

FINAL EXAMINATION

December 2014

P-16(TMP)
Syllabus 2012

Tax Management & 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 answer.

Working notes should form part of the relevant answers.

All the questions relate to the assessment year 2014-15, unless stated otherwise.

SECTION A

Answer any five questions.

1. (a) Shree Ram Charitable Trust registered under section 12AA of the Income-tax Act, 1961 runs a school. During the year ended 31st March, 2014, it sold one building for a sum of ₹ 50 lacs. The building was acquired by the trust at ₹ 10 lacs in the year 2009-10. The trust utilised ₹ 41 lacs out of sale consideration in construction of an additional school building. Advise the trust on the taxable capital gain. 4
(Cost inflation indices are : FY 2009-10 632
FY 2013-14 939)
- (b) The Statement of Profit & Loss of Alpha Limited, a domestic company for the year ended 31st March, 2014 discloses a net profit of ₹ 120 lacs after debiting/crediting the following items :
- | | |
|---|-------------|
| (i) Provision for doubtful debts | ₹ 2.40 lacs |
| (ii) Provision for income tax | ₹ 18 lacs |
| (iii) Provision for deferred tax | ₹ 9 lacs |
| (iv) Depreciation
(including depreciation on revaluation of assets ₹ 3 lacs.) | ₹ 15 lacs |
| (v) Provision from export in unit set up in
Special Economic Zone
(eligible for deduction under section 10AA) | ₹ 22 lacs |
| (vi) Provision for loss of subsidiary company | ₹ 20 lacs |
| (vii) Profit on sale of land held as capital asset for 10 years | ₹ 10 lacs |

The Company has informed you that the entire capital gain on sale of land was invested in bonds of Rural Electrification Corporation Limited within six months from the date of sale.

Please Turn Over

Details of brought forward losses and unabsorbed depreciation as per books of the company :

Previous Year	Brought forward loss (₹ in lacs)	Unabsorbed depreciation (₹ in lacs)
2010-11	—	4
2011-12	2	3
2012-13	8	2

Compute “book profit” under section 115JB of the Income-tax Act, 1961 for the Assessment Year 2014-15. 10

2. (a) State briefly with reasons whether credit under the CENVAT Credit Rules, 2004 would be available in the following cases : $1\frac{1}{2} \times 4 = 6$

- (i) Inputs are pilfered from the store-room;
- (ii) Durable and returnable packing material user for clearance of final product;
- (iii) An input becomes a waste and is sold as scrap; and
- (iv) Inputs used in trail runs.

- (b) M/s. Ajanta Ltd. incorporated on 1st April 2013, is engaged in the manufacture of a product covered by Notification No. 8/2003-CE dated 1st March, 2003. It expects the following during the year 2013-2014.

- (i) Clearances of such manufacturing products : ₹ 700 lakhs (Excise Duty @12.36%)
- (ii) Value of inputs to be used in manufacture : ₹ 140 lakhs (Excise Duty @12.36%)
- (iii) Value of input services to be used in manufacture : ₹ 150 lakhs (Service Tax @12.36%)
- (iv) Value of capital goods purchased and received : ₹ 20 lakhs (Excise Duty @10.30%)

All amounts are exclusive of duties/taxes. Discuss whether M/s. Ajanta Ltd. should opt for the SSI-exemption during the year 2014-15. Show your workings and cite relevant case-laws, if any. 8

3. (a) Due to urgent requirements, Akash Smelters Ltd., air lifted a machinery from Denmark for CIF price of Euro 20,000.

The air freight paid was Euro 1500 and Insurance Euro 400.

Central Govt. has notified an exchange rate of Euro = ₹ 72 at the relevant time.

Basic duty payable on imports, besides applicable cess is 10%.

Similar goods manufactured in India attract excise duty of 12% plus applicable cess.

Special Additional customs duty payable is 4%.

You are required to ascertain the total value of imported goods and the customs duty payable by the importer. 7

- (b) The return of income for the assessment year 2013-14 was filed by Mr. Suryanarayana on 21-12-2013. The summarised results were as under :

	(₹ In lac)
Unabsorbed business loss	32
Unabsorbed depreciation	22
Unabsorbed tax holiday relief u/s 80-IB of Unit B	12

For the assessment year 2014-15 for which the return of income will be filed on 29-09-2014, the pertinent data are as below :

Sales turnover	1250
Business income before current depreciation	76
Depreciation of current year only	19
Tax holiday relief u/s 80-IB of Unit B	38

Compute the total income of the assessee for the assessment year 2014-15.

7

4. (a) Answer the following questions with reference to the provisions of Foreign Trade Policy :

(i) M/s. B. Ltd. manufactures goods by using imported inputs and supplies the same under Aid Programme of the United Nations. The payment for such supply is received in free foreign exchange. Can M/s. B. Ltd. seek Advance Authorization in relation to the supplies made by it?

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(ii) LMN Ltd., has imported inputs without payment of duty under Advance Authorization. The CIF value of such inputs is ₹ 20 lakhs. The inputs are processed and the final product is exported. The exports made by LMN Ltd., are subject to general rate of value addition prescribed under Advance Authorization Scheme. No other input is being used by LMN Ltd. in the processing. What should be the minimum FOB value of the exports made by the LMN Ltd. as per the provisions of Advance Authorisation?

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- (b) M/s. Partik, was started on 16-02-11. During the year ended 31-03-2013, taxable services were rendered to the tune of ₹ 19,20,000. In the next year, the value of taxable services rendered was ₹ 8,43,000.

During the first half of the year 2013-14, the firm rendered taxable services to the extent of ₹ 6 lakhs.

The details of services rendered during the second half year are given below :

(i) Receipts towards supply of agricultural farm labour	2.2
(ii) Services rendered to World Health Organisation	1.3
(iii) Services rendered to charitable trusts registered u/s 12AA of the Income-tax Act, 1961	8.2

The amounts above do not include service tax and wherever the same is due, the clients have paid the same.

Compute the value of taxable services and service tax payable for the year ended 31-03-2014.

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Please Turn Over

- (c) M/s. BSP Ltd. has imported machinery from Canada. From following information furnished, compute the assessable value and total customs duty payable under the Customs Act, 1962 and also provide suitable notes in support of your answer. 2+1+1

	US\$
(i) Cost of the machine at the factory of the exporter	2,000
(ii) Transport charges from the factory of exporter to the port for shipment	80
(iii) Handling charges paid for loading the machine in the ship	5
(iv) Buying commission paid by the importer	10
(v) Lighterage charges paid by the importer	20
(vi) Freight incurred from port of entry to Inland Container depot	100
(vii) Ship demurrage charges	40
(viii) Freight charges from exporting country to India	500

Date of bill of entry	20.01.2014 (Rate of BCD 20%. Exchange rate as notified by CBEC ₹ 60 per US\$)
Date of entry inward	25.03.2014 (Rate of BCD 10%. Exchange rate as notified by CBEC ₹ 58 per US\$)
Additional duty payable under section 3(1) Customs Tariff Act, 1975	12%

5. (a) In the context of the provisions of section 143(1) of the Income-tax Act, 1961 regarding summary assessment, answer the following questions :
- What are the adjustments that can be made by the Assessing Officer in course of processing of return of income? 2
 - What is the time limit for sending intimation under section 143(1)? 1
 - Is it mandatory for the Assessing Officer to process every return under section 143(1)? 1
 - What do you understand by "incorrect claim apparent from any information in the return"? 3

- (b) River, Sea and Ocean are partners of a firm engaged in the business of manufacturing in Visakhapatnam. The Balance Sheet of the firm as on 31st March, 2014 is given below :

₹ in lacs			
Partners' Capital:			
River	600		Land at Visakhapatnam 600
Sea	800		Land at Hyderabad 400
Ocean	400		(construction not permitted)
			Factory Building 300
			Residential House 400
		1800	
Bank overdraft (secured by charge on stock and debtors)		300	Plant & Machinery (WDV) 600
Term loan from bank (secured by charge on gold and silver)		1000	Gold and silver 700
Creditors		600	Stock 300
			Cash at Bank 400
		3700	3700

Open market prices of two urban lands assessed by independent valuer are ₹ 1000 lacs and ₹ 100 lacs respectively. The market value of gold and silver on the balance sheet date is ₹ 1200 lacs. The value of the residential house as per Rule 3 of Schedule III is ₹ 450 lacs.

Term loan was taken for purchase of (a) plant and machinery ₹ 600 lacs; (b) land at Visakhapatnam ₹ 400 lacs.

The residential house is occupied by partner River who looks after the manufacturing operation of the firm.

Partner Sea is a resident of UK.

Profits of the firm are shared in the ratio of 2:2:1.

Sea owns a residential house valued at ₹ 50 lacs in London. Sea took a loan for investment in the firm. Outstanding amount of such loan on 31st March, 2014 is ₹ 10 lacs.

Compute net wealth of Sea as on 31st March, 2014.

7

6. (a) Ms. Anandi, a resident in India and Singapore in previous year 2013-14, owns residential properties at Singapore and India. He has earned income of ₹ 40 lacs from business carried on in Singapore during 2013-14. She also transferred certain capital asset in Singapore and derived a short-term capital gain of ₹ 12 lacs from such transfer. M/s. Anandi has no permanent establishment of business in India. However, she received rent of ₹ 7.20 lacs from letting out one house property in Kolkata. She also owns a house in Jaipur where she stays as and when she visits India.

Please Turn Over

The Article 4 of the Double Taxation Avoidance Agreement between India and Singapore *inter alia* reads as follows :

“Resident

1. *For the purposes of this Agreement, the term “resident of a Contracting State” means any person who is a resident of a Contracting State in accordance with the taxation laws of that State.*
2. *Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his status shall be determined as follows : –*
 - a. *he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests”);*

State with reasons whether the business income of Ms. Anandi earned in India and capital gain from transfer of capital asset situated in Singapore be liable to income tax in India. 7

(b) What is meant by ‘Importer Exporter Code number’ (IEC)? State the procedure for obtaining IEC number. When is the quoting of IEC number not required for import/export? 5

(c) Can a registered VAT dealer claim input tax credit (ITC) on the basis of photostat copy of purchase invoice, when the original invoice is claimed to be lost? What is the way out for the dealer to claim the ITC? 2

SECTION B

Tax Practice & Procedures

Question No. 9 is Compulsory.

Answer any one question from the rest in this section.

7. (a) Vaibhav Chemicals Ltd., are putting up a plant wherein two additives are to be added to the bitumen to improve its quality.

The Managing Director wants to know whether such process will be treated as manufacture under excise law.

As the Cost Accountant of the company, your views are solicited on the issue. Advise the Managing Director in an appropriate manner. 5

- (b) Srinivas Surgiments Ltd., has received a huge order from a chain of hospitals for manufacture and supply of antiseptic cleansing solution, which will be used for degerming or scrubbing the skin of the patients prior to a surgical operation.

The company wants to know whether the aforesaid solution can be classified as a “medicament” under excise law. Please guide them suitably. 5

- (c) Anabhaya Roller Flour Mills Ltd., are entering into a handling and transportation contract with Vallabh Transports, a partnership firm. It is proposed to insert a specific clause in the agreement between two parties that all taxes, including service tax liability, which the former company is required to pay, shall be deducted at source and remitted to the tax authorities for the account of Vallabh Transports. As the service tax consultant, your view is sought as to whether by insertion of a clause in the contract, the service tax liability can be shifted to the other party. 5
8. (a) Madubaala Finance Ltd., has started a new NBFC Division for its leasing activities. For this new NBFC Division, the company anticipates VAT liability but wants to light/contest the levy of VAT. The NBFC Division plans to collect from its customers on an *ad hoc* basis, amounts towards possible VAT liability (which will be disputed by the company with VAT authorities). These amounts so collected will not be parked in a separate interest-bearing account. These amounts will be refundable to the customers, if the assessee were to succeed before the VAT authorities.
- The management wishes to know whether the above collections from customers be treated as the income of the company, and if taxed, under what head of income will the same be taxed. 5
- (b) Jupiter Pharma Ltd., a pharmaceutical company, plans to collect "service charges" from the tenants of the buildings owned by it. The service agreement is dependent upon the rental agreement, which is executed by the company with the tenants. Services provided under the service agreement are in respect of staircase of the building, lift, common entrance, main road leading to the building through the compound, drainage facilities, open space in/around the building, air condition facility, etc.
- The company wishes to know whether the service charges collected will be taxed under the head 'Income from house property' or as income from other sources. Advise them suitably. 5
- (c) Mrs. Kavita Agarwal, a resident, plans to sell the following properties to residents in India, during the last quarter of 2013-14:
- (i) Agricultural lands in urban area for ₹ 55 lacs;
 - (ii) Agricultural lands in non-urban area (situate in a place which is at an aerial distance of 30 kms from nearby municipality) for ₹ 80 lacs;
 - (iii) Residential house for ₹ 90 lacs. The valuation for stamp duty purposes is ₹ 110 lacs.
- She wants to know whether she would suffer any tax deduction at source (TDS) under the provisions of the Income-tax Act, 1961, and if yes, the applicable rate and the quantum of TDS. 5
9. (a) The top management of a big multinational group of companies, in the context of framing global tax planning strategy, wants to know whether transfer pricing provisions under the Income-tax Act, 1961 will be attracted in respect of the following transactions:
- (i) Provisions of scientific research services by foreign company to its Indian subsidiary, J Ltd. 3
 - (ii) Lease of equipment by K Ltd., an Indian company, from T Inc., a Singapore company. T Inc. is a "specified foreign company" as defined in section 115BBD in relation to K Ltd.
- Your considered opinion is sought on the above. 2
- (b) Hajee Moosa Ltd., the assessee, a domestic company, exported on 1.2.2014, bananas to Mystery Inc., for an amount of ₹ 81 lacs. Mystery Inc is located in a Notified Jurisdictional Area (NJA). Mystery Inc., is not associated with the assessee in any manner whatsoever, and is a rank outsider.

Please Turn Over

During the year, the assessee has billed ₹ 84 lacs and ₹ 86 lacs for sale of similar goods of identical quantity to Sun Inc. and Moon Inc., respectively, which are located in Kuala Lumpur (not a NJA) and both of which are not associated enterprises of the assessee.

The permissible variation notified by Central Government for such class of international transaction is 5% of the transaction price.

The management wants to know the tax implications under section 94A in respect of the above transaction entered into by the assessee with Mystery Inc., during the assessment year 2014-15. Advise them suitably. 5

- (c) Daffodils Packagings Ltd., the assessee, is a manufacturer of packaging machines, made to the orders of the customers. Each machine is subject to stringent testing, before delivery to the customer. The assessee plans to claim Cenvat credit on the testing materials purchased by it.

You are required to state whether the same is correct, with the help of judicial pronouncements and applicable provisions of law. 5
