Paper 16 - Tax Management and Practice

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Time Allowed: 3 Hours **Full Marks: 100**

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

1.

(a) Fill in the blanks: **5 x 1 = 5**

- **(i) Tax is to be deducted at source, if payment of commission or brokerage exceeds ₹ ____**
- **(ii) Interest shall be payable u/s. 234B if the advance tax paid by the assessee during the financial year is less than _____**
- **(iii) Goods manufactured in SEZ are called as _____ for the purpose of excise duty.**
- **(iv) Anti-dumping duty u/s. 9A of Customs Tariff Act cannot exceed _____**
- **(v) Under Composition Scheme, value of materials is ______ (deducted/not deducted) for the purpose of calculation of service tax.**

Answer:

(a) (i) 5,000
(ii) 90% of assessed tax
(iii) Excluded excisable goods
(iv) Margin of injury on margin of dumping whichever is lower
(v) Not deducted

(b) Choose the most appropriate alternative. **5 x 1 = 5**

(i) X Ltd has taken a building on rent on 1-7-2015 @ ₹ 20,000 p.m. from Y Ltd. Amount of TDS is:
(a) ₹ 18,000
(b) ₹ 18,540
(c) ₹ 24,000
(d) Nil

(ii) The due date of filing return of income for Assessment Year 2016-17 in case of a working partner of a firm whose accounts are required to be audited is:
(a) 31st July of RAY
(b) 30th September of RAY
(c) 30th November of RAY
(d) 30th September or 30th November of RAY as the case may be

(iii) Rate of excise duty in the case of Khandsari Molasses shall be rate in force on:
(a) The date of manufacture
(b) The date of removal
(c) The date of purchase by the procurer
(d) The date of receipt in the factory of the procurer

(iv) Taxable event for customs duty in respect of imports into India shall include:
(a) High seas
(b) Exclusive Economic Zone
(c) Indian Customs Waters
(d) Territorial Waters of India

(v) Service received from outside India shall be:
(a) Taxable in the hands of service provider
(b) Taxable in the hands of service receiver
(c) Taxable in the hands of service receiver if not exempted
(d) Exempt from service tax

Answer:

(b) (i) (d)
(ii) (d)

(iii) (d)
(iv) (d)
(v) (c)

(c) State true or false with reasons: 5 x 2 = 10

(i) A cooperative society is taxable at the same rate as are applicable to body of individuals.
(ii) Tax on dividend received from a domestic company is payable by a shareholder.
(iii) Notifications under Central Excise Law are issued by the Parliament.
(iv) Special CVD levied u/s. 3(5) cannot exceed rate of local VAT.
(v) Services provided by an unit in SEZ is not liable to service tax.

Answer:

(c) (i) False : Tax rates applicable to co-operative society and Body of Individual are different.
(ii) False : Tax on dividend, except deemed dividend u/s 2(22)e is payable by domestic company u/s 115 – 0.
(iii) False : Notification s under Central Excise Law are issued by Government or CBE& C.
(iv) False : Special CVD u/s 3(5) cannot exceed 4%.
(v) False : Services provided to an unit in SEZ is not taxable but services provided by an unit in SEZ is liable to service tax.

2. A, B and C are carrying on business in partnership as manufacturers of chemicals sharing at 5:3:2. The following particulars are given for the year –

(i) Net Profit as per P & L A/c ₹ 2,50,000.
(ii) Salary debited to P & L a/c: A - ₹ 50,000; B – ₹ 25,000; C – ₹ 30,000
(iii) Interest on capital allowed in P & L a/c.
A @ 14% ₹ 2,800; B @ 16% ₹ 4,800; C @ 12% ₹ 2,400
(iv) A machine costing ₹ 60,000 was installed at end of the year and depreciation charged is ₹ 10,000.
(v) Bad debts recovered and credited to P & L a/c ₹ 12,000. Total bad debts in the earlier year is ₹ 30,000 of which only ₹ 25,000 was allowed as deduction.
(vi) Entertainment expenses not taken into accounts ₹ 4,000.
(vii) Rent of premises belonging to A and charged to P & L a/c ₹ 10,000.
(viii) Long term capital gain referred u/s. 10 (38) credited to P & L a/c. ₹ 20,000.
(ix) Interest on bank fixed deposits credited to P & L a/c ₹ 5,000.
(x) Donation to National Draught Relief Fund ₹ 6,000.

Find out total income and tax payable by the firm and its partners. 16

Answer:

2. Computation of Total Income of Firm

Particulars	₹
Net profit as per P&L A/c	2,50,000
(+) Salary to partners	1,05,000
(+) Interest in excess of 12%	
A = 2800 × $\frac{2}{14}$	400
B = 4800 × $\frac{4}{16}$	1,200
(+) Depreciation on machine	10,000
(-) Depreciation as per I.T. Rules	
60,000 × 15% × $\frac{1}{2}$	4,500
60,000 × 20% × $\frac{1}{2}$	6,000

(-) Recovery of bad debts (disallowed earlier)	5,000
(-) Entertainment expenses	4,000
(-) LTCG u/s 10 (38)	20,000
(-) Interest on bank deposits	5,000
Book Profits	3,22,100
(-) Deduction u/s 40(b)	
Salary to Partners : 3,00,000 × 90% + 22,100 × 60%: Or ₹ 1,05,000 Whichever is lower	1,05,000
Profit or Gains from Business or Profession	2,17,100
Income from other Sources	5,000
Gross Total Income	2,22,100
(-) Deduction under Chapter VI-A	
80G- National Draught Relief Fund [50%]	3,000
Total Income	2,19,100
Tax @ 30.90%	67,700 (Rounded off)

Total income of partners:

Particulars	A (₹)	B (₹)	C (₹)
Share from firm [exempt u/s 10(2A)	---	---	---
Salary	50,000	25,000	30,000
Interest @ 12%	2,400	3,600	2,400
	52,400	28,600	32,400

3. (a) X Ltd, an industrial undertaking, owns two buildings. WDV on 1-4-2015 is ₹ 25 lakhs. One of the building, which had been purchased on 1-5-2014 for ₹ 12 lakhs is compulsorily acquired by the Government on 31-3-2015 for which a sum of ₹ 45 lakhs is paid as compensation on 1-4-2015. The said building was being used by the company for its industrial activities as a tenant for about 3 years prior to the date of acquisition. The company purchases a new building on 1-4-2016 for ₹ 8 lakhs for the purpose of setting up another industrial undertaking. Compute the amount of capital gain for the relevant assessment year. Suggest a scheme of tax planning. 8

(b) Y Ltd has purchased a machine during 2005 for ₹ 3,00,000 for conducting research for their own business. The research is completed on 31-5-2015 and machine is sold for ₹ 1,25,000 on 1-6-2015 without using for any other purpose. Opening WDV of relevant block of assets on 1-4-2015 is ₹ 2,50,000. Discuss the tax consequences for the different assessment years and also suggest a scheme of tax planning. 8

Answer:

3. (a) Computation of Capital Gain of X Ltd. for Assessment Year 2016-17.

Particulars	Amount in ₹
Sale consideration	45,00,000
(-) Depreciated Value	25,00,000
(-) Cost of new asset	Nil
STCG	20,00,000
(-) Exemption u/s 54D	8,00,000
STCG	12,00,000

Note:

(1) The period for which building is used in the capacity of tenant is also considered for determination of usage period of two years as referred u/s 54 D.

(2) Capital gain is computed in the year in which compensation is paid but not in the year of acquisition by the Government.
(3) In order to minimize capital gain, it is advised to purchase new building during the previous year 2015 – 16 to avail the benefit of deduction in addition to exemption. In such case, STCG will be ₹ 4,00,000.

(b) Tax consequences

Accounting Year 2006 – 07
Amount of deduction u/s 35 @ 100% = ₹3,00,000.

Accounting Year 2016 – 17
Deemed profits u/s 41(3) = Amount of deduction or surplus on sale of machine Whichever is lower

$$\left.\begin{array}{l}\text{AOD} = 3{,}00{,}000 \\ \text{Surplus} = 1{,}25{,}000\end{array}\right\} \text{Whichever is Lower}$$

DP u/s 41(3) = ₹ 1,25,000.

Capital Gain:

Particulars	Amount in ₹
FSC	1,25,000
(-) ICOA $3{,}00{,}000 \times \frac{1081}{497}$	6,52,515
LTCL	5,27,515

Depreciation:

Particulars	Amount in ₹
OWDV	2,50,000
(+) Cost of Assets	Nil
(+) Sale price	1,25,000
WDV	1,25,000

Depreciation @ 15% = ₹ 18,750.

Note:
(1) In this case, machine is non-depreciable asset and the type of capital gain in on the basis of period.
(2) In order to avoid deemed profits u/s 41(3), it is advised to put for use in business after research is completed.

4. (a) "Shanaz Ltd" engaged in manufacturing of different products was asked by the Central Excise Department to pay an amount of ₹ 25,00,000/- on certain goods manufactured by it, which was deposited during the year 2004-2005 and was claimed as deduction in the return of income filed for that assessment year. This levy of the excise duty was challenged in the High Court, and the Court in June, 2014 held "that the same is not payable by the company". The Excise Department filed appeal challenging the order of the High Court before the Supreme Court. The Assessing Officer issued a show cause on the basis of the decision of the High Court to tax the benefit derived by the company in A.Y.2015-16. **8**

(b) BCFS Limited is a Non- Banking Financial Company (NBFC). The company has not credited interest of ₹ 30 lakhs due on certain loan accounts which had become non-performing assets

in its profit &loss account. As per NBFC Prudential Norms (RBI) Directions, 1998, which is binding on the company, interest or discount or any other charges on non-performing assets shall be recognized as income only when it is actually realized. Can the Assessing Officer make addition of such interest on the ground that the assessee, being a company, follows mercantile system of accounting? **8**

Answer:

4. (a) **Facts:** Allowability of deduction in respect of excise duty paid for calculation of income tax liability.

Case Law: UOI v J. K. Synthetics Ltd.

Verdict: Deduction is allowed soon after duty is paid as per provisions u/s 43B. Deemed profits u/s 41(1) will arise only on its recovery.

(b) **Facts:** Recognition of income in respect of interest on NPA.

Case Law: DCIT v Brahmaputra Capital Financial Services Ltd.

Verdict: Interest on NPA is changeable to tax on receipt basis through the books are maintained on mercantile basis, as per the directives of RBI.

5. (a) A service has become taxable w.e.f 1-7-2015. Discuss the taxability of such service in the following situations:

Situation	Date of invoice	Value of service	Date of receipt	Amount of receipt
1.	25-6-2015	₹ 2,00,000	26-6-2015	₹ 2,00,000
2.	26-6-2015	₹ 2,40,000	28-6-2015	₹ 3,00,000
3.	27-6-2015	₹ 3,00,000	30-6-2015	₹ 2,40,000
4.	28-6-2015	₹ 4,50,000	05-7-2015	₹ 4,50,000
5.	10-7-2015	₹ 3,50,000	29-6-2015	₹ 3,50,000
6.	16-7-2015	₹ 4,20,000	27-6-2015	₹ 4,20,000

9

(b) A manufacturer produces Khandsari Sugar on 20-4-2015 in which molasses is also generated on which excise duty is chargeable @ 12.5%. He sold and removed 1500 kgs of molasses from his factory on 15-5-2015 @ 80 per kg. The procurer of molasses receives the same on 25-5-2015 in his factory. The rate of excise duty on 25-5-2015 is 10%. Determine:

(i) Amount of excise duty payable on molasses.

(ii) By whom it will be payable.

(iii) Will it make any difference if molasses is used in the same factory in which it is generated.

(3+2+2)

Answer:

5. (a) Date of service becoming taxable: 1.7.2015.

(i) Not taxable as invoice and payment is before service becoming taxable.

(ii) ₹ 2,40,000 is not taxable. However, the additional consideration is taxable (₹ 60,000) if income is issued after 14 days.

(iii) ₹ 2,40,000 is not taxable. However, the balance (₹ 60,000) is taxable.

(iv) Not taxable as invoice is issued before service become taxable though the consideration is received after service become taxable.

(v) Not taxable as invoice is issued within 14 days of service become taxable.

(vi) ₹ 4,20,000 is taxable as invoice is issued after 14 days of service become taxable.

(b) (i) Amount of excise duty

Assessable value	= 1500 × 80	= ₹ 1,20,000
Rate of duty	= 10%	

Amount of duty = 1,20,000 × 10% = ₹ 12,000.

(ii) Duty is payable by the procurer of molasses at the time receipt of molasses in his factory.

(iii) If molasses is used in same factory in which it is generated:
Duty on molasses is "Nil" if duty is payable on final product (i.e. sugar).

6. (a) A manufacturer imports certain goods from Australia at CIF value of AU $ 50,000. CIF value includes air freight @ 25% and insurance @ 1.5%. Handling charges at the place of importation is ₹ 30,000. The following additional information is provided:

(i) One AU $ is equal to ₹ 54 as specified by the Board and ₹ 56 as specified by RBI.

(ii) BCD @ 10%, NCCD @ 1%, CVD u/s. 3(1) @ 12.5% (however, exemption is given by way of notification), CVD u/s. 3(5) @ 4% and cess as applicable.

(iii) It is proposed to levy safeguard duty to the extent of margin of injury.

(iv) Fair selling price of goods in India is ₹ 38,00,000.

You are required to calculate total customs duty. 8

(b) Mr. Dinesh, a practicing CMA in Mumbai provides the following services:

(i) Services to a bank in Jammu ₹ 40,000.

(ii) Services to a financial institution in Delhi ₹ 15,000.

(iii) Audit services to clients in Chennai ₹ 25,000.

(iv) Consultancy services to an unit in SEZ ₹ 20,000.

(v) Tribunal appearance to relative without consideration (value of similar service is ₹5,000).

Calculate service tax payable. What will be the difference if he is practicing in the state of Jammu/Kashmir? (6+2)

Answer:

6. (a) Calculation of customs duty

Particulars	Au $
CIF Value	50,000
(-) Ari Freight $50,000 \times \frac{25}{125}$	10,000
(-) Insurance $50,000 \times \frac{1.5}{101.5}$	739
FOB	39,261
(+) Air Freight @ 20%	7,852
(+) Insurance	739
CIF	47,852
(+) Landing changes @ 1%	478.52
	48,330.52

Au $ in Indian Currency = 48,330.52 × 54 = 26,09,848.

BCD @ 10% = 2,60,984.80
NCCD @ 1% = 26,098.48
CVP = Nil
Cess @ 3% = 8,612.50
SAD @ 4% = 1,16,221.75
Customs duty = 4,11,918 (Rounded off)
Safe guard duty (margin of injury) = FSP in India – landed cost
= 38,00,000 – [26,09,848 + 4,11,918]
= 7,78,234
Total customs duty = 4,11,918 + 7,78,234 = 11,90,152.

(b) Calculation of Service tax

Services to a bank in Jammu	Not taxable
Services to F.I. in Delhi	15,000
Audit services in Chennai	25,000
Consultancy service in SEZ	Exempt
Tribunal service without consideration	Not taxable
Value of taxable service	40,000
S.T. @ 14.5% (Excl, SBC)	₹ 5,800

Note:
If service provider is practicing in the state of JK, tax is payable by the service receiver who is in taxable territory.

7. (a) ABC Ltd. had paid, both the service tax and interest for delayed payment before issue of show cause notice under the Finance Act, 1994. Section 73(3) of the Finance Act, 1994 categorically stated that if the payment of service tax and interest has been intimated to the authorities in writing, the authorities should not serve any notice for the amount so paid. But to the above, the authorities issued SCN to the appellant for delay in payment of service tax. Discuss with the help of decided case whether the issue of show cause notice is justified. 8

(b) M/s. Raj Fibres had filed an appeal to the High Court on Aug.11, 2015 under section 35G of the Central Excise Act, 1944 aggrieved by an order passed by the Appellate Tribunal. The order appealed against was received by the assessee on jan. 1,2015. The High Court dismissed the appeal petition on the ground that the same had been filed beyond the period provided for filing an appeal under section 35G of the Act and the court had no power to condone the delay. M/s. Raj Fibres urged before the High Court that the provisions of the Limitation Act, 1963 should be made available and the delay in presenting the appeal ought to be condoned. State briefly, with reference to decided case law, if any, whether the High Court could condone the delay in presenting the appeal pursuant to the provisions of the Limitation Act, 1963 as urged by M/s. Raj Fibres. 8

Answer:

7. (a) **Facts:** Validity of issue of SCN.

Case Law: CCE & ST v Adecco Flexione Work Force Solutions Ltd.

Verdict: Issue of SCN is not justified when it is specifically mentioned that the authorities should not serve any notice for the amount already paid.

(b) **Facts:** Condonance of delay in filing the petition beyond the period to HC.

Case Law: CCE v Punjab Fibers Ltd.

Verdict: High court is not empowered to condone the delay in presenting the petition in pursuant to the provisions of the limitation Act, 1963.

8. (a) X Ltd, an Indian Company purchased certain goods from Y Ltd, a foreign company in France and X Ltd has 3/4th share in equity. FOB value of the goods ₹1,200 per unit after a discount of ₹ 200 per unit.
X Ltd also purchased similar type of goods from Z Ltd, another foreign company in Italy and X Ltd has 1/4th Share in equity. CIF value of the goods ₹1,400 per unit.
Number of units supplied by Y Ltd is ₹ 25,000 and Z Ltd is ₹ 24,000. Profit shown by X Ltd is ₹ 65 lakhs. Calculate reasonable profits of X Ltd. 8

(b) Mr. P, resident in India, earns the following income:

(i) Rent from property outside India ₹ 1,00,000.
(ii) Business income in India ₹ 2,50,000
(iii) Interest on securities in India ₹ 80,000
(iv) Interest on units of UTI ₹ 30,000
He paid life insurance premium of ₹ 10,000 on a policy amount of ₹ 80,000 which was taken on 1-4-2013. There is ADT agreement according to which tax paid on foreign income is adjusted against tax payable in India. Calculate net tax liability of Mr. P if rate of tax on foreign income is 10%. 8

Answer:

8. (a) Calculation of reasonable profits of X Ltd.

Particulars	Y Ltd. (AE)	Z Ltd. (UAE)
CIF	---	1,400
FOB	1,200.00	---
(+) Discount	200.00	
(+) Freight @ 20%	240.00	
(+) Insurance @ 1.125%	13.50	
CIF	1,653.50	1,400

ALP = ₹ 1,653.50 or ₹ 1,400 whichever is lower
Difference per unit = ₹ 1,653.50 – 1,400 = ₹ 253.50
Increase in profits = 25,000 × 253.50 = ₹63,37,500
Profits of X Ltd. = 65,00,000 + 63,37,500 = ₹1,28,37,500

(b) Calculation of net tax liability of Mr. P

Particulars	Amount in ₹
Rent from property outside India	1,00,000
(-) S.D. @ 30%	30,000
IHP	70,000

IHP outside India	70,000
PGBP in India	2,50,000
IOS in India	80,000
Gross Total Income	4,00,000
(-) Deduction u/s 80C	
LIP @ 10% of policy or actual premium WEL	8,000
Total Income	3,92,000

Tax on Total Income (250000 × 0% + 1,42,000 × 10%)	14,200
(-) Rebate u/s 87A	2,000
	12,200
(+) Cess @ 3%	366
	12,566
(-) Relief u/s 90	
Tax on Fixed Income @ 10%	7,000
	5,566
Rounded off u/s 288B	₹ 5,570