

**FINAL EXAMINATION  
GROUP - III  
(SYLLABUS 2012)**

**SUGGESTED ANSWERS TO QUESTIONS**

**JUNE - 2017**

**Paper-16 : TAX MANAGEMENT AND PRACTICE**

Time Allowed : 3 Hours

Full Marks : 100

The figures in the margin on the right side indicate full marks.  
Wherever required, the candidate may make suitable assumptions and state them clearly in the answers.

Working notes should form part of the relevant answer

All sub-divisions of a question should be answered continuously.

All questions in Income Tax relate to the Assessment Year 2017 – 18, unless stated otherwise.

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

1. (a) Fill up the blanks: 1×10=10
- (i) When the total income of a resident individual exceeds ₹ 1 crore the surcharge payable on income-tax would be \_\_\_\_\_ %.
  - (ii) When a resident individual receives dividend from Indian company exceeding \_\_\_\_\_ ₹ he is liable to tax.
  - (iii) When a foreign company has business income of ₹ 30 lakhs in India, the of tax rate applicable in respect of such income would be \_\_\_\_\_ % (including surcharge and cess).
  - (iv) When an individual born in India travels as crew of a ship, his residential status would be reckoned with reference to \_\_\_\_\_ certificate.
  - (v) When a charitable trust gets merged with a non-charitable institution the, tax on accreted income would be at \_\_\_\_\_ rate.
  - (vi) Under excise law, goods not specified in the tariff are \_\_\_\_\_ goods.
  - (vii) SSI exemption for jewellery manufacturer would be up to a turnover of ₹ \_\_\_\_\_ crore in the year on the condition that the turnover was below ₹ 15 crore in the preceding year.
  - (viii) SSI units can avail CENVAT credit on capital goods at \_\_\_\_\_ % in the year of acquisition of capital goods subject to the condition that the turnover for the year has exceeded ₹150 lakhs.
  - (ix) When the excise duty rate was 12.5% on the date of manufacture which got changed to 20% on the date of removal, the duty leviable shall be at the rate of \_\_\_\_\_ %.
  - (x) For computation of import duty the rate of exchange notified by \_\_\_\_\_ on the date of presentation of shipping bill is to be adopted.
- (b) Choose the most appropriate alternative for the following: 1×10=10
- (i) That recovery of tax from the buyer is an essential condition for levy of indirect taxes, is
    - (A) true
    - (B) not true

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- (C) partially true  
(D) None of the above
- (ii) Jewellery manufacture with turnover upto ₹ \_\_\_\_\_ crore in preceding year is eligible to avail 100% CENVAT credit on capital goods in the year of purchase.  
(A) 10  
(B) 12  
(C) 15  
(D) 20
- (iii) MRP of ₹ 40 is printed on an excisable product sold in the State of Karnataka and ₹ 42 for rest of India. The assessable value adopted for the purposes of central excise will be  
(A) ₹ 42  
(B) ₹ 40  
(C) ₹ 41  
(D) ₹ 44
- (iv) A product manufactured is not sold to outsiders, but captively used by the manufacturer himself, in the next process for manufacturing final product. If the cost of production is ₹ 60 per unit, for ascertaining the assessable value, the value adopted for the captively used product will be  
(A) Nil  
(B) ₹ 60  
(C) ₹ 63  
(D) ₹ 66
- (v) For central excise purposes, the number of copies of Account Current distributed is  
(A) 1  
(B) 2  
(C) 3  
(D) 4
- (vi) For transfer pricing purposes, an Advance Pricing Agreement is binding between  
(A) Assessee and Income-tax Department.  
(B) Assessee and the other Associated Enterprise involved.  
(C) Assessee and the RBI.  
(D) Binds none of the above parties.
- (vii) The maximum period of validity of an Advance Pricing Agreement is  
(A) 10 years  
(B) 7 years  
(C) 5 years  
(D) 3 years
- (viii) A foreign company F has furnished guarantee to an Indian banker for grant of bank loan to D, and Indian company. For the Associated Enterprise relationship to exist, such bank loan should be more than the following percentage of the total borrowings of D:  
(A) 7%  
(B) 10%  
(C) 15%  
(D) None of the above
- (ix) For transfer pricing provisions to apply, the value of specified domestic transaction is  
(A) ₹ 5 crores  
(B) ₹ 7 crores  
(C) ₹ 10 crores  
(D) ₹ 20 crores
- (x) Where a professional has opted for presumptive tax, the percentage of gross receipts treated as income from profession is  
(A) 8%

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- (B) 15%  
 (C) 25%  
 (D) 50%

**Answer:**

1. (a)
- |        |                       |
|--------|-----------------------|
| (i)    | 15                    |
| (ii)   | ₹ 10 lakhs            |
| (iii)  | 41.2%                 |
| (iv)   | Continuous Discharge  |
| (v)    | maximum marginal rate |
| (vi)   | non excisable         |
| (vii)  | 10                    |
| (viii) | 100                   |
| (ix)   | 20%                   |
| (x)    | CBEC                  |
- (b)
- |        |     |                                    |
|--------|-----|------------------------------------|
| (i)    | (B) | Not True                           |
| (ii)   | (C) | 15                                 |
| (iii)  | (A) | 42                                 |
| (iv)   | (D) | 66                                 |
| (v)    | (C) | 3                                  |
| (vi)   | (A) | Assessee and Income Tax Department |
| (vii)  | (C) | 5 years                            |
| (viii) | (B) | 10%                                |
| (ix)   | (D) | 20 crores                          |
| (x)    | (D) | 50%                                |

2. (a) The CIF value of goods imported by Mrs. Vasudha of Chennai is \$ 40,000. The same includes freight of \$ 4,700 and transit insurance of \$ 300. Excise duty if manufactured in India will be 12%. Basic customs duty rate is 10%. Ascertain the assessable value. Exchange rate = ₹ 71 per USD. Compute the total customs duty payable by Mrs. Vasudha. 8

- (b) Compute the Cenvat credit available to Vimala Fertilizers, a partnership firm, for the month of March, 2017 from the following details:

Particulars	Date of invoice	Service tax/excise duty paid (₹)
Input service M	10-02-2016	59,800
Raw Material S	12-01-2016	91,600
Raw Material T	29-04-2016	60,300
Raw Material U	11-05-2016	43,320
New machinery purchased in company's name and installed at job worker's premises	17-03-2017	3,60,000
Payments made to GTA operators for moving raw materials to factory	21-03-2017	21,700

The invoice for raw material U is found missing; invoice date is based on inward register. All raw materials and machinery have been received in the factory within 7 days from the date of invoice and consumed/ put to use immediately. In respect of the invoices above, Cenvet credit has not been claimed earlier. 8

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**Answer:**

**2. (a) Alternative 1,**

If it is assumed that the goods are imported by air, freight cannot exceed 20% of FOB value. Here the freight is \$ 4,700 which is less than 20% of FOB value [20% of \$ 35,000]. So, we will consider \$ 4,700 for air freight and \$ 40,000 for CIF value.

Alternative 2,

If it is assumed that the goods are imported other than by air, the actual amount of freight is to be considered. In that case, the CIF value will be \$ 40,000.

Computation of Customs Duty Payable

		\$
CIF value as given		40,000
Add: 1% of above for unloading charges		400
Assessable value		40,400
	₹	₹
Assessable value in INR (applying 1 USD=71)	30,33,333.00	
Basic customs duty at 10%		3,03,333.30
Value for applying CVD	33,36,666.30	
CVD at 12%		4,00,399.96
Sub-total for calculating Edu. cess & SHE Cess	7,03,733.26	
Education cess at 2% on (BCD+CVD)		14,074.67
SAH Cess at 1% on (BCD+CVD)		7,037.33
Total duty payable		7,24,845.26
Rounded off		7,24,845

**b)** With effect from 01.03.2015, the availability of credit on inputs and input services has been increased from six months to one year vide Notification No. 6/2015 CE(NT) dated 01.03.2015.

Particulars	Date of invoice	Service tax/ excise duty paid (₹)
Input service M [Not eligible, as invoice is more than 12 months old]	10-02-2016	Nil
Raw Material S [Not eligible, as invoice is more than 12 months old]	12-01-2016	Nil
Raw Material T [Eligible, as invoice is not more than 12 months old]	29-04-2016	60,300
Raw Material U Without invoice, Cenvat credit is not available.	NA	Ni
New machinery purchased in company's name is and installed at job worker's premises is eligible [Eligible, 50% can be availed this year]	17-03-2017	1,80,000
Payments made to GTA operators for moving raw materials to factory. [This is an eligible service on which Cenvat credit can be claimed]	21-03-2017	21,700
Total		2,62,000

**3. Nanda & Co Ltd. engaged in jute manufacture furnishes you the following information for the year ended 31st March, 2017:**

**Net profit as per Statement of Profit & Loss ₹ 15,50,000 after debit/ credit of the following items:**

**(i) Provision for bad and doubtful debts ₹ 1,30,000.**

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- (ii) Depreciation (as per the Companies Act, 2013) ₹ 90,000.
- (iii) Constructed "Hanuman Mandir" (temple) for ₹ 3 lakhs within the factory for the benefit of employees. Construction completed in November 2016.
- (iv) Capital subsidy received for generator from State Government ₹ 75,000 is credited to Statement of Profit & Loss. The generator was acquired in January 2017 and put to use immediately.
- (v) Contribution to Indian Institute Technology, Kanpur for scientific research under an approved programme ₹ 2,00,000.
- (vi) The company incurred expenditure of ₹ 60,00,000 towards approved Voluntary Retirement Scheme (VRS) in the financial year 2012-13. The unamortized amount of ₹ 24 lakhs was debited to Statement of Profit & Loss.
- (vii) Loan advanced to subsidiary company, Das Mfg. Co (P) Ltd. of ₹ 10,00,000 was written off by debit to Statement of Profit & Loss.
- (viii) Expenditure towards feasibility study for technological advancement in manufacturing process ₹ 7,00,000. The move was abandoned by the Board of Directors.
- (ix) Expenditure towards issue of 10% debentures ₹ 5,00,000. The debenture proceeds were to augment working capital of the existing business.
- (x) A one-time settlement (OTS) was entered into with bank, by which term loan for purchase of machinery ₹ 8,20,000 and interest on term loan of ₹ 1,30,000 were waived. These amounts are credited to Statement of Profit Loss.
- (xi) Tax on non-monetary perquisites provided to employees ₹ 3,50,000 is debited to Statement of Profit & Loss.

**Additional information:**

The company has depreciable assets as under:

(i)

Particulars	Furniture & Fittings	Plant & Machinery
Opening WDV	1,00,000	27,00,000
Purchases upto 30.09.2016	50,000	17,50,000
Generator acquired (as per Bill) on 14.01.2017	—	3,75,000

- (ii) A contract payment of ₹ 5 lakh for which tax deducted at source was not remitted up to the 'due date' for filing the return and hence was disallowed in assessment year 2016-17. The TDS amount was remitted in February 2017.
- (iii) A raw material supplier from whom a purchase was made in April 2015 for ₹ 37,000 insisted payment on urgent basis. To salvage reputation, the company paid the amount in cash on 15.08.2016.

You are required to compute the total income of the company, giving reasons for treatment of each item. Ignore MAT provisions. 16

**Answer:**

### 3. Computation of Total Income of Nanda & Co Ltd for the Assessment Year 2017-18

	₹	₹
Net Profit as per statement of Profit & Loss		15,50,000
Add:		
Provision for bad and doubtful debts		1,30,000
Depreciation as per Companies Act, 2013		90,000
Construction of 'Hanuman temple' is eligible for depreciation only hence disallowed		3,00,000
VRS expenditure deductible in 5 equal installments. Expenditure incurred in financial year 2012-13. Yearly deduction ₹12 lakhs as the amount debited is excessive, it is disallowed		12,00,000
Loan advanced to subsidiary company not being in the regular course of business, hence disallowed		10,00,000

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Technical feasibility study for advancement of technology is deductible even though it is abandoned. CIT v. Priya Village Road shows Ltd 332 ITR 594 (Del)		
Debenture issue expenses is deductible. CIT v. ITC Hotels Ltd 334 ITR 109 (Kar).		
Tax on non-monetary perquisite debited to Profit and loss account		3,50,000
		46,20,000
Less:		
Depreciation on 'Hanuman Temple' ₹ 3,00,000 × 10% × ½	15,000	
Subsidy for generator received from State Government to be reduced from cost of asset, hence excluded.	75,000	
Contribution to IIT Kanpur deductible @ 200%. Actual amount debited to Profit & Loss account. The balance is deducted now.	2,00,000	
Waiver of term loan and interest on term loan credited to Profit and loss account to be deleted since they are not covered by section 41(1). ₹ 8,20,000 + 1,30,000.	9,50,000	
Depreciation on furniture ₹1,50,000 × 10% .	15,000	
Depreciation on plant & machinery ₹44,50,000 @ 15%	6,67,500	
Depreciation on generator ₹3,00,000 @ 15% × ½	22,500	
Additional depreciation on machinery @ 20% on ₹17,50,000	3,50,000	
Additional depreciation on generator @ 10% on ₹3,00,000	30,000	
Payment to contractor on which TDS was not remitted in February 2017 eligible for deduction @ 30%	1,50,000	24,75,000
Payment to supplier on 15.08.2016 [It is a public holiday and the supplier has insisted on cash payment. The cash payment was made in exceptional circumstances]		Nil
Income from Business		21,45,000

4. (a) Discuss whether remission of customs duty is permissible under section 23 of the Customs Act, 1962 when the remission application is filed after the expiry of the warehousing period (including extended warehousing period). 8

(b) Ramya & Co., a partnership firm rendering taxable services, has its head office at Kolkata. It has two branches, one at Chennai and another at Jammu. The Chennai branch has rendered services (which are not in the negative list or covered by Mega Exemption) to the head office which has also rendered some services to Jammu branch.

Will these services be taxed and if so, who is liable to pay the service tax? 8

**Answer:**

4. (a) Remission of customs duty:

The Karnataka High Court considered in question, in the case of CCE v. Decorative Laminates (I) Pvt. Ltd. 2010 (257) ELT 61 (Kar.).

The High Court, while interpreting section 23, stipulated that section 23 states that only when the imported goods have been lost or destroyed at any time before clearance for home consumption, the application for remission of duty can be considered.

Further, even before an order for clearance of goods for home consumption is made, relinquishing of title to the goods can be made; in such event also, an importer would not be liable to pay duty.

Therefore, the expression "at any time before clearance for home consumption" would mean the time period as per the initial order during which the goods are

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warehoused or before the expiry of the extended date for clearance and not any period after the lapse of the aforesaid periods. The said expression cannot extend to a period after the lapse of the extended period merely because the licence holder has not cleared the goods within the stipulated time.

Moreover, since in the given case, the goods continued to be in the warehouse, even after the expiry of the warehousing period, it would be a case of goods improperly removed from the warehouse as per section 72(1)(b) read with section 71.

The High Court, overruling the decision of the Tribunal, held that the circumstances made out under section 23 were not applicable to the present case since the destruction of the goods or loss of the goods had not occurred before the clearance for home consumption within the meaning of that section. When the goods are not cleared within the period or extended period as given by the authorities, their continuance in the warehouse will not permit the remission of duty under section 23 of the Customs Act, 1962.

- (b)** As per section 65B(44) of Finance Act, 1994, a service is an activity carried out by one person for another person in lieu of a consideration.

Further, the Explanation to section 65B(44) provides, inter alia, that an establishment of a person located in taxable territory and another establishment of such person located in non-taxable territory are treated as establishments of distinct persons.

Also as per Explanation to the said section, a person carrying on a business through a branch in any territory is treated as having an establishment in that territory.

Therefore, services provided by Chennai branch to Head office at Kolkata will not be 'service' in terms of section 65B(44), since both the establishments namely, branch office and head office are located in the taxable territory and are thus one and the same person.

However when services are provided by Head office at Kolkata to Jammu branch (located in non-taxable territory), the two establishments are treated as establishments of distinct persons and thus, the services provided in this case will constitute 'service' under service tax levy.

The Head Office will be liable to service tax in respect of such services, under reverse charge.

- 5. (a) Shri Vasudev acquired a vacant land for ₹ 60,000 on 01.07.1981. He constructed a commercial building for ₹ 10 lakhs in the previous year 2010-11. He entered into an agreement with Krishna on 01.09.2014 for sale of property and received ₹ 2 lakhs as advance. As Shri Krishna could not arrange funds within the stipulated time prescribed by the agreement, Shri Vasudev forfeited the advance money on 30.03.2015.**

**Again Shri Vasudev entered into a written agreement with Shri Balaram on 01.02.2016 and received advance money of ₹ 5 lakhs by NEFT (i.e. through electronic transfer of funds in banking channel). As per the agreement, Shri Vasudev had to demolish the building and handover only the vacant land to Mr. Balaram. The sale consideration agreed to by the parties was ₹ 60 lakhs which was also the value as per State stamp valuation authority.**

**The sale deed was executed and registered on 01.09.2016 at the agreed price but on that date the value of property for stamp duty purposes was ₹ 70 lakhs. Shri Vasudev paid 1% as brokerage on the sale consideration. He acquired a residential apartment for ₹ 25 lakhs and deposited ₹ 5 lakhs in capital gains bond issued by National Highway Authority of India Ltd. before 31.01.2017.**

**Assume that Shri. Vasudev has no other immovable property except the said capital**

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asset.

You are required to compute the capital gain chargeable to tax in the hands of Shri Vasudev for the assessment year 2017-18.

Cost inflation index : F.Y:	CII
1981-82	100
2010-11	711
2014-15	1024
2015-16	1081
2016-17	1125

8

(b) The following particulars relating to Mr. Saravanan for the assessment year 2017-18 are furnished to you:

Particulars		₹
Gross total income		9,10,000
Above includes the following:		
Short-term capital gains from sale of listed securities	40,000	
Long-term capital gains from sale of house plot	1,10,000	
Winnings from lotteries (Gross)	80,000	
Loss from let out house property	(-) 45,000	
Other information:		
Contribution in the name of Sukanya Samridhi Scheme in the name of minor daughter		95,000
Stamp paper and registration expenses relating to residential house		45,000
Contribution to National Pension Scheme of the Central Government		1,10,000
Donation to Prime Minister's Relief Fund		35,000
Donation given to Navarang Charitable Trust registered under section 12AA and recognised for section 80G purposes		60,000

Compute the deduction available to him under Chapter VIA of the Income-tax Act, 1961.

8

Answer:

5. (a) Computation of capital gain in the hands of Shri Vasudev for Assessment Year 2017 – 18

	₹	₹
Sale consideration (actual)	60,00,000	
Stamp duty valuation on the date of registration of document	70,00,000	
As the advance money was received through banking channel, the sale consideration vis-a-vis the stamp duty valuation on the date of agreement is adopted as sale consideration		60,00,000
Less: Advance money forfeited will not go to reduce the cost of the asset w.e.f. 01.04.2015 such advance money forfeited would be chargeable to tax under the head "other sources".		Nil
Less: Brokerage @ 1% of ₹60,00,000		60,000
Net Sale Consideration		59,40,000
Less: Indexed cost of acquisition		
Land : ₹60,000 × 1125/100	6,75,000	
Building : Cannot be considered as the agreement envisages demolition of building before registration of sale deed.	---	6,75,000
Capital gain before exemption		52,65,000
Less: Exemption under section 54EC	5,00,000	
Exemption under section 54F	22,15,909	
Cost of New Assets x LTCG/NSC [₹25,00,000 × 52,65,000 / 59,40,000]		
As the subject matter of sale is vacant land and the assessee		27,15,909

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has acquired a residential house, he is eligible for exemption under section 54F.		
Taxable Capital gain		25,49,091

### (b) Computation of deduction available under Chapter VIA

	₹	₹
Gross total income (GTI)		9,10,000
Less: Items to be excluded		
Short-term capital gains from sale of listed securities	40,000	
Long-term capital gains from sale of house plot	1,10,000	
Winnings from lotteries (gross)	80,000	
		2,30,000
Modified GTI for purposes of Chapter VIA		6,80,000
Less: Deductions under Chapter VIA		
<b>Sec 80C</b>		
Contribution in the name of Sukanya Samrudhi Scheme	95,000	
Sec 80CCD(1)		
Stamp paper and registration expenses relating to residential house	45000	
Contribution to NPS of the Central Govt (110000-50,000)		
[Falls within 10% of adjusted GTI]	60000	
	2,00,000	
Restricted to	(A)	1,50,000
<b>80CCB(1B)</b>		
Additional deduction for contribution to NPS	(B)	50,000
Adjusted GTI for deduction u/s 80G		4,80,000
<b>Sec 80G</b>		
Donation to Prime Minister's Relief Fund	100%	35,000
Donation given to Navrang Charitable Trust registered u/s 12AA and recognised for section 80G	60,000	
first level restriction 10% of Adjusted GTI	48000	
Allowable deduction is 50% of above		24000
Deduction available u/s 80G	(C)	59,000
<b>Deduction allowable under Chapter VIA</b>	(A)+(B)+(C)	<b>2,59,000</b>

6. (a) Manoj Generators Ltd. is engaged in manufacture of generators sold a generator to Kapil Ltd. The sale price of the generator (including excise duty @ 12.5%) but excluding VAT (@5%) is ₹ 6,75,000. The following items were charged separately and collected.

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Sl. No.	Particulars	₹
(i)	Warranty charges	25,000
(ii)	Design, engineering and charges	35,000
(iii)	Cost of primary packing ₹ 3,000 and secondary packing ₹ 7,000	
(iv)	Pre-delivery inspection charges	22,000
(v)	After sales service charges	20,000
(vi)	Bought out accessories supplied along with generator	30,000
(vii)	Cost of material worth ₹ 15,000 was supplied free of charge by Kapil Ltd. to Manoj Ltd. for being used in production of generator	

Determine the assessable value of the generator for the purpose of Central Excise duty. 8

(b) Dhoni Ltd is engaged in manufacturing activity. It purchased the following goods/ incurred expenses in the month of January, 2017.

Sl. No.	Items	Excise duty paid (₹)
(i)	Raw material used for production of final product	3,00,000
(ii)	Moulds and dies	60,000
(iii)	Cooking gas for canteen in workers factory	20,000
(iv)	Goods for providing warranty: Value of free-warranty is included in the price of final product and charged separately.	1,00,000
		Service tax paid including SHES & KKC
(v)	Sales promotion service	75,000

A fire broke out in the factory and payment of duty remitted was ₹ 60,000 under rule 21 of the Central Excise Rules, 2002. The company had paid (i) service tax of ₹ 30,000 (including SHES and KKC); and (ii) excise duty of ₹ 50,000 on raw materials used for manufacture of goods which were destroyed by fire.

Compute the CENVAT credit available to the assessee. 8

Answer:

6. (a)

### Computation of Assessable value of Generator

Particulars	₹
Sale price including excise duty but excluding VAT	6,75,000
Add:	
Warranty charges	25,000
Design, engineering and charges to be included in the assessable value	35,000
Cost of primary and secondary packing is to be included in the assessable value	10,000
Pre-delivery inspection charges also to be included in the assessable value	22,000
After sales service charges to be included in the assessable value	20,000
Bought out accessories supplied along with generator will not be included	—
Cost of material supplied free of charge by buyer to be included in assessable value.	15,000
	8,02,000
Less: Excise duty included already to be excluded	
(₹ 6,75,000 × 12.5 / 112.5 )	75,000
As the amount of VAT is not included in the original sale price given above, no adjustment is required.	—

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Assessable Value	7,27,000
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**(b) Computation of CENVAT credit**

Sl. No	Items	Excise duty paid ₹
(i)	Raw material used for production of final product - eligible	3,00,000
(ii)	Moulds and dies – eligible	60,000
(iii)	Cooking gas for canteen in workers factory - not being input, not eligible for CENVAT credit	—
(iv)	Goods used for providing warranty: Value of free-warranty which is included in the price of final product, and charged separately is not eligible for CENVAT credit.	—
(v)	Sales promotion service - eligible for CENVAT credit but being manufacturer, no SBC and KKC could be claimed. [ $₹75,000 \times 14/15$ ]	70,000
		4,30,000
	Less: Reversal for raw materials destroyed by fire for which remission granted under rule 21 of Central Excise Rules, 2002	
	Service tax ₹30,000 X 14/15	28,000
	Excise duty on raw materials	50,000
	CENVAT credit available	78,000
		3,52,000

7. (a) Vallabh & Co., is a partnership firm. For the year ended 31.03.2017, the following particulars are made available to you in respect of its trading business, for which books are maintained:

- (i) Secret commission of ₹ 60,000 paid to a Government official.
- (ii) ₹ 15 lakhs paid as commission to a partner's son at 0.5% of the sales value, without deduction of tax at source.
- (iii) Loss in the above business, after considering the above items debited to the profit and loss account are: Business loss ₹ 80 lakhs, Unabsorbed depreciation ₹ 19 lakhs.

The firm has a warehouse business covered by section 35AD. Loss suffered therein is ₹ 60 lakhs.

The firm has filed the return of income for the assessment year 2017-18 on 28.11.2017. Specify the items (with quantum) which are eligible for carry forward to the subsequent years.

Will your answer remain the same, if the firm has submitted its return of income on 28.12.2017? 8

(b) Vatsan & Co is an AOP consisting of Ajay (age 55), Vijay (age 62) and Sanjay (age 57) with equal profit sharing rights. The Profit and Loss Account for the year ended 31.03.2017 is given below:

	(₹ in lakhs)		(₹ in lakhs)
To Administration expenses	5.40	By Gross Profit	17.00
To Bank Interest (Term loan)	1.80		
To Donations	0.30		
To Salary:			
Ajay	1.00		
Sanjay	1.00		
To Interest on Capital @ 18%			
Ajay	1.20		
Vijay	1.80		
Sanjay	1.50		
To Net Profit			
Ajay	1.00		
Vijay	1.00		

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Sanjay	1.00		
	17.00		17.00

**Other information:**

- (i) Bank interest on term loan of ₹ 38,000 will not be paid till the 'due date' for filing the return specified in section 139(1).
- (ii) Donations include ₹ 14,000 paid to an unrecognized trust and the balance to eligible institutions approved under section 80G.
- (iii) Other income of Ajay, Vijay and Sanjay are ₹ 2,10,000; ₹ 2,90,000 and ₹ 2,45,000 respectively.

**Compute the total income and taxability of Vatsan & Co. (AOP) and that of Ajay, Vijay and Sanjay for the Assessment Year 2017-18.** 8

**Answer:**

**7. (a) Due Date u/s 139(1)**

₹ 15 lacs paid as commission to a partner's son at 0.5% of the sales value.

This means that the total sales involved is ₹ 30 crores, with a concern which is covered by section 40A(2)(b). This is a specified domestic transaction.

Since the value of specified domestic transaction exceeds ₹ 20 crores, the due date for filing return of income u/s 239(1) is 30-11-2017.

**When return is filed within the due date u/s 139(1)**

In respect of the trading business, the treatment of the two items are:

- (i) Secret commission paid to a Government official, being one paid in contravention of the provisions of section 37(1), the same is not allowable.
- (ii) Since tax has not been deducted at source from sales commission, 30% of the same is not allowable u/s 40(a)(ia) ₹ 15,00,000 x 30% = ₹ 4,50,000

Thus in respect of the trading business, the business loss is  $80 - 0.6 - 4.5 = 74.9$  lacs.

Amounts to be carried forward are as under:

		(₹ in lacs)
(a)	Business	74.9
(b)	Depreciation	19
(c)	Loss from specified business covered by s. 35AD	60

When return of income is filed after due date

The answer will be different.

As per the provisions of s. 139(3) read with s. 80, where the return of income has been filed beyond the due date, business loss covered by s. 72 cannot be carried forward.

This will also apply to business loss or loss from specified business covered by s. 35AD.

Therefore the following item alone can be carried forward:

		(₹ in lacs)
(a)	Depreciation	19

**(b) Computation of Income of Vatsan & Co.**

	₹
Net Profit as per Profit & Loss Account	3.00
Add:	
Interest on capital - disallowed for AOP	4.50
Members salary – disallowed	2.00
Term loan interest – disallowed	0.38
Donation debited to Profit and Loss Account	0.30
	10.18
Less: Deduction U/s.80G @ 50% of 0.16 [₹ 30,000 – ₹ 14,000] x 50%	0.08
	10.10

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	Ajay	Vijay	Sanjay	Total
Interest on capital	1.20	1.80	1.50	4.50
Salary	1.00		1.00	2.00
Share of Profit	1.20	1.20	1.20	3.60
Income from Vatsan & Co (AOP)	3.40	3.00	3.70	10.10
Computation of total income	Ajay	Vijay	Sanjay	
Other income	2.10	2.90	2.45	
Income from Vatsan & Co	3.40	3.00	3.70	
Total Income	5.50	5.90	6.15	
Tax thereon (₹)	35,000	38,000	48,000	
Add: Cess @ 3%	1,050	1,140	1,440	
	36,050	39,140	49,440	
Rebate u/s 86				
Income from AOP/Total Income * TAX	22285.45	19901.69	29744.39	
Net Tax	36050	39140	49440	
Less:	22285.45	19901.69	29744.39	
Tax Payable	13764.55	19238.31	19695.61	
Rounded off (Working Note)	13,760	19,240	19,700	
Tax on AOP at individual rate ₹10,10,000				1,28,000
Add: Cess 3%				3840
				1,31,840

8. (a) Mr. Prakash is seeking your advice on taxability of following receipt against different services. Please give your opinion on taxability of such services with availability of abatement if any under service tax laws:
- (i) Transport of passengers by ropeway — ₹ 10 lakhs
  - (ii) Transportation of passengers in radio taxi — ₹ 3 lakhs
  - (iii) Transportation of passengers through metered cabs — ₹ 5 lakhs 5
- (b) Discuss the correctness or otherwise of the following statements with reference to the provisions of the Income-tax Act, 1961:
- (i) The Commissioner (Appeals) cannot admit an appeal filed beyond 30 days from the date of receipt of order by an assessee.
  - (ii) The Appellate Tribunal is empowered to grant indefinite stay for the demand disputed in appeals before it. (2 ½ + 2 ½)=5
- (c) (i) Dr. Balasubramaniam after visiting USA for a month returned to India on 10.03.2017. He brought a laptop valued at ₹ 80,000, used personal effects valued at ₹ 90,000 and a personal computer for ₹ 60,000. How much custom duty is payable? 4
- (ii) State the class of importers who are required to pay customs duty electronically on mandatory basis. 2

**Answer:**

8. (a) Details of taxability of following services including, abatement available is given below: (₹ in lakhs)

	Amount received for services in ₹	Abatement available %	Taxable Value in ₹
Transport of passengers by ropeway - Not	10.00		10.00

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exempted as Entry No.23(c) of Notification No. 25/2012-ST withdrawn from dated, 01 <sup>st</sup> March, 2016 [Notification No. 9/2016 – ST, dt. 01.03.2016]			
Transportation of passengers in radio taxi - Not covered under Negative list. It is taxable but eligible for availing abatement @ 60%	3.00	60%	1.20
Transportation of passengers through metered cabs - Covered under Negative List u/s 66D(o) of Service Tax Act	5.00		Nil

**(b) (i)** The statement is not correct. As per section 249(3) of the Income-tax Act, 1961, the Commissioner (Appeals) may admit an appeal after the expiry of the period of 30 days specified in section 249(2), if he is satisfied that the appellant had sufficient cause for not presenting the appeal within the prescribed time.

**(ii)** The statement is not correct.

Section 254(2) provides that the Appellate Tribunal, where it is possible, may hear and decide an appeal within a period of four years from the end of the financial year in which such appeal is filed. The Appellate Tribunal may, on merit, pass an order of stay in any proceedings relating to an appeal. However, such period of stay cannot exceed 180 days from the date of such order. The Appellate Tribunal has to dispose of the appeal within this period of stay.

Where the appeal has not been disposed of within this period and the delay in disposing the appeal is not attributable to the assessee, the Appellate Tribunal can further extend the period of stay originally allowed. However, the aggregate of period originally allowed and the period so extended should not exceed 365 days even if the delay in disposing of the appeal is not attributable to the assessee. The Appellate Tribunal is required to dispose off the appeal within this extended period. If the appeal is not disposed of within such period or periods, the order of stay shall stand vacated after the expiry of such period or periods.

**(c) (i)** In respect of a passenger 10 years or more of age returning from a country other than Nepal, Bhutan, Myanmar or China after stay of 3 days, used personal effects are duty free without any value/limit.

As per Baggage Rules, 2016, the computation will be as follows:

	₹
A laptop	Exempt
Used personal effects	Exempt
A personal computer	60,000
Total	60,000
Less: General Free Allowance	50,000
Taxable Baggage	10,000

Customs duty is ₹ 3,605 (₹ 10,000 × 36.05%) payable by Dr. Balasubramaniam.

**(ii)** E-payment of customs duty is mandatory for

- (a) Importers paying customs duty of ₹ 1 lakh or more per bill of entry;
- (b) Importers registered under Accredited Client Programme.