it is the value of that asset on the valuation date, which is relevant for the purposes of computing the net wealth of the assessee. Where the 'asset' transferred by the assessee, is disposed off by the transferee and the sale proceeds thereof, is utilised by the transferee, to acquire another 'asset', the value of such asset shall be included in the computation of the net wealth of the assessee.

In view of this position, the claim of Mr. Pratap is not valid. The value of the gold jewellery as per Schedule III on the valuation date 31.03.2015 is includible in the net wealth of Mr. Pratap for A.Y 2015-16. Therefore, ₹ 50,00,000, being the fair market value of gold jewellery as on 31.03.2015 is includible in the net wealth of Mr. Pratap under Section 4(1)(a) of the Wealth Tax act, 1957.

- (iii)** As per Section 4(1)(a)(ii) of the Wealth tax Act,1957, the value of the asset held by a minor child on the valuation date will be included in the net wealth of that parent, whose net wealth (excluding the assets of the minor child so includible) is greater. However, assets acquired by the minor child out of income from activity involving, inter alia, appreciation of her talent, being income referred to in the proviso to Section 64(1A), would be taxable in the hands of the minor and not included in the hands of the parent.

In this case, however, the above exception to the clubbing provision under Section 4(1)(ii) does not apply to the plot of land in urban area, since the same has been purchased out of capital gains of ₹10 Lakhs from sale of the original asset, namely, securities. It is only the securities which were purchased out of income earned from application of talent of the minor child.

Therefore, the value of the urban land, which is an asset under Section 2(ea) of the Wealth tax Act, 1957, is includible in the net wealth of the father on the valuation date. The proposition of the Assessing Officer is justified in law.

It has been assumed, that Mona is not suffering from any disability, specified under Section 80U of the Income Tax Act, 1961. Also, in the absence of information about the income of Mona's mother, it has been assumed that, Mona's income shall be clubbed in the hands of her father.

- (iv)** As per Section 4(1)(a)(ii) of the Wealth tax Act,1957, the assets held by the minor child (including step child/ adopted child, not being a married daughter) will be included in the net wealth of that parent, whose net wealth (excluding the assets of the minor child so includible) is greater.

In the given problem, the value of the gold chain of adopted minor grandson of Mr. X, (which was transferred to the minor grandson by Mr. X), shall be included in the net wealth of the mother of the adopted minor child, because the net wealth of the mother of the minor child exceeds that of the father of the minor child.

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- (v) The property gifted by Vivek to his wife, in an agreement to live apart, is not an asset to be included as a deemed asset in the net wealth of Mr. Vivek and accordingly, should be taxed in the hands of the wife of Mr. Vivek.

However, the transfer has taken place by way of gift on 01.04.2015 and accordingly, on the valuation date 31.03.2015, the house property was owned by Mr. Vivek and therefore, the same would be assessed to wealth tax in the hands of Mr. Vivek for the A.Y 2015-16. Thereafter, the property would be assessable in the hands of the wife.

Solution to Question 22 (c):

- (i) The provisions of Section 17 of the Wealth Tax Act, 1957 are attracted, if the net wealth chargeable to wealth tax has escaped assessment, whether by reason of under-assessment or assessment at too low a rate, or otherwise.

The following are the cases where it would be deemed that net wealth, chargeable to tax has escaped assessment under Section 17 of the Wealth Tax Act, 1957-

1. Where no return of net wealth has been furnished by the assessee, although his net wealth or the net wealth of any other person in respect of which he is assessable on the valuation date exceeds the maximum amount not chargeable to tax, i.e ₹30,00,000;
2. Where a return of net wealth has been furnished by the assessee, but no assessment has been made, and the Assessing Officer notices that the assessee has understated the net wealth or claimed excessive exemption or deduction in the return.

- (ii) Section 38A(1) of the Wealth Tax Act, 1957 empowers the Valuation Officer to enter any land, building or other place belonging to or occupied by any person in connection with whose assessment, a reference has been made under Section 16A of the Wealth Tax Act, 1957 or inspect any asset in respect of which a reference has been made under that Section. This provision also empowers the Valuation Officer to require any person in charge or in occupation, or possession of such aforesaid asset, to survey or inspect the asset or estimate its value or inspect any books of account etc., which may provide necessary information for valuation.

If the assessee, so required by the Valuation Officer, to afford him necessary facilities for inspection, refuses to do so or, evades such obligation, the Valuation Officer, may by virtue of this Section, invoke powers under Section 37(1) and issue summons enforcing the attendance of any person and examine him on oath.

Question 23

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- (a) Mr. Kishan Kumar has a house property in Mumbai, which was lying vacant for the last 3 years. He constructed the property in 1991 at a cost of ₹60 Lakhs. He has let out the same at a monthly rent of ₹60,000 for a period of three years with effect from 01.01.2015. The quarterly corporation tax is ₹ 60,000. He took a premium of ₹1,80,000 from the tenant and also security deposit of ₹ 1,50,000. The house was constructed on a land measuring 4,000 sq ft. It has three floors each measuring 960 sq ft. Compute the value of the house property for wealth tax purposes as at the valuation date 31.03.2015.
- (b) Mr. Subendu is an individual, aged 45 years. His father settled a property in trust giving whole life interest therein to Mr. Subendu. The income from the property for the years 2011-12 to 2014-15 was ₹1,20,000; ₹128,000; ₹1,40,000; ₹152,000, respectively. The expenses incurred each year were ₹4,000; ₹8,000; ₹10,000; ₹12,000, respectively. Calculate the value of life interest of Mr. Subendu in the property so settled on the valuation date 31.03.2015, by assuming the factor to be 9.267.
- (c) A firm consisted of two partners A & B, having 3:2 profit sharing ratio. 'A' contributed ₹7,50,000 and 'B' contributed ₹2,50,000 to the firm's capital. The assets of the firm are as under:
- (i) Value of assets located outside India - ₹ 15 lakhs.
 - (ii) Value of assets located in India - ₹ 37.50 lakhs.
 - (iii) Debts incurred in relation to assets in India - ₹ 2.50 lakhs.

Determine the value of interest of the partners in the firm under the Wealth Tax Act 1957.

Solution to Question 23 (a)

Computation of value of the house property for wealth tax purposes as on the valuation date
31.03.2015

Particulars	Amount(₹)	Amount(₹)
COMPUTATION OF ACTUAL RENT AND ANNUAL RENT		
Actual Rent for three months (₹60,000 × 3 months)	1,80,000	
Add: Adjustment for premium received from tenant (₹1,80,000/3) × 3/12	15,000	
Add: 15% p. a for security deposit [(15% of ₹1,50,000)×3/12]	5,625	2,00,625
(A) ACTUAL RENT FOR THREE MONTHS		2,00,625
(B) ANNUAL RENT [(A) ×12/3]		8,02,500
COMPUTATION OF NET MAINTAINABLE RENT		
Gross Maintainable Rent, being the Annual Rent	8,02,500	
Less: Corporation Tax [₹ 60,000 ×4]	2,40,000	
Less: 15% of Gross Maintainable Rent	1,20,375	4,42,125
(C) NET MAINTAINABLE RENT		4,42,125
(D) CAPITALISED NET MAINTAINABLE RENT [(C) ×12.5]		55,26,563

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(E) COST OF ACQUISITION		60,00,000
(F) CAPITALIZED VALUE IS THE HIGHER OF (D) OR, (E)		60,00,000
(G) Add: Premium		
(i) Aggregate Area	4000 sq. ft	
(ii) Specified Area (60%)	2400 sq. ft	
(iii) Built up Area	960 sq. ft	
(iv) Unbuilt Area	3040 sq. ft	
(v) Excess of unbuilt area over specified area	640 sq. ft	
% of excess area on aggregate area	16%	
(vi) Premium to added when excess (as calculated above) is 16% [40% of ₹60,00,000]		24,00,000
(H) Value of house property for wealth tax purposes		84,00,000

Solution to Question 23 (b):

The valuation of life interest of Mr. Subendu, in the property settled by his father is governed by Rule 17 of Schedule III of the Wealth Tax Act, 1957. The average annual income of the last three years is to be considered for the purpose of valuation. The expenses of the last three years are also to be taken on an average, by restricting it to 5 percent of the average annual income.

Particulars	Amount (₹)	Amount(₹)
Average annual income of the last three years $\text{₹}(1,28,000+1,40,000+1,52,000)/3$	1,40,000	
Less: Average of annual expenses restricted to 5% of average annual income		
(i) Average of annual expenses = $\text{₹}(8,000+10,000+12,000)/3 = \text{₹}10,000$.		
(ii) 5% of Average Annual Income = 5% of ₹1,40,000 = 7,000	7,000	
Net Average Annual income	1,33,000	1,33,000
Value of life interest = Net Average Annual Income × 9.267		12,32,511

Solution to Question 23 (c):

Computation of net wealth of the firm

Particulars	(₹ in lakhs)	
	₹	₹
Value of assets located outside India		15
Value of assets located in India	37.50	
Less: Debts incurred in relation to assets in India	2.50	35
Net Wealth of the firm		50

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Value of partner's interest in the assets of the firm

Particulars	(₹ in lakhs)	
	A (₹)	B (₹)
Net assets of the firm to the extent of capital contribution by the partners. (Net assets to the extent of ₹10 Lakhs to be divided in the proportion of capital contribution of the partners)	7.50	2.50
Balance of the net wealth of the firm to be apportioned in the profit sharing ratio of the firm (₹40 Lakhs to be apportioned in the ratio of 3:2)	24	16
Value of interest of partners in the net wealth of the firm	31.50	18.50

NOTE- As per Section 4(1)(b) of the Wealth Tax Act 1957, in computing the net wealth of an assessee, who is a partner in a firm, the value of his interest in the assets of the firm determined in the manner laid down in Schedule III shall be included.

As per rule 16 of Schedule III, the net wealth of the firm on the valuation date shall first be determined as if it were the assessee. Thereafter, that portion of the net wealth of the firm as is equal to the amount of its capital shall be allocated amongst the partners in the proportion in which capital has been contributed by them.

The remaining portion of net wealth of the firm shall be allocated among the partners in accordance with the agreement of partnership or, in the absence of such agreement the ratio in which the partners are entitled to profits.

Question 24

(a) Goodluck Ltd., an Indian company, exports apples to Nature Inc. for an amount of ₹ 40 Lakhs. Nature Inc. is located in a Notified Jurisdictional Area (NJA). Goodluck Ltd. charges ₹48 Lakhs and ₹ 50 Lakhs for the sale of similar goods to Alpine Inc and Iris Inc., respectively, which are not located in Notified Jurisdictional Area and both of them are not associated enterprises of Goodluck Ltd.

Assuming that the permissible variation notified by the Central Government for such class of international transaction is 3% of the transaction price, state the tax implications under Section 94A of the Income Tax Act, 1961, in respect of the above transaction by Goodluck Ltd, to Nature Inc.

(b) Warner Ltd., an Indian Company supplied steel structures to its holding company- Rupert Ltd., UK during the previous year 2014-15. Warner Ltd also supplied the same product to another UK based company, Vincent Inc, an unrelated entity. The transactions with Rupert Inc are priced at Euro 500 per MT (FOB), whereas the transactions with Vincent Inc., are priced at Euro 800 per MT (CIF). Insurance and Freight amounts to Euro 300 per MT. Compute the Arm's Length Price for the transaction with Rupert Inc.

Solution to Question 24 (a)

As per Section 94A of the Income Tax Act, 1961, in case an assessee enters into any transaction where one of the parties thereto is located in the Notified Jurisdictional Area (NJA), then the parties to the transaction shall be treated as associated enterprises and the transaction shall be deemed to be an international transaction. The transfer pricing provisions would, therefore be attracted in such a case. However, the benefit of permissible variation between the transfer price and the arm's length price, as notified by the Central Government, shall not be available in such a case.

Since, Nature Inc. is located in a NJA, the transaction of export of apples, by the Indian company – Goodluck Ltd, would be deemed to be an international transaction and Nature Inc and Goodluck Ltd., would be deemed to be associated enterprises. Therefore, the provisions of transfer pricing would be attracted in this case.

The prices of ₹48 Lakhs and ₹50 Lakhs, charged for sale of similar goods to Alpine Inc. and Iris Inc. respectively, being independent entities located in a non-NJA country, can be taken into consideration for determining the Arm's Length Price (ALP) under the Comparable Uncontrolled Price (CUP) Method.

Since, more than one price is determined by the CUP Method, the ALP would be the arithmetical mean of such prices.

Therefore, ALP= ₹49,00,000, i.e., $[(₹48,00,000+₹50,00,000)/2]$

Transfer Price = ₹40,00,000

Since the ALP is more than the transfer price, the ALP of ₹49 Lakhs would be considered for computing the income from the international transaction between Goodluck Ltd., and Nature Inc.

Solution to Question 24(b)

In the given situation, Warner Ltd, the Indian Company supplied steel structures to its holding company- Rupert Inc. Since, the foreign company, Rupert Inc., holds more than 26% shares in Warner Ltd, Warner Ltd and Rupert Ltd, shall be deemed to be associated enterprises, within the meaning of Section 92A of the Income Tax Act, 1961.

As Warner Ltd. supplies similar product to an unrelated entity- Vincent Inc, UK, the transactions between Warner Ltd., and Vincent Inc, can be considered as comparable uncontrolled transactions for the purpose of determining the arm's length price of the

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transactions between Warner Ltd., and Rupert Inc. Comparable uncontrolled Price Method of determination of Arm's Length Price would be applicable in this case.

Transactions with Rupert Inc. are on FOB Basis, whereas transactions with Vincent Inc. are on CIF basis. This difference has to be adjusted before comparing the prices.

Particulars	Amount (in Euro)
Price per MT of steel structures to Vincent Inc.	800
Less: Cost of insurance and freight per MT	300
Adjusted Price per M.T	500

Since the adjusted price for Vincent Inc., UK and the price fixed for Rupert Inc are the same, the arm's length price is Euro 500 per MT. Since, the sale price to related party (i.e. Rupert Inc.) and unrelated party is the same, the transaction with related party Rupert Inc, has also been carried at arm's length price.

Question 25

(a) Power Machine Works Ltd., an Indian company declared an income of ₹675 crores. However, this income was declared before taking into account the following adjustments:

- (i) 37,500 machines were sold to Style Industries Ltd at a price, which is lower than the normal transaction price by \$375 per car. Style Industries Ltd. holds 35% shares in Power Machine Works Ltd.
- (ii) Dreams Hardware Ltd. was paid a royalty of \$ 3,60,00,000 for use of its technical know-how. However, another Indian company had paid \$ 2,00,00,000 as royalty to Dreams Hardware Ltd. for a similar transaction. Power Machine Works Ltd. was completely dependent on the technical TER supplied by Dreams Hardware Ltd., for the manufacture of the machineries.
- (iii) Englo Finance Ltd. extended a loan of Euro 1,275 crores to Power Machine Works Ltd., carrying an interest @10% p.a, which was outstanding in the books of Power Machine Works Ltd. as on 31.03.2015. Englo Finance Ltd. had extended a loan of similar amount to another Indian company @ 9% p.a. Total interest paid for the year was Euro 127.50 crores. The total assets of Power Machine Works Ltd. as on 31.03.2015 were ₹ 1,50,000 crores.

The value of 1\$ and 1 Euro may be taken to be ₹62 and ₹82 respectively.

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With reference to the provisions of the Income Tax Act, 1961 analyse the nature of transactions, and determine the income of the company chargeable to tax for the A.Y 2015-16.

- (b) Explain the factors to be considered in selection of the most appropriate method in respect of the transfer pricing provisions relating to international transactions.

Solution to Question 25 (a):

The provisions of Chapter X of the Act relate to the determination of the Arm's Length Price, in case of any income arising from an international transaction involving two or more associated enterprises. The term 'Associated Enterprise' has been defined in Section 92A of the Income Tax Act, 1961.

With reference to the provisions of Section 92A of the Income Tax Act 1961, the transactions of Power Machine Works Ltd. has been analysed as follows:

Transaction of Power Machine Works Ltd. with	Whether transacting party an associated enterprise or not?	Supporting statutory provision
Style Industries Ltd.	Associated Enterprise	As per Section 92A(2)(a), a company holding shares carrying more than 26% of the voting power of another company, shall be deemed to be "Associated Enterprises".
Dreams Hardware Ltd.	Associated Enterprise	Dreams Hardware Ltd. and Power Machine Works Ltd. have been considered as "Associated Enterprises", by virtue of Section 92A(2)(g).
Englo Finance Ltd.	Associated Enterprise	Englo Finance Ltd. and Power Industries Ltd. have been considered as "Associated Enterprises", by virtue of Section 92A(2)(c), since this company has financed an amount which is more than 51% of the book value of the total assets of Power Machine Works Ltd.

Determination of the total income of Power Machine Works Ltd. after necessary adjustments

Particulars	Amount (₹ in crores)
Income of Power Machine Works Ltd. prior to adjustments	675
Add: Difference arising out of adjustments in the value of international transactions	

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(i) Difference in price of machinery supplied to Style Industries Ltd. (37,500 cars x ₹62 x \$ 375)	87.1875
(ii) Difference in excess payment of royalty to Dreams Hardware Ltd. (\$ 60,00,000 x ₹62)	37.20
(iii) Difference in excess interest paid on loan from Englo Finance Ltd. (Euro 1,275crores x 1/100 x ₹82)	1,045.50
TOTAL INCOME	1844.8875

The total income of Power Machine Works Ltd. chargeable to tax in the A.Y 2015-16 is ₹18,44,88,75,000.

Solution to Question 25(b):

Rule 10C of the Income Tax Act 1961 contains provisions relating to selection of the most appropriate method for transfer pricing, in respect of international transaction. The method has to be chosen with respect to the facts and the circumstances of each particular international transaction. That method has to be chosen, which provides the most reliable measure of an arm's length price in relation to the international transaction.

For the purpose of selecting the most appropriate method, the following factors should be taken into account:

- (i) the nature and class of the international transaction;
- (ii) the class or classes of associated enterprises entering into the transaction and the functions performed by them taking into account assets employed or to be employed and risk assumed by such enterprises;
- (iii) the availability, coverage and reliability of data necessary for application of the method;
- (iv) the degree of comparability existing between the international transaction and the uncontrolled transaction and between the enterprises entering into such transactions;
- (v) the extent to which reliable and accurate adjustments can be made to account for differences, if any, between the international transaction and the comparable uncontrolled transaction or between the enterprises entering into such transactions;
- (vi) the nature, extent and reliability of assumptions required to be made in application of a method.

Question 26

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- (a) Explain the meaning of “specified domestic transactions” which are subject to transfer pricing provisions?
- (b) Sure Ltd., an Indian company, is engaged in manufacturing electronic components. 74% of the shares of the company are held by Sure Inc., incorporated in USA. Sure Ltd. has borrowed funds from Sure Inc. at LIBOR plus 150 points. The LIBOR prevalent at the time of borrowing is 4% for US\$. The borrowings allowed under External Commercial Borrowings Guidelines issued under the Foreign Exchange Management Act are LIBOR plus 200 basis points. Discuss whether the borrowing made by Sure Ltd. is at arm’s length (‘LIBOR’ means London Inter Bank Offer Rate).

Solution to Question 26 (a):

The “specified domestic transactions”, which are subject to transfer pricing provisions, means any of the following transactions, not being an international transactions, namely-

1. Any expenditure in respect of which payment has been made or is to be made to a related person referred to in Section 40A(2)(b) of the Income Tax act, 1961;
2. Any transaction referred to in Section 80A of the Income Tax Act, 1961, i.e., inter-unit transfer of goods and services by an undertaking or unit or enterprise or eligible business to other business carried on by the assessee or vice versa, for consideration not corresponding to the market value on the date of transfer;
3. Any transfer of goods or services referred to in Section 80-IA(8) of the Income Tax Act, 1961, i.e., inter-unit transfer of goods or services between eligible business and other business, where the consideration for transfer does not correspond with the market value of goods and services;
4. Any business transacted between the assessee carrying on eligible business and other person as referred to in Section 80-IA(10) of the Income Tax Act, 1961;
5. Any transaction, referred to in any other Section under Chapter VI-A or Section 10AA, to which provisions of Section 80-IA(8) , or Section 80-IA(10) of the Income Tax Act, 1961 are applicable; or
6. Any other transaction as may be prescribed.

However, the above mentioned transactions shall not be treated as specified domestic transaction in case the aggregate of such transactions entered into by the assessee in the previous year does not exceed a sum of ₹5 crore.

Solution to Question 26 (b):

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One of the methods for determination of arm's length price in an international transaction is Comparable Uncontrolled Price (CUP) Method. Under the CUP Method, the price charged or paid for property transacted or services rendered in comparable uncontrolled transaction, or a number of such transactions, is identified. Such price is adjusted to account for differences, if any, between the international transaction and the comparable uncontrolled transaction or between the enterprises entering into such transactions, which could materially affect the price in the open market. The adjusted price so arrived at is taken to be an arm's length price in respect of the property transferred or services provided in the international transaction.

Sure Inc., USA and Sure Ltd., the Indian Company shall be deemed to be associated enterprises, since the former holds more than 26% voting power in the latter.

The arm's length rate of interest can be determined by using the CUP Method having regard to the rate of interest on External Commercial Borrowing permissible as per Guidelines issued under the Foreign Exchange management Act, 1999.

The interest rate permissible is LIBOR plus 200 basis points i.e., $4\% + 2\% = 6\%$, which can be taken as the arm's length rate. The interest rate applicable on the borrowing by Sure Ltd., India from Sure Inc. USA, is LIBOR plus 150 basis points i.e., $4\% + 1.5\% = 5.5\%$. Since the rate of interest, **(5.5%)** is less than the arm's length rate of 6%, the borrowing made by Sure Ltd. is not at arm's length. However, in this case the taxable income of Sure Ltd., India would be lower if the arm's length rate is applied. Hence, no adjustment is required since the law of transfer pricing will not apply if there is a negative impact on the existing profits.

Question 27

- (a) Grand Bell Inc., a US company has a subsidiary, Grand Ltd. in India. Grand Bell Inc. sells computer monitors to Grand Ltd. for resale in India. Grand Bell Inc. also sells computer monitors to Computer Wizards Ltd another computer reseller. It sells 75,000 computer monitors to Grand Ltd. at ₹16,500 per unit. The Price fixed for Computer Wizards Ltd is ₹15,000 per unit. The warranty in case of sale of monitors by Grand Ltd. is handled by Grand Ltd. However, for sale of monitors by Computer Wizards Ltd., Grand Bell Inc. is responsible for the warranty for 3 months. Both Grand Bell Inc. and Grand Ltd. offer extended warranty at a standard rate of ₹1,500 per annum. Based on these facts, discuss how the assessment of Grand Ltd. is going to be affected?**
- (b) Discuss the concept of Arm's length price as envisaged in Section 92C of the Income-tax Act 1961. What are the methods under which the arm's length price, relating to an international transaction, is determined under Section 92C of the Income Tax Act, 1961?**

Solution to Question 27 (a):

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Grand Bell Inc., the foreign company and Grand Ltd., the Indian company are associated enterprises, since Grand Bell Inc. holds not less than 26% voting rights in Grand Ltd. (Being a subsidiary of Grand Bell Inc., more than 50% of the voting rights of Grand Ltd. would be held by Grand Bell Inc.).

Grand Bell Inc. sells computer monitors to Grand Ltd. for resale in India. Grand Bell Inc. also sells identical computer monitors to Computer Wizards Ltd., which is not an associated enterprise. The price charged by Grand Bell Inc. for a similar product transferred in comparable uncontrolled transaction is, therefore, identifiable. Therefore, Comparable Uncontrolled Price (CUP) method for determining arm's length price can be applied.

While applying CUP method, the price in comparable uncontrolled transaction needs to be adjusted to account for difference, if any, between the international transaction (i.e. transaction between Grand Bell Inc. and Grand Ltd.) and uncontrolled transaction (i.e. transaction between Grand Bell Inc. and Computer Wizards Ltd.) and the price so adjusted shall be the arm's length price for the international transaction.

For sale of monitors by Computer Wizards Ltd., Grand Bell Inc. is responsible for warranty for 3 months. The price charged by Grand Bell Inc. to Computer Wizards Ltd. includes the charge for warranty for 3 months. Hence arm's length price for computer monitors being sold by Grand Bell Inc. to Grand Ltd. would be:

Particulars	Quantity	Amount(₹)
Sale price charged by Grand Bell Inc. to Computer Wizards Ltd.		15,000
Less: Cost of warranty included in the price charged to CMI Ltd. ($₹1,500 \times 3 / 12$)		375
Arm's length price		14,625
Actual price paid by Grand Ltd. to Grand Bell Inc.		16,500
Difference per unit		1,875
No. of units supplied by Grand Bell Inc. to Grand Ltd.	50,000	
Addition required to be made in the computation of total income of Grand Ltd. ($1,875 \times 50,000$)		9,37,50,000

No deduction under chapter VI-A would be allowable in respect of the enhanced income of ₹9.375 crores.

Note: It is assumed that Grand Ltd. has not entered into an advance pricing agreement or opted to be subject to Safe Harbour Rules.

Solution to Question 27 (b):

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"**Arm's Length Price**" is defined in Section 92F(ii) of the Income Tax act, 1961, to mean price which is applied or proposed to be applied in a transaction between persons other than associated enterprises, in uncontrolled conditions. Section 92C of the Income Tax Act, 1961 deals with the method to be adopted for determining the arm's length price and, the factors to be considered for applying a particular method.

Section 92C of the Income Tax Act, 1961 provides that the arm's length price in relation to, inter alia, an international transaction shall be determined by any of the following methods, being the most appropriate method, having regard to the nature of the transaction or class of transaction or class of associated persons or functions performed by such persons or such other relevant factors as the Board may prescribe, namely:-

- (a) comparable uncontrolled price method;
- (b) resale price method;
- (c) cost plus method;
- (d) profit split method;
- (e) transactional net margin method;
- (f) such other method as may be prescribed by the Board.

Accordingly, the Board vide Notification No, 18/2012 dated 23.05.2012 has prescribed that the other method for determination of the arms' length price in relation to an international transaction, shall be any method which takes into account the price which has been charged or paid, or would have been charged or paid, for the same or similar uncontrolled transaction, with or between non-associated enterprises, under similar circumstances, considering all the relevant facts.

Out of the above, the most appropriate method shall be selected in the manner as may be prescribed by the Rules. However, if more than one price is determined by the most appropriate method, then the arithmetical mean of such price shall be taken as arm's length price.

If the variation between the arm's length price determined and the price at which the transaction was actually undertaken does not exceed such percentage not exceeding 3% of the latter (i.e. the actual transaction price) as may be notified by the Central Government in the Official Gazette, then the price at which the international transaction was undertaken shall be deemed to be the arm's length price.

Question 28

(a) With reference to the transfer pricing provisions of the Income Tax Act, 1961, answer the following questions:

(i) When shall a transaction be considered as an international transaction?

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(ii) In what circumstances shall, a transaction entered into with a person other than an associated enterprise, be deemed as a transaction between two associated enterprises?

(b) With reference to the transfer pricing provisions of the Income Tax Act, 1961, discuss whether adjustment is required to be effected in the given situation:

The transfer price adopted for an international transaction of sale of goods by an Indian company during the financial year 2014-15 is ₹ 75 Lakhs, whilst the Arm's Length Price determined using the most appropriate method are ₹ 72 Lakhs and ₹ 84 Lakhs. The rate of permissible variation prescribed by the Central Government, for this class of international transaction, is 2% of the transfer price.

Solution to Question 28 (a)

(i) As per Section 92B of the Income Tax Act, 1961 an international transaction is one which satisfies the following criteria:

1. A transaction between two or more associated enterprise, either or both of whom are non-residents;
2. It is in the nature of purchase, sale or lease of tangible or intangible property, or provision of services, lending/borrowing money or any other transaction having a bearing on the profits, income, losses or assets of such enterprise;
3. It includes a transaction in the nature of a mutual agreement, or arrangement between two or more associated enterprise for the allocation or apportionment of any contribution, cost or expense incurred (or to be incurred) in connection with a benefit, service or facility provided (or to be provided) to any one or more of such enterprise.

(ii) As per the provisions of Section 92B (2) of the Income Tax Act, 1961 a transaction entered into by an enterprise with a person other than the associated enterprise, shall for the purposes of sub-Section (1), be deemed to be a transaction entered into between two associated enterprise if:

1. There exists a prior agreement in relation to the relevant transaction between such other person and the associated enterprise; or
2. The terms of the relevant transaction are determined in substance between such other person and the associated enterprise.

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Solution to Question 28 (b)

The proviso to Section 92C(2) of the Income Tax Act, 1961 provides that where more than one price is determined by the most appropriate method, the arm's length price (ALP) shall be taken to be the arithmetical mean of such prices.

However, if the arithmetical mean, so determined, is within such percentage of the transfer price notified by the Central Government, then, the transfer price shall be deemed to be the arm's length price and no adjustment is required to be made.

The arithmetical mean of the prices = $(₹ 72 \text{ Lakhs} + ₹ 84 \text{ Lakhs})/2 = ₹ 78 \text{ Lakhs}$.

The rate of permissible variation prescribed by the Central Government is 2%.

Therefore, the amount of permissible variation prescribed by the Central Government = $₹75 \text{ Lakhs} \times 2\% = ₹1.50 \text{ Lakh}$.

Since, the variation between the arm's length price of ₹ 78 Lakhs and the transfer price of ₹75 Lakhs, is not within the limit of ₹ 1.50 Lakhs (2% of the Transfer Price), the arm's length price shall be ₹ 78 Lakhs.

Question 29

(a) Explain the legislative objective behind, bringing into existence the provisions relating to transfer pricing in relation to international transactions?

(b) Discuss, whether transfer pricing provisions of the Income Tax Act, 1961 are applicable to the following cases:

(i) Ms. Sarita, a resident Indian, is a director of Supro Enterprises Ltd., an Indian Company. Supro Enterprises Ltd. pays a salary of ₹60 Lakhs per annum to Mr. Pankaj, who is Ms. Sarita's son.

(ii) Grower Ltd. transferred process patents to TZ Ltd., an Australian company, in consideration of guarantee of 20% of the borrowings of Grower Ltd.

(iii) SMG Ltd., an Indian company, sold tools and equipment to PMG Inc., a Danish Company. SMG Ltd. is the subsidiary of PMG Inc.

Solution to Question 29 (a)

The Central Government, brought into existence, the transfer pricing provisions, in relation to international transactions, with a view to regulate the multinational enterprises, which tend to

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allocate profits in different jurisdictions. The multi-national enterprises operating in India, normally tend to allocate their profits in different jurisdictions, by controlling prices in intra-group transactions.

Two or more entities, which belong to the same multi-national group can fix up their prices for goods and services and allocate profits among the enterprises within the group in such a way that, there may be either no profit or negligible profit in the jurisdiction in which the tax rates are higher and the substantial profits are booked in the tax haven. This may adversely affect a country's share of due revenue. The profits derived by such enterprises carrying on business in India can be controlled by the multi-national group, by manipulating the prices charged and paid in such intra-group transactions, which may lead to loss of tax revenue.

With a view to prevent the resultant loss of revenue (arising from the manipulation of prices by multi-national companies, in intra-group transactions), the Central Government introduced the transfer pricing provisions in the Finance Act, 2001. These provisions aimed at attaining a statutory framework which can lead to computation of reasonable, fair and equitable profits and tax in India, in the case of such multi-national enterprises.

Solution to Question 29(b)

- (i) The transaction falls within the meaning of 'specified domestic transaction', under Section 92BA of the Income Tax Act, 1961, since the salary payment has been made to a related person referred to in Section 40A(2)(b) i.e., relative (i.e. son) of Ms. Sarita, who is a director of Supro Enterprises Ltd. However, such a transaction would be treated as a 'specified domestic transaction, and shall attract transfer pricing provisions only if the aggregate of such transactions as specified in Section 92BA of the Income Tax Act, 1961, during the year by Supro Enterprises Ltd. exceeds a sum of ₹5 crore.
- (ii) The scope of the term "**intangible property**" has been amplified to include, inter alia, process patents, which is a technology intangible. Transfer of intangible property falls within the scope of the term 'international transaction'. Since, TZ Inc. guarantees more than 10% of the borrowings of Grower Ltd., TZ Inc. and Grower Ltd., are associated enterprises. Therefore, since transfer of process patents by Grower Ltd. to TZ Inc. is an international transaction between associated enterprises, the provisions of transfer pricing are attracted in the given case.
- (iii) Sale of tangible property falls within the scope of 'international transaction'. Tangible property includes tools and equipment. PMG Inc. and SMG Ltd. are associated enterprises, since PMG Inc. is the holding company of SMG Ltd. PMG Inc. fulfills the condition of holding shares not carrying less than 26% of the voting power in SMG Ltd. Therefore, sale of equipment and tools by SMG Ltd., to PMG Inc. (a Danish Company), is an international transaction between associated enterprises, and consequently, the provisions of transfer pricing are attracted in this case.

Question 30

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- (a) Explain the applicability and computation of Arm's Length Price by Profit Split Method (PSM)?
- (b) Alpha Ltd., an Indian company, sells computer monitor to its 100 per cent subsidiary Beta Inc. in United States @ \$ 75 per piece. Alpha Ltd. also sells its computer monitor to another company Eagle Inc. in United States @ \$ 120 per piece. Total income of Alpha Ltd. for the A.Y 2015-16 is ₹18,00,000, which includes sales made for 150 computer monitors to Eagle Inc. at \$50 per piece. Compute the arm's length price and taxable income of Alpha Ltd. 1\$, to be taken as equivalent to ₹ 60.

Solution to Question 30 (a)

Profit Split Method (PSM):

1. Applicability: This method aims to determine what division of total profits independent enterprise would expect in relation to the relevant transactions. The profits should be split on an economically valid basis that reflects the functions and risks of each of the parties. In order to apply this method, it is necessary to identify the total profit arising from the related party transactions and split that profit between the parties according to their respective contributions.

2. The manner of computation of Arm's Length Price, using Profit Split Method (PSM), has been enumerated as follows:

Relative contribution approach (Single tier allocation):

The steps involved in the application of this method are to :

- (i) determine the combined net profit of all associated enterprises engaged in the international transactions;
- (ii) evaluate relative contribution made by each of them with regard to :
 - (a) functions performed;
 - (b) assets employed;
 - (c) risks assumed;
 - (d) reliable external market data Warnerting how such contribution would be evaluated.
- (iii) Split the combined net profit in proportion to the relative net contribution.
- (iv) The profit so apportioned is taken to arrive at die arm's length price in relation to the international transaction.

Alternative approach: Residual split method (Two-tier allocation):

A two-tier allocation may also be adopted as follows –

- (i) Partial allocation of the net profit to each enterprise so as to provide it with a basic return

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appropriate to the type of the international transaction entered into;

(ii) the remainder of the net profit to be allocated on the basis of the evaluation of the relative contribution made; and

(iii) the total net profit from such a two-tier allocation is taken to arrive at the arm's length price in relation to the international transaction.

Solution to Question 30 (b)

Computation of the Arm's Length Price and taxable income of Alpha Ltd.

Particulars	Amount (₹)
Arm's Length Price ($\$120 \times 150 \times ₹60$)	10,80,000
Income of Alpha Ltd.	18,00,000
Less: Sale Consideration received from Beta Inc. for 150 monitors	4,50,000
Add: Sale Consideration at ALP	10,80,000
Total Income	24,30,000
Since, no income is deemed to accrue or arise in India, taxable income in the hands of Alpha Ltd., is NIL .	

Question 31.

(a) What are the disadvantages of indirect tax?

(b) When one can pay duty under protest in Excise?

(c) Assessable value of certain goods imported from UK is ₹35,00,000. The packet contains 35,000 pieces with maximum retail price ₹150 each. The goods are assessable under section 4A of the Central Excise Act, 1944, after allowing an abatement of 40%. The excise duty rate is 8% ad valorem. Calculate the amount of additional duty of customs u/s 3(1) of the Customs Tariff Act, 1975 assuming basic customs duty @10% ad valorem.

(d) A manufacturer of wooden furniture sold the furniture without painting in it. After the furniture is sold, colour painting is done at the instance of buyers wherever necessary as per their specification either by the painters suggested by the manufacturer or other painters directly engaged by the buyers. Whether such painting would amount to manufacture?

(e) What kind of duty is to be performed by DGFT regarding SCOMET Items?

Answer:

(a) The following are the disadvantages of indirect tax:

- (i) Indirect taxes do not depend on paying capacity. Since this tax is uniform, the tax payable on commodity is same, whether it is purchased by a poor man or a rich person. Hence, the indirect taxes are termed as 'regressive'.

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- (ii) Tax on goods and services increases its prices, which reduces demand of goods and services. Lesser demand means lower growth of industrialization.
- (iii) Higher customs duty and excise duty increases cost of modern machinery and technology.
- (iv) Indirect taxes increase the prices of products and hence are often perceived as inflationary.

(b) Sometimes it happens that the classification of goods done by excise authorities, assessable value determined by the excise authorities in adjudication proceedings, etc. are not agreeable or acceptable to the assessee. In such cases, the assessee can file an appeal and in the meanwhile he can pay duty under protest.

(c) The goods are assessable under section 4A of the Central Excise Act, 1944 and hence:

- As per section 3 of Customs Tariff Act, 1975, value for the purpose of levy of additional duty of customs u/s 3(1) = Retail Sale Price – permissible abatement = $[35,000 \times (\text{₹}150 - 40\% \text{ of } \text{₹}150)] = \text{₹}31,50,000$.
- Additional duty of customs = 8% of ₹31,50,000 = ₹2,52,000.

(d) In this case, although colour painting of wooden furniture is incidental or ancillary to manufacture of furniture, the furniture is sold as a finished product without painting and the painting is done after the furniture is sold. Hence it would not amount to manufacture as no new commercial product having different name, use or character comes into existence.

(e) Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) is either prohibited or restricted. These cover nuclear material, nuclear reactors, equipment for nuclear explosive devices, rocket systems, toxic chemicals, micro-organisms, chemicals for weapons, viruses, etc.

Application for license for exporting these items is to be made to DGFT (Director General of Foreign Trade). Application will be considered by Exim Facilitation Committee (EFC). In respect of items specified in Appendix 3 to Schedule 2 of ITC (HS), application will be considered by Inter-Ministerial working group in DGFT based on criteria as specified.

Question 32.

(a) State the salient features of TIN (Tax Identification Number).

(b) An outdoor caterer charges total sum of ₹9 lakhs (excluding taxes); client supplies goods and services valuing ₹3.5 lakhs (fair market value, excluding taxes) to the caterer on payment of ₹80,000 (excluding taxes). Compute the value of taxable service and tax thereon.

(c) Define Indian Customs Waters.

(d) A of Bangalore buys goods worth ₹300 (plus ₹6 CST) from Delhi and good worth ₹500 (plus VAT ₹20) from Bangalore. State the eligibility of the credit of tax paid on inputs.

(e) What is Compounded Levy Scheme?

Answer:

(a) The salient features of Tax Identification Number (TIN) are as follows:

- (i) TIN consist of 11 digits.
- (ii) First two characters represent the state code which is allotted by the Central Government which is common for all the dealer of a state and balance nine characters will be, however, different in different States.
- (iii) TIN is useful to the department of commercial tax in case of computer applications, for detecting stop filers and delinquent accounts.
- (iv) TIN also help full to the department for cross checking of sales and purchases across the state VAT dealers.

(b) According to Rule 2C of the Service Tax (Determination of Value) Rules, 2006, Total amount = Amount charged ₹9 lakhs + FMV of goods and services supplied by the client ₹3.5 lakhs – Amount charged by client for supplying such goods and services ₹80,000 = ₹11,70,000.

Value of taxable service = 60% of ₹11,70,000 = ₹7,02,000

Tax @ 12.36% on ₹7,02,000, = ₹86,767.

(c) The term Indian Customs Waters means the waters extending into the sea up to the limit of contiguous zone of India under section 5 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zone Act, 1976 and includes any bay, gulf, harbour, creek or tidal river.

Indian Customs Waters extend up to 24 nautical miles from the base line. Thereby, Indian Customs Waters cover both the Indian Territorial Waters and Contiguous Zone as well. Indian Territorial Waters extend up to 12 nautical miles from the base line whereas Contiguous Zone extended to a further 12 nautical miles from the outer limit of territorial waters.

(d) The CST of ₹6 paid on purchases from Delhi is not eligible for credit as CST paid on purchases is not allowed as credit. But the VAT of ₹20 paid on purchases from Bangalore is eligible for credit.

(e) Normal excise procedures and controls are not practicable when there are numerous small manufacturers. Rule 15 of Central Excise Rules provides that Central Government may, by notification, specify the goods in respect of which an assessee shall have option to pay duty of excise on the basis of specified factors relevant to production of such goods and at specified rates. The scheme is presently applicable only to stainless steel pattas/pattis and aluminium circles. These articles are not eligible for SSI exemption.

Question 33.

(a) What is the significance of consideration in the context of service tax? Whether a security deposit that is returnable on completion of provision of service is a consideration for service or not?

(b) State the requirements for removal of final products under Central Excise.

Answer:

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- (a) As per section 67 of the Finance Act, 1994, 'consideration' includes any amount that is payable for the taxable service provided or to be provided. As per section 2(d) of the Indian Contract Act, 1872, consideration is defined as "when at the desire of the promisor, the promisee or any other person has done or abstained from doing or does or abstains from doing, or promises to do or abstain from doing, something such act or abstinence or promise is called a consideration for the promise."

Activity carried out without any consideration are outside the ambit of service, such as donations, gifts, free charities etc. However an act by a charitable institution for consideration would be a service and taxable unless otherwise exempted. But following are some examples of non-monetary consideration:

- (i) Supply of goods and services in return for provision of service.
- (ii) Refraining or forbearing to do an act in return for provision of service.
- (iii) Tolerating an act or a situation in return for provision of a service.
- (iv) Doing or agreeing to do an act in return for provision of service.

Grants given for a research where the researcher is under no obligation to carry out a particular research would not be a consideration for such research. Donations to a charitable organisation are not consideration unless charity is obligated to provide something in return.

Security deposit which is in the nature of security and hence do not represent consideration for service. However if the deposit is in the nature of a colourable substance wherein the interest on the deposit substitutes for the consideration for service provided or the interest earned has a perceptible impact on the consideration charged for service then such interest would form part of gross amount received for the service. Also security deposit should not be in lieu of advance payment for the service.

- (b) Rule 11(1) of Central Excise Rules provides that excisable goods can be removed from factory or warehouse only under an 'Invoice' signed by owner or his authorised agent. In case of cigarettes, invoice shall be counter-signed by Inspector. Invoice should bear serial number and should be in triplicate.

As per Rule 11(2) of Central Excise Rules, Invoice shall contain –

- (i) Registration Number
- (ii) Address of jurisdictional Central Excise Division.
- (iii) Name of consignee
- (iv) Description and classification of goods
- (v) Time and date of removal
- (vi) Mode of transport and vehicle registration number
- (vii) Rate of duty
- (viii) Quantity and Value of goods
- (ix) Duty payable on the goods.

Question 34.

- (a) **Mr. Arman is regularly paying excise duty and value added tax on his manufacturing and sales activities respectively. He seeks your advice while calculating the Value Added Tax on sales as well as net VAT liability from the following information:**

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Purchases from local market (VAT inclusive of @12.5%) ₹ 2,58,750.

Manufacturing expenses is ₹ 1,60,000.

Profit on Cost @75%.

Excise Duty @12.36%

Output VAT @12.5%

- (b) X Ltd. imported goods valuing ₹ 400 lakhs vide a Bill of Entry presented before the proper officer on 01-11-2014, 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 ₹ 400 lakhs and X Ltd. paid provisional duty ₹ 40 lakhs on the same date. X Ltd. wants to voluntarily pay duty of ₹10 lakhs on 15-12-2014. Can it do so? What are the conditions which are to be completed before such payment. Compute the amount of interest (if any) as per Customs Act, 1962.

Answer:

- (a) Computation of Tax Payable

Cost of Purchases	₹2,30,000 [₹2,58,750 × 100/112.5]
Manufacturing expenses	₹1,60,000
Total cost	₹3,90,000
Profit @75% on cost	₹2,92,500 [₹3,90,000 × 75/100]
Assessable Value	₹6,82,500
Add: Excise Duty	₹84,357 [₹6,82,500 × 12.36/100]
Taxable Turnover	₹7,66,857
Add: Output VAT	₹95,857 [₹7,66,857 × 12.50/100]
Aggregate Sales	₹8,62,714
Value Added Tax payable	₹95,857
Less: Input Tax Credit	₹28,750
Net Value Tax Payable	₹67,107

- (b) The department has clarified vide Circular No. 40/2011-Cus, dated 09-09-2011 that whenever any importer or exporter intimates to the proper officer in writing that he desires to pay voluntarily certain amount of duty of customs, at any time before finalization of the provisional assessment, the following conditions must be satisfied before such payment:

- (i) Such duty should be paid, along with interest on the amount of duty so being paid, @ 18% from the first day of the month in which the duty is provisionally assessed till the date of payment thereof;
- (ii) The term and conditions of the bond and the amount of security of surety furnished at the time of provisional assessment shall remain unchanged; and
- (iii) No refund of duty will be granted till the assessment is finalized.

Thus, on above compliances, X Ltd. can provisionally pay duty.

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Question 35.

- (a) "Advance Authorisation' is not transferable, while material imported under DFIA will be transferable after fulfillment of export obligation." — Write about Advance Authorisation and DFIA (Duty Free Import Authorisation) in this context.
- (b) Mr. Nandi, a manufacturer sells goods to Mr. Pradhan, a distributor for ₹3,000 (excluding of VAT). Mr. Pradhan sells goods to Mr. Kumar, a wholesale dealer for ₹ 3,600. The wholesale dealer sells the goods to a retailer for ₹ 4,500, who ultimately sells to the consumers for ₹ 8,000. Compute the Tax Liability, input credit availed and tax payable by the manufacturer, distributor, wholesale dealer and retailer under Invoice method assuming VAT rate @ 12.5%.

Answer:

- (a) Under Advance Authorisation inputs required to manufacture export products can be imported without payment of customs duty.

Advance Authorisation can be granted to merchant exporter or manufacturer exporter to import raw materials. Since the raw materials can be imported before exports of final products, the Authorisation issued for this purpose is called 'advance Authorisation'.

Advance Authorisation is issued to allow duty free import of inputs with normal allowance for wastage. In addition, fuel, oil, energy, catalysts etc. required can also be allowed. Duty free import of mandatory spares upto 10% of CIF Value of Authorisation, which are required to be exported with resultant products, may also be allowed. However, prohibited items of imports cannot be imported.

The Advance Authorisation will be for actual user only. It is not transferable. The material imported under Advance Authorisation is also not transferable even after completion of export obligation. However, goods manufactured out of such imported material can be disposed of, after export obligation is fulfilled.

In case of Advance Authorisation, positive value addition is sufficient, while in case of DFIA, 20% value addition is required, except in case of gem and jewellery sector.

DFIA is issued to allow duty free import of inputs used in manufacture of export product (with normal allowances for wastages), and fuel, energy, catalyst etc. Duty free import of mandatory spares upto 10% value of authorisation, which is required to be exported/supplied with resultant product, is also allowed.

DFIA is initially issued with 'actual user condition'. Imports will be exempted from payment of Basic Customs Duty, Additional Customs Duty, Education Cess, Anti-Dumping Duty and Safeguard duty, if any.

DFIA is issued on basis of SION. Import Authorisation will be limited to quantity mentioned in SION. DFIA is issued to manufacturer-exporter or merchant-exporter for following – (i) Physical exports including supplies to SEZ (b) Intermediate supplies and (c) Main contractors for supply of goods under Deemed Exports (except supply against Advance Authorisation and marine containers). In case of some deemed exports, DFIA is available to sub-contractors also.

- (b) As per Invoice Method:

Particulars	Amount (₹)	VAT Liability (₹)	VAT Credit (₹)	Tax to Government (₹)
Mr. Nandi sold to Mr. Pradhan Taxable turnover @12.5%	3,000	375	—	375
Mr. Pradhan sold to Mr. Kumar	3,600	450	375	75
Mr. Kumar sold to retailer	4,500	563	450	113

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Retail sold to consumer	8,000	1,000	563	437
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Note: Total VAT paid into the credit of Government (i.e. from the Manufacturer to Consumer) is ₹1,000 (i.e. ₹375 + ₹75 + ₹113 + ₹437).

Question 36.

- (a) Write down the differences between direct tax and indirect tax.
- (b) Is change in tariff heading/sub-heading under the Central Excise Tariff Act, 1985 required between the input material and the resultant finished product so as to render such finished products liability to duty?

Answer:

- (a) The following are the differences between direct tax and indirect tax:

Particulars	Direct Taxes	Indirect Taxes
Meaning	Direct Taxes are those taxes where the incidence and impact falls on the same person.	Indirect Tax is a tax where incidence and impact fall on two different person.
Nature of tax	Direct Tax progressive in nature.	Indirect Taxes is regressive in nature.
Levy & Collection	Levied and collected from the Assessee.	Levied & collected from the consumer but paid / deposited to the Exchequer by the Assessee / Dealer.
Taxable Event	Taxable Income / Taxable Wealth of the Assessee.	Purchase / Sale / Manufacture of goods and provision of services.
Collected	After the income for a year is earned or valuation of assets is determined on the valuation date.	At the time of sale or purchases or rendering of services.
Shifting of Burden	Directly borne by the Assessee. Hence, cannot be shifted.	Tax burden is shifted or the subsequent / ultimate user.
Psychological Effect	It is psychologically very difficult for a person to pay some amount after it is received in his hands. Hence, there is psychological resistance.	Since the price of commodity or service is already inclusive of indirect taxes, the customer i.e. the ultimate tax payer does not feel a direct pinch while paying indirect taxes and hence, resistance to indirect taxes is much less compared to resistance to direct taxes.
Collection Mechanism	Direct taxes are mainly on income/ wealth of individuals, firms or corporate bodies, where millions of transactions are carried out in lakhs of places and keeping an eye over all such transactions is virtually impossible.	Indirect taxes are easier to collect as indirect taxes are mainly on goods/ commodities/ services, for which record keeping, verification and control is relatively easy (at least in organized sector).

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		Manufacturing activities are carried out mainly in organized sector, where records and controls are better.
Cost of Collection	Collection cost of direct taxes as percentage of tax collected are higher in indirect taxes compared to indirect taxes.	Collection costs of indirect taxes as percentage of tax collected are lower in indirect taxes compared to direct taxes.
Tax Evasion	Tax evasion is comparatively more in direct taxes where it is on unorganized sector, since control is difficult.	Tax evasion is comparatively less in indirect taxes in organized sector due to convenience of control.
Usage of taxes	Government can judiciously use the direct taxes to support development in desirable areas, while discouraging in backward areas, infrastructure development etc.	Government can judiciously use the indirect taxes to support development in desirable areas, while discouraging it in others, e.g. reducing taxes on goods manufactured in tiny or small scale units; lowering taxes in backward areas etc.
Effect on prices	Direct taxes do not affect prices of goods and service.	Tax on goods and services increases its prices, which reduces demand of goods and services. Lesser demand means lower growth of industrialization.
Inflationary Effect	Direct taxes are not inflationary.	Indirect taxes increase the prices of products and hence are often perceived as inflationary. Higher customs duty and excise duty increases cost of modern machinery and technology.

(b) In CCE vs. Kapri International (P) Ltd, the assessee contended that in order to constitute a manufacturing activity the raw material and the final product must fall within different chapters of the Central Excise Tariff Act. The assessee argued that since the raw material (cotton fabrics) and the final product (bed sheets) fall within the same chapter, there is no manufacture. The Supreme Court observed that the cutting of cotton fabrics into small pieces brought into existence new marketable commodities-bed sheets, table cloth, etc., known as such in the market and thus manufacture occurs. Similarly, in Laminated Packing Case, a new product called "Laminated Craft paper" emerged when plain craft paper is laminated. Both plain and laminated craft paper fall under the same tariff heading. The Supreme Court held that the activity of lamination of duty paid craft paper amounts to manufacture. SC further observed that the fact of both items falling within the same chapter is not relevant. Once there is a transformation resulting in new commodity, duty is leviable.

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Thus, if manufacture takes place, the commodity is dutiable even if the raw material and the resultant product fall under the same tariff heading.

Question 37.

(a) Compute the net VAT liability of Mr. X using the information given as follows:-

Raw material purchased from foreign market (including duty paid on imports @ 20%): ₹ 13,200

Raw material purchased from local market (including VAT charged on the material @ 4%): ₹ 22,880

Raw material purchased from neighbouring state (including CST paid on purchases @ 2%): ₹ 7,854

Storage, transportation cost and interest: ₹ 2,750

Other manufacturing expenses incurred: ₹ 660

Mr. X sold the goods to Mr. Y and earned profit @ 10% on the cost of production. VAT rate on sale of such goods is 12.5%.

(b) An importer imported some goods for subsequent sale in India at \$ 30,000 on CIF basis. Relevant exchange rate as notified by the Central Government ₹60. The item imported attracts basic duty at 10% and education Cess as applicable. If similar goods were manufactured in India, Excise Duty payable as per Tariff is 14% plus education Cess of 2% and SAH 1%. Special Additional Customs Duty is 4%. Find the total duty payable.

Answer:

(a) Computation of net VAT liability (₹)

Imported goods (import duty is not eligible as Input credit, hence, import duty will form part of cost)	13,200
Local purchases [Input VAT is eligible for credit, hence, it will not form part of cost] [Total Price inclusive of VAT ₹ 22,880 – VAT 22,880 x 4 ÷ 104 = 22,880 – 880 = ₹ 22,000]	22,000
Purchases from other state (CST is ineligible for credit, hence, it will form part of cost)	7,854
Storage, transportation, interest and other manufacturing expenses [2,750 + 660] [Interest has been included in cost of production, assuming that it is an interest on working capital and operating expenditure; in any other case, it will not form part of cost of production.]	3,410
Total Cost	46,464
Add: Profit @ 10 % on cost	4,646
Sale Price	51,110
Add: VAT @ 12.5% on sale price	6,389
Total Invoice Price	57,449
VAT on Sales	6,389
Less: Credit of VAT paid on local purchases	880
VAT payable in cash	5,509

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(b) Calculation of duty payable:

	(₹)
CIF value USD 30,000 X 60	18,00,000
Add: Loading and unloading @1%	18,000
Assessable Value	18,18,000
Add: Basic Customs Duty @10% on ₹18,18,000	1,81,800
	19,99,800
Add: Additional Customs Duty [@14% x ₹19,99,800]	2,79,972
	22,79,772
Add: Education Cess @ 2% on (₹ 1,81,800+ ₹ 2,79,972)	9,235
Add: SAH @1% on (₹ 1,81,800+ ₹ 2,79,972)	4,618
	22,93,625
Add: Special Additional Customs Duty [@4% x ₹22,93,625]	91,745
Total value of imported goods	23,85,370

Therefore total duty payable ₹5,10,634.

Notes:

- While calculating CVD we should not take into account NCCD of excise.
- CVD can also be imposed even if there is exemption from Basic Customs Duty.
- Imported goods contain more than one classification and the importer is unable to give the breakup of each item with value then the highest rate of duty among them will be considered.
- CVD can be levied only when the importer imported manufactured goods. It means CVD can be levied only if goods are obtained by a process of manufacture [*Hyderabad Industries Ltd v Union of India* (1995) (SC)].

Question 38.

- (a) What is Anti-Dumping? Describe the features of it with the help of an example.
- (b) What is Provisional Assessment? How it is finalized? Whether any interest is payable or receivable regarding this matter?
- (c) Define arm's length principle. Also mention the difficulties in applying the arm's length principle

Answer:

- (a) Dumping means export of goods by exporters of one country/territory to the market of another country/ territory at a price lower than the price prevailing in the country of export and the difference in such price is called margin of dumping. This is an unfair trade practice which can have a distortive effect on international trade and needs to be condemned under WTO law.

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Dumping is said to occur when the goods are exported by a country to another country at a price lower than its normal value. This is an unfair trade practice which can have a distortive effect on international trade. Anti dumping is a measure to rectify the situation arising out of the dumping of goods and its trade distortive effect. Thus, the purpose of anti dumping duty is to rectify the trade distortive effect of dumping and re-establish fair trade. The use of anti dumping measure as an instrument of fair competition is permitted by the WTO. In fact, anti dumping is an instrument for ensuring fair trade and is not a measure of protection per se for the domestic industry. It provides relief to the domestic industry against the injury caused by dumping. Anti-dumping is a measure to rectify the trade distortive effect of dumping and re-establish fair trade, which is achieved by imposition of a duty on dumped imports, not exceeding the margin of dumping.

Salient Features of Anti-Dumping:

- i. It is an instrument for ensuring fair trade and is not a measure of protection per se for the domestic industry
- ii. It provides relief to the domestic industry against the injury caused by dumping and gives domestic industry a level playing field.
- iii. The duty is imposed as a deterrent effect to discourage dumped imports, so that users can buy material from domestic industry from whom they were not buying earlier on account of availability of cheap dumped imports.
- iv. The idea is to levy and collect extra tax, rather to take the landed value of imports to a level where domestic industry can fairly compete with imports and sell the product in the domestic market.

Example:

Sale value of domestic industry at factory gate ₹150 (net of taxes). Landed Value of imports ₹100. Hence, Price under cutting = ₹150 (-) ₹100 = ₹50. This is positive undercutting. It creates pressure on domestic industry from imports, as the imported goods are sold at ₹100, which is less than the price charged by domestic industry.

On the contrary, if the Sale value of domestic industry at factory gate (net of taxes) is ₹120 and the Landed value of imports ₹135, then, Price under cutting = ₹120 (-) ₹135 = ₹(15). This is negative undercutting. The domestic industry is in a comfortable position, as the price of imports is more than the price charged by the domestic industry.

- (b) Rule 7 of Central Excise Rules make provisions in respect of provisional assessment. Provisional assessment can be requested by the assessee. Department cannot itself order provisional assessment.

An assessee can request for provisional assessment in following circumstances – (a) Assessee is unable to determine the value of excisable goods in terms of Section 4 of CEA on account of non-availability of any document or information or (b) Assessee is unable to determine rate of duty applicable.

In aforesaid cases, assessee may request Assistant/Deputy Commissioner in writing giving reasons for provisional assessment of duty. [Assessee should give reason why he wishes to have provisional assessment]. After such request, the Assistant/Deputy Commissioner may by order allow payment of duty on provisional basis. The Assistant/Deputy Commissioner shall also specify the rate or value at which the duty will be paid on provisional basis. [Rule 7(1)].

Payment of duty on provisional basis will be allowed subject to execution of bond for payment of differential duty [Rule 7(2)].

Finalisation:

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Final assessment will be made by Assistant/Deputy Commissioner after getting the required details. In case of such provisional assessment, demand can be raised within one year after the provisional assessment is finalised. After making payment of duty on provisional basis, Assistant/Deputy Commissioner should pass order for final assessment within 6 months from date of order of provisional assessment. This period can be extended by further 6 months by Commissioner and further without any time limit by Chief Commissioner [Rule 7(3)]. If differential amount is payable, interest is payable [Rule 7(4)]. If excess amount was paid, it is refundable with interest [Rule 7(5)]. The refund is subject to provision of Unjust Enrichment [Rule 7(6)].

AC/DC is required to pass order of final assessment after getting relevant information, within six months of date of communication of his order allowing provisional assessment. The period of 6 months can be extended by Commissioner of CE, on making a specific request, for reasons to be recorded in writing. Extension beyond one year for further period can be granted only by Chief Commissioner. [Rule 7(3) of Central Excise Rules].

Interest payable/receivable:

If differential duty is found to be payable, interest as specified in Section 11AA or 11AB will be payable by assessee from first day of the month succeeding the month *for which* such amount is determined till date of payment thereof. [Rule 7(4)].

If differential amount is found to be refundable to assessee, it shall be refunded with interest at rate as specified in Section 11BB from first day of the month succeeding the month *for which* refund is determined till the date of refund [Rule 7(5)]. Thus, interest is payable by department is on the same basis as payable by assessee, i.e. not from date of finalisation of provisional assessment, but from month next to the month on which duty was provisionally paid. [Note that u/s 11BB, interest on delayed refund is payable only three months after filing of refund application. This provision does not apply to refund obtainable after finalization of Provisional Assessment].

If duty is paid on provisional basis, refund claim can be filed within one year after duty is adjusted after final assessment. [Explanation B(eb) to Section 11B].

(c) The arm's length principle seeks to ensure that transfer prices between members of an MNE (Multi National Enterprise) ("controlled transactions"), which are the effect of special relationships between the enterprises, are either eliminated or reduced to a large extent. It requires that, for tax purposes, the transfer prices of controlled transactions should be similar to those of comparable transactions between independent parties in comparable circumstances ("uncontrolled transactions"). In other words, the arm's length principle is based on the concept that prices in uncontrolled transactions are determined by market forces and, therefore, these are, by definition, at arm's length. In practice, the "arm's-length price" is also called "market price". Consequently, it provides a benchmark against which the controlled transaction can be compared.

The Arm's Length Principle is currently the most widely accepted guiding principle in arriving at an acceptable transfer price. As circulated in 1995 OECD guidelines, it requires that a transaction between two related parties is priced just as it would have been if they were unrelated. The need for such a condition arises from the premise that intra-group transactions are not governed by the market forces like those between two unrelated entities. The principle simply attempts to place uncontrolled and controlled transactions on an equal footing.

Difficulties in applying the arm's length principle:

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The arm's length principle, although survives upon the international consensus, does not necessarily mean that it is perfect. There are difficulties in applying this principle in a number of situations.

- i. The most serious problem is the need to find transactions between independent parties which can be said to be exact compared to the controlled transaction.
- ii. It is important to appreciate that in an MNE system, a group first identifies the goal and then goes on to create the associated enterprise and finally, the transactions entered into. This procedure obviously does not apply to independent enterprises. Due to these facts, there may be transactions within an MNE group which may not be between independent enterprises.
- iii. Further, the reductionist approach of splitting an MNE group into its component parts before evaluating transfer pricing may mean that the benefits of economies of scale, or integration between the parties, is not appropriately allocated between the MNE group.
- iv. The application of the arm's length principle also imposes a burden on business, as it may require the MNE to do things that it would otherwise not do (i.e. searching for comparable transactions, documenting transactions in detail, etc).
- v. Arm's length principle involves a lot of cost to the group.

Question 39.

(a) Compute the duty payable under the Customs Act, 1962 for an imported machinery based on the following information:

- (i) Assessable value of the imported equipment US \$ 12,000.
- (ii) Date of Bill of Entry 25.03.2015 basic customs duty on this date @ 20% and exchange rate notified by the Central Board of Excise and Customs US \$ 1 = ₹ 65.
- (iii) Date of Entry inwards 21.03.2015 Basic customs duty on this date @ 16% and exchange rate notified by the Central Board of Excise and Customs US \$ 1 = ₹ 57.
- (iv) Additional duty payable under Section 3(1) and (2) of the Customs Tariff Act, 1975: 15%.
- (v) Additional duty under Section 3(5) of the Customs Tariff Act, 1975: 4%.
- (vi) Education Cess @ 2% and secondary and higher education cess @ 1%.

Make suitable assumptions where required and show the relevant workings and round off your answer to the nearest Rupee.

(b) "Duty drawback rates are of following types – (A) All Industry Rate (B) Brand Rate and (C) Special Brand Rate." — Describe.

Answer:

(a) Computation of Duty

	Duty		Total
	Rate	₹	₹
Assessable Value (US\$ 12,200 x Rate of exchange in force on date of presentation of bill of entry i.e., ₹65)	---	---	7,87,800.00
Add: BCD [As per section 15(1)(a), rate of duty prevalent on date of presentation of bill of entry or date of entry inwards, whichever is later, shall be applicable. Therefore, rate prevalent on 25-03-2014 viz. 20% shall be taken.]	20.00%	1,57,560.00	1,57,560.00
Add: Additional duty i.e., CVD u/s 3(1) (excise duty)		1,57,560.00	9,45,360.00

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excluding EC and SHEC due to exemption)	15.00%	1,41,804.00	1,41,804.00
Add: Education Cess @ 3% on DUTY sub-total upto last stage	3.00%	2,99,364.00 8,981.00	10,87,164.00 8,981.00
Add: Special CVD u/s 3(5) @ 4% of total value (including duty)	4.00%	3,08,345.00 43,846.00	10,96,145.00 43,846.00
Total (rounded off on nearest rupee)		3,52,191.00	11,39,991.00

(b) The types of duty drawback rates are described as follows:

A. All Industry Drawback Rates - All Industry Drawback rates are fixed by Directorate of Drawback, Dept. of Revenue, Ministry of Finance, Govt. of India. The rates are periodically revised – normally on 1st June every year.

Whenever specific rates are provided, drawback shall be payable only if amount is more than 1% of FOB value, except when the drawback claim per shipment exceeds ₹500. Revised rates have been announced vide Notification No. 68/2007- Cus(NT) dated 16-7-2007 [earlier Notification No. 81/2006-Cus(NT) dated 13-7-2006].

The all industry drawback rates are given in two ways – (a) when Cenvat facility has been availed and (b) when Cenvat facility not availed. The difference between the two is central excise portion of duty drawback. If rate indicated in both is same, it means that it pertains to only customs portion and is available irrespective of whether exporter has availed Cenvat or not – Condition No 5 to Notification No. 68/2007- Cus(NT) dated 16-7-2007 [earlier No. 81/2006-Cus(NT) dated 13-7-2006].

Duty drawback rate shall not exceed 33% of market price of export goods (Rule 8A w.e.f. 15-2-2006). In case of some cases, value cap has been fixed. In such cases, maximum drawback allowable per unit of quantity has been specified (This is to avoid misuse by over-valuation of export goods].

B. Brand Rate of duty drawback – It is possible to fix All Industry Rate only for some standard products. It cannot be fixed for special type of products. In such cases, *brand rate* is fixed under rule 6. The manufacturer has to submit application with all details to Commissioner, Central Excise. Such application must be made within 60 days of export. This period can be extended by Central Government by further 30 days. Further extension can be granted even upto one year in if delay was due to abnormal situations as explained in MF(DR) circular No. 82/98-Cus dated 29-10-1998.

Duty drawback rate shall not exceed 33% of market price of export goods (Rule 8A w.e.f. 15-2- 2006).

C. Special Brand Rate of duty drawback – All Industry rate is fixed on average basis. Thus, a particular manufacturer or exporter may find that the actual excise/customs duty paid on inputs or input services are higher than All Industry Rate fixed for his product. In such case, he can apply under rule 7 of Drawback Rules for fixation of Special Brand Rate, within 30 days from export. The conditions of eligibility are (a) the All Industry Rate fixed should be less than 80% of the duties paid by him (b) rate should not be less than 1% of FOB value of product except when amount of drawback per shipment is more than `500 (c) export value is not less than the value of imported material used in them – i.e. there should not be 'negative value addition'.

Question 40.

(a) Zamir Ltd. Collected following sums (exclusive of taxes) -

(1) Transport of passengers on vessel from Chennai to Port Blair : ₹ 6 lakh;

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- (2) Transport of passengers by vessels from Chennai to Dubai : ₹ 40 lakhs (services of ₹ 6 lakh was provided after crossing maritime zones of India);
 - (3) Transport of passengers by vessels from Dubai to Chennai : ₹ 50 lakhs (services of ₹ 7 lakh were provided after crossing maritime zones of India);
 - (4) Transport of passengers by stage carriage : ₹ 10 lakh;
 - (5) Transport of passengers by contract carriage : ₹ 5 lakh;
 - (6) Transport of passengers by contract carriage for tour : ₹ 6 lakh;
 - (7) Transport of passengers by ropeway: ₹ 2 lakh;
 - (8) Running cruise ships : ₹ 6 lakh (within territorial waters of India);
 - (9) Metro transport of passengers : ₹ 140 lakhs;
 - (10) Transport through national waterways: ₹ 8 lakh.
- Compute taxable value.

- (b) ABC Ltd., purchased a machine at a cum-duty price of ₹ 17,97,760. The excise duty rate charged on the said machine was 12% plus education cess 2% plus secondary and higher education cess 1%. The machine was purchased on 1-7-2013 and was disposed of on 30-9-2015 for a price of ₹ 10,00,000 in working condition as second hand machine.
- Calculate the amount of CENVAT credit allowable for the financial years 2013-14 and 2014-15 and
 - Also specify the amount payable towards CENVAT credit already taken at the time of disposal of the machinery in the year 2015-16.

Answer:

(a) Computation of taxable value —

- (1) Transport of passengers on vessel from Chennai to Port Blair: ₹ 6 lakh – Covered within negative list under section 66D(o), as transport by vessels takes place within India. It is assumed that vessel is not predominant meant for tourism purpose – Not taxable;
- (2) Transport of passengers by vessels from Chennai to Dubai: ₹ 40 lakhs (services of ₹ 6 lakh was provided after crossing maritime zones of India) – Place where passenger embarks for a continuous journey viz. Chennai is the place of provision as per Rule 11 of PoP Rules; further, as per Rule 12, services provided on board a conveyance is provided at the place of first schedule point of departure thereof viz. Chennai. Hence, whole of the sum will be taxable in India.
- (3) Transport of passengers by vessels from Dubai to Chennai: ₹ 50 lakhs (services of ₹ 7 lakhs were provided after crossing maritime zones of India) – Place where passenger embarks for a continuous journey viz. Dubai is the place of provision as per Rule 11 of PoP Rules; further, as per Rule 12, services provided on board a conveyance is provided at the place of first schedule point of departure thereof viz. Dubai. Hence, whole of the sum will be not be taxed in India;
- (4) Transport of passengers by stage carriage : ₹ 10 lakh – Covered within negative list under section 66D(o);
- (5) Transport of passengers by contract carriage : ₹ 5 lakh – Exempt;
- (6) Transport of passengers by contract carriage for tour : ₹ 6 lakh – Not exempt, as meant for tour purposes – Taxable;
- (7) Transport of passengers by ropeway : ₹ 2 lakh – Covered within Mega exemption notification no. 25/2012;
- (8) Running cruise ships: ₹ 6 lakh (within territorial waters of India) – Cruise ships are predominantly meant for tourism purposes, hence, not covered within negative list – Taxable;
- (9) Metro transport of passengers : ₹ 140 lakh – Covered within negative list under section 66D(o);

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(10) Transport through national waterways: ₹ 8 lakh – Covered within negative list u/s 66D(o).

Taxable Value = 40 + 6 + 6 = ₹ 52 lakhs.

(b)

Part I – CENVAT Credit allowable [Rule 4(2)(a) and 4(2)(b)]:

[Total Duty paid = ₹ 17,97,760 x 12.36% ÷ 112.36% = ₹ 1,97,760

F.Y. 2013-14

F.Y. 2014-15

50% credit in year of receipt and balance in subsequent year

98,880

98,880

Date of taking credit

01-07-2013

01-04-2014

Part II – Computation of amount payable under Rule 3(5A)

	Date of taking credit is 1-7-2013 only	Date of taking credit is 1-7-2013 for 50% and 1-4-2014 for bal. 50%	
		For first 50%	For balance
Credit taken = 50% of ₹ 1,97,760	1,97,760	98,880	98,880
Date of taking credit	01-07-2013	01-07-2013	01-04-2014
Date of removal	30-09-2015	30-09-2015	30-09-2015
No. of quarters of part thereof	9	9	6
Percentage eligible @ 2.5% for every quarter	22.50%	22.50%	15.00%
Credit reversible [100% - Percentage eligible]	77.50%	77.50%	85.00%
Amount to be paid=Credit Taken x % Reversible	1,53,264	76,632	84,048
Limit I = Total amount payable as about	1,53,264		1,60,680
Limit II = Value ₹ 10 lakh x Duty i.e., 12.36%	1,23,600		1,23,600
Amount payable under Rule 3(5A) = Higher of Limit I or Limit II	1,53,264		1,60,680

Question 41.

(a) State the various types of forms under CST.

(b) What are the basic conditions for levy of duty under section 3 of Central Excise Act?

Answer:

(a) The following are the forms under CST:

Form A	(i) This form is prescribed for application to get registered u/s 7 of CST Act. (ii) Details such as name, status, place of business, warehouses, nature of business, nature and purpose of goods to be dealt, goods to be bought from outside the state etc., are required to be furnished. (iii) Care should be taken to list the goods sought to be bought from outside the state and the purposes for which they are proposed to be utilized as the benefit of Form C is restricted to the goods and end use listed only.
Form B	(i) Certificate of registration shall be issued by the authority in this form. (ii) The certificate of registration should be kept in the principal place of business and copies thereof in the branches inside the appropriate state.
Form C	(i) Form C is used by a purchasing dealer to get the goods at concessional rate of duty and is issued in favour of the dealer who affects interstate sale. (ii) Registered dealers are entitled to certain exemptions under CST Act, 1956. (iii) It contains particulars such as name of purchasing dealer, sales tax registration

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	no., its validity, details of goods obtained (whether for resale, manufacture, processing or as packing material), name and address of the seller etc. (iv) It is obtained from the sales tax authorities in the state in which the purchasing dealer is registered.
Form EI, EII & EIII	(i) In case of subsequent sale in the course of Interstate sale, the dealer effecting subsequent sale can avail exemption by submitting Form C issued by his customer and by submitting Form E-1, issued by his seller. (ii) Form, E-I, E-II & E-III etc. are printed by the Sales Tax department and are supplied to the registered dealer for their use. (iii) Form E-II & E-III will have to be issued, in case there are more than one subsequent sale.
Form F	(i) F form is required to be produced as proof of stock transfer. As per section 6A(1) submission of F form is mandatory to prove stock transfer. Otherwise, the transaction will be treated as sale for all purposes of CST Act. (ii) F Form is issued by the branch office/consignment agent receiving goods as branch/stock transfer to its head office/principal who is sending the goods by way of stock/ branch transfer. The H.O./Principal produces such F forms to its assessing authority to prove such stock/branch transfer.
Form G	(i) These forms are issued by the sales tax authorities of the concerned state where the goods are received. (ii) It contains the name of the issuing state, date of issue, name and address of consignee and his registration no., name and registration no. of the transferor, description of goods, quantity, weight value etc. (iii) The declaration shall be signed by the authorized signatory.
Form H	(i) This form is used by the exporters who purchase the goods for the purpose of export. (ii) The actual exporter shall issue a certificate to the penultimate seller in Form H. (iii) These forms are obtained from the sales tax authorities by the exporter. (iv) Form H contains the name of the issuing state, date of issue name and address of exporter and his registration no., name and registration no. of the selling dealer, description of goods, quantity, weight, value details of export etc.

(b) To attract excise duty, the following conditions must be fulfilled:

- There should be movable goods;
- The goods must be excisable;
- The goods must be manufactured or produced; and
- The manufacture or production must be in India.

Goods manufactured or produced in SEZ are "excluded excisable goods". This means, that the goods manufactured or produced in SEZ are "excisable goods" but no duty is leviable, as charging section 3(1) excludes these goods. Thus, the goods manufactured in SEZ are not "exempted goods". They can be termed as "excluded excisable goods".

As per explanation to section 2(d), 'goods' includes any article, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable'.

Question 42.

(a) Define 'dealer' as per CST Act, 1956.

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- (b) Give the details of the periodic returns under Central Excise.
 (c) What are the roles are played by Cost Accountant under VAT?

Answer:

(a) As per Sec 2(b) -'Dealer' means any person

- (i) who carries on (whether regularly or otherwise), the business of
- (ii) buying, selling, supplying or distributing goods, directly or indirectly,
- (iii) for cash or for deferred payment, or for commission, remuneration or other valuable consideration.

Dealer includes the following:

- A. A Local Authority, a Body Corporate, a Company, any Co-operative Society or other Society, Club, Firm, HUF or Other Association of Persons which carries on such business.
 - B. A Factor, Broker, Commission Agent, Del-credre Agent, or any other Mercantile Agent, by whatever name called, and whether of the same description as herein before mentioned or not, who carries on the business of buying, selling, supplying or distributing, goods belonging to any principal whether disclosed or not, and
 - C. An auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal.
- (b) All assesses are required to file returns mandatorily through e-filing, irrespective of the payment of excise duty w.e.f 01-10-2011. The forms of returns are as under:

Form of return	Description	Assessee	Time Limit
ER-1	Monthly	Manufacturer	10th of the following month from the end of the relevant month.
ER-2	Monthly	EOU	10th of the following month from the end of the relevant month.
ER-3	Quarterly	SSI	10th of the following month from the end of relevant quarter w.e.f. 1.4.2010
Annexure 13B	Quarterly	First Stage Dealer (or) Second Stage Dealer	15th of the following month from the end of the relevant quarter.
ER-4	Annual Financial Information Statement	Duty paid including CENVAT Credit ₹100 lakhs in the previous year.	Annually by 30th November of next year.
ER-5	Information relating to principal inputs statement	Duty paid including CENVAT Credit ₹100 lakhs in the previous year.	Annually by 30th April for the current year.
ER-6	monthly input and	Assessee who submits form	10th of the following

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	output	ER-5	month from the end of the relevant month.
ER-7	Annual Installed Capacity Statement	By every assessee	30th April of the succeeding Financial Year
ER-8		An assessee is availing the exemption under N.T. 1/2011 dt. 1-3-2011 namely paying duty @1% or 2% as the case may be and does not manufacture any other products.	10th of the following month from the end of relevant quarter. For the year end quarter 31st March.

- (c) Cost Accountants have the following key role to play in proper implementation of VAT:
- (i) **Record keeping:** VAT requires proper record keeping and accounting. Systematic records of input credit and its proper utilization is necessary for the dealer to take input tax credit. No doubt, Cost Accountants are well equipped to perform these activities.
 - (ii) **Tax planning:** Cost Accountant is competent to analyze various alternatives and its impact on dealer so as to minimize the tax impact.
 - (iii) **Negotiations with suppliers to reduce price:** VAT credit alters cost structure of goods supplied as inputs. A Cost Accountant will ensure that the benefit of such cost reduction is passed on by the suppliers to his company.
 - (iv) **Helping to departmental officers:** There will be audit wing in department and certain percentage of dealers will be taken up for audit every year on scientific basis. Cost Accountant can ensure proper record keeping so as to satisfy the departmental auditors.
 - (v) **External audit of VAT records:** Under VAT system, self assessment has been brought into force. Cost Accountants can play a very vital role in ensuring tax compliance by audit of VAT accounts.

As per the Bombay High Court in the case of Sales Tax Practitioners Association of Maharashtra v State of Maharashtra (2008), has held that VAT audit can be conducted only by Chartered Accountants and Cost Accountants.

Question 43.

- (a) "The amount of service tax is based on the Point of Taxation." — Write about point of taxation (Rule 3) in the context of service tax.
- (b) State the taxable event of Central Sales Tax, Value Added Tax, Service Tax, Excise Duty, Customs Duty.
- (c) A controversy has arisen as to classification of Coconut oil. Is it (i) Hair oil (ii) Edible Oil (iii) Pure Coconut Oil or Coconut Oil? Advice.

Answer

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- (a) The point of taxation defines the point in time when a service shall be deemed to have been provided. It has impact on determination of rate of tax, as normally the rate of tax shall apply as prevailing on the date when service shall be deemed to have been provided. The Government of India has introduced the Point of Taxation Rules, 2011 to remove the disputes about applicability of the rate of tax and for ascertainment of the Point of Taxation.

Determination of point of taxation (Rule 3):

- (i) Date of invoice or payment, whichever is earlier, if the invoice is issued within the prescribed period of 30 days from the date of completion of the provision of service (w.e.f. 1-4-2012).
- (ii) Date of completion of the provision of service or payment, whichever is earlier if the invoice is not issued within the prescribed period as state in rule 4A of the Service Tax Rules, 1994.

w.e.f. 1-4-2012, in case of continuous supply of service where the provision of the whole or part of the service is determined periodically on the completion of an event in terms of a contract, which requires the receiver of service to make any payment to service provider, the date of completion of each such event as specified in the contract shall be deemed to be the date of completion of provision of service.

- (b) The taxable events are:

Tax/Duty	Taxable Event
Central Sales Tax	Purchase or sale in the course of inter-state sale (i.e. from one state to another state)
Value Added Tax	Purchase or sale in the course of intra-state sale (i.e. within a state)
Service Tax	Destination based, service is taxable only if provided in India, except state of Jammu & Kashmir
Excise Duty	Production or manufacture of excisable goods in India (except goods manufactured or produced in Special Economic Zones in India)
Customs Duty	Importation of goods into India or exportation of goods from India

- (c) Classification of Coconut oil is based on End user test vide Circular No.890/10/2009 – CX dated 03.06.3009. It refers to coconut oil sold with the indications on the containers or the labels such as

(i) Hair oil;

(ii) Edible Oil;

(iii) 'Pure Coconut Oil' or 'Coconut Oil'.

(i) If the 'Coconut Oils' are sold with the label "Hair Oil" meant for retail sale, they are classified under the heading "hair oil" * Heading no.3305+;

(ii) If the coconut oil sold with the label "Edible Oil"/ "Pure Coconut or Coconut Oil" meant for retail sale:

- If such oil is sold in small packs i.e. 50ml/100 ml/200ml – classify as "Hair oil" only (Chapter 33), since majority of customers use as Hair oil
- If such oil is sold in larger packs for e.g. 1 litre or 2 litres – classify as "Edible Oil" (Chapter 15), since majority of customers use as Edible oil.

Hence, the classification of coconut oil would depend upon the fact as to how the majority of the customers use the said product.

Question 44.

- (a) State the cases where goods move from one state to another but do not amount to interstate sales.
- (b) What is Resale Price Method (RPM) in computation of Arm's Length Price? State the adjustments required in the case of Resale Price Method where it is not possible to compare the transactions even by comparing with the transactions entered by the third party and that the differences have a material effect on price?

Answer:

- (a) The following are the cases where goods move from one state to another but do not amount to interstate sales:
- (i) A movement of goods from one state to another will not amount to interstate sales unless the seller had the responsibility to deliver the goods outside that state or the movement was as a result of a covenant or incident of contract of sale;
 - (ii) Stock transfer between head office & branch office will not amount to interstate sales as the basic elements of sale i.e., the presence of a buyer & seller; consideration & transfer of ownership etc. are not present;
 - (iii) Sale or purchase in the course of Export/ Import does not attract levy of CST since these have been specifically covered u/s 5 of the CST Act, 1956;
 - (iv) Sale through commission agent / on account sales will not amount to interstate sales as the agent only acts on behalf of the seller and he does not acquire any ownership of the goods. The agent is only entitled to receive commission on the sales effected by him and will also get re-imburement of the expenses incurred by him.
- (b) The RPM is a direct method which comprises the gross margins (i.e. gross profit over sales) earned in transactions between related and unrelated parties for the determination of the arm's-length price. The RPM method requires high level of functional comparability and is mainly applicable where the controlled party is a distributor.
- The required adjustment to Resale Price Method (RPM):
- (1) **Inventory adjustment:** An adjustment to operating income for ratios other than the ROA is necessary if a comparable company has a different relative level of inventory holding than the tested party. The inventory adjustment thus estimates the implicit capital cost of holding inventory.
 - (2) **Accounts payable adjustment:** This adjustment eliminates the implicit interest in the price of goods purchased on other than a cash basis from suppliers. The purpose of this adjustment is to identify and eliminate from profit comparisons the effect of companies' decisions on how to finance purchases.
 - (3) **Accounts receivable adjustment:** This adjustment eliminates the implicit interest in the price of goods or services sold on other than cash basis to customers. The purpose of this adjustment is to identify and eliminate the profit related to finance decisions of the seller. A company selling on cash basis would receive a lower price than a company selling the goods on terms, because selling on terms subjects the seller to a capital cost that will be reflected in the price.

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- (4) **Contractual terms:** where the contractual terms includes the provisions like warranties, terms of credit, facilities for transportation and transshipment of goods, facilities related to quantity of purchase or sale of goods.
- (5) **The level of the market:** The adjustments also consider the level of the market, i.e. wholesale, retail, etc.
- (6) **Foreign currency adjustments:** In case of an export transaction, the foreign exchange loss because of depreciation of the USD is disadvantageous to the exporter and it results in lower margin. The comparable companies having domestic sale transactions will be having higher margin. If the tested party imports raw material from foreign company, being an associated enterprise, it will be exposed to foreign exchange risk. The comparable companies using raw material procured from India will not be exposed from this risk. If the comparable companies hedge, the forex risk using financial instruments adjustment for the same is required for the tested party which does not perform the hedging.

Question 45.

- (a) Give the consequences regarding excise duty liability if goods manufactured by EOU (Export Oriented unit) & brought to DTA (Domestic tariff Area).
- (b) List the characteristics of Indirect Taxes.

Answer:

- (a) Goods manufactured by EOU (Export Oriented unit) & brought to DTA (Domestic tariff Area) will be liable to excise duty equal to customs duty [Proviso to section 3(1) of the Central Excise Act].

Any excisable goods -

- (i) manufactured by a 100% Export Oriented Units (EOU) and
- (ii) brought to any other place in India (termed, "Domestic Tariff Area" or DTA) are also liable to excise duty.

However, Excise duty = Aggregate of customs duties which would be leviable under Customs Act, 1962, or any other law on like goods produced/manufactured outside India if imported into India.

For this purpose -

- (i) Valuation as per Customs law : The value of such goods shall be determined in accordance with the provisions of the Customs Act, 1962 and the Customs Tariff Act, 1975 ; and
- (ii) Highest rate to be taken in case of different rates: Where in respect of any such like goods, any duty of customs is leviable at different rates, then, the highest of those rates shall be taken.

- (b) The following are the characteristics of Indirect Taxes:

- (1) Meaning: Indirect Tax is a tax where incidence and impact fall on two different person.
- (2) Nature of tax: Indirect Taxes are regressive in nature.

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- (3) Taxable Event: Purchase / Sale / Manufacture of goods and provision of services.
- (4) Levy & Collection: Indirect taxes are levied & collected from the consumer but paid / deposited to the Exchequer by the Assessee / Dealer.
- (5) Shifting of Burden: Tax burden is shifted on the subsequent / ultimate user.
- (6) Collection: Indirect Taxes are collected at the time of sale or purchases or rendering of services.

Question 46.

- (a) What are the specified services where the place of provision is the location of the service provider?
- (b) Describe the procedures to be followed in clearance of goods imported by post.
- (c) Your client company is a subsidiary of a foreign company, having its registered office in India. This company has transaction of imports of raw materials and components and also exports of its manufacture components from & to holding company in Finland and also other group companies in South East Asian countries. What are income tax regulations governing such international transactions?

Answer:

- (a) Following are the specified services where the place of provision is the location of the service provider:-
 - i) Services provided by a banking company, or a financial company, or a non-banking financial company to account holders;
 - ii) Online information and database access or retrieval services;
 - iii) Intermediary services;
 - iv) Service consisting of hiring of means of transport, up to a period of one month.
- (b) The procedures to be followed in clearance of goods imported by post:
 - (1) **Procedure on receipt of parcel mail:** Post master has to handover details regarding parcels received along with parcel bills to the Appraiser.
 - (2) **Scrutiny & Detention of dutiable/prohibited articles:** The parcels are scrutinised and those suspected to contain dutiable or prohibited articles are detained and presented to customs appraiser.
 - (3) **Segregation:** Parcels are segregated into: (1) Assessable on basis of label; (2) Assessable after opening of packet; and (3) Assessable only after further inquiry.
 - (4) **Assessment:** The parcels shall be assessed based on label or based on examination or after calling requisite information. The rate of duty, value, etc. shall be determined. Such duty is recovered by the postal authorities from the addressee at the time of delivery and sum is credited to Customs Department.
 - (5) **Evasion/Prohibition cases:** In case of mis-declared, undervalued or prohibited goods, the parcel/packet is detained and not allowed to be cleared, except with order of the Customs] Officer.

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(c) Computation of income from international transaction having regard to arm's length price

[Section 92]:

- (1) Income to be computed as per ALP: Any income arising from an international transaction shall be computed having regard to the arm's length price.
Expense or interest also to be determined at ALP: The allowance for any expense or interest arising from an international transaction shall also be determined having regard to the arm's length price (ALP).
- (2) Allocation/apportionment of common costs shall be done having regard to the ALP: Where in an international transaction or specified domestic transaction, two or more associated enterprises enter into a mutual agreement or arrangement for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises, the cost or expense allocated or apportioned to, or, as the case may be, contributed by, any such enterprise shall be determined having regard to the arm's length price of such benefit, service or facility, as the case may be.
- (3) Any allowance for an expenditure or interest or allocation of any cost or expense or any income in relation to the specified domestic transaction shall be computed having regard to the arm's length price.
- (4) Provisions of ALP not to apply if it results in reduction of income/increase of losses: The provisions shall not apply in a case where the computation of income or the determination of the allowance for any expense or interest or the determination of any cost or expense allocated or apportioned, or, as the case may be, contributed, has the effect of reducing the income chargeable to tax or increasing the loss, as the case may be, computed on the basis of entries made in the books of account in respect of the previous year in which the international transaction or specified domestic transaction was entered into.

Question 47.

- (a) After visiting Canada, Mrs. & Mr. A brought to India a laptop computer valued at ₹85,000, personal effects valued at ₹90,000 and a personal computer for ₹78,000. What is the customs duty payable?
- (b) Distinguish between a Sale for Export and Sale in the Course of Export in the context of Central Sales Tax.

Answer:

(a)

1. **Exemption:** Personal Effects and One Laptop are exempt from duty.
2. **General Free Allowance:** The General Free Allowance for the Passenger's of Age ≥ 10 years, and returning after stay abroad of > 3 days is ₹ 45,000. [Rule 3 of Baggage Rules, 1998]
3. **Rate:** Rate of Duty applicable for Baggage = 35% + EC @ 2% + SHEC @ 1% = 36.05%
4. **Duty:** Duty payable on Baggage = ₹ (78,000 - 45,000) x 36.05% = ₹ 11,897.

(b) Distinctions between a Sale for Export and Sale in the Course of Export

Sale for Export	Sale in the Course of Export
i. A sale effected by the dealer (seller) and he is not	Seller has an express between the sale and

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connected with the export of the goods which actually takes place subsequently.	the export.
ii. Seller may or may not have the knowledge that the buyer intends to export the goods purchased.	The seller who purchases goods in India subsequently exports as such.
iii. Seller does not know the ultimate destination of the goods he has sold.	Seller has clear address for ultimate destination of his goods.
iv. Seller has no intention for export.	Seller has clear intention to export.
v. This sale may be called as penultimate sale.	This sale is called as export sale.
vi. Sale exempted from CST provided Form 'H' received from his buyer.	Sale exempted from CST automatically.
vii. This sale is covered under Section 5(3) of the CST Act, 1956.	This sale is covered under Section 5(1) of the CST Act, 1956.

Question 48.

(a) Define Similar Goods as per Rule 2(1)(f) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

(b) List the salient features of Anti-Dumping Duty.

Answer:

(a) Rule 2(1)(f) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 define 'similar goods' as (a) alike in all respects, have like characteristics and like components and perform same functions. These should be commercially inter-changeable with goods being valued as regards quality, reputation and trade mark. (b) the goods should have been produced in the same country in which the goods being valued were produced. (c) they should be produced by same manufacturer who has manufactured goods undervaluation - if price of such goods are not available, price of goods produced by another manufacturer in the same country can be considered.

However, if engineering, development work, art work, design work, plan or sketch undertaken in India were completed by the buyer on these imported goods free of charge or at reduced rate for use in connection with the production and sale for export of these imported goods, these will not be 'similar goods'.

(b) The salient features of Anti-Dumping Duty:

- i. It is an instrument for ensuring fair trade and is not a measure of protection per se for the domestic industry
- ii. It provides relief to the domestic industry against the injury caused by dumping and gives domestic industry a level playing field.
- iii. The duty is imposed as a deterrent effect to discourage dumped imports, so that users can buy material from domestic industry from whom they were not buying earlier on account of availability of cheap dumped imports.
- iv. The idea is to levy and collect extra tax, rather to take the landed value of imports to a level where domestic industry can fairly compete with imports and sell the product in the domestic market.

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Question 49.

- (a) State with reasons whether service tax will be levied or not on the interest in relation to overdraft, cash credit, bill discount or exchange in the region of Banking and financial services.
- (b) Define Coastal Goods and Customs Area as per Customs Act.
- (c) Describe the benefits in case of supply to EOUs (Export Oriented units) from DTA (Domestic tariff Area) units?

Answer:

(a) In the context of Banking and other financial instructions, the Hon'ble Tribunal in State Bank of Indore v. CCE 2011 (23) STR 346 (Tri) held that interest in relation to overdraft, cash credit, bill discount or exchange was exempted under Notification No. 29/2004-ST, dated 22.09.2004. The mere fact that the bank did not show separately in the invoice the interest is not very factual to avail the exemption in view of the fact that the assessee, the banking company was regulated by RBI guidelines and public norm requires disclosure of bank's earning, Therefore, the Tribunal held that subject to the appellant adducing evidence as required by the Notification, the matter should stand remanded to the adjudicating authority for passing appropriate order.

(b) Coastal Goods [Section 2(7) of the Customs Act]: The term coastal goods means goods, other than imported goods, transported in a vessel from one port in India to another. Under section 7(1)(d) of the Customs Act, 1962, the Central Board of Excise and Customs (CBE&C), may by notification in the Official Gazette, appoint the ports which alone shall be coastal ports for the carrying on of trade in coastal goods or any class of such goods with all or any specified ports in India.

Customs Area [Section 2(11) of the Customs Act]: Customs area means the area of a customs station and includes any area in which imported goods or exported goods are ordinarily kept before clearance by Customs Authorities.

(c) 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 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.

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Question 50.

(a) Write a note on Green Channel and Red Channel in customs.

(b) M/s. Patel Ltd., sold machinery to Mr. Nilesh at a price of ₹ 10 lakhs on 15th June, 2014 and the same was removed from the factory at Kolkata. The rate of excise duty applicable is 12.36% on the date of removal. Mr. Nilesh refused to take delivery of the machine when it reached his destination. In the meantime, M/s. Patel Ltd. increased the prices of the similar type of machinery to ₹ 15 lakhs with effect from 16th June, 2014. The machinery as refused by Mr. Nilesh has been sold on 20th June 2014 to Mr. Sen at the revised price of ₹ 15 lakhs. The excise duty including Education Cess is 12.36% applicable with effect from 10th June, 2014.

Explain the following with reasons:

- (i) What is the value to be taken as assessable value?
- (ii) What is the rate of excise duty applicable and duty payable on above transaction?
- (iii) The Central Excise Officer is demanding duty on the price of ₹ 15 lakhs at the time of sale to Mr. Sen. Is he right in his approach?
- (iv) Does cost of production have any bearing on the assessable value?

Answer:

(a) Section 77 of Customs Act provides that owner of any baggage has to make declaration of its contents to Customs Officer. Rate of duty and tariff valuation shall be the rate and valuation in force on the date of declaration.

Green Channel - It is impractical to ask every traveller to declare contents of his baggage. Hence, customs have provided two channels at airports. If a person does not have any dutiable goods, he can go through green channel.

Going through green channel is in effect declaring that the person is not carrying any dutiable goods. It is not necessary that declaration has to be in writing. It is not duty of Customs Officer to accost individual passenger. A person going through green channel carrying dutiable goods can be penalised for 'false declaration'.

Red Channel - Person carrying dutiable goods should pass through red channel and should submit declaration. The declaration of goods and value as given by passenger in disembarkation card is generally accepted, but baggage can be inspected by Customs Officer.

- (b) (i) The price prevailing at the time of removal from factory (i.e. ₹ 10 lacs on 15th June 2014 is the assessable value.
- (ii) The applicable rate of duty is @12.36% and duty amount is ₹ 1,23,600 (i.e. ₹ 10 lacs x 12.36/100).
- (iii) The Central Excise Officer is not right in his approach.

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(iv) Cost of production has no bearing with assessable value in present case. Central Excise valuation can be below manufacturing cost. If price is the sole consideration and dealing between seller and buyer are arm's length, assessable value will be decided on the basis of selling price, even if it is below manufacturing cost. So cost of manufacturing will not change the assessable value.

Question 51.

(a) What are the essential ingredients of a sale under CST Act?

(b) Describe Doctrine of Unjust Enrichment?

(c) List out the powers of the DGFT (Director General of Foreign Trade).

Answer:

(a) Essential ingredients of a sale under CST Act:

- i. There must be two parties to the contract of sale (i.e.) the buyer & the seller.
- ii. There must be valid consent of both the above parties.
- iii. There must be an actual transfer of property in goods (i.e. agreement to sell is not a sale).
- iv. There must be a consideration in cash or in deferred payment or any other valuable consideration in money or money's worth.
- v. Sale includes deemed sales but it does not include a mortgage or hypothecation of or a charge or pledge on goods.

(b) Doctrine of Unjust Enrichment: The doctrine of unjust enrichment means no person can be unjustly enriched at expense of another person. In indirect taxes, the duty/tax burden passes on to the person who ultimately consumes goods or services. Since the law authorises recovery of indirect taxes (excise duty, customs, sales/purchases tax) from buyer, therefore, it is always presumed that incidence of duty has been passed. Therefore, if any refund becomes due to the manufacturer, then, since manufacturer has recovered the duty from the buyer, thus, to be fair, refund should be made to consumer.

However, it is not possible to locate individual buyers and pay refund to them. Also without authority of law Government cannot retain the excess duty. Therefore, Section 11B has been introduced which provides that any refund due to an assessee shall be transferred to Consumer Welfare Fund and will be used for the purpose of protection and welfare of the consumers. The refund shall be granted to the assessee only when he proves that incidence of duty has not been passed to any other person or in certain other specified cases..

(c) The powers of the DGFT (Director General of Foreign Trade):

1. **Interpretation of Policy:** If any question or doubt arises in respect of interpretation of any provision, said question or doubt shall be referred to DGFT, whose decision thereon shall be final and binding.
2. **Procedure:** DGFT may specify the procedure to be followed by an Exporter or Importer or by any licencing or any other Competent Authority for the purpose of implementing provisions of Foreign Trade Act, the Rules and the Orders made thereunder and FTP. Such procedures shall be published in Hand Book of Procedures by means of a Public Notice, and may, in like manner, be amended from time to time.
3. **Exemption from Policy/Procedure:** DGFT may pass such orders or grant such relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade. DGFT may, in public interest, exempt any person or class or category of

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persons from any provision of FTP or any procedure and may, while granting such exemption, impose such conditions as he may deem fit.

4. **Scope of Restriction:** DGFT may, through a Notification, adopt and enforce any measure necessary for -
- Protection of -
 - Public morals.
 - Human, animal or plant life or health.
 - Patents, Trademarks and Copyrights and the prevention of deceptive practices.
 - National treasures of artistic, historic or archaeological value.
 - Trade of fissionable material or material from which they are derived.
 - Prevention of traffic in arms, ammunition and implements of war and use of prison labour.
 - Conservation of exhaustible natural resources.
2. **Importer-Exporter Code (IEC):** DGFT is empowered to issue IEC. IEC is a unique 10 digit code issued by DGFT to Indian Companies. IEC is mandatory to export any goods out of India or to import any goods into India unless specifically exempt. Permanent Account Number (PAN) is pre-requisite for grant of an IEC. Only one IEC can be issued against a single PAN.

An application for IEC is to be made to the nearest RA of DGFT in the 'Aayaat Niryaat Form-ANF2A' and shall be accompanied by the prescribed documents. In case of STPI/ EHTP/ BTP units, the Regional Offices of the DGFT having jurisdiction over the district in which the Registered/ Head Office of the STPI unit is located, shall issue or amend the IECs.

Question 52.

- (a) **Hi-Power 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%)	3,60,00,000
(ii)	Materials purchased and used for the contract taxable at 12.5% VAT (inclusive of VAT)	67,50,000
(iii)	Labour charges paid for execution of the contract	80,00,000
(iv)	Other service charges paid for the execution of the contract	40,00,000
(v)	Cost of consumables used not involving transfer of property in goods	20,00,000

Hi-Power Constructions also purchased a plant for use in the contract for ₹ 41,60,000 (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.

- (b) Write a short note on Central Excise Revenue Audit.
(c) Specify the scope of international transaction. Also mention the elements which are included in the Intangible property.

Answer:

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(a) 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	3,60,00,000		
Less: Labour charges (assumed inclusive of normal profit)	80,00,000		
Other service charges (assumed inclusive of normal profit)	40,00,000		
Cost of consumables (assumed inclusive of normal profit)	20,00,000		
Value of goods involved in works contract	2,20,00,000	12.50%	27,50,000
Materials purchased and used for contract (eligible for credit) [Value excluding VAT= ₹ 67,50,000 X 100 ÷ 112.5]	60,00,000	12.50%	7,50,000
Capital goods used for contract (eligible for credit; in fact, question itself states that capital goods are eligible for 100% credit) [Value excluding VAT= ₹ 41,60,000 X 100 ÷ 104]	40,00,000	4.00%	1,60,000
Net VAT payable in cash			18,40,000

(b) **Central Excise Revenue Audit:**

- (i) It is conducted by the Comptroller and Auditor General of India (C & A G) it is called Central Excise Revenue Audit (CERA).
- (ii) This is an audit of the Central Excise Department's functioning and is carried out at the office of the Central Excise Department.
- (iii) This is not an audit of the assessee.
- (iv) The audit focuses on ascertaining revenue leakage and is assessed on the basis of the periodical returns filed by the assessee, the execution of various bonds, and other relevant information such as cost audit reports, and income-tax audit reports of the assessee.
- (v) The CERA auditor has the right to visit the office of the assessee though the audit is not of the assessee.
- (vi) There is no defined frequency for the carrying out of this audit.
- (vii) C & A G submits the report to the President of India, who causes these to be laid before each House of Parliament.

(c) **Scope of international transaction:**

"International transaction" shall include—

- (i) the purchase, sale, transfer, lease or use of tangible property including building, transportation vehicle, machinery, equipment, tools, plant, furniture, commodity or any other article, product or thing;
- (ii) the purchase, sale, transfer, lease or use of intangible property, including the transfer of ownership or the provision of use of rights regarding land use, copyrights, patents, trademarks, licences, franchises, customer list, marketing channel, brand, commercial secret, know-how, industrial property right, exterior design or practical and new design or any other business or commercial rights of similar nature;

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- (iii) capital financing, including any type of long-term or short-term borrowing, lending or guarantee, purchase or sale of marketable securities or any type of advance, payments or deferred payment or receivable or any other debt arising during the course of business;
- (iv) provision of services, including provision of market research, market development, marketing management, administration, technical service, repairs, design, consultation, agency, scientific research, legal or accounting service;
- (v) a transaction of business restructuring or reorganisation, entered into by an enterprise with an associated enterprise, irrespective of the fact that it has bearing on the profit, income, losses or assets of such enterprises at the time of the transaction or at any future date;

"Intangible property" shall include -

- (i) marketing related intangible assets, such as, trademarks, trade names, brand names, logos;
- (ii) technology related intangible assets, such as, process patents, patent applications, technical documentation such as laboratory notebooks, technical know-how;
- (iii) artistic related intangible assets, such as, literary works and copyrights, musical compositions, copyrights, maps, engravings;
- (iv) data processing related intangible assets, such as, proprietary computer software, software copyrights, automated databases, and integrated circuit masks and masters;
- (v) engineering related intangible assets, such as, industrial design, product patents, trade secrets, engineering drawing and schematics, blueprints, proprietary documentation;
- (vi) customer related intangible assets, such as, customer lists, customer contracts, customer relationship, open purchase orders;
- (vii) contract related intangible assets, such as, favourable supplier, contracts, licence agreements, franchise agreements, non-compete agreements;
- (viii) human capital related intangible assets, such as, trained and organised work force, employment agreements, union contracts;
- (ix) location related intangible assets, such as, leasehold interest, mineral exploitation rights, easements, air rights, water rights;
- (x) goodwill related intangible assets, such as, institutional goodwill, professional practice goodwill, personal goodwill of professional, celebrity goodwill, general business going concern value;
- (xi) methods, programmes, systems, procedures, campaigns, surveys, studies, forecasts, estimates, customer lists, or technical data;

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- (xii) any other similar item that derives its value from its intellectual content rather than its physical attributes.

Question 53.

- (a) ABC Ltd. has a manufacturing unit situated in Lucknow. In the financial year 2014-15, the total value of clearances from the unit was ₹600 lakhs.

The break up of clearances is as under :

- i. Clearances worth ₹70 lakhs of certain non-excisable goods manufactured by it.
- ii. Clearances worth ₹55 lakhs exempted under specified job work notification.
- iii. Exports worth ₹ 125 lakhs (₹100 lakhs to USA and ₹ 25 lakhs to Nepal).
- iv. Clearances worth ₹50 lakhs which were used captively to manufacture finished products that are exempt under notifications other than Notification No. 8/2003-CE., dated 01-03-2003 as amended.
- v. Clearances worth ₹ 300 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 year 2015-16.

- (b) Explain distinguishing features between provisions of 'pilferage' and 'loss or destruction of goods' under Customs Act.

Answer:

- (a) 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	600
Less:	
(i) Clearances of certain non-excisable goods manufactured by it	70
(ii) Clearances exempted under specified job-work notification	55
(iii) Exports clearances to USA	100
(iv) Clearances of goods used captively to manufacture finished products, which are exempt under Notification other than SSI-exemption notification	Nil
Value of clearances	375

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) Difference in sections 13 and 23 (1) of the Customs Act, 1962 can be summarized as follows :

Pilferage (Section 13)	Loss or destruction of goods (Section 23)
Pilferage means loss arising out of theft	Such loss may arise by fire, natural calamity etc.
Section 13 deals with pilferage	Section 23 (1) deals with loss or destruction of goods, except pilferage.
No duty is payable at all under section 13, but liability revives for duty if goods are	Duty is payable under section 23 (1), but it may be remitted by Asst. Comm. Of

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restored.	Customs. Thus, unless remitted, duty has to be paid under section 23 (1)
Importer does not have to prove pilferage.	Burden of proof is on importer to prove loss or destruction.
Pilferage should be before order for clearance is made.	Loss or destruction can be at any time before clearance.
Loss must be only due to pilferage.	Loss or destruction may be due to fire, accident etc., but not pilferage e.g., loss by leakage is covered under section 23.
Under section 13, normally duty is not paid. However, if duty is paid before examination of goods, refund can be claimed if goods are found to be pilfered during examination but before order for clearance are made.	Under section 23 (1), if duty is paid, then refund can be obtained only if remission is granted by Customs Authorities. Thus, remission under section 23 (1) is at the discretion of Customs Authorities. [of course, the discretion has to be exercised judiciously].
Section 13 is not applicable for warehoused goods.	Section 23 (1) is applicable for warehoused goods also [As goods transferred to warehouse are not 'cleared for home consumption'].

Question 54.

(a) 'P' dispatches goods from Karnataka and raises invoice on 'Q' in Madhya Pradesh, P charge 2% CST and pays the same in Karnataka. During the course of movement of goods, Q sells goods to R in West Bengal and R ultimately sells goods to S in Patna. S takes delivery of goods and the movement of goods comes to end. Sales from Q to R and R to S are by transfer of lorry way bill receipts. Explain the forms to be issued so that the first and subsequent sales are exempt from central sales tax.

(b) Give the valuation aspects in relation to the central excise duty in the following cases —

- (i) Trade mark and**
- (ii) Consultancy/technical services**

Answer:

(a) 'P' will receive declaration in 'C' Form from Q and will issue declaration in E-I Form to Q. Later, Q will issue declaration in E-II Form to R and receive declaration in 'C' Form from 'R' Finally, R will issue declaration in E-II Form to S and receive declaration in 'C' Form from S, which will complete the chain. Because, S has taken the possession of goods, thereby movement of goods from one state to another ends. If the chain is broken, CST will be payable again. Otherwise, all subsequent sales will be exempt from sales tax.

(b) (i) The value of trade mark and assessable value:

Where a manufacturer is the owner of the brand name, the price including the value of the brand name, at which he sells the goods in the course of wholesale trade, would constitute the normal price. But where the goods are manufactured by other manufacturer and then sold to a dealer who owns the brand name, the value of the brand name cannot be

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considered for computing the assessable value, as the brand name owner cannot be construed as manufacturer and the price at which the brand name owner sells the goods cannot be taken as assessable value.

(ii) Consultancy/technical services and assessable value:

The costs towards drawing, designing and technical specifications are clearly elements of machinery costs and are to be included in the assessable value. However, the cost towards project report, plant layout, civil works and training which are in the nature of services are not includible in the assessable value.

Question 55.

(a) Compute the customs duty payable from the following data:

Machinery imported from USA by air	US \$ 16,000
Accessories compulsorily supplied with machine	US \$ 4,000
Air freight	US \$ 6,000
Insurance	US \$ 200
Local agent's commission	₹ 9,000
Exchange rate	1 US \$ = ₹ 60
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%

(b) What do you meant by Margin of Dumping and Injury Margin in the context of Anti-dumping Duty?

Answer:

(a) Computation of Customs duty payable

Cost of machinery inclusive of accessory (FOB) (See Note)	US\$	20,000
Add : Cost of insurance	US\$	200
Add: Air freight (restricted to 20% of FOB)	US\$	4,000
Total	US\$	24,200
Total (In Indian ₹) US\$ 24,200 x ₹ 60 (being the exchange rate)	₹	14,52,000
Add : Agency commission	₹	9,000
CIF Value	₹	14,61,000
Add : Landing charges (@ 1% of CIF value)	₹	14,610
Assessable value	₹	14,75,610
Add : Basic Customs Duty (10% of assessable value) [A]	₹	1,47,561
Total for Additional duty of Customs leviable under section 3(1) Customs Tariff Act	₹	16,23,171
Add : Additional duty of Customs u/s 3(1) Customs Tariff Act equal to excise duty @ 8% [B]	₹	1,29,854
Add : Education cess and SHEC @ 3% of [A] + [B] [C]	₹	8,322
Total for Additional duty of Customs u/s 3(5) Customs Tariff Act	₹	17,61,347
Add : Additional duty of Customs u/s 3(5) Customs Tariff Act @ 4% [D]	₹	70,454
Total imported cost (rounded off)	₹	18,31,801
Total customs duty payable = [A] + [B] + [C] + [D] (rounded off)	₹	3,56,191

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Working notes:

1. As per Accessories (Conditions) Rules, 1963, accessories and spare parts compulsory supplied with main implements are chargeable at the same rate as applicable to main machine. Therefore, such accessories shall also be chargeable with duty at the applicable to the machinery i.e. @ 10% ad valorem.
 2. Though actual air freight is US \$ 6,000, it is limited to 20% of FOB value of goods as per Rule 10(2) of Customs Valuation Rules.
 3. Agency Commission, which is incurred in India, is not regarded as buying Commission and therefore will be added to determine the CIF value.
- (b) Margin of dumping is the difference between normal value (i.e. his sale price in his country) and export price (price at which he is exporting the goods).

'Injury Margin' means difference between fair selling price of domestic industry and landed cost of imported products. Dumping duty will be lower of dumping margin or injury margin.

Question 56.

(a) Compute the assessable value under the Central Excise Act, 1944 in the following case:

Production	:	3,000 units on 01.01.2015
Quantity sold	:	950 units @ ₹ 260 per unit 1,050 units @ ₹ 240 per unit
Samples clearances	:	50 units
Balance in stock	:	950 units (at the end of factory day for 01.01.2015)

Assume that the rate per unit is exclusive of Central Excise duty.

(b) Write down the provisions of section 72 in relation to the Best Judgment Assessment under the Service Tax Law?

Answer:

(a) Computation of assessable value of the goods (amount in ₹)

Clearances of 950 units @ ₹ 260 per unit	2,47,000
Clearances of 1,050 units @ ₹ 240 per unit	2,52,000
Samples clearances of 50 units @ ₹ 240 per unit [WN]	12,000
Transaction Value	5,11,000

Working note:

CBEC Circular No. 813/10/2005-CX, dated 25.04.2005 has clarified that Sample are to be valued as per provisions of Rule 4 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 i.e. on the basis of value of goods cleared at or around the same time.

However, since the information relating to value of goods sold at the time nearest to the time of removal of samples is not available, valuation may be done on the basis of Rule 11 read with Rule 4. Therefore, normal transaction value of goods sold at or about the time nearest to the time of removal of samples will be the assessable value of the samples. Normal transaction value is the value at which the greatest aggregate quantity of goods is sold. Since, in the given case, the greatest aggregate quantity viz., 1050 units are sold at ₹240, the normal transaction value would be ₹ 240.

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- (b) Best judgment assessment [Section 72 of Finance Act, 1994] [Circumstance when best judgment assessment can be made]: Section 72 provides that best judgment assessment can be done by the Central Excise Officer if, —
- (i) the assessee fails to furnish the return under section 70;
 - (ii) the assessee having made a return, fails to assess the tax in accordance with the provisions of this Chapter or rules made thereunder.

Manner of making best judgment assessment: For making best judgment assessment, the Central Excise Office may require the assessee to produce such accounts, documents or other evidence as he may deem necessary and after taking into account all the relevant material, the Central Excise Officer shall make the assessment of the value of taxable service to the best of his judgment and determine the sum payable by, or refundable to, the assessee. He shall pass the order in writing, after giving an opportunity of being heard to the assessee.

Question 57.

- (a) Determine the Point of Taxation in each of following independent cases in accordance with point of Taxation Rules, 2011.

S. No.	Date of actual provision of service	Time [date] of Invoice, Bill or Challan as the case may be	Date on which payment received
1	10.06.2014	30.06.2014	06.06.2014 (part) and 16.06.2014 (remaining)
2.	10.06.2014	12.07.2014	30.06.2014
3.	10.06.2014	12.07.2014	05.06.2014 (part) and 25.06.2014 (remaining)
4.	10.06.2014	22.07.2014	12.08.2014

- (b) What is the condition for levy of Specific Safeguard Duty u/s 8C of Customs Tariff Act?
- (c) Compute the 'arm length price' (ALP) in the following cases :
- (i) P Ltd. is a 100% Indian subsidiary of a US company. The parent company sells one of its products to the Indian subsidiary at a price of US\$ 150 per unit. The same product is sold to unrelated buyers at a price of US\$ 175 per unit.
 - (ii) The US parent company sells the same product to an unrelated company in India @ US\$ 130 per unit.

Answer:

- (a) Point of Taxation for the different cases:

S. No.	Date of completion of service	Time [date] of Invoice, Bill or Challan as the case may be	Date on which payment received	Point of Taxation	Remarks
1.	10.06.2014	30.06.2014	06.06.2014 (part) and 16.06.2014 (remaining)	06.06.2014 and 16.06.2014 for the respective	Invoice issued within 30 days. Part payment (in the form of advance received before issue of invoice and remaining payment

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				amounts	received after completion of service).
2.	10.06.2014	12.07.2014	30.06.2014	10.06.2014	Invoice not issued within 30 days and payment received after completion of service.
3.	10.06.2014	12.07.2014	05.06.2014 (part) and 25.06.2014 (remaining)	05.06.2014 and 10.06.2014 for the respective amounts	Invoice not issued within 30 days. Part payment received as advance before completion of service and remaining payment received subsequently.
4.	10.06.2014	22.07.2014	12.08.2014	10.06.2014	Invoice not issued within 30 days and entire payment received after completion of service.

- (b) Condition for levy of Specific Safeguard Duty u/s 8C of Customs Tariff Act — If Central Government conducting such enquiry as it deems fit, is satisfied that any article is imported into India from People's Republic of China:
- in such increased quantity, and
 - so as to cause or threatening to cause, market disruption to domestic industry.

(c) Computation of 'arm length price (ALP) is as follows –

- (i) Though the ALP is ₹ 175 per unit; however, since the adoption of ALP will result in decrease in total income of Indian subsidiary (the cost of purchase being higher), therefore, the price of US\$ 150 per unit shall be admissible.
- (ii) However, in this case, the ALP = Price to unrelated buyers = US\$ 130 per unit; and since its adoption increases taxable income in India, hence, the same shall be adopted.

Question 58.

(a) Specify the relevant dates for warehouse goods in the following cases:

- (i) Rate of exchange, when goods are removed for home consumption;
- (ii) Rate of duty, when goods are removed for home consumption;
- (iii) Goods deemed to be improperly removed u/s 72 of the Customs Act, or, Rate of duty if the goods are not removed from warehouse within the permissible period.

(b) Describe the taxability of 'bundled services'.

Answer:

(a) The relevant dates for warehoused goods in the following cases will be:

Warehoused goods (Case)	Relevant date
1. Rate of exchange, when goods are removed for home	Date of presentation of bill of entry for warehousing : As per section 14 of the Customs Act, rate of exchange shall be rate in force on the date on which bill of entry for warehousing is

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consumption	presented u/s 46 of the Customs Act, shall be applicable.
2. Rate of duty, when goods are removed for home consumption	Date of presentation of bill of entry for home consumption: As per section 15(1)(b) of the Customs Act, the rate of duty in force on the date on which ex-bond bill of entry for home consumption (removal of goods from warehouse for home consumption) is filed under section 68, shall be applicable.
3. Goods deemed to be improperly removed u/s 72, or, Rate of duty if the goods are not removed from warehouse within the permissible period	Date on which goods are deemed to be improperly removed, or, date of expiry of warehousing period: In case of goods deemed to be improperly removed u/s 72 of the Customs Act, the relevant date for determination of rate duty shall be the date of such deemed removal i.e., the date on which any of the events listed in section 72 occurs. For example, in case goods continue to remain in warehouse after expiry of period u/s 61, then, rate of duty in force on date of expiry of such period shall be applied. Section 15(1)(b) cannot apply, as it applies only when goods are removed u/s 68 properly.

- (b) 'Bundled service' means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services. An example of 'bundled service' would be air transport services provided by airlines wherein an element of transportation of passenger by air is combined with an element of provision of catering service on board. Each service involves differential treatment as a manner of determination of value of two services for the purpose of charging service tax is different.

Example - A hotel provides a 4-D/3-N package with the facility of breakfast. This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.

Question 59.

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

- (i) **Services provided to a company located in Colombo in relation to organization of a sport event in Colombo : ₹ 22 lakhs**
- (ii) **Services provided to a company located in Srinagar in relation to festival celebration on Srinagar : ₹ 6 lakhs**
- (iii) **Services provided to a company located in Jaipur in relation to fashion show in Dubai : ₹ 24 lakhs**
- (iv) **Services of online database access and retrieval services provided from its website : ₹ 25 lakhs (out of this, ₹ 18 lakhs was provided to recipients located outside India)**

- (b) **Are Lease Transactions subjected to levy of Value Added Tax under VAT Legislations? State with reasons.**

Answer:

- (a) **The taxable value and service tax is computed below (amount in ₹)**

(i)	Services provided to a company located in Colombo in relation to	Nil
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	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	
(ii)	Services provided to a company located in Srinagar in relation to organization of a sport event 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
(iii)	Services provided to a company located in Jaipur 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 (Jaipur) and both service provider and recipient are located in taxable territory, hence, as per Rule 8, these services are liable to service tax.	24,00,000
(iv)	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 ZBL Ltd. is located in Mumbai (taxable territory), hence, these services will be taxable in full irrespective of location of the service recipient.	25,00,000
	Total Taxable Value	49,00,000
	Service tax @ 12.36%	6,05,640

(b) Levy: The Constitutional Authority to levy Sales Tax / VAT on Lease Transactions is contained in Article 366 of Constitution of India, which provides that tax on sale or purchase includes "a tax on the transfer of the right to use any goods for any purpose for cash, deferred payment or other valuable consideration."

Taxable Event: Transfer of right to use any "goods" for any purpose for a "valuable consideration". Hence, transfer of assets without consideration and lease of Immovable property does not attract levy of VAT / Sales Tax.

Taxable Turnover:

= Amount of Valuable Consideration Paid or Payable during given period + Any Charges before delivery thereof, (Less) Interest / Finance Charges included in Lease Payments (only in some States)

Input Tax Credit:

(i) Lessor's Books:

- Lessor will collect VAT on Lease Rentals over a period of time. Against such VAT Liability, the Lessor can claim Input Tax Credit of VAT Paid on purchase of the leased asset.
- Some States provide for claiming of Input Tax Credit on such purchases only over the lease period, and not against any other VAT liability.
- Some other States provide for complete utilization of Input Tax Credit on such purchase, against any VAT Liability. Some other States provide an option to carry forward the excess credit.

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- (ii) **Input Tax credit on Capital Goods:** Assets given on lease will be generally capitalized by the Lessor in his books, and will be treated as Capital Assets. Hence, provision relating to Input Tax Credit on Capital Goods will apply, i.e. utilization of credit over a period of time such within 36 Months etc.

Question 60.

(a) **An importer, having received 100 casks of whisky from Scotland by a vessel, warehouses them in a bonded place. Each cask is reported to contain 1000 litres. At the time of removal of goods, it is found that 50 cases contained only 980 litres each. The importer claims that there has been a loss in storage and hence no duty can be levied on the shortage. Explain the relevant provisions of the Customs Act, 1962 regarding shortage of volatile goods and state, with reasons, how would you decide the case.**

(b) **Is transfer of property in goods without consideration chargeable to CST?**

Answer:

(a) The duty payable on 15 litres per case found deficient will be remitted u/s 70, as whisky (wine/beer) is notified goods u/s 70, the loss is found at the time of delivery from warehouse and loss of mere 1.5% per cask appears to be a natural loss.

(b) Sale u/s 2(g) of the CST Act means transfer of property for cash or deferred payment or for any other valuable consideration. Where there is transfer of property in goods without consideration, it does not amount to sale within the meaning of the definition under the act and therefore CST is not attracted.

Question 61.

(a) **Why indirect taxes are called regressive in nature as against direct taxes?**

(b) **M/s. ZBL 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 : ₹ 15 lakh ;**
- (2) **Commission from acting as Clearing and Forwarding Agent: ₹ 8 lakh ;**
- (3) **Commission from acting as clearing agent: ₹ 6 lakh ;**
- (4) **Commission from acting as forwarding agent: ₹ 9 lakh ;**
- (5) **Margin earned from trading in shares : ₹ 5 lakh ;**
- (6) **Margin from trading in futures : ₹ 8 lakh ;**

Answer:

(a) Direct taxes depend on paying capacity. Rich person is taxed more compared to poor person. But Indirect taxes do not depend on paying capacity. Since the indirect tax is

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uniform, the tax payable on commodity is same, whether it is purchased by a poor man or a rich person. Hence, the indirect taxes are termed as 'regressive'.

Although this argument is only partially correct for indirect taxes; as it is possible to levy lower taxes on goods of daily consumption while levying higher taxes on luxury goods and the regressive effect can be reduced in many circumstances.

(b) Computation of service tax liability:

- (1) Commission from selling of various goods belonging to other parties : ₹15 lakh - Taxable;
- (2) Commission from acting as Clearing and Forwarding Agent: ₹ 8 lakh - Taxable;
- (3) Commission from acting as clearing agent: ₹ 6 lakh - Taxable;
- (4) Commission from acting as forwarding agent: ₹ 9 lakh - Taxable;
- (5) Margin earned from trading in shares : ₹ 5 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: ₹ 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 = 15+8+6 + 9 = ₹ 38 lakh; and service tax thereon @ 12.36% = ₹ 4,69,680.

Question 62.

(a) What is ACES (Automation of Central Excise and Service Tax)? State the usefulness of ACES.

(b) State the objectives of the Foreign Trade Policy? Write down its features also.

Answer:

(a) The Central Board of Excise & Customs (CBE & C) has developed a new software application called *Automation of Central Excise and Service Tax (ACES)*, which aims at improving tax-payer services, transparency, accountability and efficiency in indirect tax administration.

It is a centralized, web based software application which automates various processes of Central Excise and Service Tax for Assessee and Department, and gives complete end to end solution.

ACES can be used for:

- i. Online registration and amendment of registration details
- ii. Electronic filing of documents such as Returns, Claims, Intimations and permissions
- iii. Online tracking of the status of applications, claims and permissions
- iv. Online facility to view documents like Registration Certificate, Returns, Show Cause Notice, Order- In-Original etc.

(b) Objective: The FTP, in general, aims at developing export potential, improving export performance, encouraging foreign trade and creating favorable balance of payments position. The earlier trade policies were based on the objectives of self-reliance and self-sufficiency.

Features of Foreign Trade Policy:

- (i) Export-Import is free unless specifically regulated by the Policy or any other law for the time being in force.
- (ii) There are restrictions on exports and imports for various strategic, health, and other reasons. If the goods are not banned, the Government can give a permission/license for specific reasons.
- (iii) Exports are promoted through various promotional schemes.
- (iv) There should be no taxes on exports and hence, the taxes are either exempted or adjusted or refunded on both outputs and inputs, through schemes of Duty Exemption, Duty Refund (Drawbacks and Rebates).
- (v) Even Capital Goods can be imported at NIL duty for the purpose of exports under the scheme of EPCG.
- (vi) For units undertaking to export all their production, there are special schemes so that they can avoid taxes at every stage under the scheme of EOU.
- (vii) In certain cases, imports get duty exemption/concession for certain special purposes. In such cases, to enable domestic suppliers compete with the international suppliers, the supplies of domestic suppliers are treated as deemed exports.