FINAL EXAMINATION

December 2015

P–16(TMP)
Syllabus 2012

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 answer.

Working notes should form part of the relevant answer.

All questions in Income Tax relate to the Assessment Year 2015-16, unless stated otherwise

SECTION A

Tax Management

Answer **any five** *questions from this Section.*

1. (a) The following is the balance sheet of VV Ltd. as on 31.03.2015, on which date the Fertilizer Division was transferred by way of slump sale for a consideration of ₹ 300 lakhs:

Liabilities	₹ in lakhs	Assets	₹ in lakhs
Paidup capital	1,000	**Fixed Assets:**	
Reserves	700	Cement Division	300
Liabilities:		Fertilizer Division	500
Cement Division	400	Steel Division	1,000
Fertilizer Division	500	**Other Assets:**	
Steel Divison	600	Cement Division	200
		Fertilizer Division	400
		Steel Divison	800
	3,200		3,200

Additional information:

(i) Fixed Assets of Fertilizer Division include land, which was acquired for ₹ 40 lakhs in 2007 and re-valued at ₹ 100 lakhs on 31.03.2015, just before slump sale.

(ii) Other Fixed Assets of Fertilizer Division represent their Written Down Values as per books. The written down value under Section 43(6) of the Income Tax Act is ₹ 320 lakhs.

(iii) Other Assets of Fertilizer Division reflected at ₹ 400 lakhs represent book value of non-depreciable assets.

(iv) The Fertilizer Division is operational from 1st January, 2012.

Compute the Capital Gain chargeable to income tax on the slump sale of Fertilizer Division, for the Assessment Year 2015-16. Also suggest a possible reinvestment for availing exemption from the resultant Capital Gains. 7

(b) Fig Ltd. is engaged in manufacture of both excisable and non-excisable goods in its factory from 01.11.2014 which was occupied by it as tenant. The following particulars are pertaining to the period from November 1, 2014 to March 31, 2015:

Sl. No.	Particulars	₹ in lakhs
(i)	Clearances of branded goods of another company	70
(ii)	Export sales to Bhutan	60
(iii)	Export sales to UK and Russia	120
(iv)	Clearance of goods (duty paid based on annual capacity of production under Section 3A of the Central Excise Act, 1944)	50
(v)	Clearance of goods subject to valuation based on retail sale price under Section 4A of the Central Excise Act, 1944 (said goods are eligible for 30% abatement)	300
(vi)	Job-work under Notification No. 214/86-CE	80

During the period from 01.04.2014 to 31.10.2014, the previous tenant of the building which is presently occupied by Fig Ltd. had cleared excisable goods of the aggregate value of ₹ 105 lakhs.

Your advice is sought as to whether Fig Ltd. could claim the benefit of exemption in terms of Notification No. 8/2003-CE dated 01.03.2003 for the Financial Year 2015-16.

Advice suitably, showing the necessary computation and working notes/explanations. 7

2. (a) VKS Hotels (P) Ltd. located in Nilgiri District of Tamilnadu State, was established in April, 2012. Nilgiri District is a specified district having 'World Heritage Site' status and is eligible for deduction under section 80-ID of the IncomeTax Act, 1961. It furnishes you the following information for the year ended 31.03.2015:

(i) Net Profit as per Profit and Loss Account ₹ 20 lakhs.

(ii) Depreciation debited in the books ₹ 70 lakhs.

(iii) Amount received towards Dharmadha by separately mentioning in the sales bills ₹ 7,00,000. This has not been credited to Profit and Loss Account.

(iv) ₹ 10 lakhs was paid towards use of trademark for 10 years in April, 2014. This has been debited to Profit and Loss Account.

(v) Provision for gratuity based on actuarial valuation debited to Profit and Loss Account ₹ 8 lakhs.

(vi) Dividend received from subsidiary Indian company credited to Profit and Loss Account ₹ 2,00,000.

(vii) Depreciation as per Income Tax Rules ₹ 60 lakhs.

(viii) ₹ 5,00,000 was paid towards feasibility study for examining proposals for commencing a textile business and the project was abandoned.

Compute the total income of VKS Hotels (P) Ltd. for the Assessment Year 2015-16. Ignore MAT provisions. 7

(b) State the place of provision of service in the following cases: 7

(i) RR Agency of Cochin is appointed as commission agent by a foreign company for sale of its goods to Indian customers. RR Agency is eligible for a fixed percentage of commission from the foreign company.

(ii) PQR Hardwares, Bangalore imported second hand computers from its customers located in Singapore for repairs. After necessary repairs, the computers were re-exported to South Africa without being put to use in India.

(iii) Vivi Airlines, an airlines company located in Chennai hired aircraft from a foreign airlines company located in Colombo, Sri Lanka, for a period of 15 days. The aircraft was used in Colombo-Kuala Lumpur sector.

3. (a) A partnership firm consisting of three partners Weeks, Worrell and Walcott is engaged in the business of automobile trade. Its turnover for the Financial Year 2014-15 was ₹ 95 lakhs and its Net Profit as per Books of Account is ₹ 5,20,000.

The partnership deed of the firm authorizes interest on capital at 15% on partners' capital contribution of ₹ 5 lakhs each. The deed authorizes monthly working partner salary of ₹ 10,000 to all the partners.

The firm has brought forward business loss relating to Assessment Year 2012-13 of ₹ 4,00,000 and unabsorbed depreciation of the Assessment Year 2014-15 of ₹ 1,00,000.

The partners have omitted to get the accounts audited under Section 44AB before the due date specified in Section 139(1) i.e. 31.10.2015. They seek your advise as to (i) whether they can declare presumptive income under Section 44AD; or (ii) admit income as per Books of Account which could attract penalty under Section 271B of the Income Tax Act, 1961.

You are requested to answer based on the cost-benefit analysis of filing the return of income, based on book results vis-a-vis the presumptive income under Section 44AD of the Income Tax Act, 1961. You have to consider the benefit likely to accrue in future also, assuming the rate of tax in future also. 7

(b) An input service distributor has a total of 4 units viz. P, Q, R and S which are operational in the current year ended 31.03.2015. It has a common input service credit of ₹ 15,000 pertaining to more than one unit. The details of the turnover in the previous year and current year are given below:

	Turnover in ₹	
Unit	**Previous year**	**Current year**
P (Manufacturing excisable goods)	16,00,000	17,00,000
Q (Providing taxable and exempted service)	12,00,000	13,00,000
R (Manufacturing excisable and exempt goods)	13,00,000	20,00,000
S (Providing exclusively exempted service)	9,00,000	12,00,000

The common input service relates to units P and Q. How will the CENVAT credit be distributed? 7

4. (a) M/s Techno Ltd. furnishes the following information pertaining to the previous year 2014-2015.

Description	₹ in lakhs		
	Plant and Machinery	**Factory Building**	**Intangible Assets (Patents)**
Rate of description	15%	10%	25%
Opening Written Down Value as on 1st April, 2014	14·50	25·00	15·00
Date of purchase/Acquisition 15th June, 2014—Plant and Machinery 29th September, 2014—Patent	12·00	Nil	5·00
Date of purchase/Acquisition 15th December 2014—Plant and Machinery 14th February 2015—Buildings	4·00	18·00	Nil
One out of the two patents sold on 29th March, 2015			3·00

Additional information:

One of the machineries purchased on 15th June, 2014 (original cost ₹ 1·50 lakhs) was destroyed by fire on 15th February, 2015 and the assesse received a compensation of ₹ 0·50 lakhs from the insurance company. Building acquired on 14th February, 2015 includes cost of land of ₹ 3·00 lakhs.

Calculate the eligible depreciation claim by M/s Techno Ltd. for the Assessment Year 2015-2016. (ignore additional depreciation). 7

(b) Akash Ltd., started manufacturing excisable goods in September, 2014 Small scales exemption in terms of Notification No. 8/2003 as amended has been availed for the Financial Year 2014-2015. The following details are provided by Akash Ltd.:

Particulars	₹
1800 MT of inputs purchase @ ₹ 10,000 per MT (inclusive of central excise duty @ 12·36%)	1,80,000
Capital goods purchased on 20th October, 2013 (inclusive of excise duty at 12·36%)	50,00,000
Finished goods sold (excluding excise duty @ 12·36%) (At uniform transaction value exclusive of excise duty throughout the year)	3,00,000

There is neither any processing loss nor any inventory of input and output.

Compute the amount of excise duty payable in cash, if any, during the year 2014-2015. Show your working and notes with suitable assumption as may be required. 7

5. (a) G Ltd. furnishes following data in respect of certain items procured in the month of May, 2014:

Items	Excise duty paid in ₹
Raw Material	1,52,000
Capital Goods used for generation of electricity for captive use within the factory	4,00,000
Motor Sprit	40,000
Inputs used for construction of building	2,00,000
Dairy and bakery products consumed by the employees	20,000
Paints used for painting machinery	15,000

The aggregate value of clearance of the company for preceding financial year is ₹ 450 lakhs.

The company seeks your advice on the amount of CENVAT Credit available to it, from the above data. Advise them suitably. 7

(b) Explain whether tax has to be deducted at source, as per the provisions of the Income Tax Act, 1961 under the following situations, each being independent of the other. If yes, the rate of tax and the amount of TDS should be stated (Provisions of DTAA may be ignored):

(i) Rent of ₹ 2,00,000 paid by Govindaya Tubes LLP to Mr. Naresh, who has been living in Singapore for the last 12 years and has never visited India during such period. The building is used for training purposes. 3

(ii) Mrs. Sarawathi purchased a house property for ₹ 48 lakhs on 12.01.2015 from Mrs. Lakshmi, a resident. The value adopted by the stamp valuation authority was ₹ 55 lakhs. 2

(iii) Divya & Co., a partnership firm, has paid lorry freight of ₹ 3 lakhs on 12.03.2015 to Mr. Govinda, a lorry fleet owner having 11 lorries and having PAN. 2

6. (a) BG Ltd., an Indian company located at Kolkata, imported into India certain commodities in December, 2014 from a country which is covered by a Notification issued under Section 9A of the Customs Tariff Act, 1975. The relevant particulars relating to import are as follows:

CIF value of the consignment—US $ 25,000

Quantity imported—500 kgs.

Exchange rate applicable—US $ 1 = ₹ 50

Basic Customs Duty (BCD)—20%

Education Cess and Secondary & Higher Education Cess may be adopted, where applicable.

As per the Notification, the anti-dumping duty leviable will be equal to the difference between the cost of the commodity calculated @ US $ 70 per kg. and the landed value of the commodity as imported.

Calculate the liability on account of normal duties, cess and anti-dumping duty. Assume that only BCD and Education Cess and Secondary & Higher Education Cess are payable. 7

(b) Rishikesh Fertilizers Ltd., seeks your opinion on the deductibility of the following items debited to the Profit and Loss Account, while computing its business income: 7

(i) ₹ 50,000 paid as secret commission to a Government department official, an unidentified person. The payment has been approved by the Board as a normal trade practice.

(ii) ₹ 2 lakhs incurred towards issue of convertible debentures, the debentures being convertible into equity shares after one year from the date of issue.

(iii) ₹ 1 lakh paid to a local gang for rescuing an executive director who was kidnapped.

Section B

Tax Practice

Answer **Question No. 9** *which is compulsory and* **any one** *from the rest in this Section.*

7. (a) Poorni Cars Ltd., is engaged in manufacture of cars in the State of Tamil Nadu. Being a prestigious unit, certain VAT concessions were conferred by the High Power Committee (HPC) of the State Government, consequent to which only 60% of the VAT collected was remitted during the year to the State Government. According to the Central Excise Department, the VAT retained by the assessee and not remitted to the State Government, amounting to ₹ 40 lakhs during the year ended 31.03.2015, would form part of the "Transaction value", since the HPC had not stated anything about the retained VAT amount against any scheme of capital subsidy. The entitlement certificate also did not give any indication of deferment of tax or capital subsidy.

Is the contemtion of the Department tenable in law? 7

(b) Mr. Gavaskar, an Engineering graduate who worked abroad for the past 20 years in software industry, returned to India recently. He inherited one residential house at Fort, Mumbai which was acquired by his father in 1950's. The fair market value of the property as on 01.04.1981 is ₹ 5 lakhs. The property, if sold now, would fetch a price of ₹ 3 crores. He desires to start a company for manufacture of fertilizer at Rajkot. He wants to have a tax-free use of entire sale proceeds in the venture contemplated by him.

Cost inflation index for the FY 2014-15 is 1024.

Advise Mr. Gavaskar suitably within the four corners of law. 8

8. (a) M/s. Dolphin Consultants (DC) in Mumbai has entered into a contract in April, 2014 with Tungabhadra Steels Ltd. (TSL) in Karnataka for conducting technical survey in relation to setting up of steel plants in various locations, all over India. As per terms of the contract, DC is to receive consultancy fees and reimbursement of expenses actually incurred on travelling and accommodation for carrying out the survey. The parties also separately agreed that DC would pay the clearing charges for goods imported by TSL through Mumbai port. For this purpose, TSL declared DC as their agent.

Discuss on what principles the value of taxable service will be computed by DC. 8

(b) Mr. Singh's income tax assessment for the Assessment Year 2006-07 was made by the Assessing Officer on 30th November, 2008 after making certain disallowance under Section 40A(3). Mr. Singh preferred an appeal to the Commissioner (Appeals) contesting the disallowance and the Commissioner (Appeals) passed the order of appeal on 31st December, 2011. The Assessing Officer gave the appeal effect by passing an order on 1st February, 2012. Thereafter, Mr. Singh noticed that the Assessing Officer did not consider brought forward loss of Assessment Year 2005-06, though such loss was assessed by the Assessing Officer and duly claimed by Mr. Singh in the return of income for the Assessment Year 2006-07. Mr. Singh filed an application under Section 154 of the Income Tax Act on 1st January, 2015. The Assessing Officer rejected the application on the ground that such application was time-barred.

Explain with reasons, the correctness or otherwise of the contention of the Assessing Officer. 7

9. Sanvitha Manufacturing Industries Ltd. reports a net profit of ₹ 15 lakhs for the year ended 31.03.2015 after debit/credit of the following items: 15

A.	**Items debited to Profit and Loss Account:**	₹
(i)	Provision for income tax	5,00,000
(ii)	Expenditure towards amalgamation of Cochin Industries P Ltd., Cochin in December 2014.	8,00,000
(iii)	Fees for technical services paid to foreign company without deduction of tax at source and no TDS was remitted till the date specified in Section 139(1).	1,00,000
(iv)	Provision for Bad and Doubtful Debts	6,00,000
(v)	Depreciation	40,00,000
(vi)	Cash payments for purchase of raw materials in excess of ₹ 20,000. Aggregate of such payments	7,00,000
(vii)	Bank term loan interest (actually paid during the year and up to the 'due date' for filing the return specified in section 139(1) ₹ 3,00,000)	8,00,000
(viii)	Rent paid for a branch premises owned by one of the directors who has 22% stake in the company. (25% of the expenditure is excessive to the prevailing market rent).	12,00,000
B.	**Items credited to Profit and Loss Account:**	
(i)	Revaluation reserve in respect of fixed assets	7,50,000
(ii)	Agricultural income—net	3,50,000
(iii)	Deferred tax liability	4,00,000

Additional Information:

(i) Depreciation debited to Profit and Loss Account given above includes ₹ 10,00,000 in respect of assets revalued.

(ii) The following amounts are brought forward as on 01.04.2014, relating to the Assessment Year 2014-15:

Particulars	As per Books of Account ₹	As per Income Tax assessment ₹
Business Loss	22,00,000	Nil
Unabsorbed Depreciation	17,00,000	35,00,000

You are required to compute for the Assessment Year 2015-16,—

(i) Income liable to tax under Section 115JB of the Income Tax Act, 1961; and

(ii) Total income chargeable to income tax, as per normal provisions.