Paper 14

Indirect and Direct Taxation

Case Study

Case 1: Question: Allow ability of exemption u/s. 54F if builder does not complete construction of house within three Years?

Mr. Sanghai had sold a commercial property, which was a long term asset and invested the same in purchase and construction of a flat in a apartment in Mumbai, within the one year of sale of asset and claimed deduction u/s 54F of Income Tax Act, but later the builder has not completed the possession of the apartment within 3 years and the apartment remained under construction even after 3 years. The period of 3 years is lapsed without any mistake of Mr. Sanghai now? Will Mr. Sanghai be levied tax on the capital gains derived from the sale of the commercial property (or) Will Mr. Sanghai be freed from the capital gains tax?

Answer: The exemption u/s 54F is for those assesses who gets long term gains on any asset other than house property and who uses all the sales consideration within a specified period for purchase or constructing a residential house. The specified period in case of house purchase is one year before or two years after the date of transfer of asset on which gains were made. However, for construction, section 54 provides, time limit of three years. Therefore, the case explained above gains all popularity here. What would be the plight of the assessee when the construction gets delayed for no fault of his?

While the plain reading and strict application of the provision u/s 54F compel one to think that exemption is not allowable in case of any delay beyond 3 years, higher judicial authorities have rescued taxpayers by giving relief in those cases where they found that most of the sales consideration have been spent for construction of house, still some portions were not complete for various reasons. The appellate authorities have taken the view that section 54F being relief provision, should be viewed in a bit of relaxed manner. **We have given below few judgments in this regard which provides that exemption can be claimed even if construction is not completed within 3 years.** However, remember the **court needs to be satisfied** that either full amount or **most** of the amount of **sales consideration was already used**.

The decision of Tribunal was:

To qualify investment **for construction under section 54F the crucial date is the date of allotment of flat by DDA and payment of installments was only a follow-up action and taking possession of the flat is only a formality**, of course, installments have to be paid by the allottee as per the schedule fixed by the DDA. The Board after referring to the above mentioned Circular extended the facility of exemption under sections 54 and 54F in respect of allotment of flats/house by co-operative societies and other institutions, and the allotment and construction of the flat by co-operative societies and other institutions are to be considered in similar manner for the purpose of allowing exemption under section 54. The above circulars are binding on the revenue authorities under section 119 of the Act. Since the flat has been allotted to the assessee by the builder who would fall in the category of other institutions mentioned in the circulars, it has to be taken as a case of construction of the residential flat and not as a purchase of a residential flat.

The decision has elaborated on the reasons why the CBDT issued circulars for such relief and that the word “institution ‘in the circular will include “builder”.
Hence, exemption u/s. 54F can be claimed even if construction is not completed within 3 years but when substantial payment been made.
Reference Cases:
1. Mrs. Seetha Subramanian. vs Assistant Commissioner Of Income-Tax. [59 ITD 94] ITAT , Madras :- CIT ,
2. Satish Chandra Gupta v. Assessing Officer [1995] 54 ITD 508
3. CIT vs. Hilla J.B. Wadia [1995] 216 ITR 376 (Bom).

<u>Case 2:</u> Whether the transfer of goods as a contribution for capital be considered as Sale?

Query – *Transfer of goods on sale of the business as a whole by a proprietor to a company in which he is a promoter, as his contribution for capital, is a 'sale' under Uttar Pradesh Value Added Tax Act, 2008*

<u>Analysis :</u> Relevant Extracts **of the State Act**

Section 2(ac) of the State Act defines sale as follows:

"sale" with its grammatical variations and cognate expressions, means any transfer of property in goods (otherwise than by way of a mortgage, hypothecation, charge or pledge) by one person to another, for cash or for deferred payment or for any other valuable consideration….

Section 2(aq) of the State Act defines turnover of sale as:

"turnover of sale" means the aggregate of amount of sale prices of goods, sold or supplied or distributed *by way of sale by a dealer,* either directly or through another, whether on his own account or on account of others;

Section 2 (h) of the State Act defines dealer as:
"dealer" means *any person who carries on* in Uttar Pradesh (whether regularly or otherwise) *the business of buying, selling, supplying or distributing goods* directly or indirectly, for cash or deferred payment or for commission, remuneration or other valuable consideration….
Extract of Rule 8 of Uttar Pradesh VAT Rules, 2008 determining taxable turnover is as follows:
"For the purposes of determining taxable turnover of sale, amounts specified below shall be deducted from the turnover of sale, determined in accordance with rule 7, if included in such turnover of sale

(iii) all amounts realized from the sale by the dealer of his business as a whole;…"

It clear from the aforesaid provisions as well as from the scheme of the State Act that, what constitutes a "turnover" is only the aggregate amount for which goods are either bought or sold, and that the purchase or sale must be in respect of a "sale" as defined in the Act. In other words, *only sales which take place in the course of trade or business are taken into account in determining the turnover under the State Act.* The definition of the word "dealer" shows that every person, who buys or sells goods, is not a dealer, but only a person, who carries on the business of buying, selling, supplying or distributing goods. And the transaction must be in the course of his trade or business. Applying the above principles, it will be wrong to say that the transfer of a person's business or stock in trade into a firm or a company, as contribution of his capital therein amounts to a sale of goods in the course of trade or business as a dealer; and such a transaction involve any sale of goods. The transferor does not part with property in the goods. He only shares his rights therein with the other members under the contract of becoming a shareholder of the Company.
Even assuming there is a sale, it is not a sale in the course of trade or business, nor is it a transaction by a "dealer" as defined in the State Act.

<u>Conclusion</u>
The above conclusion taken and approved by various authorities and tax experts seems logical and correct.

Thus, final conclusion is as follows:
<u>"Although, the transfer of property in goods may be considered as sale but as such the transfer is not made by a dealer in his normal proceedings of his business or trade, and thus shall not be included in the taxable turnover of the assessee. And, the sale proceeds of the stock-in-trade of business as a whole, are not, therefore, chargeable to sales tax.</u>

Case 3: **Deduction of Interest Paid on More Than One Loan Borrowed for Purchase or Construction of same House**

There is no bar in section 24 of the Income Tax Act regarding the number of loans on which interest is allowable simultaneously. In fact ,the simple rule of the deduction of interest u/s 24 of the Income Tax Act is that whatever be the interest paid or due on loan borrowed for purchase or construction of house is allowable as deduction. So, whether you take loan from one bank or five banks , all loan should be utilised for buying or constructing the house for allowance of interest paid to all the banks.

However, as far as self occupied house is concerned, the allowance of interest is limited to Rs 1,50,000 per owner.

How to determine share in property?

The documents of registration of the property is the main document in which proportion the house is registered along different co-owners. If nothing has been written specifically about share in which property is shared between two owners (Like you and your wife) in the registration document , the ownership should be deemed to be 50 : 50.

Can owners claim Rs. 1.5 Lakh each on co-owned self occupied property?

Yes , each co-owner is assessed for income from house property separately . Therefore , allowance of interest u/s 24 is also given separately. But interest is deductible only if the same is borrowed by co-owners i.e even if one is joint owner but not a borrower of the loan is not allowed any deduction of interest. Only the person borrowing the loan is allowed deduction.In case of joint loan , each co-owner gets 1.5 lakh of maximum interest deduction u/s 24 of the I T Act.

Question - Given Mr.X and Mrs.X (husband-wife relationship)are both salaried employees, purchasing a house jointly. Mr.X is taking a loan of Rs 25 Lakhs from Govt and another loan of Rs.10 Lakhs from HDFC which is on joint name of both self and wife. Total interest outgo will be approx Rs. 2.5 Lakhs in initial years. Can we split the total interest equally between self and wife for the purpose of claiming deduction under Sec 24 C or only the interest component from Rs 10 Lakhs loan (which is in joint name) can be shared ? Also how to determine the share of property between husband and wife for the purpose of claiming tax deduction ?

Answer – As , you and your wife have taken joint loan from HDFC only , therefore, both co-owner can claim interest 50 % each in case of interest paid to HDFC. You can additionally claim for interest on loan from govt. sources to the extent that aggregate cannot exceed RS 1.5 lakh.

Section A: Indirect Tax Management

Question No. 1: Answer the followings:

(i) Indicate whether the following activities would fall under "Manufacture", "Deemed Manufacture" or "Production":

Activity	Classification
1. Production in a sugar factory: (a) Sugar	Manufacture (main product)
(b) Molasses	Production (by-product)
(c) Bagasse	Production (by-product)
2. Mining of Coal	Production
3. Dyeing of Yarn	Deemed Manufacture [dyed and coloured yarn is a distinct commodity known to market]
4. Removing pulp from coffee seeds	Curing
5. Activity on the CD pack and not on the CD	Not a Manufacture **[CCE v. Sony Music Entertainment (I) Pvt.Ltd.2010 (249) E.L.T.341 (Bom.)]**
6. Labeling or relabeling without repacking from bulk to retail	Deemed Manufacture **[BOC (I) Ltd. 226 ELT 323(SC)]**
7. Conversion of jumbo rolls into small rolls	Manufacture **[India Cine Agencies (2009) 233 ELT 8 (SC)]**
8. Branding and Labeling of packed spices	Manufacture
9. Branding/Labeling of Stainless Steel screws	Not Manufacture
10. Melting of old brass tubes and converting into new brass tubes	Manufacture. [Identity of original product is completely lost in the process]
11. Repairing, re-conditioning or re-making	Not a manufacture [No new product emerges because of this activity. **Shriram Refrigeration Industries 26 ELT 353 (Trib.)]**
12. Affixing a brand name on a product manufactured by a sister unit	Not a manufacture. [Branding is a mere process of identifying the end product and is not a manufacturing activity. **Bush India Ltd. 6 ELT 258 (Bom.)]**
13. Melting of old brass tubes and converting into new brass tubes	Manufacture. Identity of original product is completely lost in the process
14. Making ice from water	Manufacture. [Ice is distinctly marketed]

15. Conversion of rough marble slabs into regular marble slab/tiles	Deemed Manufacture as per Tariff Schedule
16. Preparation of Mango Pulp from Raw Mango	Manufacture, as distinct product emerges which is marketable as different commodity
17. Lamination of film	Not a manufacture, as no new and distinct product emerges [Meltex (I) Pvt. Ltd (165) ELT 129 (SC)]
18. Up gradation of Computers	Not a Manufacture. Though up gradation involves in increasing its storage/processing capacity, however, no new goods with different name, character and use comes into existence.
19. Crushing betel nuts into small pieces and sweetening the same with essential/non-essential oils, menthol, sweetening, agents, etc.	Not a manufacture, as there is no new product with a different character emerges [Crane Betel Nut Powder Works (2007) 210 ELT 171 (SC)]
20. Cinders on burning coal	Not a manufacture. [After burning coal, the resultant cinders are not a new product, but only coal of an inferior quality. Also coal is not used as a raw material, but as a fuel. Hence, burning of coal is not manufacture and cinders arising there from are not dutiable. [Ahmedabad Electricity Co. Ltd. 158 ELT 3 (SC)]

(ii) Discuss the components/structure of the following code numbers:

Excise Control Code No	ABCPB3245K/XM/001	First 10 characters shows the PAN NUMBER ABCPB3245K	Next 2 characters shows whether the business is carried out as a MANUFACTURER/ DEALER XM	Next 3 characters states the No. Assigned to the premise registered 001
Service Tax Registration Number	AABCC5588-ST-001	AABCC5588 First 10 characters shows the PAN NUMBER	ST Next 2 characters shows the Alpha code	001 Next 3 characters states the No. Assigned to the premise registered

Question No.2 (a): What is the system of classification in CETA?

Answer: Excisable goods are identified/classified using 8-digits, as follows:

- First two digits- refers to Chapter number
- Next two digits- refers to Heading
- Next two digits- refers sub-heading
- Last two digits- product ID

Example: (1): Tariff No. 2710 19 30: High Speed Diesel (HSD)

First two digits	27	Chapter 27	Mineral Fuels, Mineral Oils and Products of their distillation; bituminous substances: Mineral waxes
Next two digits	10	Heading	Petroleum Oil and Naptha
Next two digits	19	Sub-heading	
Last two digits	30	Specific product ID	High speed diesel (HSD)

Example: (2): Tariff No. 4013 10 20: High Speed Diesel (HSD)

First two digits	40	Chapter 40	Rubber Articles
Next two digits	13	Heading	Inner tubes
Next two digits	10	Sub-heading	Used in motor cars/lorries
Last two digits	20	Specific product ID	For lorries and buses

Question No. 2(b):

Explain the meaning of Single Dash (-) and Double Dash (- -) used in Excise Tariff/Customs Tariff Schedule.

Answer: The dashes preceding a Tariff Heading or Tariff Item under the HSN (Harmonised System of Nomenclature) signify the following:

Type	**Denoted by**	**Significance/Meaning**
Single Dash	**(-)**	Indicates that the article or group or articles is covered by the Heading under which they are specified
Double Dash	**(- -)**	Indicates a sub-group or article which is part of a group with single dash. They are sub-classifications of immediately preceding article/group with single dash.
Triple dash or quadruple dash	**(- - -)/ (- - - -)**	Indicates a sub-sub-group or article which is part of a sub-group with single or double dash. They are taken to be sub-classification of the immediately preceding article/group with single or double dash

Question No. 2(c): The burden to prove appropriate classification always lies on the Department. Discuss.

Answer: It is the responsibility of the Department to establish the correct Tariff Heading under which the product falls. The onus is on the Department to establish the alternate classification, when the department turns down the classification claimed by the Assessee.

However, when certain goods are prima facie covered by the generic description, the burden to prove that they are so covered would be on the person claiming so.

Question No.2 (d): An assessee classifies "Hajmola" as a Candy. Is the classification correct?

Answer: Hajmola contains 25% sugar and 75% medicine. It has the necessary ingredients as per Ayurvedic experts, which helps in digestion and control acidity. Based on its essential character and use, it is an ayurvedic medicine and not a candy. Hence, classification is not correct. **[Dabur India (SC)]**

Question No.2 (e): After-shave lotion is classified as a medicine. Is the classification correct?

Answer: If an item is to be a treated as a medicinal preparation, it must be meant for curing a disease. Disease could arise out of ailments, physical condition or due to virus or bacterial effect. After-shave lotion is not a medicinal preparation. Hence, it is in the nature of cosmetic **[Coflax Laboratories (SC)].**

Question No. 2(f): A controversy has arised as to classification of Coconut oil. Is it (a) Hair oil (b) Edible Oil

(c) Pure Coconut Oil or Coconut Oil? Advice.

Answer: Classification of Coconut oil is based on End user test vide Circular No.890/10/2009 – CX dated 03.06.3009. It refers to coconut oil sold with the indications on the containers or the labels such as (a) Hair oil; (b) Edible Oil; (c) 'Pure Coconut Oil' or 'Coconut Oil'.

(a) If the 'Coconut Oils' are sold with the label "Hair Oil" meant for retail sale, they are classified under the heading "hair oil" [Heading no.3305];

(b) If the coconut oil sold with the label "Edible Oil"/ "Pure Coconut or Coconut Oil" meant for retail sale:

(i) If such oil is sold in small packs i.e. 50ml/100 ml/200ml – classify as "Hair oil" only (Chapter 33), since majority of customers use as Hair oil

(ii) If such oil is sold in larger packs for e.g. 1 litre or 2 litres – classify as "Edible Oil" (Chapter 15), since majority of customers use as Edible oil.

Hence, the classification of coconut oil would depend upon the fact as to how the majority of the customers use the said product.

Question No. 3(a): What is specific duty?

Answer: Specific duty is the duty payable on the basis of units of measurement like weight, length, volume, thickness, etc. example:- Cigarettes (length basis); Matches (per 100 boxes/packs); cement clinkers (per tonne basis).

Question No. 3(b): Explain Assessable Value and the related principles in determining Assessable Value.

Answer: Assessable value is the value on which is excise duty payable on ad-valorem basis. Assessable value can be based on the followings:-

(i) Transaction value- value of a transaction. i.e. price charged by a seller or as determined under valuation rules

(ii) Tariff value – value fixed u/s 3(2) of the Central Excise Act

(iii) Retail Sale Price – maximum retail price printed on packaged goods under Standards, Weights and Measures Act.

Question No.3(c): Explain Transaction Value with reference to Central Excise Act, 1944.

Answer: Transaction value as per Sec. 4 is the price actually paid or payable for the goods when sold. It includes the amount a buyer is liable to pay to the seller or on is behalf, by reason of such sale or in its connection, either at the time of sale or any other time. It also includes the following:

(i) Advertising or publicity;

(ii) Storage;

(iii) Servicing, warranty;

(iv) Marketing and selling organization expenses;

(v) Outward handling;

(vi) Commission or any other matter

But excludes, excise duty, sales tax and other taxes, actually paid or payable on such goods.

Question No. 3(d): What are the conditions for treating the transaction value as the assessable value of the excisable goods?

Answer: The following conditions must be fulfilled for considering Transaction Value as the Assessable Value for the levy of duty on ad-valorem basis:

(i) The excisable goods must be sold by the Assessee;

(ii) Such sale should be for delivery at the time and place of removal;

(iii) Price must be the sole consideration for sale; and

(iv) Assessee and the buyer of the goods must not be related persons.

Question No.4 (a): Discuss Place of Removal

Answer: U/s 4(3) (c) of the Central Excise Act,1944, Place of Removal refers :

(i) Place of Production- factory or any other place or premises of production or manufacture of the excisable goods;

(ii) Place of storage: warehouse or any other place where excisable goods have been permitted to be deposited without payment of duty;

(iii) Place of sale- depot, consignment agent premises or any other place from where excisable goods are to be sold after their clearance from the factory.

Question No. 4(b): Sale price ₹264. Excise duty @ 16% not shown separately. What is the transaction Value?

Answer: Transaction Value = ₹ (264 x 100) / (100 + ED @ 16%) = ₹227.59.

Excise Duty = ₹227.59 x 16% = ₹36.41

Question No. 4(c): If the sale price is ₹275, inclusive of VAT @ 13.5% and ED @ 16%. Calculate the transaction value and excise duty.

Answer: Transaction Value = ₹ (275 x 100 x 100)/ (100 + VAT@ 13.5%) (100 + ED @ 16%] = ₹ 208.87

Excise Duty: ₹208.87 x 16% = ₹33.41

VAT = ₹ (208.87 + 33.41) x 13.5% = ₹32.71

Question No. 4(d): The cum-duty price per piece was ₹150 and the assessee had paid duty @ 20% ad-valorem. Subsequently, it was found that the rate of duty was 30% ad-valorem and the assessee had not collected anything over and above ₹150 per piece. Determine the assessable value.

Answer: Assessable value = ₹ (150 x 100)/ 130 = ₹115.38

Question No.5 (a): "The value of price support incentives received from the raw materials supplier should be included in the assessable value of the final product". Is this an agreeable proposition?

Answer: The value of the price support incentives from the raw material supplier should not be included in the assessable value of the final product [Bisleri International Private Ltd (2005) 186 ELT 257(SC)] –

(i) There was no flow back of any additional consideration from the buyers;

(ii) The price uniformity was maintained;

(iii) There was no evidence of any of the buyers or existence of any favoured buyers.

If the aforesaid conditions are not satisfied, the value of the price support incentives would be includible in the assessable value of the final product.

Question No. 5(b): Calculate the assessable value for the purpose of levy of excise duty from the following particulars: Cum-duty selling price inclusive of sales tax @ 4.2% (before discount) ₹ 2,73,186. Excise duty @ 10% plus applicable cess. Trade discount allowed ₹3,000; Freight (to be charged extra) ₹ 5,400.

Answer: **Computation of Assessable Value**

Particulars	₹	Justification
Cum-duty selling price (inclusive of sales tax)	2,73,186	U/s 4(3)(d), Assessable Value excludes Duties and Taxes. As freight charges are not included in assessable value, it shall not be deducted.
Less: Sales Tax @ 4.2% (2,73,286 x 4.2/104.2)	11,011	
Less : Freight (to be charged extra)	Nil	
Less: Trade Discount	(3,000)	However, discount passed on to the buyer is excluded from the Assessable Value [Circular 354/81.2000 TRU]
	2,59,175	
Less: Excise Duty @ 10.3%	24,202	= 2,59,275 x 10.3 / 110.3
Assessable Value	**2,34,973**	

Question No. 6(a): What is the assessable value in the following case?

Dates	4.2.2012	8.2.2012	12.2.2012	16.2.2012	20.2.2012
X Computers (Y1 composition)	₹35,000	₹35,500	?	₹35,800	₹35,500
S Computers (Y2 composition)	₹28,000	₹29,000	₹32,000	₹31,800	₹30,900

Answer: The price of the excisable goods removed is not available at the time of removal. Value of excisable goods shall be based on the value of such goods sold by the Assessee for delivery at any other time nearest to the time of removal of goods under assessment. Price prevailing at the nearest time may be adjusted for differences in dates of delivery & nearest dates.

Such goods: In the above case, for valuing X Computers cleared on 12.2.2012, value of such goods, i.e. X Computers, sold during the nearest time only should be considered. S Computers are not such goods, as the composition of the computers are different, referred as Y1 composition and Y2 composition. Such goods refers to same goods or identical goods.

Value on nearest date: Nearest date in the instant case, i.e. 8th February, 2012 and 16th February, 2012. Interpolating the value between these two dates, value as on 12th February, 2012 is ₹ 35,650. (adjustment for difference in dates).

Question No. 6(b): B Ltd. is engaged in the manufacture of tablets that has an MRP of ₹100 per strip of 10 tablets. The company cleared 50,000 tables and distributed as physician's sample. The goods are not covered by MRP but MRP includes 10% excise duty and 4% CST. If the cost of production of the tablet is ₹2 per tablet, determine the total duty payable.

Answer: Where a product is not covered under MRP provisions, Sec.4A does not apply and valuation is required to be done as per the Central Excise Valuation Rules. CBEC has vide its circular, clarified that physicians samples or other samples distributed free of cost are to be valued under Rule 11 read with Rule 4 of the Valuation Rules,2000.

Under Rule 4, such samples are to be valued at the value of such goods nearest to the time of removal.

Computation of Duty Payable

Particulars	₹
Maximum Retail Price per strip	100.00
Less: CST @ 4% [₹100 x 4/104]	3.85
Cum-duty Price	96.15
Less: Excise Duty (including Cess) @ 10.3% [96.15 x 10.3/110.3]	8.98
Assessable Value	87.17
Excise Duty (including Cess) [₹ 87.17 x 10.3%]	8.98

Note: It is assumed that MRP is the cum-duty price collected by B Ltd on its normal sales. Excise duty rate is assumed to be inclusive of Education Cess and SHEC.

Question No.7 (a): Raj & Co. furnish the following expenditure incurred by them and want you to find the assessable value for the purpose of paying excise duty on captive consumption. Determine the cost of production in terms of rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 and as per CAS-4 (cost accounting standard) (i) Direct material cost per unit inclusive of excise duty at 20% - ₹ 1,320 (ii) Direct wages - ₹ 250 (iii) Other direct expenses - ₹ 100 (iv) Indirect materials - ₹ 75 (v) Factory Overheads - ₹ 200 (vi) Administrative overhead (25% relating to production capacity) ₹ 100 (vii) Selling and distribution expenses - ₹ 150 (viii) Quality Control - ₹ 25 (ix) Sale of scrap realized - ₹ 20 (x) Actual profit margin - 15%.

Answer:

	Particulars	**Amount (₹)**
(1)	Direct Material (exclusive of Excise Duty) [1,320 x 100/120]	1,100.00
(2)	Direct Labour	250.00
(3)	Direct Expenses	100.00
(4)	Works Overhead [indirect material (₹75) (+) Factory OHs (₹ 200)]	275.00
(5)	Quality Control Cost	25.00
(6)	Research & Development Cost	Nil
(7)	Administration Overheads (to the extent relates to production activity)	25.00
	Less: Realizable Value of scrap	(20.00)
	Cost of Production	1,755.00
	Add 10% as per Rule 8	175.50
	Assessable Value	**1,930.50**

Question No. 7(b)

Determine the cost of production on manufacture of the under-mentioned product for purpose of captive consumption in terms of Rule 8 of the Central Excise Valuation (DPE) Rules, 2000 - Direct material - ₹ 11,600, Direct Wages & Salaries - ₹ 8,400, Works Overheads - ₹ 6,200, Quality Control Costs - ₹ 3,500, Research and Development Costs - ₹ 2,400, Administrative Overheads - ₹ 4,100, Selling and Distribution Costs ₹ 1,600, Realisable Value of Scrap - ₹ 1,200. Administrative overheads are in relation to production activities. Material cost includes Excise duty ₹ 1,054.

Answer: Cost of production is required to be computed as per CAS-4. Material cost is required to be exclusive of Cenvat credit available.

	Particulars	**Total Cost (₹)**
1	Material Consumed (Net of Excise duty) (11,600 – 1,054)	10,546
2	Direct Wages and Salaries	8,400
3	Direct Expenses	-
4	Works Overheads	6,200
5	Quality Control Cost	3,500
6	Research and Development Cost	2,400

Note - (1) Indirect labour and indirect expenses have been included in Works Overhead (2) In absence of any information, it is presumed that administrative overheads pertain to production activity. (3) Actual profit margin earned is not relevant for excise valuation.

Question No.8 (a)

Hero Electronics Ltd. is engaged in the manufacture of colour television sets having its factories at Kolkata and Gujarat. At Kolkata the company manufactures picture tubes which are stock transferred to Gujarat factory where it is consumed to produce television sets. Determine the Excise duty liability of captively consumed picture tubes from the following information: - Direct material cost (per unit) ₹ 800 Indirect Materials ₹ 50 Direct Labour ₹ 200; Indirect Labour ₹ 50; Direct Expenses ₹ 100; Indirect Expenses ₹ 50; Administrative Overheads ₹ 50; Selling and Distribution Overheads ₹ 100. Additional Information: - (1) Profit Margin as per the Annual Report of the company for 2011-2012 was 12% before Income Tax. (2) Material Cost includes Excise Duty paid ₹ 73 (3) Excise Duty Rate applicable is 10%, plus education cess of 2% and SHEC @ 1%.

Answer: Cost of production is required to be computed as per CAS-4. Material cost is required to be exclusive of CENVAT credit available.

	Particulars	Total Cost (₹)
1	Material Consumed (Net of Excise duty) (800 – 73)	727
2	Direct Wages and Salaries	200
3	Direct Expenses	100
4	Works Overheads	100
5	Quality Control Cost	-
6	Research and Development Cost	-
7	Administrative Overheads (Relating to production capacity)	50
8	Total (1 to 7)	1,177
9	Less - Credit for Recoveries/Scrap/By-Products/Misc Income	-
10	Cost of Production (8-9)	1,177
11	Add - 10% as per Rule 8	118
12	Assessable Value	1,295
13	Excise duty @ 10% of ₹ 1,295	129.50
14	Education Cess @ 2% of ₹ 129.5	2.59
15	SHEC @ 1% on ₹ 129.5	1.295

Total Duty Liability = ₹ (129.5 + 2.59 + 1.295) = ₹ 133.385

Note - (1) Indirect labour and indirect expenses have been included in Works Overhead (2) In absence of any information, it is presumed that administrative overheads pertain to production activity. (3) Actual profit margin earned is not relevant for excise valuation.

Question No. 8(b)

How would you arrive at the assessable value for the purpose of levy of excise duty from the following particulars :

- **Cum-duty selling price exclusive of sales tax ₹ 20,000**
- **Rate of excise duty applicable to the product 10.30%**
- **Trade discount allowed ₹ 2,400**
- **Freight ₹ 1,500**

Answer:

Trade discount of ₹ 2,400 and freight of ₹ 1,500 are allowed as deductions.

Hence, net price will be ₹ 16,100 [₹ 20,000 – 2,400 – 1,500].

Since the price is inclusive of excise duty of 10.30%, Excise Duty will be ₹ (16,100 × 10.30)/110.30 *i.e.* ₹ 1,503.45 and Assessable Value will be ₹ 14,596.55 [16,100 – 1,503.45]

Question No. 8(c)

Z Ltd. is a small-scale industrial unit manufacturing a product X. The Annual report for the year 2008-09 of the unit shows a gross sale turnover of ₹ 1,91,40,000. The product attracted an excise duty rate of 10% as BED and Sales Tax 10%. Determine the duty liability under Notification Nos. 8/2001 and 9/2001 meant for SSI units.

Answer:

(A) Duty payable under Notification No. 9/2001-CE (Now 9/2002-CE)

Under excise Notification No. 9/2001-CE, an SSI unit is required to pay 60% of normal duty (*i.e.* 6% duty) on first ₹ 100 lakhs and 10% on the balance. The assessee can avail Cenvat credit on all the inputs. Since the example gives gross sale turnover, it is first necessary to find net sales turnover.

In respect of first net turnover of ₹ 100 lakhs (₹ 1,00,00,000), excise duty will be ₹ 6,00,000. Sales tax @ 10% is payable on net turnover *plus* excise duty *i.e.* on ₹ 1,06,00,000, sales tax @ 10% will be 10,60,000.

Therefore, balance gross sale turnover will be ₹ 74,80,000 [₹ 1,91,400,00 – 1,16,60,000]. This includes excise duty at 10% and sales tax @ 10%.

Sales tax is payable on cum duty price. If Net turnover for excise purposes is 'Z', the gross sale turnover will be as follows:

Net Turnover	=	Z
Duty @ 10%	=	0.10 × Z
Sub-Total	=	1.10 × Z
Add : Sales Tax @ 10%	=	0.11 × Z
Total price (*i.e.* inclusive of duty and sales tax)	=	1.21 × Z

Now :

1.21 × Z = ₹ 74,80,000.00

Hence, Z = ₹ 61,81,818.18

This can be checked as follows:

Net turnover = ₹ 61,81,818.18

Excise duty @ 10% = ₹ 6,18,181.82

Sub-Total = ₹ 68,00,000.00

Add: Sales Tax @ 10% = ₹ 6,80,000.00

Gross Selling Price = ₹ 74,80,000.00

Therefore, —

Excise duty paid on first net turnover of ₹ 1,00,00,000	=	₹ 6,00,000
Excise duty on subsequent Turnover of ₹ 6,18,181.18	=	₹ 6,18,181.82
Total excise duty paid	=	₹ 12,18,181.82
This can be checked as follows :		
Total Net turnover	=	₹ 1,61,81,818.18
Total Excise Duty	=	₹ 12,18,181.82
Sales tax @ 10% on Net turnover plus Excise duty		
i.e. on ₹ 1,74,00,000) [1,61,81,818.18 + 12,18,181.82]	=	₹ 17,40,000
Therefore, Gross sales turnover	=	₹ 1,91,40,000

(B) Duty payable under Notification No. 8/2001-CE (Now 8/2002-CE)

Under excise Notification No. 8/2001-CE, an SSI unit is exempt from duty on first ₹ 100 lakhs and duty payable on balance amount is 10%. The assessee can avail Cenvat credit on inputs after it crosses turnover of ₹ 100 lakhs. Since the example gives gross sale turnover, it is first necessary to find net sales turnover.

In respect of first net turnover of ₹ 100 lakhs (₹ 1,00,00,000), excise duty will be Nil. Sales tax @ 10% will be payable on net turnover on ₹ 1,10,00,000. Sales tax @ 10% will be 10,00,000.

Accordingly, gross sale turnover in respect of first net turnover of 100 lakhs (where excise duty is not paid) will be ₹ 1,10,00,000.

Therefore, balance gross sale turnover will be ₹ 81,40,000 [₹ 1,91,40,000 – 1,10,00,000]. This includes excise duty at 10% and sales tax @ 10%.

Sales tax is payable on cum duty price. If Net turnover for excise purposes is 'Z', the gross sale turnover will be as follows:

Net Turnover	=	Z
Duty @ 10%	=	0.10 × Z
Sub-Total	=	1.10 × Z
Add: Sales Tax @10%	=	0.11 × Z
Total price (*i.e.* inclusive of duty and sales tax)	=	1.21 × Z

Now :

1.21 × Z = ₹ 81,40,000.00

Hence, Z = ₹ 67,27,272.73

This can be checked as follows:

Net turnover = ₹ 67,27,272.73

Excise duty @ 10% = ₹ 6,72,727.27

Sub-Total = ₹ 74,00,000.00

Add: Sales Tax @ 10% = ₹ 7,40,000.00

Gross Selling Price = ₹ 81,40,000.00

Hence:

Excise duty paid on first net turnover of ₹ 1,00,00,000	=	Nil
Excise duty on subsequent of ₹ 67,27,272.73	=	₹ 6,72,727.27
Total excise duty paid	=	₹ 6,72,727.27

This can be checked as follows:

Total Net turnover	=	₹ 1,67,27,272.73
Total Excise Duty	=	₹ 6,72,727.27
Sales tax @ 10% on Net turnover *plus* Excise duty *i.e.* on ₹ 1,74,00,000 (1,67,27,272.73 + 6,72,727.27)	=	₹ 17,40,000.
Hence, Gross sales turnover ₹ [1,74,00,000 + 17,40,000]	=	₹ 1,91,40,000

Question No.9(a)

B Ltd. manufactures two products namely, Eye Ointment and Skin Ointment. Skin Ointment is a specified product under section 4A of Central Excise Act, 1944. The sales prices of both the products are at ₹ 43/unit and ₹ 33/unit respectively. The sales price of both products included 10% excise duty as BED and 8% excise duty as SED. It also includes CST of 2%. Additional information is as follows –

Units cleared: Eye Ointment: 1,00,000 units

Skin Ointment: 1,50,000 units

Deduction permissible under section 4A: 40%

Calculate the total excise duty liability of B Ltd., on both the products.—

Answer :

Duty on eye ointment and skin ointment is required to be calculated separately.

Duty on Eye Ointment :

Let us assume that Assessable Value of Eye Ointment is Z.

Assessable Value	=	Z
Duty @ 18.54% [Basic 10% + Special 8% + Education Cess 3%]	=	0.1854 × Z
Sub-Total	=	1.1854 × Z
Add: Central Sales Tax @ 2%	=	0.0237 × Z
Total price (i.e., inclusive of duty and sales tax)	=	1.2091 × Z

Now:

1.2091 × Z = ₹ 43.00

Hence, Z = ₹ 35.56

This may be checked as follows:

Assessable Value per unit	=	₹	35.56
Excise duty @ 18.54%	=	₹	6.59
Sub-Total	=	₹	42.15
Add: Sales Tax @ 2%	=	₹	0.843
Total price	=	₹	43.00

Excise duty payable per unit of eye ointment is ₹ 6.59

Total quantity cleared is 1,00,000.

Hence, total excise duty on eye ointment will be ₹ 6,59,000.

Duty on skin ointment

Since the product is covered under section 4A, Assessable Value is required to be calculated after deducting abatement @ 40%.

The MRP is ₹ 33 and abatement is 40%.

Therefore, Assessable Value (after allowing deduction @40%) will be ₹ 19.80

Excise duty payable per unit @ 18.54% will be ₹ 3.67.

Total quantity cleared is 1,50,000 units.

Accordingly, total duty payable on skin ointment (basic plus special) will be ₹ 5,50,638

Question No. 9(b)

Determine the value on which Excise duty is payable in the following instances. Quote the relevant section/rules of Central Excise Law.

(a) A. Ltd. sold goods to B Ltd., at a value of ₹ 100 per unit, In turn, B Ltd. sold the same to C Ltd. at a value of ₹ 110 per unit. A Ltd. and B Ltd. are related, whereas B Ltd. and C Ltd. are unrelated.

(b) A Ltd. and B. Ltd. are inter-connected undertakings, under section 2(g) of MRTP Act. A Ltd. sells goods to B Ltd. at a value of ₹ 100 per unit and to C Ltd. at ₹ 110 per unit, who is an independent buyer.

(c) A Ltd. sells goods to B Ltd. at a value of ₹ 100 per unit. The said goods are captively consumed by B Ltd. in its factory. A Ltd. and B Ltd. are unrelated. The cost of production of the goods to A Ltd. is ₹ 120 per unit.

(d) A Ltd. sells motor spirit to B Ltd. at a value of ₹ 31 per litre. But motor spirit has administered price of ₹ 30 per litre, fixed by the Central Government.

(e) A Ltd. sells to B Ltd. at a value of ₹ 100 per unit. B Ltd. sells the goods in retail market at a value of ₹ 120 per unit. The sale price of ₹ 100 per unit is wholesale price of A Ltd. Also, A Ltd. and b Ltd. are related.

(f) Depot price of a company are –

Place of removal	Price at depot on 1-1-2012	Price at depot on 31-1-2012	Actual sale price at depot on 1-2-2012
Amritsar Depot	₹ 100 per unit	₹ 105 per unit	₹ 115 per unit
Bhopal Depot	₹ 120 per unit	₹ 115 per unit	₹ 125 per unit
Cuttack Depot	₹ 130 per unit	₹ 125 per unit	₹ 135 per unit

Additional information: (i) Quantity cleared to Amritsar Depot – 100 units (ii) Quantity cleared to Bhopal Depot – 200 units (iii) Quantity cleared to Cuttack Depot – 200 units (iv) The goods were cleared to respective depots on 1-1-2009 and actually sold at the depots on 1-2-2009.

Answer:

(a) Transaction value ₹ 110 per unit (Rule 9 of Transaction value Rules). [Sale to unrelated party].

(b) Transaction value ₹ 100 per unit for sale to B and ₹ 110 for sale to C – Rule 10 read with Rule 4 [Note that inter connected undertaking will be treated as 'related persons' for purpose of excise valuation only if they are 'holding and subsidiary' or are 'related person' as per any other part of the definition of 'related person'. Note that A is selling directly to C as per the question, and not through B Ltd].

(c) Transaction value will be ₹ 100. – Section 4(1)—Incase of sale to unrelated person, question of cost of production does not arise.

(d) Transaction value ₹ 31. – section 4. – Since the goods are actually sold at this price, administered price is not considered.

(e) Transaction value ₹ 120 per unit – Rule 9 read with section 4 of Central Excise Act. Sale to an unrelated buyer. [Under new rules, there is no concept of 'wholesale price and retail price']

(f) Under Rule 7, the price prevailing at the Depot on the date of clearance from the factory will be the relevant value to pay Excise duty.

Therefore:

(i) Clearance to Amritsar depot will attract duty based on the price as on 1-1-2012. Transaction value ₹ 110 × 100 units = ₹ 11,000

(ii) Clearance to Bhopal depot. Depot price on 1-1-2012. Transaction value ₹ 120 × 200 units = 24,000

(iii) Clearance to Cuttack Depot. Depot price on 1-1-2012. Transaction value ₹ 130 × 200 units = ₹ 26,000. Note The relevant date is 1-1-2012, since the goods were cleared to the depots on that date. No additional duty is payable even if goods are later sold from depot at higher price.

Question No. 10(a)

Determine the transaction value and the Excise duty payable from the following information : (i) Total Invoice Price ₹ 18,000; (ii) The Invoice Price includes the following :

(a)	Sales-tax	₹ 1000
(b)	Surcharge on ST	₹ 100
(c)	Octroi	₹ 100
(d)	Insurance from Factory to depot	₹ 100
(e)	Freight from factory to depot	₹ 700
(f)	Rate of Basic Excise duty	10% ad valorem
(g)	Rate of Special excise duty	24% ad valorem

Answer:

Let us assume that the Invoice Price of ₹ 18,000 is depot price. Thus, deduction of insurance and transport charges from factory to depot will not be available.

The deductions available will be :

- Sales Tax ₹ 1,000; Surcharge on Sales Tax ₹ 100; and Octroi ₹ 100

Thus, net price excluding taxes on final product (but inclusive of excise duty) will be ₹ 16,800.

The rate of excise duty is 35.02% [10% basic plus 24% special plus 3% Education Cess].

Hence, duty payable is as follows –

Assessable Value = 16,800 – 4,357 = ₹ 12,443

Check: Excise duty payable (basic plus special) is 35.02% of ₹ 12,443 i.e. ₹ 4,357.

Question No. 10(b)

Having regard to the provisions of section 4 of the Central Excise Act, 1944, compute/derive the assessable value of excisable goods, for levy of duty of excise, given the following information:

	₹
Cum-duty wholesale price including sales tax of ₹ 2,500	15,000
Normal secondary packing cost	1,000
Cost of special secondary packing	1,500
Cost of durable and returnable packing	1,500
Freight	1,250
Insurance on freight	200
Trade discount (normal practice)	1,500
Rate of C.E. duty as per C.E. Tariff	10% Ad-valorem

State in the footnote to your answer, reasons for the admissibility or otherwise of the deductions.

Answer :

The assessable value from cum-duty price can be worked out by the under-mentioned formula.

Assessable value =

Computation of Assessable value

		₹	₹
	Cum-duty price		15,000
Less :	Deductions (See Notes)		
	Sales tax	2,500	
	Durable & returnable-packing	1,500	
	Freight	1,250	
	Insurance	200	
	Trade-Discount	1,500	6,950
			8,050
Less:	Central Excise Duty thereon @ 10.30% Ad-valorem		
	8,050 × 10.30/110.30		752
	Assessable value		**7,298**

Notes:

1. The transaction value does not include Excise duty, Sales tax and other taxes.
2. The Excise duty is to be charged on the net price, hence trade discount is allowed as deduction.
3. With regards to packing, all kinds of packing except durable and returnable packing is included in the assessable value. The durable and returnable packing is not included as the such packing is not sold and is durable in nature.
4. Freight and insurance on freight will be allowed as deduction only if the amount charged is actual and it is shown separately in the invoice as per Rule 5 of the Central Excise Valuation Rules, 2000.

Question No. 11(a)

Thunder TV Ltd is engaged in the manufacture of colour television sets having its factories at Bangalore and Pune. At Bangalore the company manufactures picture tube; which are stock transferred to Pune factory where it is consumed to produce television sets. Determine the Excise duty liability of the captively consumed picture tubes from the following information:

Direct material cost (per unit)	₹ 600
Indirect material	₹ 50
Direct Labour	₹ 100
Indirect Labour	₹ 50
Direct Expenses	₹ 100
Indirect Expenses	₹ 50
Administrative overheads	₹ 50
Selling and Distribution overheads	₹ 100

Additional Information:

1. Profit margin as per the Annual Report for the company for 2008-2009 was 15% before income tax.
2. Material cost includes Excise duty paid ₹ 100.
3. Excise duty rate applicable is 10.30%.

Answer:

As per Rule 8 of The Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, the valuation of captively consumed goods is 110% of the cost of production. The cost of production of goods would include cost of material, labour cost and overheads including administration cost and depreciation etc.

The cost of material would be net of excise duty if CENVAT credit is availed in respect of such inputs.

Accordingly, the assessable value will be determined as follows :

Raw materials Cost (net of excise duty)	₹	500
Indirect material	₹	50
Direct Labour	₹	100
Indirect Labour	₹	50
Direct Expenses	₹	100
Indirect Expenses	₹	50
Administrative overheads	₹	50
Total cost of production	₹	**900**
Assessable value	₹	**990**
(i.e. 110% of the cost of production)		
Excise duty @ 10%	₹	99

Add: Education Cess @ 2% ₹ 1.98

Add: SHEC @ 1% Re. 0.99

Total Duty Liability = ₹ (99 + 1.98 + 0.99) = ₹ 101.97

The raw material cost has been taken at ₹ 500 after deducting the duty element assuming that the CENVAT credit has been availed.

Question No. 11(b)

From the following data, determine the CENVAT allowable if the goods are produced or manufactured in a FTZ or by a 100% EOU and used in any other place in India.

Assessable value : ₹ 770 per unit,

Quantity cleared 77,770 units,

BCD — 10%,

CVD – 10%

Answer:

As per Rule 3 of CENVAT Credit Rules, 2002 the following formula is to be used if a unit in DTA purchases goods from EOU –

CENVAT = 50% of Assessable value × {[1 + BCD/100] × CVD/100}

Hence, CENVAT Available per unit is as follows –

CENVAT = 0.50 × 770 x {[1 + 10/100] × 10/100}

= 385 {1.10 × .10}

= 385 × 0.11 = ₹ 42.35 per unit

Hence, CENVAT allowable on 77,770 units = 77,770 × 42.35 = ₹ 32,93,559.50

Question No. 12(a)

M/S RPL has three units situated in Bangalore, Delhi and Pune. The total clearances from all these three Small Scale units of excisable goods was ₹ 350 lakhs during the financial year, 2010-2011. However, the value of individual clearances of excisable goods from each of the said units was Bangalore Unit ₹ 150 lakhs; Delhi Unit ₹ 100 lakhs; and Pune Unit ₹ 1000 lakhs.

Discuss briefly with reference to the Notifications governing small scale industrial undertakings under the Central Excise Act, 1944 whether the benefit of exemption would be available to M/s RPL for the financial year, 2011-2012.

Answer :

Any SSI unit whose turnover was less than ₹ 3 crore in the previous year is entitled for exemption irrespective of their investment in plant & machinery or number of employees.

Where the manufacturer has more than one factory, the turnover of all factories will have to be clubbed together for the purpose of calculating the SSI exemption limit of ₹ 300 lakhs.

Since in the above case, the total value of clearances during the preceding financial year 2010-2011 is 350 lakhs, hence it will not be entitled for the SSI benefit.

Question No. 12(b)

An assessee has factory in Kolkata. As a sales policy, he has fixed uniform price of ₹ 2,000 per piece (excluding taxes) for sale anywhere in India. Freight is not shown separately in his invoice. During F.Y. 2011-12, he made following sales – (i) Sale at factory gate in Kolkata – 1,200 pieces – no transport charges (ii) Sale to buyers in Gujarat – 600 pieces –actual transport charges incurred – ₹ 28,000 (iii) Sale to buyers in Bihar – 400 pieces –

actual transport charges incurred – ₹ 18,000 (iv) Sale to buyers in Kerala – 1,000 pieces – Actual transport charges – ₹ 54,800. Find assessable value.

Answer :

The total pieces sold are 3,200 (1,200 + 600 + 400 + 1000). The actual total transport charges incurred are ₹ 1,00,800 (Nil + 28,000 + 18,000 + 54,800). Thus, equalized (averaged) transport charges per piece are ₹ 31.50. Hence assessable value will be ₹ 1968.50 (₹ 2,000 – ₹ 31.50). This will apply to all 3,200 pieces sold by the manufacturer.

Question No 13(a)

An assessee cleared various manufactured final products during June 2011. The duty payable for June 2011 on his final products was as follows – Basic – ₹ 2,00,000 Education Cesses – As applicable. During the month, he received various inputs on which total duty paid by suppliers of inputs was as follows – Basic duty – ₹ 50,000, Education Cess – ₹ 1,000, SAH education Cess ₹ 500. Excise duty paid on capital goods received during the month was as follows – Basic duty – ₹ 12,000. Education Cess - ₹ 240. SAH education cess - ₹ 120. Service tax paid on input services was as follows – Service Tax – ₹ 10,000. Education cess – ₹ 200 SAH Education Cess - ₹ 100. How much duty the assessee will be required to pay by GAR-7 challan for the month of June 2011, if assessee had no opening balance in his PLA account? What is last date for payment?

Answer:

Education Cess payable on final products is ₹ 4,000 (2% of ₹ 2,00,000). SAH education cess payable is ₹ 2,000.

The Cenvat credit available for June 2011 is as follows –

Description	Basic duty	Service Tax	Education Cess	SAH Education Cess
Inputs	50,000		1,000	500
Capital Goods (50% will be eligible and balance next year)	6,000		120	60
Input Service		10,000	200	100
Total	**56,000**	**10,000**	**1,320**	**660**

Credit of ₹ 66,000 (56,000 + 10,000) can be utilised for basic duty Credit of education cess and SAH education cess can be utilised only for payment of education cess and SAH education cess on final product only.

Hence, duty payable through GAR-7 challan for June 2009 is as follows –

	Basic Duty	Education Cess	SAH Education Cess
	₹	₹	₹
(A) Duty payable	2,00,000	4,000	2,000
(b) Cenvat Credit	66,000	1,320	660
Net amount payable (A-B)	1,34,000	2,680	1,340

Last date for payment is 5th July, 2011.

Question No.13 (b)

In aforesaid example, calculate duty payable by GAR-7 challan if assessee had following balance in his PLA account on 6-6-2011 (after debiting utilised amount for payment of duty for May 2011) - Basic duty - ₹ 1,70,000, Service tax - ₹ 30,000. Education Cess - ₹ 4,000. SAH Education Cess - Nil.

Answer :

If credit was available on 1-6-2011, the total Cenvat credit available for June 2011 is as follows :

Description	Basic duty	Service Tax	Education Cess	SAH Education Cess
	₹	₹	₹	₹
Inputs	1,70,000	30,000	4,000	Nil
Capital Goods (50% will be eligible and balance next year)	6,000		120	60

Input Service		10,000	200	100
Total	**2,26,000**	**40,000**	**5,320**	**660**

The duty payable will be as follows :-

Hence, duty payable through GAR-7 challan for June 2011 is as follows –

	Basic Duty ₹	Education Cess ₹	SAH Education Cess ₹
(A) Duty payable	2,00,000	4,000	2,000
(b) Cenvat Credit	2,66,000	5,320	660
Net amount payable (A-B)	(–66,000)	(–1,120)	1,340

The credit of education cess of ₹ 1,120 is to be carried forward since the credit cannot be utilised for payment of any other duty. Credit of basic duty can be utilised for payment of SAH education cess. Hence, the balance left in basic duty account will be ₹ 64,660.

Thus, no excise duty is required to be paid for the month of June 2011. Balance carried forward will be as follows - (a) Basic duty - ₹ 64,660 (b) Education Cess - ₹ 1,120.

Question No. 14(a)

An importer imports some goods @ 10,000 US $ on CIF basis. Following dollar rates are available on the date of presentation of bill of entry : (*a*) RBI Floor rate : ₹ 43.21 (*b*) Inter-bank closing rate : ₹ 43.23 (*c*) Rate notified by CBE&C under section 14 (3) (a) (i) of Customs Act : ₹ 44.66 (*d*) Rate at which bank has realised the payment from importer : ₹ 44.02. Find the assessable value for customs purposes.

Answer : The relevant exchange rate is ₹ 44.66. Thus, CIF Value of goods is ₹ 4,46,000. Landing charges [rule 9 (2) of Customs Valuation Rules] @1% of CIF Value are to be added - i.e. ₹ 4,460. Thus, Customs Value or Assessable Value is ₹ 4,50,460.

Question No.14 (b)

A consignment is imported by air. CIF price is 4,000 US Dolla₹ Freight is 2800 US $. Insurance cost was $ 140. Exchange rate is same as above. Find Value for customs purposes.

Answer :

CIF Price	$ 4,000
(–) Freight	$ 1,280
(–) Insurance	$ 140
FOB Price	$ 2,580
(+) Freight @ 20% on FOB	$ 516
(+) Insurance	$ 140
CIF Value for Customs	$ 3,236
Equivalent INR VSD 3,236 × 44.66 =	**₹ 1,44,519.76**
(+) Landing charges @ 1% =	**₹ 1,445.20**
	₹ 1,45,964.96

Question No. 15(a)

FOB Cost of a consignment is 6,000 UK Pounds. Insurance and transport costs are not available. What is Customs Value? On the date of filing of bill of entry, Reserve Bank of India reference rate of US $ was 43.37 and inter-bank closing rates were : ₹ 43.38 per US $ and ₹ 69.38 per UK Pound. Exchange rate announced by Board (CBE&C) by customs notification was ₹ 69.78 per British Pound. T T buying rate was 69.70 and T T selling rate was ₹ 69.61 per UK pound.

Answer:

FOB Price	$ 6,000
Add : Freight @ 20%	$ 1,200
Add : Insurance @ 1.125% on FOB	$ 67.50
CIF	$ 7,267.50
Exchange Rate	₹ 69.78 per $
CIF Value (in ₹) ($ 7,267.50×69.78)	₹ 5,07,126.15
Add : Landing charges @ 1% on CIF Value =	₹ 5,071.26
Assessable Value for Customs	**₹ 5,12,197.41**

Question No.15 (b)

Customs value (Assessable Value) of imported goods is ₹ 4,00,000. Basic Customs duty payable is 10%. If the goods were produced in India, excise duty payable would have been 10%. Education cess is as applicable. Special CVD is payable at appropriate rates. Find the Customs duty payable. What are the duty refunds/benefits available if the importer is (a) manufacturer (b) service provider (c) Trader?

Answer:

		Duty %	Amount (₹)	Total Duty (₹)
(A)	Assessable Value		4,00,000.00	
(B)	Basic Customs Duty	10	40,000.00	40,000.00
(C)	Sub-Total for calculating CVD '(A+B)'		4,40,000.00	
(D)	CVD 'C' × excise duty rate	10	44,000.00	44,000.00
(E)	Education cess of excise – 2% of 'D'	2	880.00	880.00
(F)	SAH Education cess of excise – 1% of 'D'	1	440.00	440.00
(G)	Sub-total for Edu-cess on customs 'B+D+E+F'		85,320.00	
(H)	Edu Cess of Customs – 2% of 'G'	2	1,706.40	1,706.40
(I)	SAH Education Cess of Customs – 1% of 'G'	1	853.20	853.20
(J)	Sub-total for Spl CVD 'C+D+E+F+H+I'		4,87,879.60	
(K)	Special CVD u/s 3(5) – 4% of 'J'	4	19,515.18	19,515.18
(L)	Total Duty			1,07,394.78
(M)	Total duty rounded off			1,07,395.00

Notes: Buyer who is manufacturer, is eligible to avail Cenvat Credit of D, E, F and K above. A buyer, who is service provider, is eligible to avail Cenvat Credit of D, E and F above. A trader who sells imported goods in India after charging Vat/sales tax can get refund of Special CVD of 4% i.e. 'K' above.

Question No.16 (a)

An importer has imported a machine from UK at FOB cost of 10,000 UK Pounds. Other details are as follows:

(*a*) **Freight from UK to Indian port was 700 pounds.**

(*b*) **Insurance was paid to insurer in India: ₹ 6,000**

(*c*) **Design and development charges of 2,000 UK pounds were paid to a consultancy firm in UK**

(*d*) **The importer also spent an amount of ₹ 50,000 in India for development work connected with the machinery.**

(*e*) **₹ 10,000 were spent in transporting the machinery from Indian port to the factory of importer.**

(*f*) **Rate of exchange as announced by RBI was : ₹ 68.82 = one UK Pound**

(*g*) **Rate of exchange as announced by CBE&C (Board) by notification under section 14(3)(a)(i) : ₹ 68.70 = One UK pound**

(*h*) **Rate at which bank recovered the amount from importer: ₹ 68.35 = One UK Pound.**

(*i*) **Foreign exporters have an Agent in India. Commission is payable to the agent in Indian Rupees @ 5% of FOB price.**

Customs duty payable was 10%. If similar goods were produced in India, excise duty payable as per tariff is 24%. There is an excise exemption notification which exempts the duty as is in excess of 10%. Education cess is as applicable Spl CVD is payable at applicable rates.

Find customs duty payable. What are the duty refunds/benefits available if the importer is (a) manufacturer (b) service provider (c) Trader?

Answer:

FOB Value	$ 10,000.00
Add : Design & Development Charges	$ 2,000.00
Add : Ocean freight	$ 700.00
Total C & F	$ 12,700.00
Equivalent C&F @ ₹ 68.70 per UK Pound =	₹ 8,72,490.00
Add : Insurance	₹ 6,000.00
Add : Local Agency commission 500 $	
@ ₹ 68.70 per pound =	₹ 34,350.00
Total CIF Price	**₹ 9,12,840.00**
Add : Landing Charges @ 1% of CIF	₹ 9,128.40
Assessable Value	**₹ 9,21,968.40**
Assessable Value (rounded to)	**₹ 9,21.968.00**

Calculation of duty payable is as follows:

		Duty %	Amount	Total Duty
(A)	Assessable Value		921,968.00	
(B)	Basic Customs Duty	10	92,196.80	92,196.80
(C)	Sub-Total for calculating CVD '(A+B)'		1,014,164.80	
(D)	CVD 'C' × excise duty rate	10	101,416.48	101,416.48
(E)	Education cess of excise – 2% of 'D'	2	2,028.33	2,028.33
(F)	SAH Education cess of excise – 1% of 'D'	1	1,044.16	1,044.16
(G)	Sub-total for edu cess on customs 'B+D+E+F'		196,655.77	
(H)	Edu Cess of Customs – 2% of 'G'	2	3,933.12	3,933.12
(I)	SAH Education Cess of Customs – 1% of 'G'	1	1,966.56	1,966.56
(J)	Sub-total for Spl CVD 'C+D+E+F+H+I'		1,124,523.45	
(K)	Special CVD u/s 3(5) – 4% of 'J'	4	44,980.94	44,980.94
(L)	Total Duty			247,536.39
(M)	Total duty rounded off			247,536.00

Notes – Buyer who is manufacturer, is eligible to avail Cenvat Credit of D, E, F and K above. A buyer, who is service provider, is eligible to avail Cenvat Credit of D, E and F above. A trader who sells imported goods in India after charging Vat/sales tax can get refund of Special CVD of 4% i.e. 'K' above.

Note: (1) Design and development work done in India and transport costs within India are not to be considered for purposes of 'Customs Value'. (2) Excise duty rate has to be considered after considering excise exemption notification. (3) Assessable Value and Final duty payable should be rounded off to nearest Rupee.

Duty payable is same whether the importer is manufacturer or a trader.

Question No.16 (b):

Zing Yong of China exports Lithium Cell to India, the FOB price of which is one Dollar for 30 cells; however the details of Fright & Insurance were not made available. Investigation reveals that the goods are imported into India at an increased quantity. Similar cells are manufactured in India, the cost of sales per cell of which indicates the following break-up :

Direct Material	₹ 2.00
Direct Labour	₹ 0.25
Direct Expenses	₹ 0.25
Indirect Expenses	₹ 0.50
Indirect Labour	₹ 0.25
Indirect Expenses	₹ 0.25
Administrative Overheads	₹ 0.50
Selling and distribution overheads	₹ 0.50
Profit Margin	₹ 0.50

The exchange rate 1 $ = ₹ 50. Is there any case to impose Safeguard Duty? If yes, what is the duty leviable?

Answer :

Amount		Total Duty
FOB US $ for 30 cells	1.00	
Freight @ 20% of FOB	0.20	
Insurance @ 1.125% of FOB	0.011	
CIF USD	1.21	
Total CIF in ₹ @ ₹ 50 per 1 USD	60.56	
ADD - Landing Charges @ 1%	0.61	
(A) Assessable Value	61.17	
(B) Basic Customs Duty @ 10%	6.12	6.12
(C) Sub Total for calculating CVD (A+B)	67.28	
(D) CVD "C" × Excise Duty rate (10%)	6.73	6.73
(E) Education cess of excise - 2% of D	0.13	0.13
(F) SAH Education cess of excise - 1% of 'D'	0.07	0.07
(G) Sub-total for education cess on customs 'B+D+E+F'	13.05	
(H) Education cess of customs - 2% of 'G'	0.26	0.26
(I) SAH Education cess of customs - 1% of 'G'	0.13	0.13
(J) Sub - total for Spl CVD 'C+D+E+F+H+I'	74.61	
(K) Special CVD - 4% of 'J'	2.98	2.98
(L) Total Duty		16.42

Hence, landed cost of 30 cells is ₹ 77.59 (₹ 61.17 + ₹ 16.42 as duty)

Accordingly, the landed cost will be ₹ 2.59 per cell

In case of Indian manufacturer, his total cost will be as follows –

Prime Cost (Direct Material + Direct Labour + Direct Expenses)	₹ 2.50
Cost of Production (Prime Cost + Indirect Material + Indirect Labour + Indirect Expenses)	₹ 3.50
Cost of Sales (Cost of production + Administration Overheads + Selling and Distribution Overheads).	₹ 4.50
Selling price (Cost of Sales plus profit).	₹ 5.00

Thus, landed cost of imported article will be ₹ 2.59 and selling price of Indian manufacturer will be ₹ 5,00 per cell.

Accordingly, there is a case for imposition of product Specific Safeguard Duty on imports from China u/s 8C of Customs Tariff Act.

Maximum safeguard duty that can be imposed is ₹ 2.41 per cell.

Question No 17(a)

Discuss briefly with reference to decided case laws as to how the 'value' shall be determined under section 14 **of the Customs Act, 1962 read with Customs Valuation Rules, 1988 in the following cases :**

(i) Goods are offered at specially reduced price to buyer and the buyer is asked not to disclose the specially reduced price to any other party in India.

(ii) There has been a price rise between the date of contract and the date of importation. The contract was over 6 months before the date of shipment.

(iii) The sale involves special discounts limited to exclusive agents.

(iv) The goods are purchased on High seas.

Answer :

(i) Where sales are made to buyers at specially reduced prices, the prices so offered cannot be said to be the ordinary prices. In Padia Sales Corporation v Collector of Customs (1993) 66 ELT 35 (SC) the Supreme Court held that where the goods are offered to the buyers is asked not to disclose the specially reduced price to any other party, then the said price will not be acceptable.

(ii) Where there is a price rise at the time when the goods are imported in comparison to the price when the contract was made then, the price at the time of importation will be taken to be the value of the goods. In Rajkumar Knitting Mills Pvt. Ltd. v Collector of Customs (1998) 98 ELT 292 (SC), the Supreme Court held that the contract price may have bearing while determining the value of the goods, but he value is to be determined at the time of importation of the goods.

(iii) In Eicher Tractors Ltd. v Commissioner of Customs, Mumbai (2000) 122 ELT 321 (SC) the Supreme Court held that the price paid by the importer to the vendor in the ordinary course of commerce shall be taken to be the value of imported goods. Since the buyer and the seller are not related and the price is the sole consideration for sale, the discounted price was taken as the assessable value. However this decision has been nullified by the Customs Valuation Price of Imported Goods Rules, 2002 and consequently, where the sale involves special discounts limited to exclusive agents, such discounted price shall not be accepted as the assessable value.

(iv) Where high sea sales are made, the price charged by the importer from the assessee will be taken to be the value of the goods. Similar view was expressed by the Tribunal in Godavari Fertilizers v C.C.Ex. (1996) 81 ELT 535 (Tri.).

Question No 17(b)

'A' imports by air from USA a Gear cutting machine complete with accessories and spares. Its HS classification is 84.610 and Value US $ f.o.b. 20,000. Other relevant data/information : (1) At the request of importer, US $ 1,000 have been incurred for improving the design, etc. of machine, but is not reflected in the invoice, but will be paid by the party, (2) Freight – US $ 6,000. (3) Goods are insured but premium is not shown/available in invoice. (4) Commission to be paid to local agent in India ₹ 4,500. (5) Freight and insurance from airport to factory is ₹ 4,500. (6) Exchange rate is US $ 1 = ₹ 45. (7) Duties of Customs: Basic – 10% CVD – 10% SAD – 4%. – Compute (i) Assessable value (ii) Customs duty.

Answer: (i) Computation of Assessable Value –

FOB Value of Machine	= $ 20,000
Add : Expenditure for improving design	= $ 1,000
Add – Freight limited to 20% of FOB [Rule 9(2)]	= $ 4,000
Insurance @ 1.125% of FOB [Rule 9(2)c(iii)]	= $ 225
Sub-Total	= $ 25,225
Sub-Total In ₹ @ ₹ 45 per Rupee	= ₹ 11,35,125
Add – Agents Commission [Rule 9(1)(i)]	= ₹ 4,500
Total CIF Value	= ₹ 11,39,625
Add – Landing charges 1% of CIF	= ₹ 11,396
Assessable Value	**= ₹ 11,51,021**

Duty payable will be as follows –

(ii) Gear cutting machine Complete with accessories and spares

Amount		**Total Duty**
(A) Assessable Value	1,151,021.00	
(B) Basic Customs Duty @ 10%	115,102.10	115,102.10
(C) Sub Total for calculating CVD (A+B)	1,266,123.10	
(D) CVD "C" × Excise Duty rate (10%)	126,612.31	126,612.31
(E) Education cess of excise - 2% of 0	2,532.25	2,532.25
(F) SAH Education cess of excise - 1% of 'D'	1,266.12	1,266.12
(G) Sub-total for education cess on customs 'B+D+E+F'	245,512.78	
(H) Education cess of customs - 2% of 'G'	4,910.26	4,910.26
(I) SAH Education cess of customs - 1% of 'G'	2,455.13	2,455.13
(J) Sub - total for Spl CVD 'C+D+E+F+H+I'	1,403,899.16	
(K) Special CVD - 4% of 'J'	56,155.97	56,155.97
(L) Total Duty		309,034.13
(M) Total duty rounded off		309,034.00

Question No. 18(a)

Mr. B, an Indian resident, aged 52 years, returned to India after visiting England on 31.10.2009. He had been to England on 10.10.2009. On his way back to India he brought following goods with him –

(a) His personal effect like clothes etc. valued at ₹ 40,000.

(b) 1 litre of Wine worth ₹ 1,000.

(c) A video cassette recorder worth ₹ 1,000

(d) A microwave oven worth ₹ 20,000.

What is the customs duty payable?

Answer :

As per Rule 3 of the baggage Rules, 1998 passengers above 10 years of age and returning after stay abroad of more than 3 days are eligible for the following general free allowance :

(i) Used personal effect of any amount;

(ii) Articles other than those mentioned in Annex-I, upto a value of ₹ 25,000 if these are carried on the person or in the accompanied baggage of the passenger;

Therefore, in the instant case, the total customs duty payable by the passenger will be as follows :

Articles	Duty
1. Used personal effects	No Duty
2. Wine upto 1 Ltr. Can be accommodated in General Free Allowance	₹ 1,000
3. Video cassette recorder is dutiable	₹ 11,000
4. A microwave oven	₹ 20,000
Total Dutiable goods imported (that can be accommodated in General Free Allowance)	₹ 32,000
Total General Free allowance (As per rule 3 of the Baggage Rules)	₹ 25,000
Balance Goods on which duty is payable	₹ 7,000
Duty payable @ 36.05% [35% + 2% of 35% + 1 % of 35% = 36.05%]	₹ 2,523.50

Question No.18 (b)

'A' has exported under-mentioned goods under drawback claim –

S. No. of DBK Table	Description of goods & quantity exported	Value FOB ₹	Rate of Drawback
64.01	Leather footware Boots 200 nos. @ ₹ 1,000 per pair	2,00,000	11% of FOB subject to maximum of ₹ 85 per pair
64.11	Leather chappals 2000 no. @ ₹ 50 per pair	1,00,000	3% of FOB subject to maximum of ₹ 5 per pair.
71.01	Brass Jewellery 200 kgs. @ ₹ 200 per kg		₹ 22.50 per kg of Brass content
71.05	Plastic bangles with embellishment 200 kgs @ ₹ 100 per kg		₹ 5.00 per kg of plastic content.

On examination it is found that brass jewellery is 50% of weight and in plastic bangles the plastic content is 50% but the total weight comes to 190 kgs only. Compute drawback on each item and total drawback.

Answer:

Description	FOB Value ₹	Rate of Drawback	Drawback in ₹
Leather footwear Boots – 200 pairs @ ₹ 1,000 per pair	2,00,000	11% of FOB subject to max of ₹ 85 per pair	17,000
Leather chappals – 2,000 pairs @ ₹ 50 per pair	1,00,000	3% of FOB subject to Max ₹ 5 per pair	3,000
Brass jewellery 200 Kgs @ ₹ 200 per Kg – Brass content 50% of weight Plastic bangles with embellishment 200 Kgs – Plastic content 50%. Actual weight 190 Kgs only		22.50 per Kg of Brass content	2,250
		₹ 5 per Kg of Plastic content	475
		Total Duty Drawback	22,725

Question No. 19(a)

Ms Priya rendered taxable services to a client. A bill of ₹ 40,000 was raised on 29-4-2011. ₹ 15,000 was received from a client on 1-7-2011 and the balance on 23/10/2011. No service tax was separately charged in the bill. The questions are: (a) Is Ms Priya liable to pay service tax, even though the same has not been charged by her? (b) In case she is liable, what is the value of taxable services and the service tax payable, if service tax rate is 1096 plus education cess as applicable?

Answer : She is liable even if tax was not charged separately. ₹ 40,000 will be treated as inclusive of service tax. Hence, 'Value' for service tax is ₹ 36,264.73 [(₹ 40,000 × 100)/110.30]. Service tax @ 10% is 3,626.47, Education cess is ₹ 72.53 and SAHE cess is 36.27.

The tax is payable on 5th July, 2011 if paid by cheque/cash and 6th July, 2011 if paid electronically.

(Till 31-3-2011, the service tax was payable on receipt basis. Hence, in that case due date would have been 5th/6th October for ₹ 15,000 and 5th/6th January (next year) for balance ₹ 25,000).

Question No.19 (b)

M/s. ABC & Associates, a firm of Cost Accountants, raised an invoice for ₹ 38,605 (35,000 + service tax of ₹ 3,605 @ 10.3%) on 12th April, 2011. The client paid lump sum of ₹ 36,000 on 2nd June, 2011 in full and final settlement: (i) How much service tax M/s. ABC & Associates have to pay and what is the due date for payment of service tax? (ii) What will be the liability if the client refuses to pay service tax and pays only ₹ 35,000?

Answer: In first case, ₹ 36,000 is treated as inclusive of service tax @ 10.30%. Hence, making back calculations, service tax will be ₹ 3,361.74 on value of ₹ 32,638.26. In second case, ₹ 35,000 is treated as inclusive of service tax @ 10.30%. Hence, making back calculations, service tax will be ₹ 3,268.36 on value of ₹ 31,731.64. [Note that in case of Practising CA/CWA/CS, service tax is payable on receipt basis and not on accrual basis, even after 1-4-2011].

Question No.19(c)

Mr. Deshpande, Cost Accountant rendered taxable service to Vishwa Cement Ltd. In this regard the company sent 200 cement bags free of cost, for the house construction of Mr. Deshpande. Explain how the value of the taxable service will be determined in this case. Will your answer be different if the service had been rendered free of charge?

Answer : In first case, value of 200 cement bags will be treated as consideration for services received. It will be treated as gross value of service and service tax will be calculated by making back calculations. In second case, no service tax is payable since 10.30% of Nil is Nil.

Question No. 19(d)

Mr. Gombu, a proprietor of Intellect Security Agency received ₹ 100,000 by an account payee cheque, as advance while signing a contract from proceeding taxable services; he received ₹ 5,00,000 by credit card while providing the service and another ₹ 5,00,000 by a pay order after completion of service on January 31, 2012. All three transactions took place during financial year 2011-12. He seeks your advice about his liability towards value of taxable service and the service tax payable by him.

Answer : He is liable on entire ₹ 11 lakhs, presuming that he is not eligible for exemption as small service provider. The ₹ 11 lakhs are to be taken as inclusive of service tax and service tax is payable by back calculations. Assuming service tax rate as 10.30%, the 'value' would be ₹ 9,97,280.15 and service tax @ 10.30% would be ₹ 1,02,729.85.

Question No. 20(a)

Mr. X took an accommodation for 6 days in a Hotel at Delhi. Basic Room Rent ₹6,000 per day . Food Bills amounting to ₹ 8,000. Delhi VAT is @ 12.5%. Calculate Total Bill amount to be paid inclusive of Service Charge @ 10% and applicable Service taxes. [Abatement rate is 30%. Service tax on un-abated amount @ 10.3% and on abatement amount @ 3.71%, Delhi VAT @ 12.5%]

Answer: The bill amount shall be computed in the following manner:

Sl. No	Particulars	Amount (₹)
1	Room Rent @ ₹6,000 per day for 6 days	36,000
2	Add: Food Bill	8,000
3	Total of room rent including food bill	44,000
4	Add: Service Charges @ 10% on ₹44,000	4,400
5	Total including Service Charges	48,400
6	Add: Service Tax @ 10.3% on 70 % of ₹44,000 [considering abatement 30%]	3,172
7	Add: Service Tax @ 3.71% on 30% of ₹44,000 [service tax on the amount claimed as an abatement]	490
8	Add: VAT @ 12.5% on 30% of ₹44,000	1,650
	Total Bill Amount [5+6+7+8]	**53,712**

Question No. 20(b)

Determine the central sales tax liability from the following data when a sale is effected from Faridabad to Lucknow :

(a) Invoice no. : 00708374 ; (b) Basic price : ₹ 3,00,000 ; (c) Excise duty : 10% ad valorem
(d) CST : as applicable under 'C' forms ; (e) Trade discount : 8% ;(f) Cash discount : 2%
(g) Quantity supplied : 10,000 kgs ; (h) Quantity rejected by buyer within 3 days of delivery : 1000 kgs ; (i) Quantity returned by buyer after 6 months of despatch : 1000 kgs.

Solution :

Computation of Central Sales Tax Payable

Particulars	Amount ₹
Basic Price @ ₹ 30/kg	3,00,000
Less : Goods rejected/returned by buyer within 6 months	30,000
Balance	2,70,000
Less : Trade Discount @ 8%	21,600
Balance	2,48,400
Less : Cash Discount @ 2%	5,400
Net Sales	2,43,000
Add : Excise Duty @ 10%	24,300
Total	**2,67,300**
CST @ 2% (under 'C' Form)	**5,346**

Question No. 21(a)

Vishal is a dealer. His sales during the first quarter of 2011-12 (April to June) are :

Date	Invoice No.	Amount (₹)
05.04.2009	**101**	**10,000 plus tax @ 2%**
12.04.2009	**102**	**80,000 plus tax @ 2%**
05.04.2009	**102**	**62,400 (inclusive of tax)**
05.04.2009	**104**	**14,000 plus tax @ 2%**
05.04.2009	**105**	**18,000 plus tax @ 2%**

(i) Goods worth ₹ 7,000 (excel of tax) against Invoice No. 104 were returned on 29.06.11.
(ii) Goods worth ₹ 13,000 (incl of tax) sold on 26.12.10 were returned on 30.06.11.
(iii) Goods worth ₹ 6,500 (incl of tax) sold on 27.12.10 were returned on 30.06.11.

All the above sales were made in the course of inter-State trade. Calculate the turnover and sales tax payable if the rate of tax is 2%.

Solution : **Computation of Turnover (Inclusive of Sales Tax)**

Invoice No.	Computation	Amount ₹
101	(10000 + 2%)	10,200
102	(80000 + 2%)	81,600
103	—	62,400
104	(14000 + 2%)	14,280
105	(18000 + 2%)	18,360

	1,86,840
Less : Sales return within 6 months	**7,280**
Aggregate sale value	**1,79,560**

Turnover = = 1,76,039

Sales tax payable = [1,79,560 x 2/102] = ₹3,521

Note : Goods returned beyond 6 months are not deductible. Hence ₹ 13,000 and ₹ 6,500 are not deductible.

Question No. 21(b)

Adwell Co. of Indore (Madhya Pradesh) has supplied the following statement of sales :

(i) Sales of cloth ₹ 12,00,000 of which ₹ 7,50,000 sold in Madhya Pradesh and rst in Rajasthan.

(ii) Sales to a registered dealer of Gujarat for sale on Form C of such goods which are given in his registration certificate: ₹ 4,68,000.

(iii) Sale of declared goods to unregistered dealer of Maharashtra : ₹ 9,45,000 (The rate of sales-tax on such goods is 2% in the State and the customer returned goods worth ₹ 46,500 within 6 months.)

(iv) Sale to a registered dealer of Gujarat of such undeclared goods which have not been given in his registration certificate:₹ 3,63,000. (Sales tax on such goods in the State is 7%.)

(v) Sale of goods to Bangladesh: ₹ 6,00,000. (Rate of sales tax in the State is 4%.)

(vi) Subsequent sale during inter-State trade: ₹ 1,20,000. (Rate of tax in the State is 10%).

Compute the taxable turnover under the CST Act, 1956. Sales include the sales tax.

Solution: **Computation of Taxable Turnover**

	Particulars	Amount (₹)	Taxable Amount (₹)
(I)	Sales of cloth (Exempt from Tax)	—	—
(II)	Sales to a registered dealer of Gujarat for sale on form C	4,68,000	
	Less : Sales Tax @ 2% i.e. 4,68,000 × 2/102	9,147	4,58,853
(III)	Sale of declared goods to unregistered dealer of Maharastra	9,45,000	
	Less : Sales return within 6 months	46,500	
	Less : Sales Tax double the state rate @ 2% i.e. 8,98,500 (9,45,000 – 46,500) × 2/102	17,618	8,80,882
(IV)	Sale to a registered dealer of Gujarat of undeclared goods which are ot given in the registration certificate	3,63,000	
	Less : Sales Tax at state rate or 6% whichever is higher i.e. [3,63,000 × 6/106]	10,572	3,52,428
(V)	Sale of goods to Bangladesh. Exempt since it is export from India	6,00,000	—
(VI)	Subsequent sale during Inter-state trade (assumed to a registered dealer) is exempt under Sec 6(2)	—	—
	Taxable Turnover		**16,92,163**

Question No. 22(a)

Calculate the CST payable from the following data —

(a) Invoice No. 1011 dated 01.04.2011 for ₹ 1,78,967 inclusive of CST @ 2%.

(b) Invoice No. 1012 dated on 02.04.2011 for ₹ 1,87,697 exclusive of CST @ 2%.

(c) Invoice No. 1013 dated 03.04.2011 for ₹ 1,75,000 inclusive of local Sales Tax @ 10%.

(d) Invoice No. 1014 dated 04.04.2011 for ₹ 2,50,000 exclusive of local Sales Tax @ 8%.

(e) 50% of the goods sold on 01.04.2011 on inter-state trade was rejected and returned on 31.07.2011.

(f) 20% of the goods sold on 04.04.2011 on local sale was returned on 30.06.2011.

(g) 30% of the goods sold on 02.04.2011 on inter-state trade returned on 02.06.2011.

(h) 10% of goods sold on 03.04.2011 on local sale was rejected on 03.10.2011.

(i) Goods of ₹ 1,50,000 was stock transferred from Bangalore to Indore on 05.04.2011 excludes CST elements of 2%.

(j) Export of goods worth 10 million Yens to Japan on 06.04.2011 of which 50% were rejected and returned on 01.11.2009 (1 Yen = Re. 0.35).

(k) Export through Canalising Agency for value of 100 thousand Dollars (Export order with Canalising Agency) (1 dollar = ₹ 48).

(l) Purchased goods for ₹ 3,00,000 from the market on 09.01.2011 and exported to Singapore on 14.01.10 to the Agent for further sale (The goods attracted local sales tax of 10%).

Give reasons for inclusion/non-inclusion of the above.

Solution:

Calculation of Central Sales Tax

Invoice No. and date	**Aggregate Sale Price (100+2%) Col. No. 1**	**Turnover (₹) Col. No. 1×100/102 Col. No. 2**	**CST (₹) Col. No. 1-2 Col. No. 3**
1011 Dt. 01.04.2011	1,78,967	1,75,458	3,509
1012 Dt. 02.04.2011	1,95,205	1,91,377	3,828
Total	3,74,172	3,66,835	7,337
Less -			
(a) Rejected & returned goods sold on 01.04.2011	89,484	87,729	1,755
(b) Returned goods sold on 02.04.2011	58,561	57,413	1,148
Net Amount	**2,26,127**	**2,21,693**	**4,434**

Hence, total CST payable is ₹ 4,434.

Working Notes:

(1) Since CST payable is required to be calculated, local sale as given at Sr. No's 3, 4, 6 and 8 are not considered.

(2) Any rejections are excludable without restriction that these must be returned within sixe months.

(3) Direct exports and export through canalising agency are exempted from CST. Hence, sales given in Sr. No's. 10, 11 and 12 are ignored.

(4) No tax is payable on stock transfer and hence transfer as shown at Sr. No. 9 is not taxable.

Thus, we consider only Sr. No's 1, 2, 5 and 7 for calculation of CST.

Question No.22 (b)

Aloke, a registered dealer in the State of Orissa, furnishes the following details relating to its sales for the month of December, 2011.

		₹
1.	**Sale of exempted goods (Schedule A goods)**	**75,000**
2.	**Sale of goods of zero rate (Schedule AA goods)**	**50,000**
3.	**Sale of goods taxable at 4% (Schedule C goods)**	**4,00,000**
4.	**Sale of goods taxable at 12.5% (Schedule CA goods)**	**1,20,000**

On buyer of Schedule C goods (taxable at 4%) returned goods worth ₹ 20,000 on 20th January, 2012.
Tax on maximum retail price has been paid at the time of purchase of Schedule CA goods, taxable at 12.5%.
Determine turnover of sales and taxable turnover of the dealer.

Solution:

Computation of Turnover of Sales and Taxable Turnover of Mr. Alok for the Month of December, 2011.

			₹	₹
Aggregate Sale Price ₹ (75,000 + 50,000 + 4,00,000 + 1,20,000				6,45,000
Less:	(i)	Sales return of *Schedule C* goods within 6 months from the date of sale	20,000	
	(ii)	Sale price of goods, tax on which has been paid on the Maximum Retail Price (MRP) at the time of purchase	1,20,000	1,40,000
Turnover of Sales [Section 2(55)]				**5,05,000**
Less :	(i)	Sale of Exempted Goods (Schedule A goods)	75,000	
	(ii)	Sale of Zero-rated Goods (Schedule AA goods)	50,000	1,25,000
		Taxable Turnover (on which tax is payable)		**3,80,000**

Question No. 23(a) : Two factories located in the same premises are to be considered as one factory for the purpose of arriving at the aggregate value of clearances in terms of the SSI notification. Explain.

Answer: Situs of a factory alone should not be considered as the sole criterion for clubbing its clearances with the other factory's clearances. The clubbing of clearances is dependent upon the facts and circumstances of each case. Two factories located in the same premises with common boundaries cannot be treated as one factory for the purpose of SSI exemption if they had separate staff, management passage, separate entrance with separate central excise registration and produced different end products.

Mere common boundary did not make them as one factory even though at the apex level both the factories are maintained by one company. [Rollantainers Ltd. 170 ELT 257(SC)]

Question No.23 (b) : Can SSI avail CENVAT Credit? Explain the transitional provision, when the SSI unt starts availing the exemption.

Answer: The assessee shall not avail input credit of excise duty paid on input services are used in relation to manufacture of clearances , till the aggregate clearances do not exceed ₹150 lakhs [notification no.8/2003].

CENVAT credit availed on inputs shall be reversed, if such input services are used in relation to manufacture of clearances, which are exempt based on the said notification. [Rule 6 of CENVAT Credit Rules,2004]

CENVAT credit can be availed on capital goods but has to be utilized only after the aggregate value of the clearances cross the limit of ₹150 lakhs[Rule 6(4) of the CENVAT Credit Rules,2004].

Transitional provisions- for availing exemption: an eligible person who has been paying excise duty but wishes to avail SSI exemption, should pay an amount equivalent to cenvat credit taken on inputs lying in stock or in process or contained in final product lying in stock on the date of exercising the SSI option.

Example:

In March, 2011, a company purchased goods worth ₹1,50,000 plus ₹30,000 as Excise Duty. It contained the whole duty paid as credit for that month. Half of the stock is still not consumed as on 31st March,2011. On 1st April,2011, the unit opts for SSI exemption. In this case, it has to pay Excise duty of ₹15,000 before claiming exemption.

Question No.23(c):

An SSI unit has effected clearances of goods of the value of ₹575 lakhs during the financial year 2011-12. The said clearances includes the following:

(i) Clearance of excisable goods without payment of duty to a 100% EOU ₹ 110 lakhs

(ii) Job work in terms of Notification No.214/86 CE which is exempt from duty ₹ 75 lakhs

(iii) Export to Nepal and Bhutan ₹50 lakhs

(iv) Goods manufactured in rural area with the brand name of others ₹90 lakhs

Examine whether SSI benefit of exemption would be available to the unit for the financial year 2011-12.

Answer:

Computation of Value of Clearances

Particulars	₹lakhs	₹lakhs
Value of clearance certified		575.00
Less:		
(i) Clearance to 100% EOU – excluded from the limit		110.00
(ii) Clearance under notification 214/86- excluded from the limit		75.00
Value of clearance as per notification		390.00

Clearance of excisable goods without payment of duty to a 100% EOU and job work amounting to manufacture done under specific notification 214/86 are not to be excluded in computation of turnover limit of ₹400 lakhs.

The total value of clearances for the financial year 2011-12 has not exceeded ₹400 lakhs. Therefore, the unit is SSI for the financial year 2011-12, i.e. it is eligible to avail the benefit of exemption.

Question No. 24(a): **Basic Ltd. is a SSI which is producing 'Active' , a tonic for growing children. Under the Annual Report for the financial year 2011-12, the unit shows a gross sales turnover of ₹1,89,20,000. The product 'Active' attracts excise duty @ 10% and sales tax @ 5%. Calculate the duty liability under notification no.8/2003.**

Answer: Computation of duty liability under Notification No.8/2003

Particulars	Amount (₹)
Gross Sales Turnover (including ED & Sales Tax)	1,89,20,000
Sales Tax on first ₹150 lakhs clearance = ₹150 lakhs x 10% [for first 150 lakh clearances, excise duty is NIL and sales tax is 5%]	7,50,000
Balance sales (including excise duty and sales tax) = [1,89,20,000 (1,50,00,000 + 7,50,000)]	31,70,000
Less: Sales Tax on the balance sales = 31,70,000 x 5/105 (since sales tax already included)	1,50,592
Cum-duty sales value	30,19,048
Excise duty (including 3% Cess) = 30,19,048 x 10/110.3	2,73,712
Add: Education Cess @ 2% [2% of ₹2,73,712]	5,474
Add: SHEC @1% [1% of ₹2,73,712]	2,737
Total Excise Duty payable	2,81,923

Question No. 24(b) : State the various types of bonds required for different circumstances in Excise Law.

Answer: The following are the bonds required for different circumstances under Excise law:

(i) B1 Surety/Security (General Bond) – for export of goods without payment of duty under Rule 19

(ii) B2 Bond Surety/Security (General Bond) – for provisional assessment

(iii) B3 Bond Surety/Security – to obtain central excise stamp on credit (however, at present, this bond is of academic importance only)

(iv) B11- Bond Surety/Security- for provisional release of seized goods

(v) B17 Bond (General) Surety/Security – composite bond for EPZ/100% EOU's for assessment, export, accounting and disposal of excisable goods obtained free of duty.

Question No.24(c): What are the returns to be filed by the Assessee under the Excise Law?

Answer: Central Excise Rules (CER),2002; CENVAT Credit Rules,2004 (CCR)

Rule	Assessee Liable to comply	Frequency	Form No.	Due Date
		Return for Removal of Goods		
17(3) CER	100% EOU for removals made in DTA	Monthly Return	ER-2	10th of the following month
12(1) CER	SSIs	Quarterly	ER-3	10th of the month following the immediately preceeding quarter ended [e.g. April-June quarter, to be submitted within 10th July]
12(1) CER	Assesses manufacturing processed yarn/unprocessed fabrics	Quarterly return	ER-3	20th of the month following the quarter

12(1) CER	Other Assessee's (not covered above)	Monthly return	ER-1	10th of the following month
9A(3)CCR	All Assessees (information on principal inputs)	Monthly return	ER-6	10th of the following month
12(1) CER	Assessees, availing exemption under notification no.1/2011 dated 1st March,2011 (notification no.8/2011 dated 24th March,2011)	Quarterly return	ER-1	10th of the following month from the end of the previous quarter
Declaration				
Notification No.36/2001 dated 26.06.2001	Manufacturer of Nil rated or exempted goods	Declaration by persons exempt from registration	No specified form	Before the commencement of manufacture of such goods
	Persons availing SSI exemption- if value of clearances in preceding financial year is ₹90 lakhs or more			Not applicable
Annual Statement				
12(2) CER	Assessee's who have paid ED of ₹1 crore or more (through PLA and/or CENVAT credit)	Annual Financial Information Statement	ER-4	30th November of the succeeding financial year
94(1) CCR		Annual information on principal inputs	ER-5	30th April of each financial year
12(2A) CER	All Assessees	Annual Installed Capacity of Factory	ER-7	30th April of the succeeding financial year

Question No. 24(d): What does the return forms under central excise law signify?

Answer:

Form No.	**Particulars**	**Returns under**
ER 1/ER 3	Monthly returns	Central Excise Rules,2002
ER 2	Details regarding inputs and capital goods received without payment of duty by 100% EOU	Central Excise Rules,2002
ER 4	Annual Financial Information Statement	Central Excise Rules,2002
ER 5	Annual Information on Principal Inputs	CENVAT Credit Rules,2004
ER 6	Monthly Information on Principal Inputs	CENVAT Credit Rules,2004
ER 7	Annual Installed Capacity Statement	Central Excise Rules,2002

Question No. 25(a) : When can Provisional Assessment be made under Excise Law?

Answer: When the Assessee is unable to determine the (a) value of excisable goods or (b) rate of duty applicable, provisional assessment may be resorted.

<u>Question No. 25(b)</u> : State the effect of Final Assessment if there is already a provisional assessment made.

Answer: The following is the effect of final assessment provided there is a provisional assessment made:

Case	Final Duty > Provisional Duty	Final Duty < Provisional Duty
Effect	Further demand to be raised on Assessee	Refund due credited to Consumer Welfare Fund
Interest	@ 18% p.a.	@ 6% p.a.
Period	1st day of subsequent month to the date of payment	1st day of subsequent month to the date of refund

Question No.25(c): Given an overview of Special Audit u/s 14A and 14AA of Central Excise Act.

Answer: Situations which prompts for Special Audits may be represented as:

Audit u/s 14A

If Sales is sacrosanct, then Purchases has to be challenged

PURCHASES	SALES

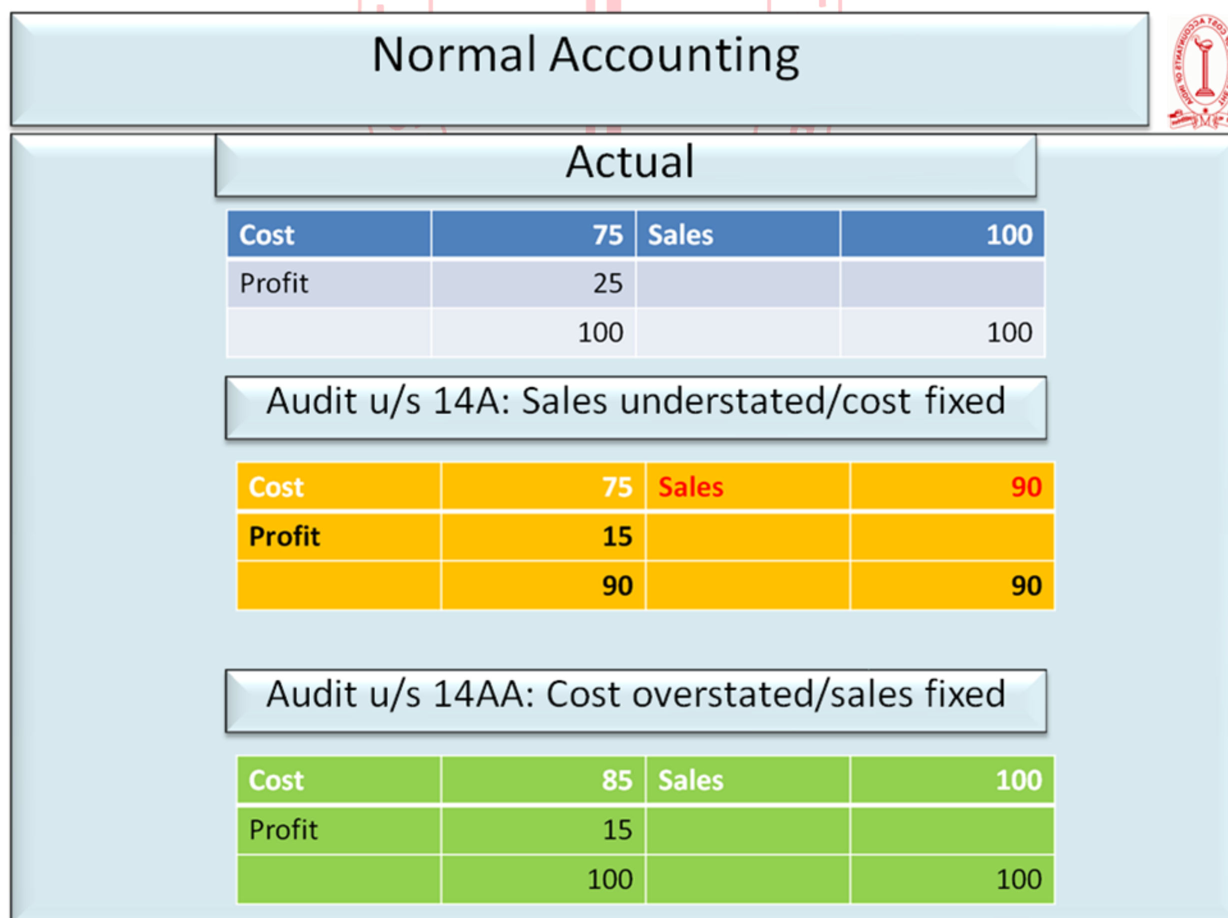
Or

If Purchases is sacrosanct, then Sales has to be challenged

Audit u/s 14AA

PURCHASES	SALES

In the following diagram, Cost refers to Cost of Purchases



U/s 14A- Value has not been correctly declared or determined by a Manufacturer (Valuation)

U/s 14AA: - Credit of duty availed of or utilized by a manufacturer of any excisable goods is not within the normal limits (CENVAT Credit).

Case I: No Opening stock or closing stock

Stock Account (Shown)

Particulars	Quantity	Particulars	Quantity
		Sales	400 units
Purchases	1,000 Units	Wastage (60% appx)	600 units

ASSUMING PURCHASE of 1,000 units is SACROSANCT

Stock Account (Actual)

Particulars	Quantity	Particulars	Quantity
		Sales	950 units
Purchases	1,000 Units	Wastage (5% appx of 1,000 units) from ER-5 and ER-6 Return	50 units
	1,000 Units		

It is apparent that Sales quantity is deflated in the Stock Statement Return to the extent of (950 units – 400 units) = 550 units. [Subject of Sec.14A, based on Input-Output relation establishment]

ASSUMING SALES OF 400 units is SACROSANCT

Stock Account (Actual)

Particulars	Quantity	Particulars	Quantity
		Sales	400 units
Purchases (400 units x 1.05)	420 Units	Wastage (5% appx of 1,000 units) from ER-5 and ER-6 Return	50 units

Therefore, (1,000 units – 420 units) = 580 units.

Therefore, excess credit availed by the assessee on 580 units. [subject matter of Sec.14AA]

Case II: With Opening and Closing Stocks

Stock Account (shown)

Particulars	Quantity	Particulars	Quantity
Opening Stock	150 Units	Sales	400 units
Purchases	1,000 Units	Wastage (48% appx)	550 units
		Closing Stock	200 Units

Assuming Purchase is sacrosanct

Stock Account (Actual)

Particulars	Quantity	Particulars	Quantity
Opening Stock	150 Units	Sales	892 units
Purchases	1,000 Units	Wastage (5% appx of 1,150 units) from ER-5 and ER-6 Return	58 units
		Closing Stock	200 Units

It is apparent that Sales quantity is deflated in the Stock Statement Return to the extent of (892 units – 400 units) = 492 units.

Assuming Sales of 400 units is sacrosanct

Stock Account (Actual)

Particulars	Quantity	Particulars	Quantity
Opening Stock	150 Units	Sales	400 units
Purchases	482 Units	Wastage	32 units
		Closing Stock	200 Units
	632 units		632 units

It is apparent that purchase quantity is inflated in the Stock Statement Return to the extent of (1,000 units – 482 units) = 518 units.

Question No. 26(a): Who is a Large Tax Payer? What is an LTU?

Answer: Large Tax payer means a person who:-

(i) Has one or more registered premises under Central Excise Law/Service Tax Law;

(ii) Is an assessee under Income Tax law, holding Permanent Account Number u/s 139A of the Income Tax Act,1961

Large Tax Payer Unit (LTU):

(i) LTU is a self-contained tax office that provides single point interface with the tax administration to the large taxpayers who pay direct and indirect taxes above the threshold limit

(ii) It is headed by a Chief Commissioner (CCIT or CCCE) and supported by other Commissioners and office₹

(iii) Officers posted in LTU will have all India jurisdiction in respect of all registered premises of a Large Tax Payer registered in that particular LTU.

(iv) The existing Central Excise and Service Tax Commissionerate will have concurrent jurisdiction over the premises of the Large Tax Payers

Eligibility: An assessee should satisfy one of the following conditions to be eligible for higher benefits of Large Tax payer:

(i) As a manufacturer, has paid duties of Central Excise of ₹ 5 crores or more;

(ii) As a provider of Taxable Service, has paid service tax of ₹5 crores or more;

(iii) As an Income Tax Assessee, has paid Advance Tax of ₹10 crores or more, during any financial year.

Question No. 26(b): State the provisions of reduced duty liability in respect of (i) pilfered goods; (ii) damaged or deteriorated goods; (iii) lost, destroyed or abandoned goods

Answer: A comparative analysis may be made on the following lines:

Basis of comparison	**Pilfered goods(Sec.13)**	**Damaged or deteriorated goods (Sec.220**	**Lost, destroyed or abandoned goods (Sec.23)**
Physical availability	Goods lost by theft, not physically available	Physically available but in damaged form	❖ Lost/destroyed goods are not physically available ❖ Abandoned goods are physically available
Quantity lost	Small quantities	Any quantity	Amu quantity
Duty liability	Duty is not leviable	Duty is leviable, but amount reduced proportionately, i.e. abatement	❖ Duty is leviable. But AC/DC may grant remission for lost/destroyed goods ❖ Owner not liable to pay duty for

			abandoned goods
Nature of benefit	Statutory benefit, cannot be denied by proper officer	Statutory benefit but damage is estimated by proper officer	Benefit is given by statute, but discretion is available to AC/DC
Burden of proof	Importer need not prove pilferage separately. It can be determined by examination	Importer should prove that accident is not due to his willful act/negligence/default	Loss/destruction due to natural causes, should be proved by importer
Restoration	If pilfered goods are restored to owner, duty is payable	There is no possibility of any restoration, since goods are not missing as such	Restoration is not possible, since gods are physically lost or damaged
Abandonment	There is no question of abandonment, since goods are not available at all	Where goods are sold by public auction, they are deemed abandoned	Sec.23 covers situations of abandonment/surrender also
Time point	After unloading, and before order for clearance (either for home consumption or warehousing)	Covers different situations: (i) All imported goods, and (ii) Warehoused goods	Lost/destroyed any time before clearance for home consumption (either directly or from warehouse)
Warehoused goods	Not applicable to warehoused goods	Applicable to warehoused goods	Applicable to warehoused goods

<u>Question no. 27(a):</u> Define Transaction Value u/s 14(1) of the Customs Law.

Answer: Transaction value u/s 14(1) refers to :

- Price actually paid or payable for the goods;
- When sold for export to / from India;
- For delivery at the time & place of importation/exportation;
- Where the buyer and seller of the goods are not related;
- Price is the only consideration for the sale;
- Subject to the other conditions as specified in the rules.

However, the Customs Valuation (Determination of Value of Imported Goods) Rules,2007 is relevant in this regard.

Question No.27 (b): what is the date for determination of rate of duty and tariff valuation?

Answer: For Imported goods [U/s 15]

Situation/type of goods	Relevant date for rate of duty & tariff valuation
1. Goods entered for home consumption u/s 46	Date on which Bill of entry is presented u/s 46
2. Goods cleared from a warehouse u/s 68	Date on which a Bill of Entry for Home consumption is presented u/s 68
3. In case of any other goods	Date of payment of duty

Note: If the Bill of Entry is presented before the date of entry inwards of the Vessel or arrival of the Aircraft by which the goods are imported, the Bill of entry shall be deemed to be presented on the date of such entry inwards or arrival, as the case may be.

In such case, relevant date = date of bill of entry or date of arrival of vessel/aircraft, whichever is later

Date of entry inwards for the purposes of Sec. 15(1)(a) and proviso therein, is the date recorded in the Customs Register, and not the date of actual entry of the vessel.

For Exported goods [U/s 16]

Situation/type of goods	Relevant date for rate of duty & tariff valuation
1. Goods entered for export u/s 50	Date on which proper officer makes an order permitting clearance and loading of the goods for exportation u/s 51
2. In case of any other goods	Date of payment of duty

Note: Sec.15 and Sec.16 is not applicable to (i) Baggage and (ii) Goods imported/ exported by post.

Question No.27 (c): Define Person-in-Charge u/s 2(31) of the Customs Act.

Answer: Person-in-charge in relation to:

Conveyance	Person-in-charge
Vessel	Master of the vessel
Aircraft	Commander or pilot in charge of the aircraft
Railway train	Conductor, guard or other person having the chief direction of the train
Any other conveyance	Driver or the other person in charge of the conveyance

Question No. 28(a): State the different forms of Bill of Entry used under Customs law.

Answer: The different forms of Bill of Entry used under Customs law are:

Form	Purpose	Colour	Reference
I	For Home Consumption	White	B/E (General)
II	For Warehousing	Yellow	Into Bond B/E
III	For Home Consumption from Warehouse	Green	Ex-Bond B/E

Question No.28 (b): State the difference between Transit and Transshipment goods under Customs Law.

Answer: The basis of difference between Transit and Transshipment of goods are:

Purpose	Transit Goods (Sec.53)	Transshipment Goods (Sec.54)
Purpose	Goods intended for transit in the same conveyance (i) to any place outside India (ii) to any other customs station	Goods unloaded at a Customs station for transshipment, i.e. for loading into another vessel for carrying it to any place outside India or to any other Customs Station
Unloading/loading	Goods remain in same vessel. They are not unloaded in customs area	Goods are first unloaded into the Customs area, and reloaded into another vessel/conveyance
Document	Such goods are mentioned in import manifest/report, as for transit in same conveyance	Such goods are mentioned in Import Manifest/Report, as for transshipment
Bill of Transshipment	Not applicable	Such goods are also mentioned in a separate Bill of Transshipment
Permission	Transit of goods may be permitted without payment of duty, if the destination is – (a) Any place outside India, or (b) Any other customs station	It may be permitted without duty, if destination is- (a) Any place outside India, (b) Any major port, airport at Mumbai, Kolkata, Delhi or Chennai, other notified port/airport, other customs station, if goods are bonafide intended for transshipment
Duty liability	On arrival at the destination customs station, such goods shall be liable to duty and shall be entered in same manner as goods entered on first importation. Hence, the destination port/station is deemed as the actual port/station of importation	

Question No.29 (a): After visiting USA, Mr. and M₹ B brought to India a laptop computer valued at ₹85,000, personal effects valued ₹1,00,000 and a personal computer for ₹55,000. What is the customs duty payable?

Answer: Personal effects and one laptop are exempted from levy of duty. The General Free Allowance (GFA) for the passenger's of age of 10 years or more and returning after a stay abroad for more than 3 days is ₹25,000 [As per Rule 3 of Baggage Rules, 1998]. Rate of duty applicable for Baggage = 100% + EC @2% + SHEC @1% = 103%

Duty Payable = ₹ (55,000 – 25,000) = ₹30,000 x 103% = ₹30,900.

Question No. 29(b): What is Unaccompanied Baggage?

Answer: Unaccompanied baggage refers to baggage that is not accompanied with the passenger. Baggage rules, 1998 apply to Unaccompanied Baggage, except where it is specifically excluded.

Question No.29(c): Define Foreign-going Vessel or Aircraft.

Answer: Foreign-going Vessel or Aircraft u/s 2(21) of the Customs Act means, "any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India, and any port or airport outside India, whether touching any intermediate port or airport in India or not"

It includes:

- ❖ Any naval vessel of a foreign government taking part in any naval exercises;
- ❖ Any vessel engaged in fishing or any other operations outside the territorial waters of India;
- ❖ Any vessel or aircraft proceeding to a place outside India for any purpose whatsoever.

Question No.30 (a): What is Input Tax for VAT?

Answer: Input tax means the:

- ❖ Tax paid or payable under this Act;
- ❖ By a registered dealer to another dealer on the purchase of goods;
- ❖ Including capital goods in the course of the business

Question No. 30(b) : Define Zero Rated Sale.

Answer: Zero rated sales is a sale on which no tax is levied but the tax paid on purchase of inputs used for such sales is refunded to the dealer. The zero rated sales are:

- ❖ Export sale u/s 5(1);
- ❖ Sale in the course of export u/s 5(3)
- ❖ Sale to international organizations;
- ❖ Sale to SEZ

Question No.30(c): Explain the composition scheme under VAT.

Answer: Every registered dealer who is liable to pay tax under the Respective State Acts and whose turnover does not exceed ₹50 lakhs in the last financial year is generally entitled to avail this scheme, excluding the followings:

❖ A manufacturer or dealer who sells goods in the course of inter-state trade or commerce

❖ A dealer who sells goods in the course of import into our export out of territory of India

❖ A dealer transferring goods outside the State otherwise than by way of sale of for execution of works contract

The following conditions must be fulfilled:

❖ A dealer who intends to avail the composition scheme shall exercise the option by intimating the Commissioner in writing for a year or part of the year in which he gets himself registered.

❖ The dealer should not have any stock of goods which are brought from outside the State on the day he exercises his option to pay tax by way of composition and shall not use any goods brought from outside the State after such date

❖ The dealer should also not claim input tax credit on the inventory available on the date on which he opts for composition scheme

❖ The dealers opting for composition scheme will not be entitled to input tax credit

❖ The dealer shall not be authorized to issue tax invoices

The composition tax can be levied on the taxable turnover instead of gross annual turnover at the rate decided by the State Governments. The Empowered Committee has permitted the States to reduce the rate of composition tax to 0.25%,

SECTION B: DIRECT TAX MANAGEMENT

Question No. 31:

(a) Mr. Hari, an employee of Hello India Ltd. is transferred from Mumbai to Bhubaneswar. On his transfer, he was provided accommodation in Bhubaneswar for a period of 15 days. Hotel room rent paid ₹33,708/- (inclusive of service tax @12.36%). His basic salary is ₹35,000 per month. Dearness allowances @ 50%. Discuss the taxability of hotel accommodation at Bhubaneswar.

Answer: In cases, where an assessee is provided a hotel accommodation, on the event of his transfer, if the period of stay does not exceed 15 days, then the payment made for hotel accommodation, would not be considered as perquisite.

If the accommodation exceeded more than 15 days, then the perquisite value would have been calculated as follows:

Lower of the followings:

(i) 24% of Salary

(ii) Actual hotel accommodation charges paid

Note:

(1) 24% of Salary refers to the salary of the time period during which the assessee was in the hotel accommodation [example: if assessee was in hotel accommodation for 19 days, then salary would be calculated as follows: Salary per month x 19/30 x 24%]

(2) Salary for hotel accommodation = Basic Pay + Dearness Allowance (forming part of retirement benefit) + Bonus + Commission (if received as a fixed percentage on turnover)+ any other monetary benefits + All taxable allowances.

(b) Chris, an employee of Beautiful World Ltd. was presented a gift voucher of Pantaloons amounting to ₹ 7,000, on the occasion of his marriage. Discuss taxability. Would your answer differ, if the same was presented to Chris on the occasion of her first marriage anniversary?

Answer: As per Rule 3(7)(iv), value of any gift or voucher or token other than gifts made in cash or convertible into money (e.g. gift cheques) on ceremonies, would be taxable as a perquisite, if the amount exceeds ₹5,000. However, since this gift was received on the occasion of marriage, this gift received would not be considered as a taxable income.

If this gift was presented on the occasion of her first marriage anniversary, then , the same would be considered as a taxable income to the extent it exceeds ₹5,000. In this case, the amount involved is ₹7,000. Hence, taxable income would be ₹2,000 [₹7,000 – ₹5,000]

(c) Aakansha holds 18% shares in a Private Limited Company. She gifted all her shares to her husband Mr.Dolichand on 1.10.2011. After a month, Mr.Dolichand obtained loan of ₹ 50,000 from the company, when the company's accumulated profit was ₹ 75,000. What are the tax implications of the above transactions?

Answer: U/s 2(22)(e), payment of any sum by a company in which the public are NOT substantially interested, as advance or loan, to the extent the Company possesses accumulated profits, to a shareholder, who is the beneficial owner of shares with not less than 10% voting power, shall be deemed to be dividend.

In view of the above, since Mr.Dolichand has 18% shareholding in a Private Limited Company, the loan amount of ₹50,000 would be considered as deemed dividend u/s 2(22)(e) in his hands.

Since the shares were gifted to Mr. Dolichand, by his wife, Aakansha, the said amount of ₹50,000 shall be clubbed in his total income of Ms. Aakansha.

(d) Mr. Bhanu, sold a house property in Mumbai for ₹45 lacs in March 2012. The property was purchased by him during 2004-05 for ₹ 30 lacs. The Stamp duty was collected on the value of ₹ 52 lacs. Determine the capital gains. The value adopted was not disputed in any court of law.

Answer: If an assessee transfers land, building or both and if the sale consideration is less than the value adopted or assessed or assessable by the State Government Authority, then the value adopted by the Stamp Valuation Authority would be taken as "Consideration" for determining "Capital gains".

In this case, the computation of capital gains would be as follows:

Consideration for Transfer: = Stamp Duty Value	52,00,000
Less: Indexed Cost of Acquisition [30,00,000 x 785/480]	49,06,250
Long-term Capital Gains	**2,93,750**

(e) Explain the concept of Reverse Mortgage and discuss its tax implications.

Answer: Reverse mortgage is a scheme for the benefit of senior citizens who own a residential house property. The senior citizens can mortgage their house with a scheduled bank or housing finance company, in return for a lump sum amount or for a regular monthly/quarterly/annual income.

Senior citizens can continue to live in the house and receive regular income without the botheration of having to repay the loan. They can use the loan amount for renovation and extension of residential property, family's medical expenditure and emergency expenditure, etc, but not for speculative or trading purpose. The bank will recover the loan along with the accumulated interest by selling the house after the death of the borrower. The excess amount, if any, will be given to the legal hei₹ However, before resorting to the sale of the house, preference will be given to the legal heirs to repay the loan and interest and vacate the mortgaged property.

(f) X Ltd. having an issued capital of ₹50,00,000 in equity shares of ₹100 each. On March 2012, Company decided to buy-back equity shares to the extent of 20%. Tushar, holding 500 shares of the company, has received the buy-back consideration on the shares bought-back, @ ₹130 per share. He had purchased these shares 14 months earlier @ ₹105 per share. Discuss the taxability.

Answer: Where a shareholder receives any consideration from the company for purchase of its own shares or other specified securities, it is a transfer chargeable under the head capital gains. Such capital gain is chargeable to tax in the previous year in which the shares or securities are purchased by the company.

Computation of Capital Gains

Consideration for transfer of 100 equity shares [500 shares x 20%] @ ₹130 per share	13,000
Less: Indexed Cost of Acquisition [100 equity shares x 105 x 785/711]	11,592
Long term Capital Gains	**1,408**

(g) A company issued discount coupons to its shareholders which entitled them to purchase the products of the company at a discount. The Assessing Officer is of the opinion that this is to be considered as deemed dividend. Discuss the tenability.

Answer:

(i) Arguments for treating discount coupons as deemed dividend u/s 2(22)(e):

- ❖ Since the shareholders are only entitled to receive those coupons, therefore, these coupons can be considered as release of profits, otherwise, than by way of actual cash payment/outflow;
- ❖ The company suffers a reduction in the gross value of sales to the extent of discount coupons are used and therefore it can be inferred that the assets to that extent get released indirectly in favour of the shareholders.

(ii) Arguments against treatment of discount coupons as deemed dividend u/s 2(22)(e):

❖ Issue of discount coupons is a managerial decision and hence cannot be considered at par with dividend;

❖ There is no certainty that each shareholder will use the discount coupons.

❖ The discount coupons do not necessarily confer any vesting right in favour of the shareholders and it does not create any liability for the company to the shareholder.

(h) Aniket was holding 5,000 listed shares in Blue Arrow Ltd. purchased by him on 15.9.2010 at ₹50 per share. He gifted them to his girlfriend, Chitralekha on 14.2.2011. Aniket married Chitralekha on 17.2.2011. Chitralekha was allotted bonus shares by the company at the rate of one for every four shares held on 21.9.2011. She sold all shares including bonus shares at ₹135 per share. State in whose hands capital gain on sale of shares is taxable. Also compute the capital gain.

Answer: U/s 64(1)(vi), where an individual transfers an asset to his/her spouse for inadequate consideration, then the income from such asset shall be clubbed in the hands of the individual. The spouse relationship shall exist both at the time of transfer of asset, and at the time of accrual of income. In this case, spouse relationship between Aniket and Chitralekha did not exist on the date of transfer, i.e. on 14.2.2011., and so income of Chitralekha shall not be clubbed in the hands of Aniket.

Computation of Capital Gains in the hands of Chitralekha for the assessment year 2012-13

Particulars	**Original Shares**	**Bonus Shares**
Consideration for Transfer (No. of shares x Sale Price per share)	5,000 x ₹135 = ₹6,75,000	5,000 x ¼ x ₹135 = ₹ 1,68,750
Less: Indexed Cost of Acquisition of Shares	5,000 x 50 x 785/711= ₹2,76,020	NIL
Capital Gains	₹3,98,980	1,68,750
Nature of Capital Gains	**LTCG**	**STCG**

(i) A proprietary business was started by Mr.Ratnesh in 2010. As on 1.4.2010, his capital was ₹4,00,000. His wife, gifted ₹ 5,00,000 on that day, which was also invested by him in the business. For the financial year 2010-11 and 2011-12, profits earned from business ₹1,90,000 and ₹4,50,000. Discuss taxability of income, to be clubbed in the hands of Mrs. Ratnesh for the assessment year 2012-13.

Answer: The amount of profit to the extent of gifted amount to total capital on the first day of the previous year must be clubbed in the hands of Mr. Ratnesh. Income arising from transferred asset shall only be clubbed. Any income earned out of such income should not be clubbed.

Particulars	Financial Year 2010-11	Financial Year 2011-12
Profit earned	₹1,90,000	₹4,50,000
Amount gifted	₹5,00,000	Nil
Total Capital	₹ 9,00,000 (₹4,00,000 + ₹5,00,000)	₹10,90,000 (₹9,00,000 + ₹1,90,000)
Clubbed Amount	Profit earned x Gifted amount / Total Capital = ₹ 1,90,000 x 5,00,000/9,00,000 = ₹ 1,05,555	Profit earned x Gifted amount / Total Capital = ₹4,50,000 x 5,00,000/10,90,000 = ₹2,06,422

(j) An assessee sustained a loss under the head "Income from House Property" in the previous year relevant to the assessment year 2011-12, which could not be set off against income from any other head in that assessment year. The assessee did not furnish the return of loss within the time allowed u/s 139(1) in respect of the relevant assessment year. However, the assessee filed the return within the time allowed u/s 139(4). Can the assessee carry forward such loss for set-off against income from house property of the assessment year 2012-13?

Answer: Loss u/s 71B and Section 32(2), can be carried forward even if the return of income has been filed after the due date u/s 139(1) but before the time limit u/s 139(4) for filing belated return.

As per Sec. 139(4) of the Act, it states that, where an assessee failed to file return of income for any assessment year within the prescribed time limit u/s 139(1), the belated return can be filed either before:

- The expiry of one year from the end of the relevant assessment year; or
- Completion of assessment, whichever is earlier.

In the instant case, the assessee has filed the return of income for the assessment year 2011-12 belatedly but within the time limit u/s 139(4). In view of the above provisions of law, the loss under the head house property, can be carried forward and set off against the income of the assessment year 2012-13.

(k) Resham & Co. started two separate industrial undertakings, which prima facie are eligible for deduction u/s 80-IB. For the year ending 31.3.2012, the profit of one unit was ₹11 lakhs while the other unit suffered a loss of ₹3 lakhs. The Assessing officer has allowed the deduction u/s 80-IB on the net profit of ₹8 lakhs. Discuss the validity of the order of the Assessing Officer.

Answer:

Vide Sec.80-IB, deduction is available in respect of the profits and gains derived from the eligible industrial undertaking of the assessee. Even u/s 80-IB, it is expressly stated that the deduction under this section shall be calculated on the gains derived from such undertaking. In view of the above, Resham & Co. is entitled for deduction u/s 80-IB at 25% of income derived from first undertaking, not on the net income of the two undertakings.

The amount, eligible for deduction = 25% of ₹11 lakhs = ₹2,25,000. Total Income = ₹ (11,00,000 – 3,00,000 – 2,25,000) = ₹5,75,000.

The action of the Assessing Officer is not valid in law.

(l) Is a firm allowed to carry forward share of accumulated loss of a retired/deceased partner?

Answer: Vide Sec.78, in case of retirement or death of a partner, the share of the retired or deceased partner in the accumulated losses of the firm, excluding unabsorbed depreciation, shall not be allowed to be carried forward by the firm.

(m) A company received a sales tax refund from the Government, which was refunded to the customers, from whom it was collected. Discuss the taxability of receipt of refund.

Answer: Sales Tax refund made by Government shall be deemed as business income u/s 41(1) unless the same was refunded to the customers from whom it was collected. **[Tirumalaiswamy Naidu & Sons 230 ITR 534(SC)].**

(n) Biswas & Co., a partnership firm, was dissolved on 31st March, 2011. The dues of the firm were received by its erstwhile partners during the period May 2011 to April 2012. Can the same be taxed in the hands of the firm for the Assessment Year 2012-13? If not, in those hands can they be taxed?

Answer: Vide Sec.176 (3A), any sum received after discontinuance of a business shall be taxable in the hands of the recipient in the year of receipt under the following circumstances:

- ❖ Business should have been discontinued;
- ❖ Any sum should have been actually received;
- ❖ Such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance;

In the above case, the amount received shall be taxable in the hands of the partners.

(o) Discuss the taxability of the followings:

(i) Unpaid excise credit	Taxable	Transfer of unpaid excise credit to the Profit & Loss Account of the assessee is chargeable to tax [CIT Vs. London Machinery Company 146 Taxman 326 (All.)]
(ii) Remission of unsecured loan	Not taxable	Remission of unsecured loan cannot be treated as income u/s 41(1), since there have been no allowance of deduction in any of the preceding years in respect of such loan.[Chetan Chemicals Pvt. Ltd. 139 Taxman 301 (Guj.)]
(iii) Sales tax refund received by agent	Not taxable	Amount collected as sales tax by a commission agent and paid to Department. Sales tax was found not payable and refunded. It was held as not an income of the Assessee [D.Shankariah 247 ITR 798(SC)]
(iv) Concession to sick unit	To be decided by CBDT, case to case basis	In case of financial concession or assistance to a sick unit referred to BIFR (Board for Industrial and Financial Reconstruction), then the taxability of such concession or assistance shall be considered by CBDT in each individual case in coordination with a nodal agency [Circular No.683 dated 8.6.1994]
(v) Bad debts earlier allowed, subsequently recovered by the Assessee	Taxable	Taxable for all assesses excluding successor of business. The amount received shall be taxable in the year of receipt/recovery. Predecessor's debt recovered by the successor shall not be treated as income of the successor.

(p) A soft drink manufacturer, claimed 100% depreciation on bottles and crates used by them. Subsequently, such bottles were sold. Discuss taxability, if any.

Answer: Income arising from sale of such written off bottles shall be liable to capital gains tax u/s 50. [Nectar Beverages Pvt. Ltd. (2009) (SC) 314 ITR 314]

(q) Ritu received a gift, from her mother, 6 ½ % Gold Bonds of the value of ₹5 lakhs in 1980. These bonds were redeemed by the Government on 1.10.2000 and he received gold of equivalent value, weighting

5,000 grams approximately of fair market value of ₹10 lakhs. The gold was sold by him on 1.7.2011 for ₹21 lakhs. Examine the impact of the transactions in Ritu's assessment.

Answer: Vide Circular No.415 dated 14.3.1985 [152 ITR (St.) 205], exchange of gold bonds for gold on redemption does not attract Capital gains because it is not a capital asset. In case of subsequent sale of such gold, capital gain is chargeable to tax. For this purpose:

- Date of acquisition = date of redemption of such gold bonds;
- Cost of acquisition of gold = market value of the gold on the date of redemption.

Computation of Capital Gains on sale of gold	₹
Consideration for transfer of gold	21,00,000
Less: Indexed Cost of Acquisition [₹ 10,00,000 x 785/406]	19,33,498
Long Term Capital Gains	**1,66,502**

(r) Amit owns a plot of land acquired on 1.7.2002 for a consideration of ₹4 lakhs. He enters into an agreement to sell the property on 23.3.2012 for a consideration of ₹11 lakhs. In part performance of the contract, he handed over the possession of land on 25.3.2012 on which date, he received the full consideration. As on 31.3.2012, the sale was pending registration. Discuss liability of capital gains for the assessment year 2012-13 (no computation is required)

Answer: U/s 2(47), transfer includes part performance of a contract of the nature specified in Sec.53A of the Transfer of Property Act. In the given case, consideration was received by Amit and the possession was handed over on 25.3.2012. hence, the part performance condition is satisfied.

Capital gains on the above transaction is chargeable to tax as income for the assessment year 2012-13.

(s) Well Wishers & Associates, a partnership firm, is holding land. This firm is not engaged in real estate business. The land was sold during the year. Discuss taxability, whether, this would be assessed to tax as business income or capital gain.

Answer: Land held by partnership firm, which is not engaged in real estate business, would be treated as fixed asset of the firm. Transfer of the same is assessable as capital asset, hence capital gains and not as business income. [Mohakampur Ice & Storage 281 ITR 354 (All.)]

(t) Tina was the owner of two residential houses. On 5th April,2011, she disposed one of the houses and utilized the entire sale proceeds to construct first floor on her second house which he completed by 15th March,2012. She seeks your advice as to the taxability of transaction to capital gains under the provisions of Income Tax Act, 1961.

Answer: Vide Sec.54, where an assessee transfers a residential house being a Long-term Capital Asset and the Long-term capital gain on such transaction is utilized for construction of another residential house, within a period of 3-years from the date of transfer, is entitled for exemption.

Construction of first floor in the existing building should be treated as independent residential unit entitled for exemption u/s 54/54F. [P.V.NARASIMHAN 181 ITR 101]

(u) State the relevance of Reverse Merger for tax planning.

Answer: Reverse merger refers to the arrangement where a profit making company merges with a sick company and thereby is eligible to carry forward the losses of the sick company. Profit making company becomes extinct losing its name and the surviving sick company retains its name. It is a device to avoid implications of merger u/s 72A.

The following benefits are expected to be derived from reverse merger:

- Losses shall be carried forward without compliance of provisions of Sec.2(1B) or Sec.72A, but only for the balance period;
- Goodwill of the profit making company shall also be retained.

(v) Gross Total Income ₹5,00,000 (including LTCG ₹3,90,000]. Deductions under Chapter VIA [Sections 80C to 80U] ₹1,79,000. Compute tax liability for Mr.A.

Computation of Total Income for Mr.A

Gross Total Income	5,00,000
Less : Deduction under Chapter VIA Eligible deduction ₹1,79,000, but restricted to the balance of other income, i.e. ₹(5,00,000 – 3,90,000) = ₹1,10,000. Deductions under Chapter VIA are not deductible against LTCG.	1,10,000
Total Income (consisting of LTCG only)	₹3,90,000

Tax Liability:

On other income Nil

On LTCG = @ 20% on [LTCG – Unavailed basic exemption limit]

= 20% of [₹ 3,90,000 – (Basic exemption limit – other income)]

= 20% of [₹ 3,90,000 – (1,80,000 – Nil) = 20% of ₹ 2,10,000 = ₹ 42,000

Tax Liability = ₹42,000/- (excluding Education Cess and SHEC)

(w) A partnership firm, consisting of two partners, X and Y is engaged in the business of civil construction, had a turnover of ₹53 lakhs for the assessment year 2012-13. The firm submitted its return of income wherein it had been stated that it wished to be governed by the provision of Sec.44AD of Income Tax Act. As authorized by the Partnership Deed, the firm paid remuneration to the partners within the limit of Sec.40(b). The Assessing officer declines to allow such remuneration in computation of the firm's business income. Discuss the validity of AO's action.

Answer: As per provision of Sec.44AD(2), where the assessee is a partnership firm, the salary and interest paid to its partners shall be deducted from the income computed on presumptive basis under this section i.e. income computed u/s 44AD shall be the book profit for the purpose of computing allowable remuneration to partners u/s 40(b)

Computation of Income of the firm

Presumptive Income u/s 44AD – 8% of ₹53,00,000	₹4,24,000
Less: Interest allowable u/s 40(b)	Nil
Book Profit	₹4,24,000
Less: Maximum remuneration on book profit : 90% of first ₹3,00,000 + 60% of ₹ (4,24,000 – 3,00,000)	₹3,44,400
Total	₹79,600

As the partners have drawn remuneration within the prescribed limits u/s 40(b), the action of the Assessing officer is not justified.

(x) ABC LLP is liquidated. What is the liability of partners of XYZ LLP in respect of its tax dues?

Answer: U/s 167C, every person who was a partner of the limited liability partnership at any time during the relevant previous year, shall be jointly and severally liable for the payment of such tax. However, this rule will not be applicable if the partner proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.

(y) Write short notes on Alternate Minimum Tax (AMT)

Answer: Where the income tax payable by a limited liability partnership is less than the alternate minimum tax payable for a previous year, it is liable to pay income tax @ 18.5% u/s 115JC. Tax would be computed on adjusted total income. Adjusted total income shall be the total income before giving effect to this chapter and must be increased by the followings:

- Deductions claimed (if any) included in Chapter VIA from Sec. 80H to 80TT ; and
- Deduction claimed (if any) under Sec.10AA

(z) ABC LLP has income of ₹ 15,00,000 under the head profits and gains from business or profession. One of its business is eligible for deduction @ 100% of profits u/s 80IB for the assessment year 2012-13. The profit from such business included in the business income is ₹ 6,50,000. Compute Tax payable by the LLP assuming that it has no other income during the previous year 2011-12.

Solution: Computation of Tax Payable under Income Tax for the A.Y. 2012-13.

Profits and gains from Business or Profession	₹15,00,000
Less: Deduction u/s 80IB	₹6,50,000
Total Income	₹8,50,000
Tax Payable (₹8,50,000 x 30%) Add: Education Cess @ 2% Add: SHEC @ 1%	₹2,55,000 ₹5,100 ₹2,550
Total Tax Payable	₹2,62,650

Computation of Alternate Minimum Tax (AMT)

Total Income as per provisions of Income Tax Act,1961	₹8,50,000
Add: Deduction u/s 80IB	₹6,50,000
Adjusted Total Income	₹15,00,000
Alternate Minimum Tax Payable (₹15,00,000 x 18.5%) Add: Education Cess @ 2% Add: SHEC @ 1%	₹2,77,500 ₹5,550 ₹2,775
Total Tax Payable	**₹2,85,825**

Note:

(1) Income Tax payable as per the provision of Income Tax Act is less than the Alternate Minimum Tax. So the adjusted total income of ₹ 15,00,000 would be deemed to be the total income of the LLP and the LLP would be liable to pay tax @18.5% thereof.

(2) The Tax payable by the LLP for the Assessment Year 2012-13 would be ₹ 2,85,825

(3) The LLP is eligible for the credit to the extent of ₹23,175 (= ₹2,85,825 – ₹2,62,650), to be set off in the year in which tax on total income computed under the regular provisions of the Act exceeds the AMT.

(aa) Is a Company liable to pay advance tax on Book profits?

Answer: The Book profit computed u/s 115JB shall be deemed to be the Total Income of the Assessee for the purpose of payment of any tax under the Income Tax Act, 1961. Where the company fails to pay advance tax on such book profits, then it is liable to pay interest u/s 234B and 234C. [Circular No.13/2001] [Kotak Mahindra Finance Ltd.265 ITR 114 (Bom)]

(bb) A foreign company has put forth the following arguments amongst others to say that provisions of Sec.115JB regarding minimum alternate tax is not applicable to it:

(i) The company does not prepare the accounts in accordance with the provisions of part II and III of Schedule VI of the Companies Act,1956

(ii) It does not lay its accounts before the general meeting in accordance with Sec.210 of the Companies Act, since no meeting is held in India.

(iii) It does not declare any dividend in India

Answer: U/s 2(17), company includes any company incorporated outside India, i.e. a Foreign Company. The provisions of Sec.115JB are applicable for an assessee being company. Since Sec.115JB are applicable to an assessee, who is a foreign company also, it is immaterial, as to whether the company actually declares any dividend or lays its accounts in a general meeting or not.

Hence, they are liable to pay tax u/s 115JB.

(cc) A company paid ₹35,000/- as bonus through bearer cheque to an employee, who has resigned from the company. Discuss taxability.

Answer: Expenditure for which aggregate payment made in excess of ₹20,000 in a day to a single person, otherwise by account payee cheque/bank draft shall be fully disallowed as per Sec.40A(3). Hence, bonus of ₹35,000/- should be disallowed, as this was paid by bearer cheque.

(dd) State the conditions for claiming exemption u/s 11

Answer: The conditions for claiming exemption u/s 11 are:

(i) Registration of the trust must be made with the Commissioner of Income tax;

(ii) The activities of the charitable trust should be confined within India;

(iii) Not less than 85% of such income shall be applied for charitable purposes within the previous year. It can be accumulated for a period of 5 years;

(iv) If the total income before claiming exemption exceeds the maximum amount not chargeable to tax, the accounts should be audited;

(v) Unapplied income should be invested in specified deposits. Corpus donations are not considered as income but as capital receipt;

(vi) Agricultural income will not form part of total income for the purpose of computing application of 85% as laid down u/s 11.

(ee) An assessee, whose turnover in the previous year was ₹16 lakhs had neither opted to be taxed u/s 44AE of the Act nor had kept and maintained books of accounts. Discus the consequences, which the assessee may likely have to come across.

Answer: If the assessee has not opted for Sec.44AE, he has to maintain the books of accounts u/s 44AA and get them audited u/s 44AB. In the given case, since the assessee has not maintained the books of accounts, he is liable for penalty u/s 271A. Where the books of accounts for preceding assessment years

were not upto date, it is not possible to get the books audited. Hence, penalty u/s 271B cannot be imposed for subsequent yea₹

(ff) State the conditions stated in Sec. 44AA.

Answer: As per Sec.44AA, maintenance of books of accounts is compulsory in the following cases:

Specified Professionals	Assessees carrying on profession of :- (i) Law, (ii) Medicine , (iii) Accountancy; (iv) Architecture (iv) Technical Consultancy (v) Interior Decoration (vi) Authorized Representative (vii) Film Artist (viii) Information Technology Professionals Whose gross receipts exceed ₹1,50,000, in all the prior three years or during current previous year in which the business is commenced
Others	(i) Where income from business or profession exceeds ₹1,20,000 in any of the 3 preceeding previous years or likely to exceed during current year; (ii) Where the turnover or sales or gross receipts exceeds ₹10,00,000 in any of the 3 preceding previous years or likely to exceed during the current year; (iii) Upto Assessment Year 2010-11, declaring lower income than as prescribed u/s 44AD/44AE/44AF/44BB/44BBB (iv) W.e.f. Assessment Year 2011-12, when the Assessee has declared lower income than as prescribed u/s 44AE,44BB,44BBB; (v) W.e.f. Assessment Year 2011-12, Assessee whose income exceeds basic exemption, but declaring lower income than as prescribed u/s 44AD

(gg) Discuss the allowability of the following expenditures for scientific research:

Contribution to	Amount donated (₹)	Section reference	Deduction @ (%)	Amount eligible for Deduction
Scientific Research Company	₹50,0000	Sec. 35(1)(iia)	125%	= ₹50,000 x 125% = **₹62,500**
Research Association for Scientific Research	₹1,00,000	Sec.35(1)(ii)	175%	= ₹1,00,000 x 175% = **₹1,75,000**
National Laboratory/University/IIT	₹40,000	Sec.35(2AA)	200%	= ₹40,000 x 200% =**₹80,000**
Social /Statistical Research undertaking	₹30,000	Sec.35(1)(iii)	125%	= ₹30,000 x 125% = **₹37,500**

Question No.32. (a)

An US Company invested in shares of Indian Joint Venture and RBI permitted shares to be issued in the name of its 100% Mauritius Subsidiary. On sale of share to Indian JV partners, gains accrued in India. Discuss the taxability and the company on which the tax is to be levied.

Answer: In the given case, since gains accrued in India, this would attract levy of tax and the liability shall vest in the hands of US Company and not in the hands of Mauritius Company. [Aditya Birla Nuvo Ltd. vs. DDIT(International Taxation) (2011)(Bom.)]

Question No.32(b):

An Indian Insurance Company paid to a Singapore Company for providing access to applications and to serve hardware system hosted in Singapore and related support under the terms of Service Agreement. Can this be taxed as royalty?

Answer: Payment made by an Indian Insurance Company to a Singapore Company for providing access to applications and to serve hardware system hosted in Singapore and related support under the terms of Service Agreement is not in the nature of royalty within the meaning of term in Explanation 2 to Clause (vi) of Sec.9(1). [Bharati Axa General Insurance Co. Limited, In re 2010 (AAR)]

Question No. 32(c)

A nonresident TV channel uplinks TV programme to Satellite through their own facilities situated outside India and satellite, which are not stationed over Indian Airspace amplifies and relays waves using transponders capacity and Indian Cable Operators receive the signals, merely because footprint area of Satellite Transponders includes India and ultimate viewer are watching programmes in India. The income received is taxed as royalty for business operations in India. Discuss the validity of this action.

Answer:

In this given case, the fact that viewers are viewing the telecast in India would not mean that Satellite owners are carrying on its business operations in India. Such amounts is not a royalty as defined in Explanation 2 to Sec. 9(1)(vi) [Asia Satellite Telecommunications Co. Ltd vs DIT (2011)(Del.)]

Question No. 33(a):

Ms.A, a Sikkimese woman married Mr.B, a non-sikkimese on 17th March, 2008. During the previous year 2011-12, she received rent of ₹6 lakhs from letting out house properties situated in the State of Sikkim. Is she liable to income tax for the assessment year 2012-2013? What will be your opinion, if she married Mr.B on 10th April, 2008?

Answer: In case of an individual, being a Sikkimese, any income which accrues or arises to him:

- From any source in Sikkim, or
- As dividend or interest on securities.

This provision shall not apply to a Sikkimese woman who on or after 01.04.2008 marries an individual who is not Sikkimese.

Situation 1:

In the instant case, the assessee marries a Non-Sikkimese individual before the cut-off date, i.e. 1st April, 2008. Therefore, the exemption u/s 10(26AAA) shall continue to apply to her. Hence, Ms. J is eligible for exemption in respect of House Property income situated in the State of Sikkim.

Situation 2:

Here, since they got married on 10th April,2008, i.e. after the cut-off date, Ms. A will not be eligible for claiming exemption u/s 10(26AAA).

Question No.33(b)

State the difference between Exemption u/s 10 and deduction under Chapter VIA of the Income Tax Act.

Answer:

Exemption u/s 10	Deduction under Chapter VIA
Income exempt does not form part of total income	Income forms part of Total Income
Expenditure in relation to income exempt is not deductible	Expenditure in relation to income is deductible
It will not be considered for the purpose of computing total income	It will be considered for the purpose of deduction from Gross Total Income
Income is normally exempt subject to certain conditions	Deduction is normally allowed based on payment or fulfillment of specified conditions

Question No34 (a)

Mr. Z is the manager of F Ltd. his son is a student of Amity International School. School fees of ₹ 6,000 pm and hostel fees of ₹ 4,000 pm., are directly paid by F Ltd. to the school but it recovers from Mr. Z only 40%. Mr. Z also joins an advanced course of Marketing Management for 4 months at IIM, Ahmedabad, fees of the course, ₹ 4,50,000 is paid by F Ltd. Determine the perquisite value of the education facility.

Solution:

Computation of taxable value of education facility [As per Rule 3(5)]

Particulars	Taxable value of perquisite (₹)
(1)(a) School fees of his children, studying in a school run by employer:	
(₹6,000 x 12) - (2,400 x 12)	43,200
(b) Hostel fees: (4,000 x 12) – (1,600 x 12)	28,800
2) Fees paid for Marketing Management course for Mr.Z (it is a fully exempted perquisite)	Nil
Total value of taxable perquisite	**72,000**

Question No.34 (b)

Mr. D takes interest-free loan of ₹ 6,00,000 on 1.11.11 from his employer to construct his house. The loan is repayable in 40 monthly installments from January 2011. Compute the value of interest free loan. SBI Lending rate 10.5% p.a. (for housing loans not exceeding 5 years).

Solution: Computation of taxable value of Loan provided by employer [As per Rule 3(7)(i)]

Time period during which loan remains outstanding	Balance on the last day of the month
November	6,00,000
December	6,00,000
January	5,85,000
February	5,70,000
March	5,55,000
Total	**29,10,000**

Perquisite value of interest-free loan: = ₹29,10,000 × 10.5% × 1/12 = ₹ 25,463

Question No.34 (c)

Mr. C is an accountant of D Ltd. He gets salary of ₹25,000 pm. He has purchased motor car and washing machine from the company on 1 February 2011. He was also provided with a laptop and Particulars of cost and sale price of the two assets are given below:

Year of Purchase	Particulars of the Asset	Purchase Price (₹)	Sale price (₹)
01.07.1998	Motor car	2,50,000	25,000
15.09.2007	Washing Machine	10,000	5,000

Compute the taxable value of perquisites for the assessment year 2012-13.

Solution:

Laptop provided to an employee by the employer is not taxable as a perquisite. Further, any movable asset, which is used for more than 10 years and thereafter transferred/sold to an employee, would not be considered for the purpose of valuation of perquisites.

Computation of taxable value of perquisites on transfer of moveable assets [As per Rule 3(7) (viii)]

TRANSFER OF MOVABLE ASSET TO EMPLOYEE

	Washing Machine (Actual Cost)	10,000
Less:	Depreciation @ 10% on SLM from 15.09.2007 to 14.09.2008	1,000
	WDV	9,000
Less:	Depreciation @ 10% on WDV from 15.09.2008 to 14.09.2009	1,000
	WDV	8,000
Less:	Depreciation @ 10% on WDV from 15.09.2009 to 14.09.2010	1,000
	WDV	7,000
Less:	Depreciation @ 10% on WDV from 15.09.2010 to 14.09.2011	1,000
	WDV	**6,000**

Computation of Taxable Value of Perquisite

Particulars	**Washing Machine**
WDV on the Asset	6,000
Less: Amount recovered from employee	5,000
Taxable value of perquisite	**1,000 (as the amount recovered is more than WDV)**

Question No.34 (d)

Vineet had been working with M Ltd., in a tribal area since 1-10-1997. He was entitled to the following emoluments:

1. Basic salary w.e.f. 1-1-2011 ₹ 6,000 p.m.
2. Dearness allowance 50% of basic salary (40% of which forms part of salary for retirement benefits)
3. Medical allowance ₹ 1500 p.m., (entire amount is spent on his own medical treatment).
4. Entertainment allowance ₹ 400 p.m.
5. Children education allowance ₹ 80 p.m. per child for three children.
6. Hostel expenditure allowance ₹ 100 p.m. per child for three children.
7. Uniform allowance ₹ 250 p.m. (He spends ₹ 1,500 on the purchase and maintenance of uniform)
8. House rent allowance ₹ 750 per month. He pays ₹ 1,000 per month as rent.

9. He contributes ₹ 900 per month to a recognised provident fund to which his employer contributes an equal amount.

He resigned from his job on 1.1.2012 and shifted to Delhi. He was entitled to the following benefits at the time of his retirement:

(a) Gratuity ₹ 1,35,000
(b) Pension from 1.1.2012 ₹ 3,000 p.m.
(c) Payment from recognised provident fund ₹ 3,00,000
(d) Encashment of earned leave for 150 days ₹ 36,000

He was entitled to 40 days leave for every completed year of service. He got 50% of his pension commuted in lump sum w.e.f. 1.3.2012 and received ₹ 1,20,000 as commuted pension.

He joined K Ltd. at Mumbai w.e.f 1-2-2012 and was entitled to the following emoluments:

(1) Basic salary ₹ 5,000 p.m.
(2) Dearness allowance (forming part of salary) 20% of basic salary
(3) Rent-free unfurnished accommodation in Delhi which is owned by the employer and whose fair rental value is ₹ 48,000 p.a.

He was also given the following facilities by the employer:

(a) Motor car (1.4 ltr. engine capacity) with driver, which he uses partly for official and partly for personal purposes.
(b) The monthly expenses incurred by 'A' on gas and electricity were ₹ 500 which were reimbursed by the employer.
(c) Reimbursement of educational expenses of his two children which amounted to ₹ 350 p.m.
(d) On 4.3.2011 his wife fell ill and the employer reimbursed the expenditure of medical treatment amounting to ₹ 17,500.
(e) A watchman, a sweeper, a cook and a gardener have been provided to whom the company pays a salary of ₹ 400 p.m. each.
(f) Loan of ₹ 1,00,000 @ 8% p.a. for construction of his house was given by the company. SBI rate of interest is 7% p.a.

He made the following payments during the previous year:

(1) Professional tax ₹ 500
(2) Premium on Life Insurance Policy of his own, ₹ 1,00,000 amounting to ₹ 15,000.
(3) Deposit in PPF account ₹ 50,000.

Compute his total income and tax liability for the assessment year 2012-13.

Solution:

Assessee : Mr. Vineet **A. Y : 2012-13**

Computation of Total Income and Tax Liability

Particulars	₹	₹
Employer – M Ltd		
Basic salary 6,000 × 9		54,000
DA @ 50% of Basic Salary		27,000
Medical allowance @ ₹ 1,500 pm × 9 months		13,500
Entertainment allowance @ ₹ 400 pm × 9 months		3,600
Children education allowance ₹80 × 3 × 9	2,160	
Less : Exempt u/s 10(14) = ₹80 × 2 × 9	440	720
Hostel expenditure allowance= ₹100 × 3 × 9	2,700	

Less: Exempt u/s 10(14) = ₹100 × 2 × 9		1,800	900
Uncommuted pension (₹2,000 × 2 + ₹ 1,000 × 1)			5,000
Uniform allowance (₹250 ×9 – ₹1,500)			750
House Rent Allowance			
Amount Received ₹750 × 9		6,750	
Less : Exemption u/s 10(13A) Rule 2A			
Lease of the following:			
(i) Amount Received	6,750		
(ii) 40% of Salary	25,920		
(iii) Rent paid – 10% of Salary (₹1000 × 9 – ₹6,480)	2,520	2,520	4,230
Salary for HRA = Basic Pay + Dearness Allowance (forming part of salary) + Commission (if received at a fixed percentage on turnover) = 54,000 + (40% of 27,000) = 54,000 + 10,800 = 64,800			
Employer's Contribution to RPF @ ₹ 900 pm × 9 months		8,100	
Less : Exemption u/s 10(14) upto 12% of salary			
Salary = Basic Pay + D.A (forming part) = 54,000 + 40% of 27,000 = 64,800			
= 12% of 64,800 =		7,776	324
Gratuity — (from A Ltd.)			
Actual Amount Received	1,25,000		
Less : Exemption u/s 10(10)			
Least of the followings:			
(i) Actual Amount Received	1,25,000		
(ii) Max. limit	10,00,000		
(iii) 1/2 months average salary for each Years' of completed service [1/2 × 7,200 × 14]	50,400	50,400	74,600

Salary for Gratuity (not covered by Payment of Gratuity Act) = Basic Pay + D/A (forming part for retirement benefits) + Commission (if received at a fixed percentage on turnover)

Again, Average Salary = Salary for 10 months preceeding the month of retirement

B/P = 6,000 × 10 =	60,000
D/A (forming part) = 40% × 50% × 6,000 =	12,000
	72,000

Therefore, Average Salary per month = ₹ 7,200

Commuted Value of Pension		
Amount Received	1,20,000	
Less: Exemption u/s 10(10A)		
1/3 of Full Value of Commuted Pension [1/3 of ₹2,40,000]	80,000	40,000
Full Value of Commuted Pension = [₹1,20,000/50% = ₹2,40,000]		
Payment from RPF (Exempt)		—
Leave encashment – Actual amount	36,000	
Less: Exemption u/s 10(10AA)	4,800	31,200
		2,55,824

Least of the followings:

(a)	Actual encashment	₹ 36,000
(b)	Eligible encashment (7,200/30 × 20)	₹ 4,800
(c)	10 months average salary (7,200 × 10)	₹ 72,000
(d)	Amount specified	₹ 3,00,000

Leave encashment shall be exempt to the extent , calculated as follows :

Completed years of service	13 years
Number of days leave allowed every year	40
Total leave allowable	520 days
Leave encashed	150 days
Therefore leave availed (520 – 150)	370 days
Leave available on basis of 30 days (30 ×13)	390 days
Less: Leave availed	370 days
Therefore encashment eligible for exemption (390 – 370)	20 days

Employer—S Ltd

Basic salary 5,000 ×2	10,000	
Dearness Allowance @ 20% of B/Pay	2,000	
Motor Car facility (1,800 + 900) × 2 months	5,400	
Free Gas/Electricity (500 × 2)	1,000	
Education Re-imbursement (350 × 2)	700	
Medical Re-imbursement (17,500 – 15,000)	2,500	
Watchmen (400 × 2)	800	
Sweeper (400 × 2)	800	
Cook (400 ×2)	800	
Gardener (400 × 2)	800	
Interest on Loan (not taxable as interest charged is more than the rate of SBI)	—	
Perquisite for Value of Rent-free unfurnished accommodation	2,250	27,050

Valuation of unfurnished rent-free accommodation:

15% of salary which includes the following:

Basic (5,000 × 2)	₹ 10,000
DA	₹ 2,000
Uncommuted pension from R Ltd. (2,000 + 1,000)	₹ 3,000
	₹ 15,000

Value of the unfurnished accommodation 15% of ₹ 15,000 = ₹ 2,250

Aggregate salary from M Ltd. and S Ltd.			2,82,874
Less :	(i) Entertainment allowance u/s 16(ii)	Nil	
	(ii) Professional-tax u/s 16(iii)	500	500
Income from salary			2,82,374
Other Income			Nil
Gross Total Income			2,82,374
Less :	Deduction u/s 80C		
	RPF (900 × 9)	8,100	
	LIP	15,000	
	PPF	50,000	73,100
Total Income (rounded off)			**2,09,274**

Total Income (Rounded of u/s 288)		2,09,270
Tax on ₹ 2,09,270		
upto ₹ 1,80,000	= Nil	
@ 10% on (209270 – 1,80,000) = 10% of 29270	= 2,927	2,927
Add : Education cess @ 2%		58
Add : SHEC @ 1%		29
Total tax liability		3,014
Tax Payable (Rounded off u/s 288A)		= ₹ 3010

Since he has received lump sum payment on account of gratuity, commuted pension and leave encashment, he can claim relief u/s 89 if the same is beneficial to him.

Question No.35 (a)

State the conditions for allow ability of unrealized rent.

Answer: As per Rule 4, Unrealized Rent means the rent not paid by the tenant to the owner and the same shall be deducted from the Actual Rent Receivable from the property before computing income from that property, provided the following conditions are satisfied:

(i) The tenancy is bonafide;

(ii) The defaulting tenant should have vacated the property;

(iii) The assessee has taken steps to compel the defaulting tenant to vacate the property;

(iv) The defaulting tenant is not in occupation of any other property owned by the assessee;

(v) The assessee has taken all reasonable steps for recovery of unrealised rent or satisfies the Assessing Officer that such steps would be useless.

Question No. 35(b)

Puja has occupied three houses for his self-occupancy. Their particulars for the previous year 2011-2012 are given below:

Particulars	**House X** ₹	**House Y** ₹	**House Z** ₹
Municipal value	**3,60,000**	**9,60,000**	**9,50,000**
Municipal taxes paid	**40,000**	**80,000**	**90,000**
Fair rent	**5,40,000**	**8,00,000**	**10,00,000**
Standard rent	**4,50,000**	**6,00,000**	**9,00,000**
Repairs	**1,50,000**	**2,50,000**	**3,00,000**
Ground rent paid	**20,000**	**25,000**	**30,000**
Insurance premium paid	**5,000**	**6,000**	**7,000**
Interest on loan taken for purchase of H.P.	**75,000**	**1,20,000**	**2,00,000**
Year of the loan	**1997-98**	**2000-2001**	**2005-06**

She has suffered loss in his business, amounting ₹ 3,00,000

Compute her total income, advising her which house should be specified for self-occupancy concession.

Solution: **Computation of income from house property under different options:**

(a) Assuming all the properties are self-occupied (SO)	House X (SO) ₹	House Y (SO) ₹	House Z (SO) ₹
Annual value	Nil	Nil	Nil
Less: Interest on loan	30,000	30,000	1,50,000
Loss from house property	30,000	30,000	1,50,000

(b) Assuming all the properties as Deemed Let Out (DLO)	House X (DLO) ₹	House Y (DLO) ₹	House Z (DLO) ₹
Gross annual value	4,50,000	6,00,000	9,00,000
Less: Municipal taxes paid	40,000	80,000	90,000
Net annual value	4,10,000	5,20,000	8,10,000
Less: Statutory deduction u/s 24(a) @ 30% of net annual value	1,23,000	1,56,000	2,43,000
Interest on Loan u/s 24(b)	(-) 75,000	(-) 1,20,000	(-) 2,00,000
Income from house property	2,12,000	2,44,000	3,67,000

(c) Total Income under different options for self-occupancy:

Particulars	Option 1 House X ₹	Option 2 House Y ₹	Option 3 House Z ₹
House X	(-) 30,000 (SO)	2,12,000 (DLO)	2,12,000 (DLO)
House Y	2,44,000 (DLO)	(-) 30,000 (SO)	2,44,000 (DLO)
House Z	3,67,000 (DLO)	3,67,000 (DLO)	(-) 1,50,000 (SO)
Income from house property	**5,81,000**	**5,49,000**	**3,06,000**
Loss from business	**(-) 3,00,000**	**(-) 3,00,000**	**(-) 3,00,000**
Total income	**2,81,000**	**2,49,000**	**(-) 6,000**

Conclusion: A house with minimum income/maximum loss should be opted for self-occupancy concession to minimise the tax liability. The option can be changed from year to year.

In the instant case, House Z should be treated as self-occupied. There will be no tax-liability, and the assessee will carry forward the unabsorbed business loss of ₹ 94,000 for next 8 assessment years.

Question No.35 (c)

Mr. Pradipto completed construction of a residential house on 1.4.2011. Interest paid on loans borrowed for purpose of construction during the 2 years prior to completion was ₹ 40,000. The house was let-out on a monthly rent of ₹ 4,000. Annual Corporation Tax paid is ₹ 2,000. Interest paid during the year is ₹ 16,000. Amount spent on repairs is ₹ 2,000. Fire Insurance Premium paid is ₹ 1,500 p.a. Property was vacant for 3 months. Annual letting value as per corporation records is ₹ 30,000. Compute the income under the head "Income from House Property" for the A.Y. 2012-13.

Solution:

Assessee : Mr. Pradipto **Previous Year : 2011-2012** **Assessment Year : 2012-13**

Computation of Income from House Property

	Particulars			₹	₹
	Gross Annual Value u/s 23(1)(c)	(Note 1)			36,000
Less :	Municipal Taxes Paid				(2,000)
	Net Annual Value (NAV)				34,000
Less :	Deduction u/s 24 —				
	(a) 30% of Net Annual Value	(₹ 30,000 × 30%)		9,000	
	(b) Interest on Borrowed Capital:				
	Interest for Current Year		₹ 16,000		
	Interest of Prior Period	(₹ 40,000 × 1/5)	₹ 8,000	24,000	(33,000)
	Income from House Property				**1,000**

Note:

Computation of Gross Annual Value

Municipal Value	30,000
Annual Rent (4,000 × 12)	48,000
(–) Unrealised Rent	Nil
Annual Rent	48,000
Higher of MV & Actual Rent	48,000
Less : Vacancy Allowance	12,000
Gross Annual Value	**36,000**

Question No.36 (a):

The WDV of plant and machinery on 1.4.2011 of Z Ltd. engaged in manufacturing of PVC granules is ₹ 3000 lacs. Company purchased additional plant and machinery for ₹ 1,600 lacs on 18.4.2011 inclusive of second-hand machine imported from Ireland of ₹ 400 lacs to increase its installed capacity of production from 1000 TPA to 1500 TPA. The production from new machine commenced w.e.f 1.12.2011. Work out by giving reasons the amount of allowable depreciation.

Assessee : Z Ltd. **Previous Year: 2011-12** **Assessment Year : 2012-13**

Computation of Depreciation

	Particulars	Lakhs ₹	₹
	Opening WDV		3,000
Add:	Additions During the year		1,600
	Net Value for the purpose of Depreciation		4,600
Less:	Depreciation of the Year		
—	On Opening Block – ₹ 3,000 Lakhs × 15%	450	
—	On Additions (Period of usage less than 180 days) — ₹ 1,600 lakhs × 15% × 50%	120	
—	Additional Depreciation on Eligible Assets (Notes)	120	690
	Closing WDV		3,910

Notes:

1. Second hand machinery imported from China is not an eligible asset for the purpose of Additional Depreciation computation. Therefore, cost of eligible assets = ₹ 1,600 lakhs – ₹ 400 lakhs = ₹ 1,200 lakhs.
2. Period of usage of new machine is less than 180 days. Therefore, they are entitled to only 50% of additional depreciation rate of 20%.

Question No.36 (b)

ZED Ltd. imported machinery from South Korea on 12.5.2011 for US$ 50,000. Exchange rate on that date : US$ = ₹ 44. 70. Customs Duty paid @ 20%. Government granted subsidy of ₹ 15,00,000. The assessee had a forward contract on 2.4.2011 at US$ 45.30. Logistics services was provided by Carrywell Courier Ltd. Service Charges paid ₹ 2,00,000 including service tax of ₹ 25,000. Engineers and labourers were engaged at site for installation of the machinery. Salary and wages paid for site engineers and labourers including their travelling expenses amounted to ₹ 4,60,000. Expenses incurred during trial run period ₹ 1,50,000. Sale of output produced during trial run period ₹ 90,000. Interest earned on deposits made to open Letter of Credit for purchase of this machinery ₹ 15,000. The machine was put to use from 05.10.11. Depreciation @ 15%. Compute Actual Cost and Written Down Value.

Solution: Assessee: ZED Ltd. **Previous Year: 2011-12**

Computation of Actual Cost and Written Down Value

Particulars		Amount (₹ crores)
Cost of the Asset (US$ 50,000 × ₹ 44.70)		22,35,000
Add :	Customs Duty paid @ 20% on ₹ 22,35,000	4,47,000
Less :	Government Subsidy granted	(15,00,000)
Add :	Exchange Rate Difference [US$ 50,000 × ₹ (45.30 - 44.70)]	30,000
Add :	Transportation charges paid ₹ 2,00,000 (including Service Tax ₹ 25,000)	2,00,000
Less :	CENVAT credit adjustment (credit for Service tax included in service charges paid to Carrywell Courier Ltd.)	(25,000)
Add :	Installation expenses incurred for payment of site engineers & labourers including travelling expenses	4,60,000
Add :	Expenses incurred during trial run period	1,50,000
Less :	Sale of output generated during trial run period	(90,000)
Less :	Interest earned on deposits made to open Letter of Credit for purchase of this machinery	(15,000)
Actual Cost for the purpose of determining depreciation		**18,92,000**
Less :	Depreciation @ 50% of 15% (since Put to Use < 180 days) for previous year 2011-12 (₹ 18,92,000 × 50% x 15%)	1,41,900
WDV as on 01.04.2012		**17,50,100**

Question No.36(c)

Mr. Hari purchased a house property on 18.11.2007 for ₹ 15,00,000. Till 1.7.2011, the same was self-occupied for own residence. Thereafter, the said building was brought into use for the purpose of his profession. Determine the amount of depreciable admissible for the Assessment Year 2012-13, given rate of depreciation @ 10%.

Solution:

(a) Property acquired by the assessee himself: As per Sec. 43(1), if a building/asset used for private purpose of the assessee is subsequently put to use for the purpose of business, the cost of acquisition shall be determined in the following manner:

Assessee : Mr. Hari	**Previous Year : 2011-12**	**Assessment Year : 2012-13**

	₹
Cost of acquisition of Residential House Property as on 18.11.2007	15,00,000
Less: Deemed depreciation for the Financial year 2007-08 @ 50% of 10% on ₹ 15,00,000 (since period of usage is less than 180 days)	75,000
WDV as on 01.04.2008	14,25,000
Less: Deemed Depreciation for Financial year 2008-09 @ 10% on ₹14,25,000	1,42,500
WDV as on 01.04.2009	12,82,500
Less: Deemed Depreciation for Financial year 2009-10 @ 10% on ₹12,82,500	1,28,250
WDV as on 01.04.2010	11,54,250
Less: Deemed Depreciation for Financial year 2010-11 @ 10% on ₹11,54,250	1,15,425
WDV as on 01.04.2011 = Actual cost for the purpose of charging depreciation	10,38,825
Less: Deemed Depreciation for Financial year 2011-12 @ 10% on ₹10,38,825	1,03,883
WDV as on 01.04.2012	**9,34,942**

Question No.36 (d)

Jammer International Ltd. incurs an expenditure of ₹300 crores for acquiring the right to operate telecommunication services for Orissa and Jharkhand. The payment was made in August 2010 and the licence to operate the services was valid for 12 yea₹ In December 2011, the company transfers part of the licence, in respect of Orissa to Hammer International Ltd. for a sum of ₹280 crores and continue to operate the licence in Jharkhand . What is the deduction allowable u/s 35ABB to Jammer International Ltd. for the Assessment Year 2012-13?

Solution:

Assessee: Jammer International Ltd.	**Previous Year: 2011-12**	**Assessment Year : 2012-13**

(a) u/s 35ABB, where part of the Telecom Licence is transferred and Net Consideration received on such transfer, is more than the expenditure remaining unallowed, the amount of deduction shall be computed as follows:

(i)	Unallowed amount as on 01.04.2011	= Total Expenditure Less Deduction for Financial Year 2009-10
		= ₹300 crores Less (₹300 crores / licence period of 12 years)
		= ₹300 crores less ₹25 crores= ₹275 crores.
(ii)	Net Consideration received	= ₹280 crores
(iii)	Remaining period of licence	= 11 years (including current previous year)
(iv)	Deduction u/s 35 ABB	= ₹ (224 crores less 56 crores) / 14 years
		= ₹12 crores.

Question No.37 (a)

A firm comprising of four partners A, B, C and D carrying on business in partnership, sharing profits/losses equally shows a profit of ₹ 2,00,000 in its books after deduction of the following amounts for the year :

	Particulars	**₹**
(a)	**Remuneration to partner 'A' who is not actively engaged in business**	**60,000**
(b)	**Remuneration to partners 'B' & 'C' actively engaged in business**	
	Partner 'B'	**80,000**
	Partner 'C'	**90,000**
(c)	**Interest to partner 'D' on loan of ₹ 1,50,000**	**36,000**

The deed of partnership provides for the payment of above remuneration and interest to partners. You are required to work out the taxable income of the firm as well as partners for assessment year 2012-13.

Solution:

Computation of Income under the head Profits and Gains of Business or Profession

Particulars			₹
Net profit as per P/L A/c			2,00,000
Add : Inadmissible expenses —			
(i) Remuneration to A (not an active partner) – disallowed u/s 40(b)			60,000
(ii) Remuneration to B and C – (considered separately [₹ 80,000 + 90,000]			1,70,000
(iii) Interest paid to D on Loan advanced			36,000
Net Profit before Interest and Remuneration to Partners			**4,66,000**
Less : Maximum Permissible Interest u/s 40(b) @ 12% on Loan from D = ₹ 1,50,000 × 12% p.a.			18,000
Book Profit			**4,48,000**
Less : Maximum Permissible Remuneration to B and C u/s 40(b)			
(i) upto ₹ 3,00,000 – ₹ 1,50,000 or 90% of Book Profits, whichever is higher	= 2,70,000		
Balance of Book Profits – 60% of Book Profits = 60% of 1,48,000	= 88,800	3,58,000	
(ii) Actual Remuneration paid			
lower of (i) & (ii), allowed as deduction		1,70,000	1,70,000
Taxable Income			**2,78,000**

Taxable Income of the partners

Particulars	A	B	C	D
Remuneration	Nil	80,000	90,000	Nil
Interest	Nil	Nil	Nil	18,000
Taxable income	**Nil**	**80,000**	**90,000**	**18,000**

Working notes:

(1) In the case of a firm, remuneration to a partner who is not a working partner is not eligible for deduction. In the case of working partners the remuneration paid is disallowed if it exceeds the limit prescribed u/s 40(b) with reference to "book profit".

Book working partners remuneration is worked out as under:

	₹
First ₹ 3,00,000 of the book profit @ 90%	2,70,000
On the balance ₹ 1,98,000 of book profit @ 60%	1,18,800
Total	3,88,800

(2) Any interest and salary to partners disallowed in the firm's case shall not be included in the total income of the partner and shall not be chargeable to tax in the partner's hands.

(3) Share of profits of the partners is exempt u/s 10(2A) of the Income-tax Act and therefore, not included in the partner's taxable income.

Question No. 37(b)

D Ltd., carrying on business in manufacture, sale and export of tyres, tubes and accessories, has disclosed a net profit of ₹ 21,00,000 in its P & L account for the period ending March 31, 2012. On the basis of the following particulars furnished by the company and ascertained on inquiry, compute, giving reasons, its total income for the assessment year 2012-13. The company follows the mercantile system of accounting:

(a) A sum of ₹ 20,000 is debited to compensation account. The company had placed an order for machinery to manufacture tyres with a UK company. However, due to a sudden increase in the price of machinery by the vendor, the assessee, had to cancel the contract, in lieu of compensation The company claims the said amount as deduction on revenue account or, in the alternate, as loss under the head "Capital gains" as the payment was mode towards extinguishment of right to acquire a capital asset.

(b) "Loss on export of accessories account" shows a debit of ₹ 4 lakh. In this connection it is explained that two trucks belonging to the company carrying tyres accessories were intercepted at the international border and seized by customs authorities for illegal export. The goods were confiscated by the customs authorities and a fine of ₹ 2 lakh was levied. The company claims the value of confiscated goods as a trading loss under section 28 and the payment of the fine of ₹ 2 lakh which is debited to rates and taxes account as on expenditure in the course of business under section 37(1).

(c) The company had set up a separate unit for manufacture of plastic tubes at Bangalore in 1996. The said unit suffered heavy losses. As a result the same was closed down and the plant and machinery were sold away. The company, however, claims unabsorbed depreciation amounting to ₹ 8 lakh in its return of income. It is not debited to the profit and loss account.

(d) During the previous year 1996-97, the assessee-company acquired 5,000 shares of E Ltd., on Indian company, as a result, the entire share capital of the said company is now held by the assessee-company. In May 2011, the assessee-company sold to E Ltd. plant and machinery for ₹ 6,00,000. The actual cost is ascertained at ₹ 4,00,000 and written down value at ₹ 1,50,000.

(e) In the years 2001-2002 and 2002-03, the Government of India arranged exports of tyres and tubes through the Federation of Tyre Dealers of which the company was a member. The exports which were made to For Eastern countries resulted in loss which was shared by all members including the company. The Federation thereafter took up the questions of reimbursement of losses with the Government, which after protracted discussion and correspondence agreed to grant a subsidy calculated at a certain percentage of exports. The assessee-company received its share of subsidy amounting to ₹ 3 lakh in the previous year. The amount stands credited to the "Capital reserve account" and claimed as exempt.

Solution: **Computation of Total Income for A.Y. 2012-13**

	₹
Net profit as per Profit and Loss Account	21,00,000
Adjustments:	
(i) Payment of compensation [not allowable since payment is in the nature of capital expenditure, being made to avoid unnecessary investment in capital asset ; nor can it be allowed as capital loss as there is no transfer of capital asset]	(+) 20,000
(ii) Loss arising out of confiscation of stock by customs authorities [not deductible by virtue of Explanation to section 37(1)]	(+) 4,00,000
(iii) Fine [not allowable as penalty paid for breach of law is not normal incidence of business	(+) 2,00,000
(iv) Unabsorbed depreciation of a unit closed before the commencement of previous year [allowable as deduction]	(–) 8,00,000
(v) Recovery of loss [taxable under section 41 (1)]	(+) 3,00,000

(vi) Compensation paid on voluntary retirement of employees [under section 35DDA, one-fifth of such compensation is deductible in the year in which the expenditure is incurred and the balance is deductible in the next four years; section 35DDA is applicable even if the voluntary retirement scheme has not been framed in accordance with the guidelines given under section 10(10C); (+) 22,40,000

Business Profit **44,60,000**

Capital gain on sale of machinery to wholly owned subsidiary company [since transferee-company is wholly owned Indian subsidiary company of the assessee, the transaction is not treated as transfer under section 47(iv) and surplus arising on transfer is not taxable as capital gain] —

Net Income **44,60,000**

Question No.37(c)

During the previous year 2011-12, profit and loss account of Shri Amarnath, proprietor of Free Bird Enterprises engaged in the business of dye-made garments, shows profits of ₹ 4,50,000. With the following information, compute his taxable income from business :

(a) Interest on capital ₹ 5,000
(b) Purchases include goods of ₹ 42,000 from his younger brother in cash. However, market value of such goods is ₹ 35,000.
(c) Interest paid outside India ₹ 1,00,000 without deducting tax at source.
(d) Penalty paid to local government for non-filing of sales tax return ₹ 5,000
(e) Penalty paid to customer for non-fulfilling of order within time ₹ 10,000
(f) Bad debts ₹ 1,00,000. Money has been advanced for purchase of Building.
(g) Revenue expenditure on promoting family planning among employees ₹ 10,000.
(h) Premium paid on health of employees ₹ 6,000 in cash
(i) Premium paid on health of his relatives ₹ 6,000 in cheque
(j) Employer's contribution to RPF ₹ 12,000. One-half of the amount is paid after due date as per relevant Act but before 31.3.2011
(k) Employees contribution to RPF ₹ 10,000. ½ of the amount is paid after due date as per relevant Act.
(l) Interest on late payment of sales tax ₹ 1,000 (yet to be paid)
(m) Interest on loan from State Bank of India ₹10,000 (₹ 5,000 is not paid till due date of filing of return)
(n) Interest on late refund from income tax department ₹ 500
(o) Sale includes sale to Raj ₹ 10,000. (Cost of such goods ₹ 8,000; Market value of such goods ₹ 12,000)
(p) He received ₹ 80,000 from a debtor at a time in cash.
(q) Recovery of bad debt ₹10,000 (out of which ₹ 8,000 was allowed as deduction during AY. 2007-08)
(r) Depreciation (being not debited in accounts) ₹ 20,000 allowed as deduction u/s 32

Solution:

Computation of Profits and Gains of business or profession of Shri Amarnath for the AY. 2012-13

Particulars	Note	Details	Amount
Net profit as per Profit and Loss account			4,50,000
Add : Expenditure disallowed but debited in P &L A/c			
Interest on capital	1	15,000	
Payment to relative in excess of market value of goods	2	7,000	
Interest paid outside India without deducting tax at source	3	1,00,000	

Penalty paid to local government for non-filling of sales tax return	4	5,000	
Bad debt	6	1,00,000	
Premium paid on health of employees in cash	8	6,000	
Premium paid on health of his relatives in cheque	9	6,000	
Employees contribution to RPF	11	5,000	
Interest on loan from State Bank of India	13	5,000	
Cost of goods sold to himself	14	8,000	2,43,000
			6,93,000
Less: Expenditure allowed but not debited in P & L A/c			
Depreciation u/s 32		20,000	
Less: Income not taxable but credited to P & L A/c			
Sales to himself (goods withdrawn for personal purpose)	14	10,000	
Recovery of bad debts	15	2,000	
Less: Income taxable under other head but credited to P & L A/c			
Interest on late refund from income tax department	16	500	32,500
Profits and Gains of business or profession			**6,60,500**

Notes:

(1) Interest on capital to proprietor is not allowed as no one can earn from a transaction with himself. The provider of loan and receiver of loan are same hence does not involves any actual expenses.

(2) Any unreasonable payment to relative is disallowed u/s 40A(2). Hence, ₹3,000 is disallowed. Since cash payment towards allowed expenditure (i.e. ₹19,000) does not exceed ₹ 20,000, hence provision of sec. 40A (3) is not applicable.

(3) Any salary paid outside India without deducting tax at source is disallowed u/s 40(a).

(4) Any payment made for infringement of law is disallowed.

(5) Payment made for non-fulfilling of contract is not a payment for infringement of law Hence, allowed u/s 37(1).

(6) Bad debt is allowed only when such debt has been taken into account as income of previous year or any earlier previous year(s) [Sec. 36(1)(vii)]. Since, the debt is in respect of purchase of a building, which was not considered as income of any previous year, hence it is disallowed.

(7) Any expenditure for promoting family planning is allowed to company assessee [Sec. 36(1)(ix)]. However, such expenditure (revenue in nature) incurred by assessee other than company shall be allowed u/s 37(1).

(8) Payment of insurance premium on health of employees in cheque is allowed u/s 36(1)(ib).

(9) Payment of insurance premium on health of relative is not related to business, hence disallowed.

(10) Employer's contribution towards RPF is allowed if payment is made before due date of filing of return irrespective of fact that such payment was made after due date prescribed in the relevant Act.

(11) Any sum received from employees as their contribution towards RPF is allowed only when such sum has been credited to such fund within the due date prescribed in the relevant Act [Sec. 36(1)(va)].

(12) Interest on late payment of sales tax is not a penalty but compensatory in nature. Hence, it is allowed u/s 37(1) Further such interest is not governed by the provisions of sec. 43B.

(13) Any interest payable to any scheduled bank is allowed on cash basis [Sec. 43B]. Hence, unpaid amount is disallowed.

(14) Any expenditure of personal nature is not allowed. Further, no one can earn from a transaction with himself. Hence, sale made to himself is not treated as income.

(15) Bad debt recovery is treated as income in the year of recovery to the extent of bad debt allowed in the earlier year [Sec. 41(4)]

(16) Interest on late refund of income tax is taxable under the head 'Income from other sources'.

(17) Receipt from debtor ₹ 80,000 in cash is not attracted by provision of sec. 40A (3).

Question No. 37(d)

Discuss the admissibility or otherwise of any five of the following claims in connection with assessment to income-tax. They do not necessarily relate to the same assessee:

(i) An expenditure of ₹ 1,00,000 was incurred on the occasion of the silver jubilee of the company for presentation of silver mementos to shareholders and directors, the value of each memento being ₹ 1,000 only.

(ii) An assessee carries on business in respect of which it holds tenancy rights. It carries out improvements to the said building at a cost of ₹ 2,00,000 and claims depreciation @ 10% thereon. The assessing officer rejects the claim on the ground that the assessee is not the owner of the building.

(iii) Excise duty amounting to ₹ 2,00,000 for the period 2010-11 was paid by the company by 30-9-2011 before furnishing the return of income for the assessment year 2011-12.

(iv) A criminal case was filed against a company under the Essential Commodities Act, 1955. The company incurred litigation expenses amounting to ₹ 50,000 to defend the directo₹ The directors were ultimately acquitted.

(v) A company was generating electricity privately for its factory. Later, at its expense, electric lines were laid from the trunk road to the factory. It paid ₹ 5,00,000 to the State Electricity Board as its contribution for this purpose. The ownership of the power-line was to vest with the State Electricity Board.

(vi) X and Y are two shareholders of Pooja Ltd., a closely held company. X holds 55% share capital on 30-1-2011, X transfers his shares to A. Pooja Ltd. wants to set off brought forward loss of ₹ 4,00,000 (business loss ₹ 1,00,000; unadjusted depreciation ₹ 3,00,000) of the previous year 2009-10 against the income of the previous year 2010-11 (i.e., ₹ 9,00,000). Can it do so?

Solution:

(i) As per the decision of the Apex Court in the case of *Aluminum Corporation of India Ltd.* v *CIT* (1972) 86 ITR 11 (SC) and various other decisions, where an expenditure is incurred for commercial expediency, the same shall be allowed as deduction under section 37(1). If at the time the expenditure is incurred, commercial expediency justifies it, it will be taken to be for the purpose of the business even though not supported by any prevailing practice.

Presentation of silver mementos to the directors and shareholders on the occasion of silver jubilee is to motivate both the directors and the shareholde₹ The expenditure has been incurred on account of commercial expediency and should qualify for deduction under section 37(1).

(ii) According to Explanation to section 32(1) where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a lease or other right of occupancy and any capital expenditure is incurred by the assessee for the purposes of the business or profession on the construction of any structure or doing of any work, in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, the provisions of section 32 shall apply as if the said structure or work is a building owned by the assessee. Hence, depreciation in this case will be allowable.

(iii) As the excise duty has been paid or before the due date of furnishing return under section 139(1) in respect of the previous year in which the liability to pay such sum was incurred, the same shall be allowed as deduction on due basis as per section 43B.

(iv) Section 37(1) does not make any distinction between expenditure incurred in civil litigation and that incurred in criminal litigation. All that the court has to see is whether the legal expenses were incurred

by the assessee in his character as a trader, in other words, whether the transaction in respect of which proceedings are taken arose out of and was incidental to assessee's business. Further, it is to be seen whether the expenditure was *bona fide* incurred wholly and exclusively for the purpose of the business. [CIT v Birla Cotton Spg. & Wvg. Mills Ltd. (1971) 82 ITR 166 (SC)]. In view of this, the litigation expenses of ₹ 50,000 incurred in detending directors is deductible under section 37(1).

(v) The new electric power lines were laid to run the factory efficiently but since the ownership of the power lines was to vest with the State Electricity Board, the contribution of ₹ 5,00,000 paid to the State Electricity Board shall be allowable as revenue expenditure under section 37(1).

(vi) According to section 79 the losses of a closely held company can be carried forward and set off in the subsequent assessment year only when at least 51% of the shares of the company carrying voting rights are held by the same persons as on the last day of the previous year in which the loss was incurred and the last day of the previous year in which the losses are set off. In this case business loss will not be allowed to be set off but unabsorbed depreciation is not a loss and shall be allowed to be set off.

Question No. 38(a)

Romit acquired a plot of land on 1.6.75 for ₹ 5,00,000. He converts the plot into stock in trade of his real estate dealing business on 18.2.2007 when the fair market value of the plot was ₹ 39,00,000. The stock-in-trade is sold by him on 18.5.2011 for ₹ 40,00,000 (FMV as on 1.4.81 was ₹ 7,00,000 and FMV as on 1.4.76 ₹4,50,00).

Solution: The conversion of capital asset into stock-in-trade is treated as a transfer as per sec. 2(47). Capital asset was converted into stock-in-trade on 18.2.2007 i.e. previous year 2006-07.

Computation of Capital Gains

		₹
Consideration for Transfer (FMV)		39,00,000
Less :	Indexed Cost of Acquisition [7,00,000 x 519/100]	36,33,000
	Long term Capital Gains	2,67,000

Computation of Business Income

	Sale Proceeds of HP	40,00,000
Less :	FMV on the date of conversion	39,00,000
		1,00,000

Question No. 38(b)

Mr. B acquired a house property for ₹ 50,000 in 1969-70. On his death in October 1985 the house was acquired by his son C. The market value of the house as on 1/4/81 was ₹ 3,50,000. This house was acquired by the Government on 15.3.2008 and a compensation of ₹ 16 lacs is paid to him on 25.3.2011. C filed a suit against the Government challenging the quantum of compensation and the court ordered for giving additional compensation of ₹ 24,00,000. He incurred an expenditure of ₹ 60,000 as an expenditure in connection with the suit. The additional compensation was received on 25.3.2012. Compute capital gains chargeable to tax.

Solution: Capital Gain on initial compensation shall be chargeable in the A.Y. 2011-12.

Computation of Long Term Capital Gains for the A.Y. 2011-12

		₹
Consideration for transfer (being the compensation)		16,00,000
Less :	Indexed Cost of Acquisition [3,50,000 x 711/133]	18,71,053
	Long Term Capital Loss	**2,71,053**

Note: This loss shall be carried forward for adjustment only against Long Term Capital Gains arising within the next 4 assessment yea₹

Computation of Long Term Capital Gains for the A.Y. 2012-13

		₹
Enhanced Compensation received		24,00,000
Less :	Cost of Acquisition	NIL
	Cost of Improvement	NIL
	Expenses on Transfer	(60,000)
	Long Term Capital Gains	23,40,000
Less :	Long Term Capital loss – Set off from the A.Y. 2011-12	(2,71,053)
	Balance of LTCG	20,68,947

Question No. 38(c)

A holds 15,000 shares (10% of total share holding) in B Ltd. which he had purchased on 10.2.96 for ₹ 7,00,000. The company went into liquidation on 16.7.2011 and paid a sum of ₹ 23 per share in cash and an asset whose market value as on the date of distribution i.e. 5.10.11 was ₹ 18,20,000 to A. the accumulated profits of the company were ₹ 15 lacs.

(a) Compute the income of A for the A.Y. 2012-13 assuming that he has no other income.

(b) Compute the capital gain chargeable to tax if the asset of B Ltd. is sold by A for ₹ 25 lacs on 28.3.12.

Solution:

Computation of Capital Gains of Mr. B for the A.Y. 2012-13

		₹
(a)	(i) Capital Gain on transfer of shares	
	Total consideration (15,000×23+ 18,20,000)	21,65,000
	Less: Proportionate amount of deemed dividend	
	(10% of ₹ 12,86,353)	1,28,635
	Less: Indexed Cost of Acquisition [₹7,00,000 x 785/281]	19,55,516
	Long Term Capital Gains	80,849
	(ii) Income from others Sources	
	Dividend from Indian Company	Exempted
		80,849
(b)	Capital Gain on transfer of asset (B Ltd.)	
	Full Value of Consideration	25,00,000
	Less: Cost of Acquisition (being the market value as on the date of distributions)	18,20,000
	Short Term Capital Gains	**6,80,000**
	Accumulated Profits	15,00,000

Dividend tax @ 16.60875% (= 15% + 7.5% + 2% Education Cess + 1% SHEC)

Hence, the amount to be distributed plus tax @ 16.60875% on such amount should be ₹ 15,00,000

- Amount of tax = ₹ 2,13,647
- Profits available for distribution = ₹ (15,00,000 – 2,13,647) = ₹ 12,86,353.

Question No. 39(a)

R has been living in a rented accommodation since August 1983, and he is paying a rent of ₹ 4000 per month. The landlord got the house vacated from R on 16.7.2011 and paid a sum of ₹ 5 lacs for vacating the house. Compute Capital Gains, if any, in the hands of R.

Solution:

Computation of Long Term Capital Gains for the A.Y. 2012-13

	₹
Consideration for transfer	15,00,000
Less : Indexed Cost of Acquisition (Self-Generated asset)	NIL
Long term Capital Gains	15,00,000

Question No. 39(b)

Rohit purchased a house in Delhi in December 2003 for ₹ 2,50,000. In March 2011, he entered into an agreement to sell the property to Z for a consideration of ₹ 5,00,000 and received an earnest money of ₹ 50,000. As per the terms of agreement, the balance payment was to be made within 30 days of the agreement. If the intending purchaser does not make the payment within 30 days, the earnest money would be forfeited. As Z could not make the payment within the stipulated time the amount of ₹ 50,000 was forfeited by Rohit. Subsequently, on 16.6.11, Rohit sold the house to Mohit for ₹ 9,00,000. He paid 2% brokerage on sale of the house. Compute capital gains chargeable to tax for the assessment year 2012-13.

Solution: **Computation of Capital Gains for the A.Y. 2012-13**

		₹
Consideration for transfer		9,00,000
Less : Expenses on transfer (Brokerage @ 2% on 6,00,000)		18,000
Net Consideration		8,82,000
Less : Indexed Cost of Acquisition		
Cost of Acquisition	2,50,000	
Less : Amount received and forfeited (u/s 51 to be adjusted against cost)	50,000	
Net Cost of Acquisition	2,00,000	
Indexed Net cost of Acquisition [₹ 2,00,000 x 785/463]		3,39,093
Long Term Capital Gains		**5,42,907**

Question No. 39(c)

Ravi owns a residential house which was purchased by him in 1975 for ₹ 2,40,000. The FMV as on 1.4.81 was ₹ 2,00,000. This house is sold by him on 16.7.2011 for a consideration of ₹ 25,00,000. The brokerage and expenses on transfer was ₹ 55,000. Compute capital gains for the assessment year 2012-13.

If he invests ₹ 6,00,000 for purchase of a new house on 15.3.2012.

If the HP so purchased in 15.3.2012 is again sold in 21.10.12 for ₹ 12 lacs, what will be the tax liability?

Solution:

Computation of Capital Gains for the A.Y. 2012-13

	₹
Consideration for transfer	25,00,000
Less: Expenses on transfer	55,000
Net Consideration	24,45,000
Less: Indexed Cost of Acquisition [₹2,40,000 x 785/100]	18,84,000
[Since FMV as on 1.4.1981 was less than the original cost, the original cost is considered for indexation purpose]	

Long term Capital Gains		5,61,000
Less: Exemption u/s 54		
Cost of New HP Purchased ₹ 6,00,000		
(exemption restricted upto the balance of LTCG)		5,61,000
Taxable Long term Capital Gains		**NIL**

If the HP purchased in 15.3.2012 is again sold on 21.10.12 for ₹ 12 lacs, there share a rise short term capital gains. The cost of acquisition shall be adjusted to the extent of long term capital gains exemption already availed.

Computation of Capital Gains for the A.Y. 2013-14

		₹
Consideration for transfer		12,00,000
Less: Cost of Acquisition		
Cost of purchase	6,00,000	
Less: Exemption u/s 54 availed during A.Y. 2012-13 now withdrawn	5,61,000	39,000
Short term Capital Gains		**11,61,000**

Question No. 39 (d)

Saptarshi acquired shares of G Ltd. on 15.12.98 for ₹ 5 lacs which were sold on 14.6.11 for ₹ 19 lacs. Expenses on transfer of shares ₹ 40,000. He invests ₹ 8 lacs in the bonds of Rural Electrification. Corporation Ltd. on 16.10.2011.

(a) Compute capital gain for the assessment year 2012-13.

(b) State the period for which the bonds should be held by the assessee. What will be the consequences if such bonds are sold within the specified period?

(c) What will be the consequences if Saptarshi takes a loan against the security of such bonds.

Solution:

Computation of Capital Gains for the A.Y. 2012-13

	₹
Consideration for transfer	19,00,000
Less : Expenses on Transfer	40,000
Net Consideration	18,60,000
Less : Indexed Cost of Acquisition [5,00,000 x 785/351]	11,18,234
Long-term Capital Gains	7,41,766
Less : Exemption u/s 54EC	7,41,766
Taxable long-term Capital Gain	**NIL**

(b) Saptarshi should not transfer or convert (otherwise than transfer) into money such bonds within 3 years from the date of their acquisition.

If these bonds are transferred or converted into money within 3 years, capital gain exempted earlier shall attract taxability towards long-term capital gain of the previous year in which such asset is transferred or converted into money.

(c) If any loan is taken against security of such bonds, it shall be taxable as long-term capital gains of the previous year in which such loan is taken against the security of such bonds.

Question No.40 (a)

Mr Jamal, a resident assessee, runs a manufacturing business in Delhi. For the previous year 2011-2012, he disclosed his taxable income as below:

	₹
Business profits	**2,55,000**
Long-term capital gains	**25,000**
Short-term capital gain	**15,000**

He has hired furnished accommodation for his own use and pays ₹ 4,000 p.m. He has paid donation amounting to ₹10,000 to National Defence Fund. He has deposited ₹ 50,000 under a scheme framed by the Life Insurance Corporation for maintenance of his dependant brother with a disability. The disability is certified by the medical authority. Compute his total income for the assessment year 2012-2013.

Solution: **Computation of Total Income of Mr. Jamal — Assessment Year 2012-2013**

Particulars	₹	₹
Income from business (computed)		2,55,000
Long-term capital gain (computed)		25,000
Short-term capital gain (computed)		15,000
Gross Total Income		**2,95,000**
Deductions from gross total income:		
(i) Deposit for maintenance of a dependent with disability [Sec. 80DD]:	50,000	
(ii) Charitable donations to National Defence Fund [Sec. 80G]: Amount of Deduction @ 100% of ₹ 10,000	10,000	
	60,000	
(iii) Expenditure incurred on rent [Sec. 80GG] [W.N.1]	17,000	77,000
Total Income		**2,18,000**

Workings Note 1:

Particulars	₹	₹
Expenditure incurred on rent [Sec. 80GG]:		
• [Rent paid -10% of ATI], i.e. 48,000 -21,000 = 17,000, or		
• 25% of AGTI, i.e. 25% of 2,10,000 = 52,500, or		
• ₹ 2,000 p.m. = ₹ 24,000		
whichever is less, is to be deducted, i.e. ₹ 17,000		
Adjusted Total Income for Sec. 80GG:		
Gross total income		
Less: Aggregate of		2,95,000
(i) All permissible deduction from GTI except for deduction for u/s 80GG	60,000	
(ii) Any long-term capital gain	25,000	85,000
Adjusted Gross Total Income [AGTI] for Sec. 80GG		**2,10,000**

Question No.40 (b)

SK Industries, a diversified group, discloses profit from the following sources for the previous year 2011-2012:

		(₹ in lakhs)
(i)	**Profits from small-scale unit, started in 2002-2003**	**6.00**
(ii)	**Profit from industrial undertaking 2003-2004, in Vidisha, a B-class industrially backward district.**	**10.00**
(iii)	**Profit from multiplex theatre, started in 2007-2008**	
	(a) Delhi	**4.00**
	(b) Allahabad	**2.00**
(iv)	**Profits from convention centre, started in 2009-2010**	
	(a) Delhi	**5.00**
	(b) Allahabad	**3.00**
(v)	**Profits from Hill View, a hotel started in 2003-2004 at Manali in Himachal Pradesh. Hotel is approved by prescribed authority**	**10.00**
(vi)	**Profits from undertakings engaged in refining of mineral oil since 1 January 2005 in Uttar Pradesh, not listed in backward state in Eighth Schedule.**	**10.00**

Compute the total income for the assessment year 2012-2013.

Solution: **Computation of Total Income**

Particulars	(₹ lakhs)	(₹ lakhs)
(i) Profits from SSI		6.00
(ii) Profits from undertaking located in industrially backward B-class district		10.00
(iii) Profits from multiplex theatre: (4 + 2) =		6.00
(iv) Profits from convention centre: (5+3) =		3.00
(v) Profits from Hill View Hotel		10.00
(vi) Profits from refining undertaking		10.00
Gross Total Income		**50.00**
Less: Deduction in respect of profits and gains from certain industrial undertaking, other than infrastructure undertakings (Sec. 80-IB) :		
1. Profits from SSI [Sec. 80-IB (3)] : 25% of ₹ 6 Lakh :	1.50	
2. Profits from undertaking in B-class industrially backward district [Sec. 80-IB (4)] 25% of ₹ 10 lakh	2.50	
3. Profits from multiplex theatre [Sec. 80-IB(7A) 50% of ₹ 2 lakh (No deduction for Delhi)	1.00	
4. Profits from convention centre [Sec. 80-IB(7B)] 50% of ₹ 8 lakh	4.00	
5. Profits from Hill View Hotel [Sec. 80-IB(7)] Allowed only for Indian company	Nil	
6. Profits from refining undertaking [Sec. 80-IB(9)]-100% of profits for 7 assessment years	10.00	19.00
Total Income		**31.00**

Question No.40 (c)

Mekon Ltd., an Indian company, starts an industrial undertaking on 1 April 2011. During the previous year, it earns profits of ₹ 80 lakh before allowing any deduction for wages. Compute its total income for the previous year 2011-2012 taking into account the following employment schedules of workers:

Date of employment	Number of workers	Status of workers	Rate of wages
1-5-2011	90	Casual	300 p.m.
1-6-2011	20	Reuglar	4000 p.m.
1-7-2011	10	Regular	4000 p.m.

Solution: **Computation of Total Income for the AY 2012-2013**

Particulars	₹	₹
Profits before allowing deduction for wages		80,00,000
Less: Wages paid to workers [Sec. 37(1)] :		
(i) 90 × ₹ 3000 × 11	29,70,000	
(ii) 20 × ₹ 4000 × 10	8,00,000	
(iii) 10 × ₹4000 × 9	3,60,000	(-) 41,30,000
Business Profits and Gross Total Income		38,70,000
Less: Deduction in respect of employment of new workmen [Sec. 80 JJAA] 30% (₹ .4000 x 10 x 10)		(-) 1,20,000
Total Income		**37,50,000**

Question No.41 (a)

Mr. J is suffering with 60% locomotor disability which is certified by medical authority. He is employed as Technical Supervisor with Air Tel at a salary of ₹ 20,000 p.m.

Particulars	₹
(i) Income from government securities	**20,000**
(ii) Long-term capital loss	**(-) 40,000**
(iii) Short-term capital gain (Sec. 111A)	**1,00,000**
(iv) Insurance commission (gross)	**1,00,000**
(v) Interest on Saving Fund a/c from bank	**10,000**

He has incurred the following expenses:

(i) Medical insurance paid by cheque for his father, resident in India and 70 years 18,000

(ii) Deposit with LIC for maintenance of father, mainly dependant on him for support and maintenance and suffering from low-vision with a severe disability of 80%, as per certificate of the medical authority

(iii) Rent paid for the year 2011-2012 for accommodation hired by him. 40,000

Compute his total income for the assessment year 2012-2013.

Solution: **Computation of Total Income for the Assessment Year 2012-2013**

Particulars	₹	₹
1. Income from salaries		2,40,000
2. Income from capital gains :		
(a) Short-term capital gains (Sec. 111A)		
(b) Long-term capital loss to be carried forward		1,00,000
3. Income from others sources :		Nil
(a) Interest government securities	20,000	
(b) Interest on savings fund a/c with Bank	10,000	
(c) Insurance commission	1,00,000	1,30,000
Gross Total Income		**4,70,000**

Less : Deductions under Chapter VIA:		
Medical insurance (Sec. 80D)	18,000	
Deduction in respect of maintenance including medical treatment of a department, a person with severe disability (Sec. 80DD)	1,00,000	
Deduction in case of a person with disability (Sec. 80U) :	50,000	
Deduction u/s 80GG :(Least of the followings)		
(a) (i) Rent paid less 10% of Adjusted Gross Total Income 40,000-23,300 = 16,700,		
(b) (ii) 25% of 2,33,000 Adjusted Gross Total Income=58,250,		
(iii) 2,000 p.m. × 12 = 24,000	16,700	1,84,700
Whichever is less, is or be deducted		
Total Income		**2,85,300**

Question No.41 (b)

Mr. Krishna is a lawyer of Allahabad High Court. He keeps his accounts on cash basis. His Receipts and Payments A/c for the year ending 31-03-2012 is given below :

Dr. **Cr.**

Receipts	**₹**	**Payments**	**₹**
Balance b/d	3,820	Purchase of Infrastructure Bonds	20,000
Legal fees	3,45,000	Subscription and membership	4,500
Special commission fees	5,500	Purchase of legal books	17,500
Salary from Law College as part time lecture	87,000	Rent	47,500
		Municipal Tax paid on H. P.	3,000
Exam. Remuneration	1,480	Car expenses	44,000
Interest on Bank Deposit	3,500	Office expenses	38,500
Sale proceeds of residential property	3,01,000	Electricity Expense	4,000
		Income tax	8,000
Dividend from Co-operative society	1,000	Gift to daughter	12,000
		Domestic expenses	85,000
Dividend received from units of UTI	2,000	Donation to Institutions approved u/s 80G	12,000
Rent from house property	15,000	Car purchased	3,27,000
		Life Insurance premium	16,000
		Balance c/d	1,26,300
	7,65,300		**7,65,300**

Following information are available:

1. The Rent and electric expenses are related to a house, of which half portion in used for self residence and remaining half portion in used for office.
2. Car is used only for professional purposes.
3. Outstanding legal fees ₹ 10,000.
4. Rent has been paid for 10 months only.
5. Car was purchase on 25-09-2011. Law books purchased are annual publications out of which books of ₹ 2,000 were purchased on 6-4-2011 and balance on 31-10-2011.
6. The house was purchased in January 1987 for ₹ 50,000 and sold on 1-7-2011.

7. Rent of the property which has been sold was ₹ 5,000 p.m. The property was vacated by the tenant on 30-6-2011.

   Compute his Total Income for the assessment year 2012-13.

Solution:

Computation of Total Income of Mr. Sen for the assessment year 2012-13

	Particulars		₹	₹
1.	Income from salary			
	Salary as a part time lecturer		87,000	
	Less: Deduction		Nil	87,000
2.	Income from House Property			
	Annual Rent		60,000	
	Less: Vacancy Allowance		45,000	
	Gross Annual Value (GAV)		15,000	
	Less: M/ Tax paid		3,000	
	Net Annual Value (NAV)		12,000	
	Less: Standard deduction @ 30% of NAV		3,600	8,400
3.	Income from Profession			
	Professional Earnings:			
	(i) Legal fees		3,45,000	
	(ii) Special commission		5,500	
			3,50,500	
	Less: Allowable expenses			
	(i) Subscription etc.	4,500		
	(ii) 1/2 Rent (Office)	23,750		
	(iii) Car expenses	44,000		
	(iv) 1/2 electric charges	7,000		
	(v) Office expenses	38,500		
	(vi) Depreciation on car @ 15% on 3,27,000	49,050		
	(vii) Depreciation on books			
	[@ 100% on Annual Publication of ₹ 2,000 = 2,000			
	@ 50% on Others of 15,500 = 7,750	9,750	1,76,550	1,73,950
4.	Capital gains:			
	Sale consideration		3,01,000	
	Less: Indexed cost of acquisition 50,000 ×		2,80,357	20,643
5.	Income from Other Sources :			
	Interest on bank deposit		3,500	
	Examiner's fees		1,480	
	Dividend from Co-operative Society		1,000	
	Dividend from UTI		Exempt	5,980
	Gross Total Income			2,95,973
	Less : Deductions			
	(i) 80C - LIP		16,000	
	(ii) 80G - Donation @ 50% of ₹ 12,000		6,000	
	(iii) 80CCF - Purchase of Infrastructure Bonds		20,000	42,000
	Total Income			2,53,973
	Total Income (rounded off u/s 288A)			**2,53,970**

Notes:

1. As the assessee follows the cash system of accounting, amount actually received and payment actually made on account of expenditure, during the year, shall be considered for computing the income. Therefore, any outstanding receipts will not be included in the Total Income. Similarly rent not paid for two months will not be allowed as deduction.
2. The system of accounting does not affect the computation of income from salary, house property and capital gains. Therefore, in this case, rent for three months, though not received (as it has not been shown in the Receipt and Payment Account) shall be taken into account in computing the income under the head house property.
3. Car was purchased and put to use for more than 180 days. Therefore, full depreciation @15% has been claimed.
4. Law books worth ₹ 2,000 were purchased and put to use for more than 180 days and are. therefore, eligible for depreciation @100%. The balance books worth ₹ 15,500 were purchased on 31-10-2011; therefore, 50% of the normal depreciation will be allowed as the books were purchased and put to use for less than 180 days. The total depreciation shall, therefore, be ₹ 2,000 + 50% of ₹15,500 = ₹ 9,750.

Question No.41 (c) : Mr. X, Finance Manager of K Ltd. Mumbai, furnishes the following particulars for the previous year 2011-2012.

		₹
(a)	**Gross Salary (per month)** **[Tax deducted from Salary ₹ 1,09,000]**	**64,000**
(b)	**Valuation of medical facility in a hospital maintained by the Company**	**7,000**
(c)	**Rent Free Accommodation owned by the Company**	
(d)	**Housing Loan of ₹ 6,00,000 at the interest rate of 5% p.a. (no repayment made during the year, to be repaid within 10 years)**	
(e)	**Gift made by the Company on the occassion of wedding anniversary of X**	**4,750**
(f)	**A wooden table and 4 Chairs were provided to X at his residence (Dining Table). This was purchased on 1.5.2008 for ₹ 60,000 and sold to X on 1.8.2011 for ₹ 30,000**	
(g)	**Personal purchases through Credit Card provided by the Company amounting to ₹ 20,000 was paid by the Company. No part of the amount was recovered from X.**	
(h)	**A Maruti Esteem Car which was purchased by the Company on 16.7.2007 for ₹ 5,50,000 was sold to the assessee on 14.8.2011 for ₹ 1,30,000.**	
(i)	**Other income received by the assessee during the previous year 2011-2012 are :**	**₹**
	Interest on Fixed Deposits with a Company	**5,000**
	Income from specified mutual fund	**3,000**
	Interest on bank deposits of a minor married daughter	**3,000**
	Income from UTI received by his handicapped minor son	**1,200**
(j)	**Contribution to LIC towards Premium u/s 80CCC**	**10,000**
(k)	**Deposit in PPF Account made during the year 2011-2012**	**75,000**
(l)	**Bonds of ICICI (Tax Savings) eligible for tax deduction**	**25,000**

Compute the Taxable Income of Mr. X and the tax liability for the Asst. Year 2012-2013.

Solution:

Assessee: Mr. X **Previous Year: 2011-12** **Assessment Year : 2012-13**

Computation of Total Income

	Particulars		**₹**	**₹**
Income from Salaries :				
	Basic Salary (₹ 64,000 × 12)			7,68,000
Add : Value of Perquisites :				
1.	Value of Medical Facility in hospital maintained by K Ltd.			
	— Treatment in hospital maintained by Employer — Fully Exempt			Nil
2.	Rent Free Accommodation owned by Company — Explanation 1 to Sec. 17(2)			1,15,200
	15% of salary = 15% of ₹ 7,68,000 (Population > 25 Lakhs)			
3.	Housing Loans at concessional rate – Rule 3(7)(i)			
	= ₹ 6,00,000 × (10% – 5%)			30,000
4.	Use of Furniture & Fittings upto 1.8.2011 - Rule 3(1)(vii)			
	= 10% × ₹ 60,000 × 4/12			2,000
5.	Transfer of Assets - Rule 3(7)(viii)			
	— Dining Table as per WN 1 (a)		12,000	
	Motor Car as per WN 1 (b)		95,280	1,07,280
6.	Gifts made by the Company on the occasion			
	of the Wedding Anniversary			Nil
7.	Credit Card Purchases taxable as perquisite u/s 17(2)			20,000
	Gross Income from Salary			**10,42,480**
	Less : Deduction u/s 16			Nil
	Net Income from Salaries			**10,42,480**
	Income from Other Sources :			
	Interest on Fixed Deposits with a Company		5,000	
	Income from specified mutual fund	3,000		
	Less : Exempt u/s 10(35)	(3,000)		
	Interest on Bank Deposits of minor married daughter	3,000		
	Less : Exempt u/s 10(32)	(1,500)	1,500	
	Income received by handicapped minor son - not clubbed u/s 64(IA)		Nil	6,500
	GROSS TOTAL INCOME			**10,48,980**
	Less : Deduction under Chapter VI-A			
	U/s 80CCC – Contribution towards Pension Fund			10,000
	U/s 80C – Contribution towards PPF			75,000
	U/s 80CCF – Bonds of ICICI (Long term infrastructure bonds)			25,000
	TOTAL INCOME			**9,38,980**
	TAX PAYABLE			1,33,694
	Add : Education Cess @ 2%			2,674
	Add : Secondary and Higher Education Cess @ 1%			1,337
	Gross Tax Payable			**1,37,705**
	Less : Tax Deducted at source			1,09,000
	Net Tax Liability			**28,705**

Working Notes:

1. Valuation of Perquisites on transfer of Movable Assets :

(a) Transfer of Assets: Dining Table

	(₹)
Purchase Price	60,000
Less: Depreciation till date of Sale (₹ 60,000 × 3 × 10%)	(18,000)
WDV as at date of transfer	42,000
Less: Deduction for collection from Employee	(30,000)
Value of Perquisite	**12,000**

(b) Motor Car

	₹
Cost of Purchase (16.7.2007)	5,50,000
Less : Depreciation @ 20% (16.7.2007 - 15.7.2008)	1,10,000
16.7.2008 WDV	4,40,000
Less : Depreciation for 16.7.2008 - 15.7.2009	88,000
16.7.2009 WDV	3,52,000
Less : Depreciation for 16.7.2009 - 15.7.2010	70,400
16.7.2010 WDV	2,81,600
Less : Depreciation for 16.7.2010 - 15.7.2011	56,320
16.7.2011 WDV	2,25,280
Less : Amount Recovered on Transfer	1,30,000
Value of Perquisite	**95,280**

2. Gifts received from the employer on the occasion of the wedding anniversary
   (a) Taxable as perquisite u/s 17(2).
   (b) As per Rule 3(7)(vi), value of any gift or voucher or token (other than made in cash) or convertible ; in cash on ceremonial occasion or otherwise shall be taxable if the aggregate value of Gift during the previous year is ₹ 5,000 or more. Since the value of gifts received is less than ₹ 5,000, it shall be exempt from tax.

Question No.42 (a)

Mr. A, a Senior Citizen, has furnished the following particulars relating to his House Properties —

Particulars	House I — ₹	House II — ₹
Nature of Occupation	Self Occupied	Let-out
Municipal Valuation	60,000	1,20,000
Fair Rent	90,000	1,50,000
Standard Rent	75,000	1,40,000
Actual Rent per month	—	12,000
Municipal Taxes paid	6,000	12,000
Interest on Capital borrowed	90,000	80,000

Loan for both Houses were taken on 1.4.2007. House II remained vacant for 4 months.

Besides the above two house, A has inherited during the year 1987-88 an old house from his grandfather. Due to business commitments, he sold the house immediately for a sum of ₹ 250 Lakhs. The house was purchased in 1962 by his grandfather for a sum of ₹ 2 Lakhs. However, the Fair Market Value as on 1.4.1981 was ₹ 30 Lakhs. With the sale proceeds, A purchased a new house in March 2011 for a sum of ₹ 140 Lakhs and the balance was used in his business.

The other income particulars of Mr. A besides the above are as follows (AY 2012–2013) —

• Business Loss	₹ 9 Lakhs
• Income from Other Sources (Bank Interest)	₹ 1 Lakh
• Investments made during the year PF	₹ 70,000
• ICICI Infrastructure Bond Purchased (u/s 80CCF)	₹ 30,000

Compute Total Income of Mr. A and his Tax Liability for the Assessment Year 2012–2013.

Solution:

Assessee : Mr. A **Previous Year : 2011-12** **Assessment Year : 2012-13**

Computation of Total Income

	Particulars	₹	₹	₹
1. Income from House Property :				
(a)	House I : Self Occupied — Annual Value u/s 23(2)	Nil		
	Less : Deduction u/s 24(b) = Interest on Housing Loan taken on 1.4.2007 (Note 1)	90,000	(90,000)	
(b)	House II : Let-out – (Note 2)		(21,000)	(1,11,200)
2. Profits and Gains of Business or Profession – Loss				(9,00,000)
3. Capital Gains — Sale of Residential House Property — Long Term Asset				
	Sale Consideration		2,50,00,000	
Less :	Expenses on Transfer		Nil	
	Net Consideration		2,50,00,000	
Less :	Indexed Cost of Acquisition — Fair Market Value as on 1.4.81 × CII of year of Sale /CII of year of first holding (₹ 20 Lakhs × 785/150)		1,04,66,667	
	Long Term Capital Gain		1,45,33,333	
Less :	Exemption u/s 54 — New House purchased		1,40,00,000	5,33,333
4. Income from Other Sources: Bank Interest				1,00,000
	Gross Total Income [representing unabsorbed business loss to be carried forward]			**(3,77,867)**

Hence, no Deduction under Chapter VI-A is allowed in this year.

Notes:

1. Assumed that loss from House Property & Loss from Business are at first adjusted inter-head, against Long Term Capital Gains and then against Income from other sources since it is beneficial to the assessee.
2. It is assumed that the construction of the house was completed within 3 years from the end of the financial year in which the loan was taken.
3. Annual Value of House Property II is computed as under —

(i) Municipal Value (MV)	1,20,000
(ii) Fair Rental Value (FRV)	1,50,000
(iii) Higher of MV + FRV	1,50,000

(iv)	Standard Rent	1,40,000
(v)	Reasonable Expected Rent (RER) [lower of (iii) + (iv)]	1,40,000
(vi)	Annual Rent @ ₹ 12,000 pm	1,44,000
(vii)	Unrealised Rent	Nil
(viii)	Actual Rent [(vi) – (vii)]	1,44,000
(ix)	Vacancy Allowance	48,000
(x)	Gross Annual Value [(viii) – (ix)]	96,000
	Less: Municipal Tax paid	12,000
	Net Annual Value (NAV)	84,000
	Less: Standard deduction @ 30% of NAV u/s 24(a)	25,000
	Less: Interest on borrowed Capital u/s 24(b)	80,000
	Income for House II	(21,200)

Question No.42 (b)

Mr. Anurag is a Cost Accountant in practice. The Income & Expenditure Account for the year ending March 31, 2012 read as follows:

	Expenses	₹		Income	₹
To	Employees cost	1,50,000	By	Professional earnings	12,00,000
To	Travelling & Conveyance	50,000	By	Dividend income	
To	Administration & Office exp.	4,00,000	–	from shares	6,00,000
To	Interest	1,50,000	–	from equity oriented	
To	Demat Charges	10,000		mutual funds	1,00,000
To	Net profit	11,40,000			
Total		**19,00,000**	**Total**		**19,00,000**

Other Information:

(a) Entire Dividend income is claimed as exempt from taxation by virtue of Section 10(34) and 10(35).

(b) Anurag claims that no expenditure has been incurred against the dividend income, which is claimed as exempt from tax.

(c) The value of investment in shares as on the first day and the last day of the previous year is ₹ 7,50,000 and ₹ 9,00,000 respectively.

(d) The value of investment in units of Mutual Funds as on the first day and the last day of the previous year is ₹ 5,00,000 and 2,00,000 respectively.

(e) All expenditure including interest expenditure of ₹ 1,50,000 incurred by Anurag are relating to taxable and non taxable Income. Demat charges are directly attributable to exempt income.

(f) The value of the total assets as appearing in the Balance sheet of the assessee as on the first day and last day of the previous year is ₹ 60,00,000 and ₹80,00,000 respectively.

You are required to compute the taxable income of Anurag for the assessment year 2012-13.

Solution:

Computation of Taxable Income A.Y. 2012-13

Particulars	₹
Income from Profits & Gains of Business or Profession(W.N.1)	4,40,000
Income from other sources (W.N. 2)	Nil

	Total	4,40,000
Add : Disallowance u/s 14A		
– as per Working Note 3		31,804
	Taxable Income	**4,71,804**

Working Note 1 — Profits & Gains of Business or Profession

	₹	₹
Net profit as per Income & Expenditure Account		11,40,000
Less : Income considered under other heads		
– Dividend Income from shares	6,00,000	
– Income from UTI	1,00,000	7,00,000
Taxable Income from Profession		**4,40,000**

Working Note 2 — Income from other sources

		₹	₹
1.	Dividend Income from Shares	6,00,000	
	Less : Exempt under sec 10(34)	6,00,000	Nil
2.	Income from units in Mutual funds	1,00,000	
	Less : Exempt under sec 10(35)	1,00,000	Nil
	Taxable income from other sources		**Nil**

Working Note 3 — Disallowance u/s 14A

		₹
(a)	Amount of expenditure directly relating to exempt income (Other than interest) — Demat charges	10,000
(b)	Amount of interest incurred by way of expenditure other than those included above (1,50,000 × 8,25,000 / 70,00,000)	17,679
(c)	Amount equal to 0.5% of the average value of Investments (8,25,000 × 0.5%)	4,125
	Total amount disallowed u/s 14A (a) + (b) + (c)	31,804

Note :

1. Average value of Investment = (7,50,000 + 9,00,000) / 2 = ₹ 8,25,000.
2. Average value of Total Assets = (60,00,000 + 80,00,000) / 2 = ₹ 70,00,000.

Question no. 42(c)

XY & Co., a partnership concern had established an undertaking for manufacturing computer software in Free Trade Zone. It furnishes the following particulars of its second year operations, ending on 31-03-2012:

Particulars	₹ (in lakh)
Total sales of business	100.00
Export sales	80.00
Profit of the business	10.00

Out of the total sales, realisation of sale of ₹ 7 lakh is difficult because of the deficiency of the buyer. realisation of rest of the sales is received in time. The plant and machinery used in the business had been depreciated @ 15% on SLM basis of depreciation and depreciation of ₹ 3 lakh was charged to the Profit and Loss Account. Compute the taxable income of XY & Co for the assessment year 2012-2013.

Solution: **Computation of Taxable Income for the A.Y. 2012-13**

Particulars	₹ (in lakh)
Profit of business	10,00,000
Add : Depreciation charged on SLM basis	3,00,000
	13,00,000
Less : Depreciation on WDV basis @ 15% of 17,00,000 – [See Note below]	2,55,000
	10,45,000

Less : Deduction under Sec. 10A : 10,45,000 × 73 ÷ 100	7,62,850
Taxable income	**2,82,150**

Note :

	₹
1. Computation of Depreciation :	
Total purchase price of machine : 3,00,000 15 × 100	20,00,000
Less : Depreciation in the first year @ 15%	3,00,000
WDV at the end of first year	17,00,000
Less: Depreciation for second year @ 15%	2,55,000
WDV at the end of second year	14,45,000
2. Export Turnover:	
Export Sales	80,00,000
Less: Remittance not received due to insolvency of buyer	7,00,000
	73,00,000

Question no. 43(a)

The following is the profit and loss account for the year ending 31.3.2012 of XYZ (LLP) having 3 partners:

Profit and Loss Account

		₹		₹
Establishment & other expenses		48,00,000	Gross profit	68,20,000
Interest to partner @ 15%			Profit on sales of equity shares sold after	
X	90,000		2 years through recognised stock exchange	1,40,000
Y	1,20,000			
Z	60,000	2,70,000		
Salary to designated partners			Rent from house property	60,000
X	2,40,000		Interest on bank deposits	10,000
Y	1,80,000	4,20,000	Profit on equity shares sold after	
Net profit		17,60,000	10 months through RSE	1,20,000
		72,50,000		**72,50,000**

Additional information:

(1) Establishment expenses include ₹ 1,20,000 on account of bonus which was due on 31.3.2012.

(2) The LLP is eligible for 100% deduction under section 80-IC as it is established in notified area in Himachal Pradesh.

(3) Shares were sold through recognized stock exchange and securities transaction tax of ₹ 1000 is included in the establishment expenses on account of the same.

Compute the tax payable by the Limited Liability Firm

Solution :

Computation of total income of XYZ (LLP) for the A.Y. 2012-13

Income under the head house property	₹	₹	₹
Actual rent		1,60,000	
Less : Deduction 30%		48,000	1,12,000

Income from Business			
Net profit as per P&L A/c		16,60,000	
Less: Income credited but either exempt or taxable under other head			
Rent	60,000		
Profit on sale of shares sold after 2 years	1,40,000		
Interest on bank deposit	10,000		
Profit on sale of shares sold after 10 months	1,20,000	3,30,000	
		13,30,000	
Add : Expenses disallowed			
Bonus as per section 43B	1,20,000		
Securities Transaction Tax	1,000		
Interest to partners in excess of 12%	54,000		
Salary to partners	4,20,000	5,95,000	
Book profit		19,25,000	
Less : Salary as per section 40(b) (See working note)		4,20,000	15,05,000
Short-term capital gain on sale of equity shares			1,20,000
Income from other sources			10,000
Gross Total Income			**17,47,000**
Less : Deduction under section 80-IC			15,05,000
Total income			**2,42,000**

Regular income tax payable on total income

(1) Short-term capital gain of ₹ 1,20,000 @ 15%	18,000
(2) Balance total income ₹ 1,22,000 @ 30%	36,600
	54,600
Adjusted total income	
Total income	2,42,000
Add : Deduction u/s Chapter VIA	15,05,000
	17,47,000

Alternate Minimum Tax (AMT) 18.5% on ₹ 17,47,000 = ₹ 3,23,195

Hence, adjusted total income shall be total income and the tax (payable shall be the alternate minimum tax i.e. on ₹ 17,47,000 @ 18.5% + 3% (EC + SHEC).

Tax payable

	₹
Alternate minimum tax 18.5% on ₹ 17,47,000	3,23,195
Add: Education Cess @ 2% & SHEC @ 1%	9,696
	3,32,891
Rounded off	**3,32,890**

Working Note

Book profit	19,25,000
Maximum salary allowed	
First 3,00,000 of book profit — 90%	2,70,000
Balance ₹ 16,25,000 of book profit 60%	9,75,000
	12,45,000

Salary allowed shall be ₹ 12,45,000 or ₹ 4,20,000 whichever is lower i.e. ₹ 4,20,000.

Question no. 43(b)

D Ltd., a closely-held Indian company, is engaged in the business of manufacture of chemical goods (value of plant and machinery owned by the company is ₹ 55 lakh). The following information for the financial year 2011-12 are given :

D Ltd. is engaged in the business of manufacture of garments.

	₹
Domestic Sales	20,00,000
Export Sales	7,00,000
Amount withdrawn from general reserve (reserve was created in 1997-98 by debiting P&L A/c)	2,00,000
Amount withdrawn from revaluation reserve	1,50,000
Total	**35,50,000**
Less : Expenses	
Depreciation (normal)	6,16,000
Depreciation (extra depreciation because of revaluation)	2,70,000
Salary and wages	2,10,000
Wealth tax	10,000
Income-tax	3,50,000
Outstanding customs duty (not paid as yet)	17,500
Proposed dividend	60,000
Consultation fees paid to tax expert	21,000
Other expenses	1,39,000
Net Profit	**13,56,500**

For tax purposes the company wants to claim the following:

—Deduction under section 80-1B (30 per cent of ₹ 14,56,500).

—Depreciation under section 32 (₹ 5,36,000)

The company wants to set off the following losses/allowances:

	For tax purposes ₹	For accounting purposes ₹
Brought forward loss of 2004-05	14,80,000	4,00,000
Unabsorbed depreciation	—	70,000

Compute the net income and tax liability of D Ltd. for the assessment year 2012-13 assuming that D Ltd. has a (deemed) long-term capital gain of ₹ 60,000 under proviso (i) to section 54D(2) which is not credited in profit and loss account.

Solution:

Computation of Book Profit & Minimum Alternate Tax

	₹
Net profit as per P&L A/c	13,56,500
Add :	
Excess depreciation [i.e., ₹ 6,16,000 + ₹ 2,70,000 — ₹ 5,36,000]	3,50,000
Wealth tax	10,000
Income tax	3,50,000
Customs duty which is not paid	17,500
Proposed dividend	60,000
Total	**21,44,000**
Less : Amount withdrawn from reserve (i.e., ₹ 2,00,000+ ₹ 1,50,000)	3,50,000
Business income	**17,94,000**
Less : Unabsorbed loss carried forward, now adjusted	14,80,000
Business Income (after adjustment of carried forward unabsorbed business losses)	**3,14,000**
Long-term capital gain	60,000
Gross Total Income	**3,74,000**
Less : Deductions under section 80-IB [30% of ₹ 3,14,000] (= ₹3,74,000 – ₹60,000 LTCG)	91,200
Net Income (rounded off)	**2,82,800**
Tax liability (under normal provisions) [20% of ₹ 60,000 + 30% of ₹ 2,22,800, plus 3% of tax as cess]	**81,205**

Computation of Book Profit

Net Profit as per Profit & Loss A/c	13,56,500
Add :	
Depreciation (i.e. ₹ 6,16,000 + ₹ 2,70,000)	8,86,000
Wealth tax	Nil
Income-tax	3,50,000
Proposed dividend	60,000
Less : Amount withdrawn from general reserve	(–) 2,00,000
Unabsorbed depreciation	(–) 70,000
Depreciation (normal)	(–) 6,16,000
Amount withdrawn from revaluation reserve to the extent it does not exceed extra depreciation because of revaluation	(–) 1,50,000
Book profit	**16,16,500**
Tax liability (19.055% of ₹ 16,16,500)	3,08,024

D Ltd. will pay ₹ 3,08,024 as tax for the assessment year 2012-13 as per section 115JB. Tax credit is however, available in respect excess tax (= ₹2,26,819 = ₹ 3,08,024 – 81,205) under section 115JB.

Question no. 43(c)

Y Ltd. is a company in which 60% shares are held by P Ltd. Y Ltd declared a dividend amounting to ₹45 lakhs to its share holders for the financial year 2010-11 in its AGM held on 12th May,2011. Dividend Distribution Tax was paid by Y Ltd. on 14th May,2011. P Ltd declared an interim dividend amounting to ₹70 lakhs on 15th October, 2011 for the year ended 31st March, 2012.

Compute:

(i) The amount of tax on dividend payable by P Ltd.

(ii) What would be your answer, if 58% shares of P Ltd are held by K Ltd. an Indian company?

(iii) Does the position change further, if K Ltd. is a foreign company?

Answer:

Assessee : P Ltd. **Previous Year: 2011-12** **Assessment Year : 2012-13**

Status: Residential Company

1. Principle:

   (a) Since P Ltd holds more than 50% of nominal value of equity shares in Y Ltd., Y Ltd is a subsidiary of P Ltd.

   (b) Dividends subject to Dividend Distribution Tax shall be reduced by the dividend received by the domestic company during the financial year if:

   - Such dividend is received from its subsidiary
   - Subsidiary has paid dividend distribution tax
   - Domestic company is not a subsidiary of any other company

2. **Computation of Dividend Distribution Tax**

Particulars	Case I (Note 2) ₹	Case II & III (Note 3) ₹
(a) Dividend declared by P Ltd	70,00,000	70,00,000
(b) Less: Dividend received by P Ltd from Y Ltd, being a subsidiary [60% of ₹45,00,000]	27,00,000	Nil
Net Dividend on which Dividend Distribution Tax is payable [(a) –(b)]	**43,00,000**	**70,00,000**
Dividend distribution tax @ 15%	**6,45,000**	**10,50,000**
Add: Surcharge @ 5% on DDT	32,250	52,500
Dividend Distribution Tax + Surcharge	**6,77,250**	**11,02,500**
Add: Education Cess @ 2% on [DDT + Surcharge]	13,545	22,050
Add: SHEC @ 1% on [DDT + Surcharge]	6,773	11,025
Total Dividend Distribution Tax Payable	**6,97,568**	**11,35,575**
Dividend Distribution Tax (rounded off)	**6,97,570**	**11,35,580**

Notes:

1. Dividend u/s 115-O includes all dividend except dividend u/s 2(22)(e). Hence, interim dividend is also covered u/s 115-O.

2. Case (I) – refers to dividend received by a domestic company which is a holding company of another company and is not a subsidiary of any other company. Benefit of set off of dividend received during previous year 2011-12 available as all the conditions are satisfied.

3. Case (II) and Case (III): Domestic company is a subsidiary of another company:

   (a) Case (II)- P Ltd is a subsidiary of K Ltd. an Indian Company. Benefit of set-off of dividend received not available as all the conditions are not satisfied [Refer Point No.(b) of the Principle]

   (b) Case (III) – P Ltd. is a subsidiary of K Ltd. a Foreign Company. Benefit of set-off of dividend received not available as all the conditions are not satisfied as the Holding company should not be a subsidiary of "any other company". [Refer Point no (b) of principle]. U/s 2(17), Company includes a Foreign company.

<u>Question no. 43(d):</u> Is it beneficial of opting for tonnage tax scheme as a measure of tax planning?

Answer: The following are the consequences:

(i) All deductions u/s 30 to 43B shall be deemed to be allowed

(ii) Depreciation shall be deemed to be allowed. No question of unabsorbed depreciation of operating qualifying ship

(iii) No benefit of Sections 70,71,72,72A,73 relates to the loss of operating qualifying ship

(iv) No chapter VI deduction available on the tonnage income

(v) Book profit or loss of the tonnage tax company shall be excluded in computation of book profit u/s 115JB.

(vi) In case relevant shipping income is a loss, it shall be ignored while computing tonnage income.

<u>Question no. 44(a)</u>

(i) What is the due date of filling of return of income in case of a non-working partner of a firm whose accounts are not liable to be audited?

Answer : Due date of furnishing return of income in case of non-working partner shall be 31st July of the assessment year whether the accounts of the firm are required to be audited or not. A working partner for the above purpose shall mean an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner and is drawing remuneration from the firm.

(ii) Can unabsorbed depreciation be carried forward even if the return is filed after due date?

Answer : Unabsorbed depreciation can be carried forward even if the return of loss is submitted after the due date, as it is not covered under Chapter VI of set off or carry forward of losses but covered u/s 32(2).[East Asiatic Co.(India) Pvt. Ltd. vs.CIT (1986) 161 ITR 135(Mad.)]

(iii) Can a belated return of income filed u/s 139(4) be revised?

Answer: There was a difference of opinion among various courts regarding filling of revised return in respect of belated returns. However, it has been held that a belated return filed u/s 139(4) cannot be revised as section 139(5) provides that only return filed u/s 139(1) or in pursuance to a notice u/s 142(1) can be revised [Kumar Jagdish Chandra Sinha vs.CIT(1996) 220 ITR 67(SC)].

(iv) Can a revised return be further revised?

Answer: If the assessee discovers any omission or any wrong statement in a revised return, it is possible to revise such a revised return provided it is revised within the same prescribed time [Niranjan Lal Ram Chandra Vs.CIT (1982) 134 ITR 352 (All.)]

(v) Can an Assessing Officer himself allot permanent account number to an assessee?

Answer: The Assessing Officer having regard to the nature of the transactions as may be prescribed may also allot a permanent account number to any other person(whether any tax is payable by him or not) in the manner and in accordance with the procedure as may be prescribed.

Question no. 44(b)

(i) Joseph engaged in profession filed his return of income for assessment year 2011-12 on 15th November, 2011. He disclosed an income of ₹4,00,000 in the return. In February, 2012 he discovered that he did not claim certain expenses and filed a revised return on 3rd February, 2012 showing an income of ₹1,80,000 and claiming those expenses. Is the revised return filed by Joseph acceptable?

Answer: Joseph is engaged in profession. The due date for filing income tax return for assessment year 2011-12 as per section 139(1) of the Income-tax Act is 30th September, 2011 if his accounts are required to be audited under any law. The due date is 31st July, 2011 if the accounts are not required to be audited under any law.

The return was filed beyond the due date prescribed in section 139(1). The return so filed is covered by section 139(4) and the time limit is one year from the end of the relevant assessment year. The Apex court in *Kumar Jagadish Chandra Sinha v. CIT 220 ITR 67 (SC)* has held that a return filed under section 139(4) is not eligible for revision and hence a revised return cannot be filed.

Hence, the return filed by Joseph is not valid as the original return was not filed before the due date mentioned in section 139(1).

(ii) An assessee filed a return of income on 31.8.2011 in respect of Assessment year 2011-12 disclosing an income of ₹ 5 lakhs from business. It was not accompanied by proof of payment of tax due on self-assessment. Discuss the validity of such a return.

Answer :As per Explanation to sub-section (9) of section 139 a return is regarded as defective unless it is accompanied by proof of tax deducted at source, advance tax and tax on self-assessment, if any, claimed to have been paid. Therefore, the return is prima facie defective. It is not invalid at that stage. On receipt of the return, the Assessing Officer has to intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of such intimation or within such further period which, on application by the assessee, he may, in his discretion allow. If the defect is not rectified within the said period, the return will be treated as an invalid return and the provisions of the Income-tax Act shall apply, as if the assessee has failed to furnish the return.

Also, it may noted that section 140A(3) says that if an assessee fails to pay tax or interest on self assessment he shall be deemed to be an assessee in default in respect of the tax or interest or both remaining un paid and all the provisions of the Act shall apply accordingly.

(iii) If an assessment is remanded back to Assessing Officer, can he introduce new sources of income for assessment?

Answer: Where the assessment is set aside by the Tribunal and the matter remanded to the Assessing Officer, it is not open to him to introduce into the assessment new sources of income so as to enhance the assessment. Any power to enhance is confined to the old sources of income which were the subject matter of appeal [Kartar Singh vs.CIT (1978) 111 ITR 184 (P &H)].

(iv) Can Department make fresh computation, once the assessment is made final?

Answer: It is now a well settled principle that an assessment once made is final and that it is not open to the department to go on making fresh computation and issuing fresh notices of demand to the end of all time. [ITO vs.Habibullah (S.K.) (1962) 44 ITR 809 (SC)]

(v) Can an Assessing Officer make an assessment for a year other than the assessment year for which the return is filed?

Answer: It is not open to the Assessing Officer to make assessment in respect of a year other than the Assessment Year for which the return is filed. Thus, in respect of a return filed for assessment year 2010-11, assessment cannot be made for the assessment year 2011-12. [CIT vs. Amaimugan Transports Pvt. Ltd.(1995) 215 ITR 553 (Mad.)]

(vi) Can an Assessing Officer assess the income below the returned income or assess the loss higher than the returned loss?

Answer: The Assessing Officer cannot assess income under section 144 for an assessment below the returned income or cannot assess the loss higher than the returned loss.

(vii) Can incomplete, unsigned or unverified return lead to best judgement assessment?

Answer: Incomplete, unsigned or unverified return may lead to best judgement assessment. A best judgement assessment can be made when the return is filed woefully incomplete or not signed and verified. [Behari Lal Chatterji vs.CIT (1934) 2 ITR 377 (All.)

(viii) Can assessee follow different method of accounting for different businesses?

Answer: If an assessee is carrying on more than one business, he can follow cash system of accounting for one business and mercantile system (accrual system) of accounting for other business. Similarly, if he had more than one sources of income under the head income from other sources, he can follow accrual system for one source of income under the head income from other sources, he can follow accrual system for one and cash system for other sources of income.

Question no. 45(a)

Anand and Aniket are equal members in AA & Associates. The profit and loss account of the AOP for the year ending 31st March 2012 is as follows:

Particulars	₹	Particulars	₹
Selling and administrative		Gross Profit	20,00,000
Expenses	8,00,000	Income from house property	3,60,000
Interest to Anand @ 15%	60,000		
Remuneration:			
Anand	1,50,000		
Aniket	1,50,000		
Net profit:			
Anand	6,00,000		
Aniket	6,00,000		
	23,60,000		23,60,000

Other information:

1. **Selling and administrative expenses include ₹ 60,000 paid to a consultant in cash.**
2. **The other income/investment details of the members are given as below:**

Members	Income	Source of income	Investments
Anand	90,000	Interest on fixed deposit from bank	Purchase of NSC VIII ₹ 30,000
Aniket	1,00,000	Interest on govt. securities	Contribution to PPF ₹ 50,000

Compute the tax liability of the AOP and it members

Solution: Computation of Total Income of AOP: Previous Year 2011-2012

Particulars	₹
Net profit	12,00,000
Add*:* Inadmissible payments.	
1. Fees paid to consultants in cash Sec. 40A (3)	60,000
2. Interest paid to members [Sec. 40(ba)]:	60,000
3. Remuneration paid to members Sec. 40(ba)	3,00,000
	16,20,000
Less: Income from house property	3,60,000
Business profits	**12,60,000**
Add: Income from house property	3,60,000
Total income	16,20,000
Tax liability of AOP on total income	
Tax on slabs rates	3,90,000
Add:	
Education cess 2%	7,800
SHEC @ 1%	3,900
Tax payable	**4,01,700**

Allocation of income amongst the members:

Particulars	Anand ₹	Aniket ₹	Total ₹
Interest	60,000	—	60,000
Remuneration	1,50,000	1,50,000	3,00,000
Share of divisible profit (12,60,000-60,000-3,00,000)	4,50,000	4,50,000	9,00,000
Share of profit	6,60,000	6,00,000	12,60,000
Share of income from house property	1,80,000	1,80,000	3,60,000
	8,40,000	**7,80,000**	**16,20,000**

Computation of Total Income of members:

Particulars	Anand ₹	Aniket ₹
Share income from AOP	8,40,000	7,80,000
Income from other sources:		
Interest on bank deposits	90,000	—
Interest on government securities	—	1,00,000
Gross Total Income	**9,30,000**	**8,80,000**
Less: Deduction under Sec. 80C	30,000	50,000
Total Income	**9,00,000**	**8,30,000**
Tax liability of members: Tax on slab rates	1,74,000	1,53,000
Add: Education Cess @ 2% on income tax	3,480	3,060
Add: SHEC @ 1%	1,740	1,530
	1,79,220	**1,57,590**
Less: Rebate on share of profit at the average: (See Note below)	**1,67,272**	**1,48,097**
Tax payable	11,948	9,493
Tax payable rounded off to the nearest multiple of ₹ 10 (See. 288B)	11,950	9,490
Note: Anand = ₹1,79,220 x 8,40,000/9,00,000	15,050	
Aniket = ₹1,57,590 x 7,80,000/8,30,000		12,290

Question no. 45(b) : Devdas Charitable Trust submits the particulars of its receipts and outgoing during the previous year 2011-2012 as below :

		₹
(i)	**Income from property held under trust for charitable purposes**	**20,00,000**
(ii)	**Voluntary contribution (out of which ₹ 5,00,000 will form part of the corpus)**	**15,00,000**
(iii)	**Donations paid to blind charitable school**	**6,00,000**
(iv)	**Scholarship paid to poor students**	**4,00,000**
(v)	**Amount spent on holding free eye camps in urban slums**	**3,00,000**
(vi)	**Amount set apart for setting up an old age home by March 2014**	**10,00,000**

Compute the total income of the trust for the previous years 2010-2011 and 2015-2016 if it spends ₹ 5,00,000 during the previous year 2014-2015 and ₹ 3,00,000 during the previous year 2015-2016 in setting up the old age home.

Solution: **(a) Computation of the Taxable Income of the trust for previous year 2011-2012/AY 2012-2013.**

	Particulars		₹
(i)	Income from property held under charitable trust		20,00,000
(ii)	Income from voluntary contributions (₹ 15,00,000- ₹ 5,00,000)		10,00,000
	Total		30,00,000
	Less : 15% set apart for future application		4,50,000
	Balance		25,50,000
	Less: Income applied for charitable purposes:		
(i)	Donations to blind charitable school	6,00,000	
(ii)	Scholarship to poor students	4,00,000	
(iii)	Free eye camps in urban slums	3,00,000	
	Total	13,00,000	
	Amount set apart for old age home	10,00,000	23,00,000
	Taxable Income		**2,50,000**

(b)Previous year 2015-2016 /AY 2016-2017:

Amount set apart for old age home	10,00,000
Less: 1. Amount spent during 2014-2015	3,00,000
2. Amount spent during 2015-2016	5,00,000
Taxable Income	**2,00,000**

Question no. 45(c) : Happy Home Cooperative Society Ltd. furnishes the following particulars of its income for the previous year ending on 31st March 2012:

(i)	**Interest on government securities**	**40,000**
(ii)	**Profits from banking business**	**3,50,000**
(iii)	**Income from purchase and sale of agricultural implement and seeds to its members**	**2,50,000**
(iv)	**Income from marketing of agricultural produce of its members**	**4,00,000**
(v)	**Profits and gains of business**	**2,20,000**
(vi)	**Income from cottage industry**	**3,50,000**
(vii)	**Interest and dividends (gross) from other cooperative societies**	**30,000**

Compute Total Income of the society and calculate the tax payable by it for the assessment year 2012-2013.

Solution: **Happy Home Cooperative Society Ltd.**

Computation of income of the for the previous year 2011-2012, Assessment Year 2012-2013

Particulars	₹	₹
1. Profits and gains of business or profession:		
a) Banking business	3,50,000	
b) Income from purchase and sale of agricultural implements and seeds to its members	2,50,000	
c) Income from marketing of agricultural produce of its members	4,00,000	
d) Profits and gains of business	2,20,000	
e) Income from cottage industry	3,50,000	15,70,000
2. Income from other sources:		
a) Interest on government securities	40,000	
b) Interest and dividends from other cooperatives	30,000	70,000
Gross Total Income		**16,40,000**
Less: Deduction allowable from gross total income under Sec. 80P		
1. Banking business	3,50,000	
2. Income from purchase and sale of agricultural implement and seeds to its members	2,50,000	
3. Income from marketing of agricultural produce of its members	4,00,000	
4. Income from cottage industry	3,50,000	
5. Interest on government securities(not eligible for deduction)	Nil	
6. Interest and dividends from other cooperative societies	30,000	13,80,000
Total Income		**2,60,000**

Computation of Tax Liability:

Particulars	Rate	₹
On first ₹ 10,000	10%	1,000
On next ₹ 10,000	20%	2,000
On balance ₹ 2,40,000	30%	72,000
Income tax payable		75,000
Add: Education cess @ 2%		1,500
Add: SHEC @ 1%		750
Tax payable		**77,250**

Question no. 46(a)

The following details have been supplied by the Karta, of an HUF aged 62 years. You are required to compute its total income and tax liability for the assessment year 2012-2013.

Particulars	₹
(i) Profits from business (after charging ₹ 1,00,000 salary to Karta for managing the business).	15,00,000

(ii)	Salary received by the member of a family.	60,000
(iii)	Director's fee received by Karta from B Ltd where HUF holds 20% shares but he became director because of his qualifications,	40,000
(iv)	Rental income from house property (after deduction of municipal taxes ₹ 2,000).	78,000
(v)	Dividends (gross) from Indian companies	15,000
(vi)	Long-term capital gain	80,000
(vii)	Short-term capital gain	30,000
(viii)	Donation to a school, which is an approved institution,	1,00,000
(ix)	Deposits in Public Provident Fund	20,000
(x)	NSC-VIII issues purchased	40,000

Solution: Computation of Total Income for the A.Y. 2012-13

Particulars	₹	₹
(i) Income from house property:		
Gross annual value (₹ 78,000 + ₹ 12,000)	90,000	
Less: Municipal taxes paid	12,000	
Annual value	78,000	
Less: Statutory deduction: 30% ×78,000	23,400	54,600
(ii) Profits and gains from business		15,00,000
(iii) Capital gains (a) long-term + (b) short-term		1,10,000
(iv) Income from other sources—gross dividends from Indian companies: Exempt [Sec. 10(34)]		Nil
Gross Total Income		**16,64,600**
Less:		
1. Contribution to approved savings (Sec. 80C)		
(i) Deposits in Public Provident Fund	20,000	
(ii) NSC-VIII Issue	40,000	
	60,000	
2. Donation to recognised school:		
(a) Actual donation: ₹ 1,00,000 or		
(b) 10% of adjusted total income = (Gross Total Income – Long Term Capital Gains – All deductions under Chapter VIA excluding Sec. 80G) of ₹ 15,24,600 (16,64,600 - 80,000 - 60000) whichever is less, is qualifying amount.		
Amount of deduction: : 50% of ₹ 1,00,000	50,000	1,10,000
Total Income		**15,54,600**

Computation of Tax Liability:

	Particulars of total income	Rate of income tax ₹	₹	₹
(a)	Long-term capital gain	80,000	20%	16,000
(b)	Balance of total income: ₹ 14,74,600			
	(i) First	2,50,000	Nil	—
	(ii) Between 2,50,000 – 5,00,000	2,50,000	10%	25,000
	(iii) Between 5,00,000 – 8,00,000	3,00,000	20%	60,000
	(iv) Between 8,00,000 – 14,74,600	6,74,600	30%	2,02,380

Gross Tax	3,03,380
Add: Education cess @ 2% on income tax	6,068
SHEC @ 1% on income tax	3,034
Tax payable	3,12,482
Rounded off u/s 288B	3,12,480

Question no. 46(b)

Fashion Ltd., a well-diversified group, gives below its profit and loss account for the previous year 2011-2012:

Particulars	₹	Particulars	₹
Manufacturing expenses	9,00,000	Sale of manufactured goods	10,00,000
Salaries/wages	5,50,000	Sale of agriculture produce	15,00,000
Cultivation expenses	4,00,000	Receipt from generation/distribution of power	
	15,00,000		
Power generation/distribution expenses	4,00,000	Receipt from water supply/ irrigation projects	
Irrigation expenses	6,00,000	Receipt from I.U. set up in backward district	
Expenses of I.U., located in backward district	5,00,000	in July 2004	10,00,000
Expenses of I.U., located in free trade		Transfer from Reserve & Provision a/c,	
zone(Sec. 10A)	1,50,000	debited to profit and loss account in 2005-06	
	9,50,000		
Expenses of I.U. (Sec. 10B)	1,00,000	on account of free service under	
Expenses of I.U. (Sec. 10C)	50,000	warranty period	2,00,000
Provision for losses of subsidiary	4,00,000	Sale of goods of I.U. (Sec. 10B)	2,00,000
Sundry expenses	10,000	Sale of goods of I.U, located in free trade	
Provision for bad and doubtful debts	2,00,000	zone (Sec. 10A)	1,00,000
Provision for bills under discount	50,000	Sale of goods of I.U. located in Northern	
Provision for sales tax, wealth tax against		Eastern Region (NER) (Sec. 10C)	50,000
demand notice	3,30,000	Income from UTI	5,00,000
Income tax provision against demand notice	3,00,000		
Dividend paid on preference shares	2,00,000	Long term capital gain on sale of equity	
Proposed dividend on equity shares	4,00,000	shares, transaction chargeable to	
Transfer to general reserve	1,00,000	Securities Transaction Tax	35,00,000
Dividend Equalisation reserve	2,00,000		
Penalties under direct tax laws	60,000		
Goodwill written off	50,000		
Depreciation	3,00,000		
Amortisation of patent rights	30,000		
Expenses on transfer of equity shares	20,000		
Net profit	42,00,000		
	1,05,00,000		**1,05,00,000**

The following additional information is provided as below:

1. Depreciation includes, a sum of ₹ 1,00,000 on account of revaluation of building and plant and machinery.
2. Past year losses, before depreciation, are given below:

	Loss (₹)	Depreciation (₹)
2007-2008	(-) 5,00,000	(-) 6,00,000
2008-2009	Nil	(-) 5,00,000
2009-2010	(-) 7,00,000	(-) 4,00,000
2010-2011	(-) 5,00,000	Nil

Compute book-profits for the previous year 2011-2012/AY 2012-2013 for MAT under Sec. 115 JB.

Solution: **Computation of Book Profit for the AY 2011-2012**

Particulars	₹	₹
Net profit as per profit and loss account		42,00,000
Add:		
(i) Cultivation expenses	4,00,000	
(ii) Expenses of I.U. located in Free Trade Zone (Sec. 10A)	1,50,000	
(iii) Expenses of I.U. under Sec. 10B	1,00,000	
(iv) Provision of loss of subsidiary	4,00,000	
(v) Provision for bad and doubtful debts— an unascertained liability	2,00,000	
(vi) Provision for bills under discount— an unascertained liability	50,000	
(vii) Provision for wealth-tax, sales- tax, against demand notice— an ascertained liability	—	
(viii) Income-tax provision— an ascertained liability to be added back	3,00,000	
(ix) Dividend paid on preference shares	2,00,000	
(x) Proposed dividend on equity shares	4,00,000	
(xi) Transfer to general reserve	1,00,000	
(xii) Dividend Equalisation reserve	2,00,000	
(xiii) Depreciation [Sec. 115JB(2)(g) w.e.f. AY 2011-2012]	3,00,000	28,00,000
Adjusted profits		70,00,000
Less:		
(i) Sales of agriculture produce [Sec. 10(1)]	10,00,000	
(ii) Receipt from I.U. in Free Trade Zone [Sec. 10A]	2,00,000	
(iii) Receipt from I.U. Sec. 10B	2,00,000	
(iv) Depreciation, excluding depreciation on account of revaluation of assets	2,00,000	
(v) Brought forward loss or depreciation, whichever is less.	9,00,000	
(vi) Withdrawals from Reserve & Provision for free sale service, under warranty scheme	9,50,000	
(vii) Long-term capital gain on transfer of equity shares {Sec. 10(38)] — see Note below	Nil	
(viii) Receipts from UTI [Sec. 10(35)]	50,000	35,00,000
Book-profits		35,00,000

Note: 1. Calculation of brought forward losses or depreciation:

2007-2008	Loss	5,00,000
2008-2009	Loss/depreciation	Nil
2009-2010	Depreciation	4,00,000
2010-2011	Loss/depreciation	Nil

1. Transfer from provision for after sale service, free of cost, made during the year 2005-2006, debited to profit and loss a/c and now credited to profit and loss a/c and now credited to profit and loss a/c is an allowable deduction [Sec. 115-JB(2)].
2. Long-term capital gain from the transfer of equity shares in a company is exempt is chargeable to securities trans action tax (STT). However, for the purposes of computing book-profits, it is not to be deducted [Sec. 10(38)]. Accordingly, the expenditure incurred for the transfer of equity shares has not been added back in computing book profits.

Question no. 46(c)

Classic Exporters Ltd, runs a new industrial undertaking set up in 2006-2007 which satisfies the conditions of Sec. 80-IB. Given below is the profit and loss account for the previous year 2011-2012:

Particulars	₹	Particulars	₹
Stock	4,00,000	Domestic sales	24,00,000
Purchases	23,00,000	Export sales	43,00,000
Salaries and wages	9,70,000	Export incentives Sec. 28(iiia)/(iiic)	50,000
Entertainment expenses	1,30,000	Profit of foreign branch	2,50,000
Freights and insurance attributable to exports	3,00,000	Brokerage/commission/interest/ rent, etc	50,000
Travelling expenses	2,20,000	Transfer from contingency reserve	10,00,000
Depreciation	1,50,000	Stock	3,50,000
Selling expenses	1,20,000		
Income tax paid	90,000		
Income-tax penalty	20,000		
Wealth tax paid	10,000		
Custom duty payable against demand notice	30,000		
Provision for unascertained liabilities	20,000		
Provision for ascertained liabilities	50,000		
Proposed dividend	3,00,000		
Loss of subsidiary company	50,000		
Net profit	32,40,000		
	84,00,000		**84,00,000**

You are further informed:

(i) Excise duty for 2010-2011, amounting ₹ 1,20,000 was paid on 15 December 2011.

(ii) Depreciation under Sec. 32 is ₹ 2,20,000.

(iii) During the year 2008-2009, contingency reserve, amounting ₹ 10,00,000, debited to profit and loss a/c, was added back to the extent of ₹ 4,00,000 in the computation of book-profits. The company has transferred the said reserve to the profit and loss a/c during the year.

(iv) Brought forward business loss/depreciation:

PY	Accounting purposes		Tax purposes	
	Loss	Depreciation	Loss	Depreciation
2007-2008	(-) 10,00,000	(-) 1,00,000	(-) 5,00,000	(-) 2,50,000
2008-2009	(-) 2,00,000	(-) 3,00,000	(-) 1,00,000	(-) 2,00,000

Compute the following: (a) Total income, (b) Book-profits and (c) Tax liability.

Solution: **Computation of Total Income for the Assessment Year 2012-2013**

Particulars	**₹**	**₹**
Net profit as per Profit & Loss A/c		32,40,000
Add : Expenses debited to P/L A/c – disallowed		
(i) Income tax	90,000	
(ii) Wealth tax	10,000	
(iii) Custom duty payable	30,000	

(iv) Provision for unascertained liability	20,000	
(v) Proposed dividend	3,00,000	
(vi) Loss of subsidiary company	50,000	
(vii) Income-tax penalty	20,000	5,20,000
		37,60,000
Less : Allowable Expenses and wrong credits in P/L A/c		
(i) Withdrawals from contingency reserve	10,00,000	
(ii) Excise duty	1,20,000	
(iii) Depreciation	70,000	
(iv) Brokerage, commission, interest and rent, etc.	50,000	12,40,000
Business profits		**25,20,000**
Add: Income from other sources: Brokerage/ commission, etc.		50,000
Aggregate Income		**25,70,000**
Less: (i) Brought forward losses (Sec. 72)	6,00,000	
(ii) Brought forward depreciation [Sec. 32(2)]	4,50,000	10,50,000
Gross Total Income		**15,20,000**
Less: Profit from industrial undertaking Sec. 80IB: 30% of ₹ 15,20,000 as included in GTI		4,56,000
Total Income		**10,64,000**

(b) Computation of Book Profits for the Assessment Year 2012-2013

Particulars	₹	₹
Net profits as per Profit & Loss A/c		32,40,000
Add : Expenses disallowed		
(i) Income tax	90,000	
(ii) Provision for unascertained liability	20,000	
(iii) Proposed dividend	3,00,000	
(iv) Loss of subsidiary	50,000	4,60,000
		37,00,000
Less : Allowable expenses and wrong credit in P/L A/c		
(i) Withdrawals from contingency reserve	4,00,000	
(ii) Brought forward business loss or depreciation whichever is less		
2007-2008 Depreciation	1,00,000	
2008-2009 Loss	2,00,000	7,00,000
Book-Profits		**30,00,000**

(c) Computation of tax liability for the Assessment Year 2012-2013

Particulars	₹
(a) Tax on Total Income (including Education Cess and SHEC) = 30.9% of 10,64,000	3,28,776
(b) Tax on Book Profits (including Education Cess and SHEC) = 19.055% on 30,00,000	5,71,650
Tax payable	**5,71,650**

Notes:

(i) No adjustment is required for depreciation debited to profit and loss a/c because it is not on account of revaluation of any asset.

(ii) MAT credit available ₹ (5,71,650 – 3,28,776) = ₹ 2,42,874

Question no. 47(a)

A firm made the following payments of advance tax during the Financial Year 2011-12:

	Figures in ₹ Lakhs
15.09.2011	9.30
15.12.2011	9.0
15.03.2012	14.5
	32.80

The income returned by the firm is ₹ 100 Lakhs under the head "Business" and ₹ 10 Lakhs by way of Long-term Capital Gains on sale of a property effected on 1.3.2012. What is the interest payable by the assessee u/s 234B and 234C of the Income Tax Act for Assessment Year 2012-2013? Assume that the return of income was filed on 31.07.2012 and tax was fully made upon self-assessment.

Solution:

Assessee: Firm **Previous Year : 2011-2012** **Assessment Year : 2012-2013**

(a) Interest u/s 234B = Nil [since more than 90% of Tax Payable has been paid before the end of the previous year]

(b) Interest u/s 234C

Due Date	Advance Tax payable	Advance Tax paid	Cumulative Advance tax paid before due date	Shortfall in payment of advance tax	Surplus	Months	Interest @ 1% pm
	₹	₹	₹	₹	₹		₹
15.09.2011	30% of 30,90,000 =9,27,000	9,30,000	9,30,000	Nil	3,000	3	
15.12.2011	60% of 30,90,000 =18,54,000	9,00,000	18,30,000	24,000	----	3	720
15.03.2012	100% of 32,96,000 = 32,96,000	14,50,000	32,80,000	16,000	----	1	160
Total							880

Note: Tax on LTCG has been considered only for the 3rd instalment as such gain had arisen only on 1.3.2011.

Computation of Actual Tax Payable by the Firm:

Particulars	₹	₹
Profits and Gains of Business or Profession		1,00,00,000
Capital Gains — Long Term Capital Gain		10,00,000
Total Income		1,10,00,000

Tax on Total Income including Surcharge and Cess	
On Long Term Gain of ₹ 10 lakhs @ 20%+ EC @ 2%+ SHEC @ 1%	2,06,000
On Business Income @ of ₹ 100 lakhs @ 30%+ EC @ 2%+ SHEC @ 1%	30,90,000
Net Tax Payable	**32,96,000**

Note : Tax on Business income alone considered for computation of 1st and 2nd instalment.

Question No. 47(b):

A firm made the following payments of advance tax during the previous year 2011-12 :

	₹ in lakh
September 15, 2011	7.00
December 15, 2011	7.75
March 15, 2012	11.80
	26.75

The return of income is filed on 31.7.2012 showing —

Bonus income ₹ 80 lakh

Long term capital gain taxable @ 20% (as on 1.12.2011) ₹ 20 lakh

Short term capital loss arised on 10th November, ₹ 9 lacs.

Compute interest payable u/s 234C.

Solution: **Computation of tax liability for the A.Y. 2012-13.**

₹ in lakh

Particulars	Business Income	Long term capital gain
Income	80.00	20.00
Less: Set-off of short term capital loss	----	(9.00)
Net Income	**80.00**	**11.00**
Tax rate	30%	20%
Tax liability before surcharge	24.00	2.20
Add: Education Cess & SHEC	0.72	0.067
Tax liability including cess	24.72	2.267

Total Tax Liability = (24.72 + 2.267) lakhs = ₹ 26.987 lakhs.

Computation of interest payable u/s 234C

Due Date	Advance Tax payable	Advance Tax paid	Cumulative Advance tax paid before due date	Shortfall in payment of advance tax	Surplus	Months	Interest @ 1% pm
	₹	₹	₹	₹	₹		₹
15.09.2011	30% of 24,72,000 = 7,41,600	7,00,000	7,00,000	41,600	Nil	3	1,248
15.12.2011	60% of 24,72,000 (+) 60% of	7,75,000	14,75,000	2,55,400	Nil	3	7,662

	2,26,700 = 16,19,220						
15.03.2012	100% of 26,98,700 = 26,98,700	11,80,000	26,75,000	23,700	Nil	1	237
Total							9,147

Question No. 47(c):

During the previous year 2011-12, Mrs. X (aged 46 years) pays the following instalments of advance tax:

	₹
On September 15, 2011	**6,000**
On December 15, 2011	**22,000**
On March 15, 2012	**16,000**
On March 16, 2012	**18,000**

Mrs. X files return of ₹ 7,01,000. Assessment is also completed on the basis of income returned by Mrs. X after making addition of ₹ 25,000 (date of assessment order : January 20, 2013). Mrs. X is entitled to tax credit of ₹ 12,510 on account of tax deducted at source. Compute interest under sections 234B and 234C.

Solution:

Interest liability under section 234B

	₹
Income (7,01,000 + 25,000) =	7,26,000
Tax on ₹ 7,26,000	76,200
Less : Tax deducted at source	12,510
Assessed tax	63,690
90% of assessed tax	57,321

Advance tax paid during 2011-12 (i.e., ₹ 6,000 + 14,000 + 16,000 + 18,000) = ₹ 54,000.

Since advance tax during the previous year 2011-12 is less than 90% of assessed tax, Mrs. X is liable to pay interest under section 234B, i.e., on the shortfall of ₹ 9,690 (being ₹ 63,690 – 54,000) for 10 months (₹ 9,690 × 1/100 × 10) which comes to ₹ 969.

Interest liability under section 234C

Tax on ₹ 7,01,000 = ₹ 71,200

Due Date	Advance Tax payable	Advance Tax paid	Cumulative Advance tax paid before due date	Shortfall in payment of advance tax	Surplus	Months	Interest @ 1% pm
	₹	₹	₹	₹	₹	₹	₹
15.09.2011	30% of 71,200 = 21,360	6,000	6,000	15,360	Nil	3	461

15.12.2011	60% of 71,200 =42,720	22,000	28,000	14,720	Nil	3	442
15.03.2012	100% of 71,200 = 71,200	34,000	62,000	9,200	Nil	1	92
Total							995

Question No.48 (a)

Compute the Advance Tax payable by R from the following estimated income submitted for the previous year 2011-12.

	₹
(1) Income from Salary	**3,64,000**
(2) Rent from house property (per annum)	**1,80,000**
(3) Interest on Government securities	**5,000**
(4) Interest on bank deposits	**3,000**
(5) Receipt from horse race (net)	**14,000**
(6) Agricultural Income	**90,000**
(7) Contribution towards PPF	**10,000**

Tax deducted at source by the employer on salary is ₹ 9,680.

Solution:

Computation of Estimated Total Income for the Previous Year 2011-12

	₹	₹
Income from Salary :		
Gross salary	3,64,000	
Less : Deduction	Nil	3,64,000
Income from House Property :		
Rent received	1,80,000	
Less : (Statutory deduction u/s 24(a) @ 30%)	54,000	1,26,000
Income from Other Sources :		
Interest on Government securities	5,000	
Interest on Bank Deposit	3,000	
Horse Races (Gross)	20,000	28,000
Estimated Gross Total Income		**5,18,000**
Less : Deduction under section 80C		10,000
Total Income		**5,08,000**

Estimated Tax :

Step-1 : Aggregate of Agricultural income + Non-Agricultural income (90,000 + 5,08,000) = 5,98,000

Tax on : Income from Horse Race of ₹ 20,000 @ 30%	6,000

Balance income of ₹ 5,78,000		47,600
		53,600
Step-2 : Aggregate of Basic exemption limit of agricultural income (1,80,000 + 90,000) = 2,70,000		
Tax on ₹ 2,70,000		9,000
Step-3 : Tax on non-agricultural income		
Tax under step-1 - Tax under step-2 (53,600 – 9,000) = 44,900		
Estimated tax payable		**44,900**
Add : Education cess @ 2%		898
Add : SHEC @ 1%		449
		46,247
Less : Estimated TDS		
on salary	9,680	
on horse races	6,000	15,680
Advance tax payable (rounded off)		**30,567**
First installment payable by 15.9.2011 (30%)		9,170
Second installment payable by 15.12.2011 (30%)		9,170
Third installment payable by 15.3.2012 (balance 40%)		12,227

Working notes :

Computation of gross winnings from horse races :	₹
Net Amount	14,000
Grossing up	20,000
Tax deducted at source (Gross amount ₹ 20,000 – Amount received ₹ 14,000)	6,000

Question No.48 (b)

X Ltd. estimates its income for the previous year 2010-11 at ₹ 1,20,000. Besides this income, it has also earned long-term capital gain of ₹ 80,000 on transfer of gold on 1.12.2011. Compute the advance tax payable by the company in various instalments.

Solution:	₹
Tax on ₹ 1,20,000 @ 30%	36,000
LTCG of ₹ 80,000 @ 20%	16,000
	52,000
Add : Education cess @ 2%	1,040
SHEC @ 1%	520
	53,560

Amount payable on 1st and 2nd instalment. For the first two instalments tax on LTCG will not be taken into account as this accrued on 1.12.2011 *i.e.* after the due date of the first 2 instalments.

Tax including Education Cess and SHEC payable without Long-term Capital Gain (₹ 36,000 + 720 +360) =₹ 37,080

Advance Tax Payable

Due Date	Tax Liability as on due date	Amount of Instalment Payable (₹)
15.6.2011	15% of 37,080 = 5,562	₹ 5,562
15.9.2011	45% of 37,080 = 16,680	= 16,680 – 5,560
		= 11,118
15.12.2011	75% of 53,560 = 40,170	= 40,170 – 5,562 – 11,118
		= 23,490
15.3.2012	100% of 53,560 = 53,560	= 53,560 – 5,562 – 11,118 – 23,490
		= 13,390

Question No.48(c):

Find out the amount of advance tax payable by ABC Ltd. on specified dates for the previous year 2011-12 :

Business income	**₹ 1,75,000**
Long term capital gain on 31-7-2011	**₹ 3,50,000**
Bank interest	**₹ 10,000**
TDS on business income	**₹ 19,995**

Solution :

Computation of Total Income of ABC Ltd. for the previous Year 2010-11

Particulars	Amount ₹
Profits and gains of business or profession	1,75,000
Capital gains: Long term capital gains	3,50,000
Income from other sources: Bank Interest	10,000
Total Income	**5,35,000**

Computation of Tax Liability of ABC Ltd. for the previous year 2011-12

Particulars	Long term capital gain ₹	Other income ₹
Income	3,50,000	1,85,000
Tax rate	20%	30%
Tax on above	70,000	55,500
Add : Education cess & SHEC	2,100	1,665
Tax and cess payable	72,100	57,165
Less : TDS	—	19,995
Advance tax payable	72,100	37,170

Advance tax to be paid on specified dates

Date	Advance tax on LTCG: Workings	Advance tax on LTCG: Amount (a) ₹	Advance tax on income other than LTCG: Workings	Advance tax on income other than LTCG: Amount (b) ₹	Total (a+b) ₹
15.06.2011	As LTCG occurred on 31.7.11	Nil	15% of ₹ 37,170	5,576	5,576
15.09.2011	45% of ₹ 72,100	32,445	30% of ₹ 37,170	11,151	43,596
15.12.2011	30% of ₹ 72,100	21,630	30% of ₹ 37,170	11,151	32,781
15.03.2012	25% of ₹ 72,100	18,025	25% of ₹ 37,170	9,292	27,317
Total		**72,100**		**37,170**	**1,09,270**

Question No. 49(a)

R a resident Indian, has derived the following income for the previous year relevant to the assessment year 2012-2013.

	Particulars	₹
(1)	**Income from profession**	**4,00,000**
(2)	**Share income from a partnership in country X (tax paid in country Y for this income in equivalent Indian rupees ₹ 25,000)**	**2,00,000**
(3)	**Commission income from a concern in country Y (tax paid in country Y at 20%) converted in Indian rupee.**	**40,000**
(4)	**Interest from schedule banks.**	**20,000**

R wishes to know whether he is eligible to any double taxation relief, if so, its quantum. India does not have any Double Taxation Avoidance Agreement with countries X and Y.

Solution: (a) Computation of Total Income

	Particulars	₹	₹
(a)	Income from business:		
	(i) Income from profession	4,00,000	
	(ii) Share income in partnership firm in country X	2,00,000	6,00,000
(b)	Income from other sources:		
	(i) Interest from schedule bank	20,000	
	(ii) Commission earned in country Y, assumed from other sources	40,000	60,000
Total Income			**6,60,000**
(b)	Computation of tax liability :		
	Tax on total income of ₹ 6,60,000		64,000
	Add : Education cess @ 2%		1,280
	Add : SHEC @		640
			65,920
	Less : Double taxation relief : (2,00,000 + 40,000) = 2,40,000 × 9.99%		23,976
Tax payable			41,944
Tax payable to be rounded off to the nearest multiple of ₹ 10 (Sec. 288B)			41,940

Note: (i) Average rate of tax in the foreign country 20%.

(ii) Average rate of tax in India: [₹65,920 x100/6,60,000] =9.99%

Whichever is less, is applicable

Question No. 49(b)

SIPRA Constructions Ltd. is engaged in the construction of residential flats. For the valuation date 31.3.2012, furnishes the following data and requests you to compute the taxable wealth:

(a) Land in urban area (construction is not permitted as per Municipal laws in force) ₹ 50 lakhs
(b) Motor-cars (in the use of company) ₹10lakhs
(c) Jewellery (Investment) ₹10 lakhs
(d) Cash balance (As per books) ₹ 3 lakhs
(e) Bank Balance (As per books) ₹ 6 lakhs
(f) Guest House (Situated in rural area) ₹ 8 lakhs

(g) Residential flat occupied by Managing Director (Annual remuneration of whom is ₹8 Lakhs excluding perquisites) ₹ 10 lakhs
(h) Residential house let-out for 100 days in the financial year ₹ 5 lakhs
(i) Loan obtained for:
- Purchase of Motor Car ₹ 3 lakhs
- Purchase of Jewellery ₹ 2 lakhs

Solution:

Assessee: SIPRA Constructions Ltd. Valuation Date: 31.3.2012 Assessment Year: 2012-13

Nature of Asset	Amount taxable (₹ Lakhs)	Reasons
Land in Urban Area	NIL	Land in which construction is not permitted as per municipal laws is not an asset u/s 2(ea)
Motor-cars	10	Motor-car other than those used in the business of hire or held as stock-in-trade is an asset u/s 2(ea)
Jewellery	10	Not held as stock-in-trade - asset u/s 2(ea)
Cash Balance	NIL	Cash as per books - not an asset u/s 2(ea)
Bank Balance	NIL	Not an asset u/s 2(ea)
Guest House	8	Asset u/s 2(ea)
Residential Flat Occupied by MD	10	Asset u/s 2(ea)-since Gross Annual Salary of Managing Director is greater than ₹ 5 Lakhs
Let-out Residential House Property	5	Asset u/s 2(ea) – since not let-out for a period exceeding 300 days
TOTAL ASSETS	**43**	
Less: Debt incurred in relation to Assets		
1. Purchase of Motor-car	(3)	
2. Purchase of Jewellery	(2)	
NET WEALTH	**38**	
Less: Basic Exemption	30	
Taxable Net Wealth	**8**	
Tax Payable @ 1%	8,000	

Question No.49 (c)

Abhishek, a person of Indian origin was working in Austria since 1991. He returned to India for permanent settlement in May 2011 when he remitted money into India. For the valuation date 31.3.2012, the following particulars were furnished. You are required to compute the taxable wealth. The reason for inclusion or exclusion should be stated –

- Building owned and let-out for 270 days for residence. Net maintainable rent (₹1,00,000) and the Market Value (Excess of Unbuilt Area over Specified Area is 20% of the Aggregate Area) ₹ 30 lakhs
- Jewellery **:** (a) Purchased in April 2011 out of money remitted to India from Austria ₹ 12,00,000

(b) Purchased in May 2011 out of sale proceeds of motor-car brought from abroad and sold for ₹ 40 lakhs.

- Value of interest in urban land held by a firm in which he is a partner ₹10 lakhs
- Bonds held in companies ₹10 lakhs
- Motor car used for own business ₹ 25 lakhs
- Vacant house plot of 480 sq. mts. (purchased in December 2003) market value of ₹ 20,00,000
- Cash in hand ₹ 45,000
- Urban land purchased in the year 2008 out of withdrawals of NRE Account ₹ 15,00,000

Solution :

Assessee : Abhishek Valuation Date : 31.3.2012 Assessment Year : 2012-13

Computation of Net Wealth

Nature of the Asset	₹	₹	Reasons
Value of the House		**18,50,000**	Asset u/s 2(ea). Working Note 1
Jewellery: Purchased in April 2011	12,00,000		Asset u/s 2(ea).
Less: Exempt u/s 5(v) Jewellery	(12,00,000)	**Nil**	Purchased out of money brought into India
Jewellery: Purchased in May 2011	40,00,000		Asset u/s 2(ea).
Less: Exempt u/s 5(v)	(40,00,000)	**Nil**	Purchased out of sale proceeds of assets brought into India
Interest in Urban Land held by firm		**10,00,000**	Deemed Asset u/s 4(1)(b)
Bonds held in companies	—	**Nil**	Not an asset u/s 2(ea)
Motor car		**25,00,000**	Asset u/s 2(ea). Not held as stock-in-trade
Vacant House Plot (480 sq. mts.)	20,00,000		Asset u/s 2 (ea)
Less: Exempt u/s 5(vi)	(20,00,000)	**Nil**	House/part of house/plot less than 500 sq.mts.
Cash in hand		**Nil**	Since not exceeding ₹50,000
Urban Land Purchased	15,00,000		Purchased out of money
Less: Exempt u/s 5(v)	(15,00,000)	**Nil**	brought into India
NET WEALTH		**53,50,000**	
Less : Basic Exemption		**30,00,000**	
Net Taxable Wealth		**23,50,000**	
Tax Payable @ 1%		**23,500**	

(1) Working Notes: Valuation of Building:

Net Maintainable Rent(NMR) = ₹1,00,000

Capitalized Value of NMR=NMR×12.5 (Owner of the land) = ₹ 1,00,000 × 12.5 = ₹12,50,000

Add : Premium for excess of unbuilt area (20%) over specified area = 40% of CNMR = ₹ 5,00,000

VALUE OF THE HOUSE **₹18,50,000**

Question No. 49(d)

From the following dated furnished by Mr. Soumitra, determine the value of house property built on leasehold land as at the valuation date 31.3.2012:

Particulars	₹
Annual Value as per Municipal valuation	**1,40,000**
Rent received from tenant (Property vacant for 3 months during the year)	**1,08,000**
Municipal tax paid by tenant	**10,000**
Repairs on property borne by tenant	**8,000**
Refundable deposit collected from tenant as security deposit which does not carry any interest	**50,000**
The difference between unbuilt area and specified area over aggregate area is 10.5%.	

Solution:

Assessee: Mr. Soumitra Valuation Date: 31.3.2011 Assessment Year: 2012-13

Computation of Value of House Property

Step I: Computation of Gross Maintainable Rent(GMR)

Particulars	₹	₹
Actual Annual Rent- ₹ 1,08,000 x 12 Months/9 Months		1,44,000
Add: Municipal tax paid by the Tenant10,000		
I/9th of Actual Rent Receivable as repair expenses are borne by the tenant - ₹ 1,44,000/9	16,000	
Interest on Refundable Security Deposit- ₹ 50,000 x 15% x 9/12	6,000	32,000
GROSS MAINTAINABLE RENT (GMR)	**1,76,000**	

Step II: Computation of Net Maintainable Rent (NMR)

Particulars	₹	₹
Gross Maintainable Rent (GMR)		1,76,000
Less: Municipal Taxes levied by the local authority	10,000	
15% of Gross Maintainable Rent - ₹1,76,000 x 15%	26,400	(36,400)
NET MAINTAINABLE RENT (NMR)		**1,39,600**

Step III: Capitalisation of the Net Maintainable Rent (CNMR) (Assumed that unexpired lease period is more than 50 Years)

NMR × Multiple Factor for an Unexpired Lease Period - ₹ 1,39,600 × 10 = ₹ 13,96,000

Step IV: Addition of Premium to SNMR in case of excess inbuilt area:

Particulars	₹
Add: Capitalisation of the Net Maintainable Asset	13,96,000
Premium for excess of 10.5% unbuilt area over specified area-30% of CNMR	4,18,800
Value of House Property as per Wealth Tax Act	**18,14,800**

Question No.49 (e)

Property Company Ltd. has let-out a premise with effect from 1.10.2011 on monthly rent of ₹ 1.5 lakh. The lease is valid for 10 years and the tenant has made a deposit equivalent to 3 months rent. The tenant has undertaken to pay the municipal taxes of the premises amounting to ₹ 2 lakhs. What will be the value of the property under Schedule III of the Wealth Tax Act for assessment to wealth tax?

Solution :

Assessee: Property Company Ltd. Valuation Date: 31.3.2012 Assessment Year : 2012-13

Computation of Value of Let-out Property

Actual Annual Rent Receivable - ₹ 1,50,000 × 12 Months	18,00,000
Add: Municipal Taxes borne by the Tenant	2,00,000
GROSS MAINTAINABLE RENT	20,00,000
Less: Municipal Taxes levied by the Municipal Authority	2,00,000
Less: 15% of Gross Maintainable Rent (₹ 20,00,000 × 15%)	3,00,000
NET MAINTAINABLE RENT	15,00,000

Value of the Property = Capitalized Value of NMR

NMR × 8 (unexpired period of lease is less than 50 years) = ₹ 15,00,000×8 = ₹ **1,20,00,000**

Question No.49(f)

Net wealth of firm consisting of three partners Bidyut, Kingshuk and Deepak in 2:2:1 and a capital contribution of ₹ 17 Lakhs, ₹13 Lakhs, and ₹12 Lakhs respectively is as under -

(a)	**Value of assets located outside India**	**₹ 30,00,000**
(b)	**Value of assets located in India**	**₹ 80,00,000**
(c)	**Debts incurred in relation to assets in India**	**₹ 40,00,000**

Determine the value of interest of the partners in the firm under the Wealth Tax Act, 1957.

Solution :

Assesses: Bidyut, Kingshuk & Deepak Valuation Date: 31.3.2012
Assessment Year: 2012-13

Computation of net wealth of the Firm

Particulars	**₹**	**₹**
Value of Assets located in India	80,00,000	
Less: Liability in relation to assets in India	40,00,000	40,00,000
Value of Assets located outside India		30,00,000
Net Wealth of the Firm		**70,00,000**

Solution :

Computation of Interest of the Partner in the net wealth of the Firm (Amount in ₹)

Particulars	**Bidyut**	**Kingshuk**	**Deepak**
To the extent of Capital Contribution	17,00,000	13,00,000	12,00,000
Balance (Net Wealth-Capital Contribution) in Profit sharing ratio since dissolution ratio is not given	11,20,000	11,20,000	5,60,000
Interest of the Partner in the Net Wealth of the Firm	**28,20,000**	**24,20,000**	**17,60,000**

Computation of the Interest of the Partner in the net wealth of the Firm on the basis of location of assets:
(Interest of the Partner in the Firm **apportioned** in the ratio of **4:3)**

Particulars	Balu	Kausik	Deepu
Assets Located Inside India	16,11,429	13,82,857	10,05,714
Assets Located Outside India	12,08,571	10,37,143	7,54,286
Interest of the Partner in the Net Wealth of the Firm	28,20,000	24,20,000	17,60,000

Question No.50 (a)

A company has started a new industrial undertaking in an old building purchased by it for ₹30,00,000 and has installed both new and second hand machinery from time to time to cope with the increase in production. The details of the machinery installed (old and new) are furnished below. It wants to know whether it is eligible to any deduction u/s 80IB, if so, for how many years?

Machinery	**2006-2007**	**2007-2008**	**2008-2009**	**2009-2010**	**2010-2011**
		Additions	**Additions**	**Additions**	**Additions**
New	**2,50,000**	**2,50,000**	**2,00,000**	**2,50,000**	**1,00,000**
Second hand	**1,50,000**	**Nil**	**Nil**	**Nil**	**1,50,000**

Answer: For claiming deduction u/s 80IB, one of the conditions is that second hand machinery used should not exceed 20% of total value of machinery and plant used in the business [Explanation 2 to Sec.80IB(2)(iii)].

Financial Years	New Machinery (Rs)	Old Machinery (₹)	Total value (₹)	% of old in Total (₹)
2006-07	2,50,000	1,50,000	4,00,000	1,50,000/4,00,000 x 100 = 37.5%
2007-08	5,00,000	1,50,000	6,50,000	1,50,000/6,50,000 x 100 =23.1%
2008-09	7,00,000	1,50,000	8,50,000	1,50,000 / 8,50,000 x 100 = 17.6%
2009-10	9,50,000	1,50,000	11,00,000	1,50,000/11,00,000 x 100 = 13.6%
2010-11	10,50,000	3,00,000	13,50,000	3,00,000/13,50,000 x 100 = 22.2%

From the above analysis, it is revealed that cost of second hand machinery used in business has exceeded the limit of 20% in the financial years 2006-07,2007-08 and 2010-11. Hence, deductions shall be allowed only for the previous years 2008-09 and 2009-10.

Question No.50 (b)

Entertainment Arts of Mumbai engaged in distribution of cinematography films. It started construction of multiplex theatre and convention hall in Navi Mumbai in May 2002 and completed in January 2005. The profits for the year ended 31.3.2012 of all activities are:

(i) Distribution of cinematography films ₹10 lakhs

(ii) Convention theatre ₹12 lakhs

(iii) Multiplex theatre ₹5 lakhs

Compute taxable income for the assessment year 2012-13 with reasons.

Answer:

Assessee: Entertainment Arts **Previous Year : 2011-2012** **Assessment Year: 2012-2013**

Computation of Total Income

Particulars	**Amount (₹)**	**Amount (₹)**
Profits and gains from business or profession	10,00,000	
Convention centre at Navi Mumbai	12,00,000	
Multiplex theatre at Navi Mumbai	5,00,000	27,00,000
Gross Total Income		27,00,000
Less: Deduction under chapter VI-A		
80-IB(7B) – Convention Centre – 50% of ₹12,00,000		6,00,000
Total Income		**21,00,000**

Note: Though the multiplex was constructed between 1.4.2002 to 31.3.2005, deduction u/s 80-IB will not be available to a Multiplex Theatre located at a place within the municipal jurisdiction of Metros (whether known as a Municipality, Municipal Corporation, Notified Area Committee or a Cantonment Board or by any other name), i.e. Kolkata, Chennai, Delhi or Mumbai.

It may be noted that there is no space/ area restriction for a Convention Centre.

<u>**Question No.50(c)**</u>

In Uttaranchal, an undertaking commenced business of manufacturing an article(other than those specified in Schedule III) and had undergone substantial expansion during the specified period. The commercial production had started on 15th April, 2003 and during the current previous year 2011-12, made a profit of ₹5 lakhs. Discuss exemption available, if any.

Answer: The assessee is eligible to claim an exemption u/s 80-IC, based on the location of its establishment. In the given case, the undertaking is located in Uttaranchal and the commencement is on or after 7th January, 2003 (specified date) and between 1st April,2012 (last date). Deduction is available @ 100% for the first 5 years and for the next 5 years @ 30% for companies and @25% for othe₹

Since this undertaking is presently in 9th year of its operations, it would be eligible to claim 30% (assuming this undertaking to be a company) on the profits earned u/s 80-IC.

Computation:

Profit as per profit & loss account	₹5,00,000
Less: Deduction u/s 80-IC @ 30% of ₹5,00,000	₹1,50,000
Total Income	**₹3,50,000**

<u>**Question No. 50(d)**</u>

Happy Times Entertainment Ltd. is also engaged in the business of hotel, one of which is located in a specified district having a World Heritage Site. Discuss taxability of profits.

Answer: U/s 80-ID, a undertaking engaged in the business of hotels located in specified district having a world heritage site (w.e.f. assessment year 2009-10), would be eligible for deduction @100% of profits for the first 5 years, provided, the date of commencement is on or after 1st April, 2008 but upto 31st March,2013.

Hotel means a hotel of two-star, three-star or four-star category as classified by the Central Government. Specified area means the National Capital Territory of Delhi and the districts of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad.

Question No. 50(e)

Discuss the provisions relating to deduction u/s 80-IE, for undertakings located in North-Eastern States.

Answer: U/s 80-IE, any undertaking which commences its operation during the period beginning on 1st April, 2007 and ending before 1st April,2017 in any of the North-Eastern States to:

(i) Manufacture or produce any eligible article or thing;

(ii) Undertake substantial expansion to manufacture or produce any eligible article or thing;

(iii) Carry on any eligible business.

Deduction is available @ 100% of the profits and gains derived from the business from 10 consecutive assessment years commencing from the previous years of manufacture, production or substantial expansion.

Question No.50 (f)

A foreign enterprise enters into a contract for the fabrication and supply of components for machinery with X & Co., a firm in India. X & Co. in turn subcontracts the work to Y & Co (a Partnership firm) and pays it ₹23 lakhs during the previous year 2011-12. Discuss the liability for tax deduction at source.

Answer: U/s 194C, payments to contractors (including sub-contractors) for contracts shall be subject to TDS @ 1% if the payee is a resident individual/HUF and 2% in case of other resident payees.

Since the payment is made to a firm, ₹23 lakhs shall be subject to TDS @ 2% i.e. ₹46,000

Therefore, X & Co. should deduct ₹46,000 from the amount payable to Y & Co and pay the balance of ₹22,54,000. Further, the foreign enterprise is also liable to deduct TDS on its payment to main contractor @ 2%.

Question No. 50(g)

X Ltd. has taken a 5,000 sq.ft. flat on rent from B Ltd to set up its Branch office. The rent payable to B Ltd for the flat is ₹ 90,000 per month plus applicable service tax. X Ltd. wishes to know whether tax is required to be deducted at source u/s 194-I, from gross amount of rent including service tax. Advice.

Answer:

Service tax paid by tenant is not in the nature of "income' for the landlord. Hence, TDS u/s 194-I would be required to be made on the amount of rent paid/payable without including service tax. [Circular No.4/2008 dated 28.4.2008]

Since the amount of rent payable exceeds ₹ 1,80,000, TDS is to be deducted @ 10% during the previous year 2011-12 is as follows:

= ₹ 90,000 x 12 months x 10% = ₹ 1,08,000.

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