PAPER – 16: TAX MANAGEMENT AND PRACTICE

Paper – 16 : Tax Management and Practice

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

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

1. (a) **Computation of Business Invoice**

Particulars	Amount in ₹
Presumptive Income U/s 44AE:	
Old goods vehicles (1.4.2015 to 30.09.2015) (7,500 × 6 × 2)	90,000
New goods vehicles (15.06.2015 to 31.03.2016) (7,500 × 10 × 7)	5,25,000
Income from business	6,15,000
(-) Unabsorbed depreciation	Nil
(-) Other expenses	Nil
Business Income	6,15,000
(-) Brought forward loss	70,000
Profit and gains of business	5,45,000

Note: All expenses (including depreciation u/s 32) allowable u/s 30 to 44DB, expect deduction u/s 40(b) are deemed to be considered while computation income u/s 44AE.

(b) Calculation of assessable value u/s 4 of CEA, 1944

Particulars	₹
Sale price of the goods	9,00,000
(-) Rent of returnable containers	56,250
(-) Trade discount	25,000
Value including duty	8,18,750

Assessable value = $8,18,750 \times \frac{100}{112.50}$ = 7,27,778.
Note: It is assumed that trade discount is not actually allowed in sale price.

(c) Determination of Point of Taxation

Since the turnover of earlier financial year does not exceed ₹ 50 lakhs, Mr. A may choose the option to pay tax on receipt basis.

Particulars	Advance @ 10%	Balance @ 90%
Received in September 2015 (10% of ₹ 8,00,000)	80,000	---
Balance in June 2016 (90% of ₹ 8,00,000)	---	7,20,000
Point of Taxation	September 2015	June 2016
Rate of service tax	12.36%	14.50%
Service Tax	9,888	1,04,400
Due date of payment (Quarterly basis)	5th/ 6th October 2015	5th / / 6th July, 2016

(d) Determination of CENVAT Allowable

Particulars	Amount in ₹
Assessable value 10,000 × 410	41,00,000
BCD (50% of 10% of ₹ 41 lakhs)	2,05,000
CVD @ 14% on ₹ 43,05,000	6,02,700

Education Cess @ 3%	24,231
Special CVD (Assume VAT is paid)	Nil

In case of EOU, CENVAT is equal to CVD u/s 3(1). Therefore, total cenvat credit allowed is ₹ 6,02,700.

2. (a) Computation of total income of Amar Ltd.

Particulars	₹
Net profit as per Profit & Loss A/c	22,00,000
(+) Provision for sales tax u/s 43B	2,00,000
(+) Royalty without TDS 1,00,000 × 30%	30,000
(+) Income Tax	50,000
(+) Unreasonable payment to Director	50,000
(+) Stationery bill paid in cash u/s 40A(3)	40,000
(+) Depreciation as per accounts	1,30,000
(-) Net Winnings	1,75,000
(-) Interest on notified units	25,000
(-) Long term capital gain	2,50,000
(-) Depreciation as per sec. 32	1,25,000
Business Income	21,25,000
(-) Brought forward business loss	2,25,000
Profit & gains of business profession	19,00,000
Long term capital gain	2,50,000
Income from other source:	
Winnings from lotteries (1,75,000 × $\frac{100}{70}$) (gross)	2,50,000
Interest on units of NMF [exempt u/s 10(35)]	---
Gross Total Income	24,00,000
(-) Deduction u/s 80G	1,50,000
Total Income	22,50,000

Calculation of tax liability

Particulars	₹
Long Term Capital Gain @ 20% (2,50,000 × 20%)	50,000
Winnings @ 30% (2,50,000 × 30%)	75,000
Balance @ 30% (17,50,000 × 30%)	5,25,000
	6,50,000
Add: Educational Cess / SAHEC @ 3%	19,500
Total Tax Liability	6,69,500

(b) Income Computation and Disclosure standards IX (Borrowing Costs)

Borrowing costs shall be included in the cost of qualifying asset (tangible, intangible and inventories that require a period of 12 months or more to bring them to a reliable form).

- Borrowing costs on specific borrowings shall be included in the cost of specific asset from date of borrowing.
- Borrowing costs on general borrowings shall be included in the cost on proportionate basis from date of utilization.

Significant deviations between ICDS IX and AS 16.

	ICDS IX	AS 16	Remarks

(i)	It does not provide any specific period for treating an asset as a qualifying asset, except in case of inventories.	It provide a specific period (substantial period of time to get ready for its intended use or sale is generally taken as 12 months for treating an asset as a qualifying asset.	Borrowing costs have to be capitalized even if the asset does not take a substantial period.
(ii)	It does not permit deduction of income earned on temporary investment of funds against expenditure on the qualifying asset.	It permits deduction of income earned on temporary investment of borrowed funds against expenditure on the qualifying asset. Such deduction is allowed from borrowing costs incurred.	This results in increase in taxable income.

3. (a) Depreciation u/s 32 as per IT Act, 1961.

Particulars	₹
(i) Machinery (Rate of depreciation 15%)	
New machinery 12,00,000 × 15%	1,80,000
Additional depreciation 12,00,000 × 20%	2,40,000
Second hand machinery 8,00,000 × 15% × ½	1,20,000
New imported machinery 18,00,000 × 15% × ½	1,35,000
Additional depreciation 18,00,000 × 20% × ½	1,80,000
Second hand imported machinery 10,00,000 × 15%	1,50,000
(ii) Transport trucks (Rate of depreciation 30%)	
New trucks 4,00,000 × 30% × ½	60,000
Total depreciation for A.Y. 2016-17	10,65,000

Note: It is assumed that there is no opening values. No depreciation on computers as they are not installed. Additional depreciation is not allowed on second hand assets. In case of new assets, remaining half of additional depreciation is available in the subsequent assessment year. Investment allowance u/s 32AC is not available as investment in new machinery does not exceed ₹ 25 crores.

(b) Computation of Interest of TSC Ltd.

Particulars	₹
Tax on total income = 12,00,000 × 30%	3,60,000
(+) Cess @ 3%	10,800
Tax Payable	3,70,800
(-) TDS	44,500
(-) Relief u/s 90	22,700
Advance tax (20,000 + 70,000 + 90,000 + 80,000)	2,60,000
	43,600
(+) Interest (WN) (2616 + 4031)	6,647
Net Tax payable (Rounded off)	50,250

Calculation of Interest:
Interest u/s 234A = Nil (as returns are filed within due date)
Interest u/s 234B (01.04.2016 to 30.09.2016) = 43,600 × 1% × 6 = ₹ 2,616

Interest u/s 234C [Advance tax payable = 3,70,800 – 44,500 – 22,700 = 3,03,600]

Due Date	Advance Tax	Cumulative Advance Tax	Difference	Interest @ 1% P.M.
1	2	3	2 - 3	
15.06.2015	45,540 (15%)	20,000	25,540	766 (3 Months)
15.09.2015	1,36,620 (45%)	90,000	46,620	1,398 (3 Months)
15.12.2015	2,27,700 (75%)	1,80,000	47,700	1,431 (3 Months)
15.03.2016	3,03,600 (100%)	2,60,000	43,600	436 (1 Months)

Total Interest = 766 + 1,398 + 1,431 + 436 = ₹ 4,031.

4. (a) CIT v DCM Ltd.

The issue was whether closure of one of the unit would amount to closure of the business as contended by the revenue. The Tribunal observed that there was no closure of business since the unit was only a part of the operations which continued even after closure of the unit. The assessee has prepared consolidated financial statements and the control & management was centralized in the head office.

The High Court also held that the findings of the Tribunal are acceptable and deduction was allowable in respect of expenditure on payment of interest on borrowed capital for payment of retrenchment compensation.

(b) CIT v Rajiv Shukla
In the given case, the department did not allow benefit of exemption u/s 54F as the exemption should be allowed in respect of long term capital gain where the assessee has claimed exemption short term capital gain arising on transfer of depreciable asset.

The High Court held that the deeming fiction created by section 50 is only for the purposes of section 48 and not for other purpose of any other section. The depreciable asset held for more than 36 months shall be a long term capital asset u/s 2(29A). Therefore, exemption cannot be denied.

(c) Computation of Tax Liability
Income from participation in Matches in India

As per Sec. 115BBA, Tax @ 20% = 5,00,000 × 20% = 1,00,000
Income from ad-film in India
Tax @ 20% = 1,00,000 × 20% = 20,000
Income from contribution of articles to Newspapers
Tax @ 20% = 10,000 × 20% = 2000
Income from horse races in India

As per sec. 115BB, Tax @ 30% = 10,000 × 30% = 3000

Total tax	1,25,000
(+) Cess @ 3%	3,750
Net Tax	1,28,750

Note: The said payments are covered by TDS u/s 194E and 194BB. The assessee is liable to file a Return of Income since he has income from horse racing. Sec. 115BBA is not applicable for match reference. Therefore, tax liability of match reference is ₹ 47,000

(2,50,000 × 0% + 2,50,000 × 10% + 1,10,000 × 20%) plus ₹ 3,000 (10,000 × 30%) plus ₹ 1,5000 (50,000 × 3%). Net tax is ₹ 51,500.

5. (a) Computation of Assessable Value

Particulars	₹
FOB value	7,500
(+) Air freight (Maximum 20% of FOB)	1,500
Designing charges	600
Commission (2% of FOB)	150
Insurance (1.125% of FOB)	84.375
CIF Value	9834.375

Particulars	₹
CIF value in Indian currency = 9834.375 × 72 = (Rate as on date of presentation of Bill of Entry)	7,08,075
Add: Landing charges @ 1%	7,080.75
Assessable value (AV)	7,15,155.75

Determination of duty (Rate as on date of Bill of Entry or arrival of aircraft whichever is later)

Particulars	₹
BCD @ 12% on AV	85,818.69
CVD u/s 3(1) @ 10% on AV + BCD	80,097.444
EC and SAHEC @ 3% on BCD + CVD	4,977.484
SAD u/s 3(5) @ 4% on AV + BCD + CVD + Cess	35,441.975
Total customs duty	2,06,336 (Rounded off)

(b) Calculation of Service Tax

Let us assume, value of taxable service	= x
(+) Service tax @ 14.50%	= 0.145x
(-) TDS @ 10% on value of service	= 0.1x
Net amount ₹ 16,45,250	= 1.045x
$x = \frac{16,45,250}{1.045}$	= ₹ 15,74,402
Service tax @ 14.50%	= ₹ 2,28,288

Note: Due date of payment of tax is on or before 5th / 6th October 2015. However, payment is as per Rule 3 of point of taxation Rules 2011 w.e.f. 1.4.2011.

6. (a) Calculation of Excise Duty
Hair Oil covered u/s 4

Let AV (Assessable Value) = x

(+) BED @ 16.48%	0.1648x
AV + BED	1.1648x
(+) CST @ 4%	0.046592x
AV + BED + CST	1.211392x

Given, AV + BED + CST = 50

$x = \frac{50}{1.211392} = 41.2748$

Therefore, AV = 20,000 × 41.2748
= 8,25,497
BED @ 16.48% = 1,36,042 (Rounded off)

Body lotion Covered u/s 4A

MRP	40
(-) Abatement @ 40%	16
AV	24

Therefore, AV = 3,00,000 × 24 = 72,00,000
BED @ 16.48% = 11,86,560

(b) Determination of net duty

	BED	EC	SAHEC
Output	8,00,000	16,000	8,000
(-) Inputs	3,00,000	6,000	3,000
(-) Capital goods @ 50%	25,000	500	250
(-) Service tax	25,000	500	250
Net duty	4,50,000	9,000	4,500

Payment of service tax:

Assessee	Payment duration	Time of payment
Individual, proprietary firm or a partnership firm	Quarterly	• if paid electronically, by 6th of the month • in any other case, by 5th of the month immediately following the quarter in which the service is deemed to be provided
Any other assessee	Monthly	• if paid electronically, by 6th of the month • in any other case, by 5th of the month immediately following the month in which the service is deemed to be provided

7. (a) Madley Pharmaceuticals Ltd. v CCE & C

The contention of applicant is that, the sale of physician samples was prohibited under the Drugs and Cosmetics Act, 1940 and the same could not be considered to be marketable.
Supreme Court observed that merely because a product was statutorily prohibited from being sold, would not mean that the product was not capable of being sold. The restrictions imposed under the Act could not lead to non-levy of excise duty under Central Excise Act.
Therefore, the physician samples were excisable goods and were liable to excise duty.

(b) As per Rule 14, interest u/s 11AB of CEA shall apply if CENVAT credit has been taken and utilized wrongly or CENVAT credit has been erroneously refunded. It will not apply if CENVAT credit was taken wrongly but not utilised wrongly.
In the given case, X Ltd is not liable for interest as CENVAT credit has not been utilized wrongly.

(c) CCE v Nahar Industrial Enterprises Ltd.

Service tax is not chargeable on the buffer stock subsidy provided by the government for storage of sugar, under "storage and warehousing services", because the buffer stock is maintained for specified period at the direction of the government to maintain free sale supply, under the Sugar Development Fund Act, 1982.
Where goods stored belongs to assessee and storage is for own purposes, it become notional service. Government extended subsidy on account of loss of interest, cost of maintenance etc incurred on account of maintenance of stock should not be considered as service consideration.

8. (a) (i) Advance Authorization Scheme
Minimum value addition under this scheme is 15%. Export obligation should be fulfilled within 12 months of original importation of inputs or as notified by DGFT. This scheme is non-transferable.

Minimum FOB value of the exports made by ABC Ltd. should be ₹ 20,70,000 [i.e., $18,00,000 \times \frac{115}{100}$]

(ii) Duty Free Import Authorization Scheme

Minimum value addition under this scheme is 20%. Export obligation should be fulfilled within 12 months as in case of AAS. This scheme is transferable after fulfillment of export obligation.

Minimum FOB value of the exports made by ABC Ltd. should be ₹ 21,60,000 [i.e., $18,00,000 \times \frac{120}{100}$].

(b) Computation of Total Income of Mr. Jawan

Particulars	₹
Income from House property outside India	Not taxable
Income from business (controlled in India)	10,00,000
Income from profession in India	14,00,000
GTI	24,00,000
(-) Deduction u/s 80C L/P	2,00,000
NTI	22,00,000

<u>Calculation of tax liability</u>

Step I Average Tax Rate = $\frac{\text{Tax on TI}}{\text{TI}} \times 100 = 22.71\%$.

Tax on TI = $2,50,000 \times 0\% + 2,50,000 \times 10\% + 5,00,000 \times 20\% + 12,00,000 \times 30\%$

= ₹ 4,85,000 + Cess @ 3%

= ₹ 4,99,550.

Step II Average Tax Rate on Foreign Income = Assumed more than 22.71%.

Step III Relief = 10,00,000 × 22.71% = ₹ 2,27,100

Net Tax Liability = ₹ 4,99,550 – 2,27,100 = 2,72,450.