Paper-14: Indirect and Direct - Tax Management

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

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

Working notes should form part of the answers.

Answer Question No. 1 (carrying 25 marks), which is compulsory and any five from the rest.

1. Fill up the blanks: **[1×25]**

(i) A company whose gross total income consists mainly of income which is chargeable under the heads, 'Income from house property', 'Capital Gains' and 'Income from other sources' is called a/an ______________ (Investment Company; Section 25 Company; Foreign Company).

(ii) _______________ of the Constitution of India provides that no tax shall be levied or collected except by the authority of law (Article 265; Article 268; Article 269).

(iii) The Bill of Entry for ex-bond clearance from warehouse on payment of customs duty is of __________ (Green; Yellow; White) colour.

(iv) Under Section 4A of the Central Excise Act, 1944, the assessable value will be calculated on the basis of ___________________ (Transaction Value; Maximum Retail Price Less Abatement; Maximum Retail Price).

(v) Section 271A of the Income Tax Act, 1961 provides for a penalty of __________, in case the assessee fails to keep, maintain or retain books of accounts, documents, etc., as required under Section 44AA of the Income Tax Act, 1961. (₹25,000; ₹50,000; ₹1,00,000).

(vi) No disallowance under Section 40(a)(ia) of the Income Tax Act, 1961, shall be made to a deductor, in respect of expenditure incurred in the month of March, if the TDS of such expenditure has been paid before __________________ (31st March; the due date for filing of the return; 30 days from the date of tax deduction).

(vii) Under Section 13 of the Customs Act, 1962, duty is not payable on pilfered goods, only in case where the goods are pilfered after unloading but before the issue of ______________ (Order of clearance; Speaking Order).

(viii) Under Section 3 of the Central Excise Act, 1944, duty is not levied on goods produced/ manufactured in __________________ (Special Economic Zone; Free Trade Zone; 100% Export Oriented Undertaking).

(ix) Section 61 of the Customs Act, 1962 provides for warehousing in the case of capital goods intended for use in any 100% export oriented undertaking (EOU) till the expiry of _________________ (1 year; 3 years; 5 years).

(x) Section 11BB of the Central Excise Act, 1944 provides for the payment of interest @ 6% per annum on refund of duty, which is not paid to the applicant within ___________ from the date of receipt of application (30 Days; 1 Year; Three months).

(xi) Rule 6(2) of the Service Tax Rules, 1994, as amended by Notification No. 16/2013-ST, dated 22.11.2013, makes e-payment of service tax mandatory for the assessee, who has paid a total service tax of ___________ or above, including the amount paid by utilization of CENVAT Credit, in the preceding financial year (₹10 Lakhs; ₹1 Lakh; ₹50 Lakhs).

(xii) In the case of a non-resident engaged in the business of operation of aircraft, the income is determined under Section 44BBA of the Income Tax Act, 1961 at ____________ (7.5% of turnover; 10% of turnover; 5% of turnover).

(xiii) The deduction allowable under Section 80LA of the Income Tax Act, 1961 in respect of eligible income of Offshore Banking Units and International Financial Services Centre is __________ of such income for 5 consecutive assessment years and 50% of such income for 5 consecutive assessment years thereafter (100%; 80%; 75%).

(xiv) Under Section 194LA of the Income Tax Act, 1961, any person responsible for paying to a resident any sum exceeding ₹2 Lakhs towards compensation for compulsory acquisition of the seller's urban industrial land under any law, has to deduct income-tax at the rate of _______________ (10%; 15%; 20%).

(xv) Section 13B of the Income Tax Act, 1961 provides that, voluntary contributions received by electoral trusts during the Previous Year 2013-14 is ________________ (fully taxable; fully exempt from tax; exempt only if the trust distributes to a registered political party during the year 95 % of the aggregate donations received by it).

(xvi) Section 10(32) of the Income Tax Act, 1961 provides for an exemption up to ____________, in respect of each minor child, where a minor's income is clubbed with the income of the parent (₹1200, ₹1500, ₹2000).

(xvii) Special Audit under Section 14A of the Central Excise Act, 1944 can be ordered by any Central Excise officer, not below the rank of a/an _________________ (Assistant Commissioner of Central Excise; Deputy Commissioner of Central Excise; Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise), with the prior approval of the Chief Commissioner of Central Excise.

(xviii) Under the provisions of Section 48 of the Customs Act, 1962, if the imported goods are not cleared within ________ days of unloading at the customs station, the custodian may sell them under permission of the proper officer (30; 45; 60).

(xix) Under the provisions of Section 11A of the Central Excise Act, 1944, Show Cause Notice for recovery of excise duties not levied, or not paid or short levied or short paid or erroneously refunded can be served on the person chargeable with duty, within ______________ (6 months; 1 year; 2 years) from the relevant date.

(xx) Section 15 of the Customs Act, 1962 provides that, the rate of duty and tariff valuation of imported goods, entered for home consumption under Section 46, shall be applicable, as on the date on which ________________ (Bill of Entry is presented; Customs Duty is paid).

(xxi) Section ________ of the Central Excise Act, 1944 empowers the Central Government to exempt, either absolutely, or subject to specified conditions, excisable goods of any specified description, from the whole or part of the duty of excise leviable thereon (3A; 4A; 5A).

(xxii) Safeguard Duty levied under Rule 12 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997, shall remain in force for a period not exceeding _____________ years from the date of its imposition (5; 4; 3).

(xxiii) Rule 7 of the Place of Provision of Service Rules, 2012 provide that, where any service referred to in Rules 4, 5 or 6 of the said Rules, is provided at more than one location, including a location in the taxable territory, its place of provision shall be the location ____________________ (in the taxable territory where the greatest proportion of the service is provided; of the service receiver; of the service recipient).

(xxiv) ______________ connotes the exercise carried out by the taxpayer to meet his tax obligations in proper, systematic and orderly manner, availing all permissible exemptions, deductions and reliefs available under the relevant statutes as may be applicable to his case (tax planning; tax evasion; tax avoidance).

(xxv) Under the provisions of Section 271F of the Income Tax Act, 1961, minimum penalty for failure to furnish return of income , as required by the proviso to Section 139(1), on or before the end of assessment year, is ________________ (₹1,000 per day till the default continues; ₹5,000; ₹10,000).

2.

(a) Mr. Atul Sinha, an Indian resident, won a Hyundai Santro worth ₹ 3 Lakhs, as the first prize in a lottery. According to Section 194B of the Income Tax Act, 1961, tax has to be

deducted at source from the winnings of lottery at the time of payment of the prize money.
Explain the procedure to be adopted before handing over the Hyundai Santro (the lottery prize) to Mr. Atul Sinha.

(b) Compute the Assessable Value and the amount of excise duty payable under the Central Excise Act, 1944 and rules made thereunder from the following information:

Sl. No	Particulars	No. of units	Price per unit (₹/unit)		Rate of Duty ad valorem
			At Factory	At Depot	
(a)	Goods transferred from factory to depot on 14th July, 2013.	1500	300	330	10%
(b)	Goods actually sold at depot on 24th July, 2013	1125	338	375	8%

(c) Pentagon Enterprises Ltd., a small scale industrial unit, manufactures "Lion-King" (a type of toy for infants). The small scale industrial unit has reported gross sales turnover of ₹2,92,65,000, inclusive of excise duty and VAT (the turnover is eligible for exemption under Notification No. 08/2003). The taxable clearances of Pentagon Enterprises Ltd. for the financial year 2012-13 was ₹2,40,00,000. The product "Lion-King" attracts excise duty @ 12% and VAT @ 1%. Calculate the excise duty liability under Notification No. 08/2003 dated 01-03-2003.

(d) Mr. Mahesh Kumar is engaged in providing a service which becomes taxable with effect from 01.07.2013. Determine whether service tax is payable by Mr. Mahesh Kumar, in each of the following independent cases, in accordance with the Point of Taxation Rules 2011?

Case	Date of issuance of invoice	Date of receipt of payment
(a)	25.06.2013 for ₹1,50,000	26.06.2013 for ₹1,50,000
(b)	25.06.2013 for ₹1,50,000	26.06.2013 for ₹ 90,000 10.07.2013 for ₹ 60,000
(c)	24.06.2013 for ₹90,000	20.06.2013 for ₹ 90,000
	07.07.2013 for ₹60,000	29.06.2013 for ₹60,000
(d)	23.07.2013 for ₹ 1,50,000	30.06.2013 for ₹1,50,000

(e) State the provisions regarding transit and transhipment of goods without payment of duty under the Customs Act, 1962.

[2+3+3+4+3]

3.

(a) **The Profit & Loss Account of Fortuna Industries Ltd. for the previous year 2013-14, shows a net profit of ₹ 90 Lakhs after accounting for the following items:**

(i) Depreciation of ₹ 36 Lakhs, was charged in the Profit and Loss Account. This amount included additional depreciation of ₹ 6 Lakhs on revalued assets. The amount of depreciation chargeable under Section 32 of the Income Tax Act, 1961, amounted to ₹ 28 Lakhs.

(ii) Interest of ₹9 lakhs due to a financial institution, was not paid before the due date of filling return of income.
(iii) Provision for doubtful debts was made at ₹ 1.50 lakhs.
(iv) Provision for unascertained liabilities amounted to ₹ 3 lakhs.
(v) ₹ 7.5 lakhs was transferred to the General Reserve.
(vi) Net Agricultural Income amounted to ₹ 24 lakhs.

(vii) ₹ 4.5 lakhs was withdrawn from reserve created during the financial year 2010–11. (Book profit was increased by the amount transferred to such reserve in Assessment year 2011 – 12.)

Other Information:
Brought forward loss and unabsorbed depreciation as per books are ₹ 18 Lakhs and ₹ 15 Lakhs, respectively.

Compute Minimum Alternate Tax under Section 115JB of the Income Tax Act, 1961 for the A.Y. 2014 – 15.

(b) **The following information is provided in respect of manufacture of a chemical product- "Brightex", for the purpose of captive consumption in the same factory. Determine the assessable value for the purpose of duty of excise in terms of Rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 and provide suitable notes, wherever necessary.**

Particulars	Amount (₹)
Cost of direct materials (includes central excise duty ₹3,090)	33,090
Salaries paid to direct employees	24,600
Consumable stores and repairs	16,800
Quality Control Cost	8,600
Research and Development Cost	5,400
Administrative Cost:	

Production related Others	6,000 3,000
Selling and Distribution Cost	7,200
Scrap Value realized	3,000

NOTE: CENVAT Credit of the excise duty so paid is available.

(c) Lakshmi Vilas Bank Ltd. provides the following information for the month of August 2013:

(i) CENVAT Credit available on Inputs : ₹3,00,000
(ii) CENVAT Credit available on Input Services: ₹6,00,000
(iii) Service Tax Liability before availing eligible CENVAT: ₹15,00,000

Determine the amount of CENVAT Credit available to Lakshmi Vilas Bank Ltd., for the month of August 2013, in view of Rule 6(3B) of CENVAT Credit Rules, 2004. Determine the net service tax liability of Lakshmi Vilas Bank Ltd. after availing CENVAT Credit.

[6+ 5+4]

4.

(a) Mr. Raghuvir Prasad, a resident individual, furnishes the following information, in respect of the assets held by him on 31.03.2014. Compute the net wealth of Mr. Raghuvir Prasad, by explaining the reasons, for inclusion/exclusion of the following items in the computation of net wealth.

(i) Mr. Raghuvir Prasad gifted jewellery worth ₹15 Lakhs, to his wife. The fair market value of such jewellery, as on the valuation date was ₹40 Lakhs.

(ii) A flat in Mumbai was purchased in 1998, under installment scheme, for ₹10 Lakhs. The flat is used by the assessee for his own residence. The fair market value of this self-occupied property was ₹25 Lakhs on the valuation date, an amount of ₹ 5 Lakh was also outstanding.

(iii) The assessee is a medical practitioner and possesses medical instruments worth ₹5 Lakhs, which are used by him in his profession.

(iv) The assessee purchased a land in Jodhpur, in July 2010, in the name of his minor son (who was suffering from a disability specified under Section 80U of the Income Tax Act, 1961), for ₹ 8 Lakhs.

(v) The house, situated in Ahmedabad, was shown to be of value of ₹ 50 Lakhs, in the wealth-tax return for the A.Y 2013-14. However, this property was sold on 26.03.2014 for ₹55 Lakhs. The sale deed in respect of the transfer of property in Ahmedabad, was executed in 10.05.2014.

(b) Compute the assessable value and the total customs duty payable, from the following particulars. Provide suitable notes, wherever necessary.

(i) Date of presentation of bill of Entry: 15-09-2013.
Rate of Basic Customs Duty: 25%;
Exchange Rate (₹/$) = ₹60.50
Exchange Rate (₹/$), notified by CBE&C: ₹60.70

(ii) Date of arrival of goods in India: 25-09-2013
Rate of Basic Customs Duty: 20%;
Exchange Rate (₹/$) = ₹60.75
Exchange Rate (₹/$), notified by CBE&C: ₹61

(iii) Rate of additional Customs Duty: 12%
(iv) CIF Value: $5,000
(v) Air Freight : $ 1,250
(vi) Insurance Cost: $ 250. [Landing Charges not ascertainable]
(vii) Education Cess applicable 3%.
(viii) Assume that there is no special CVD.

(c) Virbhadra Ltd. commenced its business on 30th July, 2013 in New Delhi. It has provided /availed the following services up to 31st March, 2014. Determine its service tax liability for the Financial Year 2013-14:

(i) Taxable services provided under its own brand name : ₹10,00,000.
(ii) Declared services (Sum charged ₹5 lakh, but value determined as per valuation rules is 60% i.e. ₹ 3,00,000).
(iii) Services wholly exempt under Notification No. 25/2012, dated 20-06-2012 : ₹7,00,000.
(iv) Services provided under brand-name of other person (fully taxable): ₹4,00,000.
(v) Availed services of goods transport agency and paid freight of ₹3,00,000.

The assessee is ready to opt any exemption available to it under Service Tax Law.
(Make suitable assumptions wherever required and show workings.)

[5+5+5]

5.
(a) Mr. Vinay Kumar Malhotra, an Indian resident, is a practising advocate. He was paid ₹ 80,000 on 1st September, 2013 towards fees for his professional services, without deducting tax at source. Later on, a further sum of ₹ 90,000, was due to him on 1st March, 2014, from which tax of ₹15,000 was deducted at source. The tax so deducted, was deposited on 26th June, 2014. Compute interest payable by the deductor under Section 201(1A) of the Income Tax Act, 1961.

(b) Sky High Airways Ltd. sold tickets to the travel agents in India at a minimum fixed commercial price. The agents were permitted to sell the tickets at a higher price. The price to be charged by the travel agents was restricted to a maximum of published price. Sky High Airways Ltd. was obliged to pay to its travel agents, a commission @ 9% of

published price, on which tax was deducted under Section 194H of the Income Tax Act, 1961 by the company. The Assessing Officer contended that company was also liable to deduct tax at source, on the amount of difference between the published price and the minimum fixed commercial price, by treating it as "additional special commission" in the hands of the agents.

Examine whether the contention of the Assessing Officer is tenable in law, in the light of decided case law/s un der Income Tax Act, 1961.

(c) Karuna Ashram, a charitable organization in India, imported 1200 metric tonnes of edible oil, for free distribution to a certain class of below poverty line citizens. The consignments were imported at a nominal price of US$ 15 per metric tonne, which was sufficient to cover the freight and insurance charges. The Customs House found out that at or about the time of importation of this gift consignment, there were following imports of the same quality of edible oil:

Sl. No.	Quantity imported in metric tonnes	Unit Price in US$ (CIF)
1.	30	390
2.	150	330
3.	750	300
4.	1350	262.50
5.	600	270
6.	1170	240

The rate of exchange on the relevant date was 1US$ = ₹60 and the rate of basic customs duty was 10% ad valorem. There is no countervailing duty or special additional duty. Calculate the amount of duty leviable on the consignment under the Customs Act, 1962 with appropriate assumptions and explanations, where required.

[3+5+7]

6.

(a) The Total Income of Sterling Enterprises Ltd., for the previous year ended 31st March, 2014 is ₹ 15,75,000. Tax deducted at source by different payers amounted to ₹ 36,675 and tax paid in foreign country on a doubly taxed income amounted to ₹15,000, for which the company is entitled to relief under Section 90 of the Income Tax Act, 1961, as per the double taxation avoidance agreement.

During the year the company paid advance tax as under:

Date of payment	Advance tax paid (₹)
15-06-2013	60,000
12-09-2013	97,500
15-12-2013	1,50,000
15-03-2014	93,000

The company filed its return of income for the A. Y. 2014-15 on 15th October, 2014.

Compute interest, if any, payable by the company under Sections 234A, 234B and 234C of the Income Tax Act, 1961. Assume that transfer pricing provision is not applicable.

(b) Quality Industries Ltd. manufactures both excisable and non-excisable goods in their factory building. This factory building has been taken on rent by Quality Industries Ltd., from 1st October 2013. With respect to the particulars furnished below, determine whether Quality Industries Ltd. is eligible for availing benefit of exemption in terms of Notification No. 8/2003-CE dated 01-03-2003 for the financial year 2014-15.

Particulars	Amount (₹ in Lakhs)
Clearances of branded goods	90
Export Sales to Nepal	120
Export Sales to USA and Canada	180
Clearances of goods (duty paid based on Annual capacity of production under Section 3A of the Central Excise Act, 1944)	105
Clearances of goods subject to valuation based on retail price under Section 4A of the Central Excise Act, 1944 (said goods are eligible for 30% abatement)	300
Job work under Notification No. 214/86-CE	90

During the period from 1st April 2013 to 30th September 2013, the previous tenant of the building (presently occupied by Quality Industries Ltd.) had cleared excisable goods of the aggregate value of ₹180 Lakhs.

[10+5]

7.

(a) State the provisions regarding drawback allowable on re-export of duty paid goods as such.

(b) When shall a transaction be considered as an international transaction?

(c) Regal Industries Ltd. entered into a contract, with foreign suppliers for import of crude sunflower seed oil on 5th July, 2013. The contract was entered into for supply of crude sunflower seed oil at the rate of US$ 525 CIF/metric ton. The consignment was to be shipped in the month of August 2013, which was extended till mid-September, after mutual agreement between the parties. The crude oil consignment was actually shipped on 5th September, 2013, at the price prevailing at the contract date.

The Assessing Officer refused to accept the contract price as the 'transaction value', on the ground that, the international market price has increased drastically, after the expiry of the original shipment period.

In the light of decided case, discuss whether the contention of the Assessing Officer is tenable in law.

(d) Compute the service tax liability from the following particulars for the financial year 2013-14:

Particulars	Amount(₹)
Gross Amount (excluding all taxes) charged by the service provider for providing works contract service	1,50,000
Actual Value of material transferred in the above works contract (VAT under the relevant State VAT Law has been paid on this value)	1,05,000
Excise Duty paid on Inputs	13,125
Service Tax paid on input services	1,500
Excise Duty paid on the capital goods, purchased during the year, used in the provision of works contract service	1,500
Rate of Service Tax	12.36%

[4+3+4+4]