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) Rate of tax deduction at source in respect of commission, etc. on sale of lottery tickets is _____

(ii) Interest for defaults in payment of advance income tax is at the rate of ____

(iii) SSI exemption under The Central Excise Act is ₹ _____ if turnover in the preceding year does not exceed specified limit.

(iv) Preferential rate of import duty is applicable when goods are imported from ____

(v) Due date of filing of annual return under Service Tax is _______

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

(i) Advance tax under Income Tax Act is payable by the assessee if tax payable during the year:
(a) is any amount without limit
(b) exceeds ₹ 10,000
(c) is ₹ 10,000 or more
(d) is ₹ 10,000 or less

(ii) Rate of TDS on winnings from lotteries in case of a foreign company, if there is no other income is:
(a) 30%
(b) 40%
(c) 30% plus cess
(d) 40% plus cess

(iii) Units claiming SSI exemption are required to file returns under Central Excise Act on:
(a) Monthly basis
(b) Quarterly basis
(c) Half yearly basis
(d) Yearly basis

(iv) Basic customs duty is levied on the basis of:
(a) Transaction value
(b) Tariff value
(c) Market value
(d) Transaction value or tariff value as the case may be

(v) Payment of Service Tax is mainly on:
(a) Receipt basis
(b) Accrual basis
(c) Receipt or Accrual whichever is later
(d) Receipt or Accrual whichever is earlier

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

(i) Sale of building before receipt of completion certificate is liable to service tax.

(ii) The rate of customs duty is given in The Customs Act, 1962.

(iii) Non-dutiable goods are excluded from excisable goods.

(iv) The remuneration paid to working partners shall not be allowed as deduction to the firm if its book profits is "Nil".

(v) Long term capital gain which is exempt u/s. 10(38) shall not be included for computing book profits u/s. 115JB.

Answer:

1. (a) (i) 10%
(ii) 1% per month or part thereof

(iii) 150 lakhs
(iv) Preferential area
(v) 30th November of succeeding financial year.

(b) (i) (c)
(ii) (c)
(iii) (b)
(iv) (d)
(v) (d)

(c) (i) True : Sale of building before receipt of completion certificate is liable to service tax and not taxable if sale is after receipt of certificate.
(ii) False : The rate of customs duty is given in The Customs tariff Act, 1975.
(iii) False : Non-dutiable goods are excisable goods but rate of duty is Nil or exempted under a notification.
(iv) False : Remuneration is allowed as deduction upto maximum of ₹ 1,50,000 if the book profit of the firm is "Nil".
(v) False : LTCG exempted u/s 10(38) is part of book profit u/s 115JB for calculation of MAT.

2. The P & L A/c of PQR Ltd for the year ending 31-3-2016 shows a profit of ₹6,50,000. The debits in the P & L a/c included the following:
(i) Consideration paid for obtaining a license from a foreign company ₹4,00,000.
(ii) Expenses to remove a drain under statutory obligation ₹2,00,000.
(iii) Commission to employees which is paid on 1-10-2016 ₹25,000.
(iv) Loss on account of non-recovery of a debt ₹30,000.
(v) Payment in respect of income tax proceedings ₹75,000.
(vi) Payment to State Electricity Board for providing service lines ₹55,000.
(vii) Expenditure on research include ₹50,000 being cost of plant and ₹25,000 paid to National Laboratory for approved project.
(viii) Advertisement expenses outside India ₹60,000. (RBI permission not taken)
(ix) Interest paid outside India without TDS ₹40,000.
(x) Fees for technical services without TDS ₹50,000.

The credits in the P & L a/c included the following:
(a) Rent of commercial property ₹2,00,000.
(b) Amount charged from suppliers using guest house of the company ₹30,000.
Calculate tax liability of the company for the AY 2016-17. (ignore MAT Provisions) 16

Answer:

2. Calculation of Tax Liability of PQR Ltd.

Particulars	Amount in ₹
Net Profit as per P&L A/c	6,50,000
(+) Consideration for obtaining licence	4,00,000
(-) Depreciation on licence @ 25%	1,00,000
(+) Expenses to remove drain (Capital)	2,00,000
(+) Commission to employees paid after due date u/s 43B	25,000
(-) Payment to National Laboratory (200% of ₹ 25,000 – Amount debited)	25,000
(+) Payment of interest outside India without TDS	40,000
(+) Payment of FTS without TDS [50000 × 30%]	15,000
(-) Rent of commercial property	2,00,000
PGBP	10,05,000

Income from House Property

Particulars	Amount in ₹
GAV	2,00,000
(-) M Taxes	Nil
NAV	2,00,000
(-) S.D. @ 30%	60,000
IHP	1,40,000

Tax on Total Income [₹ 10,05,000 + 1,40,000] @ 30.90% = 3,53,810.

Note:
(i) Payment in respect of IT proceedings is deductible expenses.
(ii) Payment to SFB for providing service lines is revenue expenses.
(iii) Capital expenses on research is allowed u/s 35.
(iv) FTS without TDS is deductible only upto 70% the balance is allowed when amount is deposited with the Government.

3. (a) A charitable trust gets the following amounts during the period ending 31-3-2016:
(i) Income from property held for charitable purposes ₹4,00,000 out of which ₹1,50,000 is to be received during 2017-18.
(ii) Voluntary contributions ₹3,50,000.
(iii) Sale proceeds of a capital asset ₹ 3,00,000. Its cost of acquisition is ₹2,00,000. Expenses on transfer is ₹10,000. A new capital asset is purchased for ₹3,40,000 for charitable purpose.
(iv) The trust spends only ₹4,20,000 for Charitable purposes.
(v) The trust has obtained extension of time for applying the unrealized income of ₹1,50,000 in the year of receipt.
Determine taxable income of the trust for the AY 2016-17. 9

(b) Mr. Ram sells a residential house for ₹80 lakhs on 1-5-2015 which is purchased by him on 1-5-1992 for ₹15,00,000 on 31-12-2015 he purchased a flat for ₹12,00,000 for his residence. On 31-3-2016 he sells the new flat for ₹18,00,000. Compute capital gain for the AY 2016-17 and also suggest a scheme of tax planning. 7

Answer:

3. (a) Determination of taxable income of charitable trust

Particulars	Amount in ₹
Income from property	4,00,000
Voluntary contributions	3,50,000
Capital gain on sale of asset (WN – 1)	Nil
Total Income	7,50,000
(-) Amount not received for which extension is allowed	1,50,000
	6,00,000
(-) General exemption @ 15%	90,000
	5,10,000
(-) Amount spent for charity	4,20,000
Taxable income	90,000

Working Note – 1

Particulars	Amount in ₹
Sale Proceeds	3,00,000
(-) Transfer expenses	10,000
NCS	2,90,000

(-) COA	2,00,000
Capital Gain	90,000
(-) Cost of new asset	3,40,000
Taxable Gain	Nil

(b) Computation of Capital Gain for Mr. Ram

Particulars	Amount in ₹
Sale Proceeds	80,00,000
(-) ICOA $[15,00,000 \times \frac{1081}{223}]$	72,71,300
LTCG	7,28,700
(-) Exemption u/s 54	12,00,000
	Nil

If new flat is sold within 3 years, capital gain arising therefrom and earlier amount of exemption (i.e. ₹ 6,00,000 and ₹ 7,28,700) is chargeable to tax as short term capital gain which is taxable at higher rate. Therefore, it is adviced not to claim exemption u/s 54. In such a case ₹ 6,00,000 is chargeable to tax as STCG and ₹ 7,28,700 is chargeable to tax as LTCG which is taxable at concessional rate of 20%.

4. (a) ABC Limited has claimed exemption on the income from long-term capital gains under section 54EC by investing in bonds of National Highway Authority of India within the prescribed time. In the computation of "book profit" under section 115JB, the company claimed exclusion of long-term capital gains because of exemption available on it by virtue of section 54EC. The Assessing Officer reckoned the book profit including long-term capital gains for the purpose of levy minimum alternate tax payable under section 115JB. Is the action of the Assessing Office justified in law? 8

(b) "Nargis", a resident of India, owned for the financial year ended on 31-03-2013, a house property in London purchased in July, 2002; a shop in Sydney purchased in June, 2004 and space in a commercial complex in New York purchased in April, 2010. She is also having authority to operate the bank account (maintained with Citibank, London) of a company owned by her daughter and son-in-law since July, 2011.

She has been served in July, 2013 with the notices issued under section 148 of the Act for assessment years 2001-02 to 2012-13. She, for the reason of challenging the action of the Assessing Officer for issuing notices under section 148 for last 12 years, seeks you opinion. Advise her suitably. 8

Answer:

4. (a) **Facts:** Inclusion of LTCG, which is exempted u/s 54EC for the purpose of levy of MAT u/s 115 JB.

Case Law: NJ Jose & Co. (P) Ltd. v ACIT

Verdict: If P&L A/c. is not prepared in accordance with the schedules of Companies Act, the Assessing Officer shall re-draft the P&L A/c. Capital Gain, whether exempted or not is part of net profit as per the schedules of the Act.

(b) **Facts:** Issue of notice u/s 148 in respect of income related to earlier years which is earlier than 12 years from the relevant previous year.

Case Law: Time limit is specified u/s 149 (Case Study).

Verdict: A notice can be issued upto 4 years from the end of relevant assessment year if the escaped income is less than ₹ 1,00,000, upto 16 years if it relates to any asset located outside India.

5. (a) Calculate the excise duty payable in case of the following goods cleared from the factory:

Goods	Quantity removed	Value of goods	Rate of duty	Other factors
Marble tiles	7500 sq.mts	₹ 8,00,000	₹ 30 per Sq.mt	--
Cement	1000 MT	₹ 38,00,000	₹ 220 per MT	--
Chemicals	4000 Ltrs	₹ 16,00,000	12.5%	--
Stainless Steel Patties	8000 MT (Cleared in Sept)	₹ 32,00,000	₹ 40,000 pm per machine	No. of machines are 4

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(b) A firm gives the following particulars relating to the services provided by them for the quarter ending March 2016:

(i) Total bills ₹8,50,000 out of which a bill for ₹60,000 was raised on a Diplomatic Mission and payment of another bill for 75,000 was not received till 31-3-2016.

(ii) Amount of ₹80,000 was received as an advance from a client on 15-3-2016 to whom services are to be provided in April 2016.

You are required to determine:

(i) Taxable value of services.

(ii) Amount of service tax payable.

(iii) Due date of payment

(iv) The possibility of payment on receipt basis. (2+2+2+2)

Answer:

5. (a) Classification of excise duty

Marble tiles (7500 × ₹ 30)	₹ 2,25,000
Cement (1000 × ₹ 220)	₹ 2,20,000
Chemicals (₹ 16,00,000 × 12.5%)	₹ 2,00,000
Stainless Steel Patties (₹ 40,000 × 4)	₹ 1,60,000

Note:

(i) Rate of duty on marble tiles and cement is specific duty which is calculated on the basis of length and weight respectively.

(ii) Rate of duty in case of chemicals is on the basis of ad valorem rate which is fixed @ 12.5%.

(iii) Rate of duty on stainless steel patties is under compounded levy scheme which is calculated on the basis of number of machines and on monthly basis.

(b) Value of taxable service

Total value of bills	₹ 8,50,000
(-) Bills raised on Diplomatic Mission	₹ 60,000
(+) Amount received in advance	₹ 80,000
Value of taxable service	₹ 8,70,000

Amount of service tax

Service Tax @ 14%	₹ 1,21,800
Swachh Bharat Cess @ 0.5%	₹ 4,350
Total Service tax	₹ 1,26,150

Due date of payment:
Date of payment of tax is 31-03-2016.

Payment on receipt basis:
If value of taxable services in the last financial year did not exceed ₹ 50 lakhs, payment of tax shall arise on receipt basis. In such case, value of taxable service is reduced by ₹ 75,000 which was not received till 31.03.2016. therefore,

Value of Taxable Service = ₹ 7,95,000
Service Tax @ 14.5% = ₹ 1,15,275

6. (a) A Ltd removes 50,000 units of finished goods from its factory @ ₹ 8 per unit. The company has the following CENVAT credit:

	BED u/s. 3(1)(a)	NCCD u/s. 136	BCD u/s 12	CVD u/s 3(1)
Raw materials	**₹ 20,000**	**₹ 4,000**	**--**	**--**
Imported RM	**--**	**--**	**₹ 8,000**	**₹ 10,000**
Spare parts	**₹ 4,000**	**--**	**--**	**--**
Office Plant	**₹ 6,000**	**--**	**--**	**--**
Diesel (including import)	**₹ 2,000**	**--**	**₹ 500**	**₹ 600**

All the prices given are exclusive of cess. Excise duty is payable @ 12.5% and ₹3,000 is payable as NCCD. Service tax on input services is ₹3,600. However, these services are utilized for providing exempted output service and value of output service is ₹40,000. You are required to determine net duty payable. 10

(b) Mr. and Mrs. Ghosh are returning from France, after a stay of 18 months have brought the following items:
(i) Laptop computer ₹ 30,000
(ii) Personal Computer ₹ 20,000
(iii) Refrigerator ₹ 40,000
(iv) Video Camera ₹ 10,000
(v) Perfumes ₹ 25,000
(vi) Two litres of liquor ₹ 5,000
(vii) Flat Panel LED TV ₹ 50,000
(viii) Other dutiable goods ₹ 10,000
Calculate total customs duty payable by Mr. & Mrs. Ghosh. 6

Answer:
6. (a) Determination of Net Duty

Excise duty on finished goods:

Assessable value (50,000 × ₹ 8)	₹ 4,00,000
Basic Excise Duty (BED) 12.5%	₹ 50,000
NCCD	₹ 3,000

Net BED	₹
Output duty	50,000
(-) Input duty:	
Raw Material	20,000
Spare parts (50%)	2,000
CVD u/s 3(1)	10,000
Net Duty	18,000

Net NCCD	₹
Output duty	3,000
(-) Input duty	4,000
Carry forward	(1,000)

Net Service Tax / SBC

Particulars	S.T.	S.B.C.
Output tax / cess	Exempt	Exempt
(-) Input tax / cess	Not allowed	Not allowed
	Nil	Nil

(b) Calculation of Total Customs Duty

Particulars	Mr. Ghosh (₹)	Mrs. Ghosh (₹)
Laptop Computer	---	---
Personal Computer	---	20,000
Refrigerator	40,000	---
Video Camera	---	10,000
Per Fumes	---	25,000
Liquor	5,000	---
Others	10,000	---
	55,000	55,000
Less: GFA	50,000	50,000
Assessable Value	5,000	5,000
Duty @ 36.05%	1,802.50	1,802.50

Duty on Flat panel LED LV:
Duty @ 36.05% = ₹ 50,000 × 36.05% = ₹ 18,025.

Total Customs Duty:

Particulars	Mr. Ghosh (₹)	Mrs. Ghosh (₹)
On baggage	1,802.50	1,802.50
On LED	18,025.00	---
Rounded off	19,828.00	1,803.00

7. (a) M/s. Decent Laminates imported resin impregnated paper and plywood for the purpose of manufacture of furniture. The said goods were warehoused from the date of their import. M/s. Decent Laminates sought an extension of the warehousing period, which was granted. However, even after the expiry of extended period, it did not remove the goods form the warehouse. Subsequently, it applied for remission of duty under section 23 of the Customs Act, 1962 on the ground that the imported goods had become unfit for use on account of non-availability of orders for clearance and had lost their shelf life also.

Explain, with the help of a decided case law, if any, whether the application for remission of duty filed by M/s. Decent Laminates is valid in law. 8

(b) M/s. Krishna Computer Colour Lab. is in the business of developing and printing of colour photographic films. It develops the negatives supplied by the customer and provides positive prints as per the order placed by the customer. The Department has demanded service tax on the entire amount charged from the customers without deduction of any amount towards cost of materials.

The assessee's contention is that no service tax could be charged on the material content since service tax is only a tax on services and not on goods. Therefore, the assessee has sought to bifurcate the gross receipts on account of processing of photographs into the

portion attributable to goods and those attributable to services so that service tax could be paid with respect to the value of service alone in their case.
Briefly explain, with regard to decided case law, if any, whether the stand taken by M/s. Krishna Computer Colour Lab. is correct in law. 8

7. (a) **Facts:** Remission of customs duty claimed by the assessee on the ground of lack of demand for the goods imported and stored in warehouse.

Case Law: CCE v Decorative Laminates (I) Pvt. Ltd.

Verdict: Remission is possible in case of loss, damage or destroyal of goods but not in any other case. This case will come under improper clearance.

(b) **Facts:** Allowability of deduction in respect of materials used in provision of service.

Case Law: BSNL Ltd. v UOI.

Verdict: Materials are subject to sales to r but not service tax and hence materials used in provision of service is deductible.

8. (a) X Ltd of India exports semi-finished furniture to Y Ltd of USA, a subsidiary company at ₹3,750 per piece which includes insurance ₹450 but is shown separately. Y Ltd polishes the furniture at a cost of ₹1,650 per piece and transfer it to Z Ltd of Canada, another subsidiary company. Z Ltd sells it at ₹12,000 per piece after incurring market expenses of ₹1,100 per piece. The total number of pieces exported are 1200.
The profits are shared equally. Find out equitable profits of the companies. 8

(b) Mr. Q, a resident but not ordinary resident in India submits the following:
(i) Income from employment in India ₹ 3,00,000
(ii) Income from property outside India ₹ 2,00,000.
(iii) Income from business outside India but its control is from India ₹ 1,00,000.
(iv) Dividend from an Indian Company is ₹ 50,000

He deposited ₹1,00,000 in PPF out of income earned outside India. You are required to calculate net tax payable by Mr. Q. There is no ADT agreement and assume rate of tax outside India @ 8%. 8

8. (a) Determination of equitable profits:

Profit = Selling price – Cost price
= 12,000 – [3,750 + 1,650 + 1,100]
= 5,500.

Total Profit = 5,500 × 1,200 = 66,00,000.

Allocation amongst companies:

Particulars	X Ltd. (Indian)	Y Ltd. (Foreign)	Z Ltd. (Foreign)
Share of profit (Agreed)	22,00,000	22,00,000	22,00,000 [1 : 1 : 1]
Share of profit (Equitable)	36,00,000	18,00,000	12,00,000 [6 : 3 : 2]
Increase in profits	14,00,000	NT	NT

Note:
(i) Equitable sharing is as curtained as follows:
Contribution of X Ltd. = 3750 – 450 = 3300

Contribution of Y Ltd. = 1,650
Contribution of Z Ltd. = 1100

(ii) As profits of foreign company are not taxable increase / decrease in profits is not considered.

(b) Calculation of net tax payable by Mr. Q (NOR)

Salary in India	3,00,000
IHP outside India	NT
PGBP outside India (Control from India)	1,00,000
Dividend [Exempt u/s 10(34)]	---
Gross Total Income	4,00,000
(-) Deduction u/s 80C	
PPF out of Fixed Income	1,00,000
Total Income	3,00,000

Step I : Doubly taxed income ₹ 1,00,000.

Step II : ATR on TI:

Tax on Total Income (2,50,000 × 0% + 50,000 × 10%)	5,000
(-) Rebate u/s 87A	2,000
	3,000
(+) Cess @ 3%	90
	3,090

ATR $= \frac{\text{Tax on TI}}{\text{TI}} \times 100 = \frac{3090}{300000} \times 100 = 1.03\%$.

Step III : ATR on FI = 8% (given)

Step IV : Relief = FI × Lower ATR = 1,00,000 × 1.03% = 1030.

Step V : Net Tax = Tax on TI – Relief u/s 91 = 3090 – 1030 = 2060.