

Paper-14: Indirect and Direct - Tax Management

Whenever required, the candidate may make suitable assumptions and state them clearly on the answers.

Working notes should form part of the relevant answer.

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

Question 1.

Fill up the blanks:

[1×25]

- (i) In excise, if entire sale is made through 'related person', price relevant for valuation will be 'normal transaction value' at which the related buyer sales to unrelated buyer, as per rules _____ (9 and 10; 1 and 9; 2 and 10) of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000.
- (ii) Fixed education allowance given in cash by the employer to the employee to meet the cost of education of the family members of the employee is exempt from tax to the extent of ₹ ____ (300; 100; 200) per month per child for a maximum of two children.
- (iii) An assessee who has opted for the scheme of computing business income under section 44AD of the Income-tax Act on presumptive basis at the rate of ____ (10; 8; 5) percent of turnover, shall be exempted from payment of advance tax related to such business.
- (iv) In case of VAT, every registered dealer who is liable to pay tax under the Respective State Acts, and whose turnover does not exceed ₹ _____ (50 lakhs; 100 lakhs; 25 lakhs) in the last financial year, is generally entitled to avail the Composition Scheme.
- (v) Cenvat credit is _____ (available / not available) on Countervailing Duty paid on imported goods, if the imported goods are used in the manufacture of final products or provision of output service.
- (vi) In some big cities (like Kolkata, Delhi, Mumbai, Chennai) Municipal Authorities determine net ratable value after deducting _____ (20%; 15%; 10%) of the gross ratable value, on account of repairs, and an allowance for service taxes (such as sewerage tax and water tax) for municipal valuation of house property.
- (vii) As per section 2(ea)(i)(3) of the Wealth-tax Act, any house which the assessee may occupy for the purposes of any business or profession carried on by him _____ (is / is not) treated as 'asset'.
- (viii) In case of Brand Rate of Duty Drawback in customs, the manufacturer has to submit application with all details to _____ (Commissioner; Superintendent; Chief Commissioner), Central Excise.

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- (ix) The _____ (BSR code; Premises Code; Service Tax Code) is given in the service tax registration certificate for easy identification of location of registration of the service tax payer.
- (x) The _____ (demerger; amalgamation; slump sale) refers to the sale of the undertaking as a going concern and the consideration is not fixed for each and every asset separately and a lump sum consideration is arrived at for the undertaking as a whole.
- (xi) Funeral, burial, crematorium or mortuary services including transportation of the deceased _____ (is not/ is) a taxable service.
- (xii) If excise duty is short paid or not paid or erroneously refunded, show cause notice can be issued u/s 11A(1) of Central Excise Act within _____ (three; half; one) year from 'relevant date'.
- (xiii) To get the exemption u/s 54 of the Income-tax Act, the specific asset which is eligible for exemption in case of capital gain is a _____ (land; agricultural land; residential house property).
- (xiv) For the purposes of computing SSI exemption limit of ₹ 150 lakhs, a manufacturer who clears the specified goods from more than one factories, the exemption in his case shall apply to the _____ (aggregate value of the clearances / separately for the each factory).
- (xv) Public warehouses under the Customs Act, 1962 are appointed by the _____ (Commissioner of Customs; Assistant Commissioner of Customs; officer-in-charge of the concerned warehousing station).
- (xvi) _____ (Medicines; Petrol; Precious Stones) is not subjected to VAT.
- (xvii) As per section _____ [2(b); 2(c); 2(d)] of the Central Sales Tax Act, 'Declared goods' means goods declared under Section 14 to be of special importance in interstate trade or commerce.
- (xviii) Under Rule 15 of Central Excise Rules, 2002, Compounded Levy Scheme is presently applicable to _____. (pan masala; aluminium circles; chewing tobacco).
- (xix) Loss from business or profession (including unabsorbed depreciation) cannot be set-off against income under the head _____ (house properties; capital gains; salaries).
- (xx) Deductions u/s 80-IAB of the Income-tax Act, in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone, the deduction at the option of the assessee, may be claimed by him for any _____ (ten; twelve; five) consecutive assessment years out of _____ (twenty; fifteen; ten) years beginning from the year in which a Special Economic Zone has been notified by the Central Government.

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- (xxi) Where an employee has more than one employer, he is required by section 192(2) of the Income-tax Act to furnish in Form no. _____ (16; 16A; 12B) to one of the employers the details of the salary due/ received by him from other employers.
- (xxii) Section 114 of the Customs Act, 1962, provides for levy of penalty in case of goods in respect of which any prohibition is in force not exceeding _____ (one time of the value of the goods; two times of the value of the goods; three times of the value of the goods).
- (xxiii) The authority for advance ruling is required to pronounce its advance ruling in writing within _____ (90; 45; 60) days from the date of application.
- (xxiv) An assessee can file revised return for _____ (three times; as many number of times; two times) within the limitation period if the assessee discovers any omission or wrong statement therein.

Question 2.

(a) M/s. Rashmi Ltd. purchased fibre 5,000 Kg @ ₹ 50 per Kg plus excise duty. The said fibre was used to manufacture intermediate product yarn. The said yarn was captively used for the manufacture of fabrics. The said fabric was exempt from duty. The other information are as follows:

- (i) Normal processing loss: 2% of inputs in manufacture of yarn
- (ii) Rate of excise duty on all products is 12.36%;
- (iii) Assessable Value of yarn: ₹ 80 per Kg.;
- (iv) Assessable Value of Fabric (Total): ₹10 lakhs;
- (v) Colouring Dyes used in the manufacture of Fabric: ₹ 1 lakhs plus excise duty.
- (vi) Duty on Capital Goods imported during the period and used in the manufacture of yarn: Basic Customs Duty ₹ 20,000; Additional duty of customs u/s 3(1) of the Customs Tariff ₹20,000; Additional duty of customs u/s 3(5) of the Customs Tariff Act ₹ 6,000.

Compute - (i) CENVAT Credit available; (ii) Duty payable.

M/s. Rashmi Ltd. is not eligible for SSI-exemption available under Notification No. 8/2003-CE.

(b) Answer the following with the help of decided case law:

Can non-cumulative preference shares carrying a fixed rate of dividend with a fixed holding period be said to be equated with bonds or debentures so as to deny the indexation benefit while computing capital gain on its transfer, applying the third proviso to section 48 of Income-tax Act?

(c) Usha provides technical consultancy services in Maharashtra. In the financial year 2012-2013, aggregate value of taxable services provided by him was ₹ 47,00,000. Besides, he provided tax-free services of ₹ 5,00,000. In the financial year 2013-14, aggregate value of taxable services provided by him in the first quarter ending June 30, 2013 is ₹ 50,00,000. From the information given below find out service tax payable by him for the quarter ending September 30, 2013:

	₹
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Amount received during July 2013 for services rendered before July 1, 2013	56,180**
Amount received during August 2013 for services rendered before July 1, 2013	37,079**
Amount received during September 2013 for services rendered before July 1, 2013	16,629**
Services completed during July 1, 2013 and September 30, 2013 (invoice issued within 30 days of providing service) (out of these services, advance of ₹ 2,00,000** was received on May 1, 2013)	38,50,000*
Advance received on September 5, 2013 (service not rendered up to September 30, 2013)	2,00,000**

*Exclusive of service tax. **Inclusive of service tax.

Usha always issues invoice within 30 days from the date of completion of service.

[5+5+5]

Question 3.

(a) X Ltd. is engaged in the business of manufacture of garments.

	₹
Sale proceeds of goods (domestic sale)	23,23,900
Sale proceeds of goods (export sale)	4,76,100
Amount withdrawn from General Reserve (Reserve was created in 1996-97 by debiting P & L A/c)	2,00,000
Amount withdrawn from revaluation reserve	1,50,000
Total	31,50,000
Less: Expenses	
Depreciation (normal)	6,16,000
Depreciation (extra depreciation because of revaluation)	2,70,000
Salary and wages	2,20,000
Income- tax	3,50,000
Outstanding customs duty (not paid as yet)	17,500
Proposed dividend	60,000
Consultation fees paid to a tax expert	21,000
Other expenses	1,39,000
Net Profit	14,56,500

For tax purposes the company wants to claim the following:

- Deduction under section 80- IB (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 2008 - 09	14,70,000	4,00,000
Unabsorbed depreciation	-	70,000

Compute the net income and tax liability of X Ltd. for the assessment year 2014-15 assuming that X Ltd. has a (deemed) long-term capital gain of ₹ 60,000 under proviso (i) to section 54D(2) of the Income-tax Act which is not credited in Profit and Loss Account.

- (b) Mr. A, a manufacturer, purchased raw material for ₹ 1,04,000 (inclusive of 4% VAT) and capital goods for ₹ 5,62,500 (inclusive of 12.5% VAT). The manufacturing and other expenses (excluding depreciation) are ₹ 1,17,000. He sells the resultant product at 80% above cost (VAT on sales is 20%). The capital goods are to be depreciated at 25% straight line. Ascertain the VAT payable in cash as per Gross Product Variant.

[10+5]

Question 4.

- (a) A consignment of 900 metric tonnes of edible oil of Malaysian origin was imported by a charitable organization in India for free distribution to below poverty line citizens in a backward area under the scheme designed by the Food and Agricultural Organization. This being a special transaction, a nominal price of US\$ 10 per metric tonne was charged for the consignment 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 edible oil of Malaysian origin:

Sl. No.	Quantity imported in metric tons	Unit price in US \$ (C.I.F.)
1.	20	280
2.	100	260
3.	500	200
4.	900	175
5.	400	180
6.	780	160

The rate of exchange on the relevant date was 1 US \$ = ₹ 43.00 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.

- (b) XYZ is a charitable society registered under the Societies Registration Act. On the ground that it was pursuing an objective that involved the carrying of an activity for profit, the Assessing Officer wants to levy wealth-tax on it. Is such a society liable to wealth-tax?
- (c) On 08-04-2013, M/s. Agrawal Packagings cleared plastic bottles whose assessable value was ₹ 10,00,000 and duty payable was ₹ 1,23,600. On 16-4-2013, the purchaser returned the plastic bottles to Agrawal Packagings. M/s. Agrawal Packaging took credit of duty of ₹ 1,23,600 on basis of invoice issued at the time of clearance of plastic bottles. The Department denies the credit on the ground that the duty on such goods has not been paid, as the due date for payment of duty falls on 05-05-2013. Discuss whether contention of department is correct.

[7+3+5]

Question 5.

- (a) Answer the following with the help of decided case law:

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Articles of precious metals made and supplied by the applicant to their customers according to their specifications and designs and some articles of jewelry like pendants of various shapes and sizes made by involving various complex processes on raw precious metals is 'Manufacture' as the resultant product has its own distinct character, identity and use.

Whether the process amounted to manufacture or not? And if it is carried out as job work even then it will be manufacture or not?

- (b) During the accounting period ending March 31, 2014, a charitable trust derived (a) income from property held for charitable purposes : ₹ 3,00,000 (₹ 1,50,000 received in cash and the remaining balance of ₹ 1,50,000 is to be received in the year 2015-16), (b) voluntary contribution : ₹ 2,00,000 with no specific direction, and (c) ₹ 20,00,000 with specific direction that it shall form corpus of the trust.

During the previous year 2013-14, the trust spends only ₹ 1,40,000 for charitable purposes. Determine its taxable income on the assumption that the trust has obtained extension of time for applying the unrealised income of ₹ 1,50,000 in the year of receipt, i.e., 2015-16 whereas it actually spends ₹ 30,000 in the year 2015-16 and ₹ 40,000 in the year 2016-17.

- (c) Find out the amount of service tax in the following cases -

Case 1 — Service provider is X Ltd. which is based in Jammu and Kashmir. Services are, however, provided in the State of Karnataka (amount of invoice being ₹ 8,50,000).

Case 2 — Service is provided by Y Ltd. to UNO in New Delhi (amount of invoice being ₹ 30,00,000).

Case 3 — Service is provided by Z Ltd. to a unit in a special economic zone (amount of invoice being ₹ 4,00,000).

Case 4 — Service is provided by A Ltd. A Ltd was incorporated in 2004. Since then its annual turnover/gross receipt is not more than ₹ 6,00,000 (amount of invoice being ₹ 3,50,000).

[5+6+4]

Question 6.

- (a) Compute the customs duty payable from the following data —

Machinery imported from USA by air	US\$ 8,800
Accessories compulsorily supplied with Machine	US\$ 1,200
Air freight	US\$ 3,000
Insurance	US\$ 100
Local agent's commission	₹ 4,500
Exchange rate	1 US\$ = ₹ 40
Customs duty on machine	10% ad
Customs duty on accessory	20% ad
Additional duty of Customs 12%, but effective rate by exemption	8%
Additional duty of customs under section 3(5) of Customs Tariff Act, 1975	4%

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Education Cess + Secondary and Higher Education Cess	2% + 1%
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(b) Answer the following with the help of decided case law:

Can business contracts, business information, etc., acquired by the assessee as part of the slump sale be described as 'goodwill', be classified as an intangible asset to be entitled for depreciation under section 32(1)(ii) of the Income-tax Act?

(c) X provides the following information for the quarter ending March 31, 2014 -

	₹
Sale of space for advertisement in Times of India	17,80,000
Sale of space for advertisement in billboards outside different cricket stadium in Maharashtra	62,90,000
Sale of space for advertisement in FM channels	18,50,500

Service tax is charged extra (wherever applicable). Invoices are issued within 10 days of completion of service. Payment is generally received after 4 months. Find out the tax liability for the quarter ending March 31, 2014.

[6+6+3]

Question 7.

(a) Answer the following with the help of decided case law:

Whether the amount received by the employee on cessation of employment with his employer will be exempted from tax under section 17(3)(i) of the Income-tax Act?

(b) Chetan Ltd., which is engaged in the manufacture of excisable goods started its business in May, 2013. It availed small scale exemption in terms of Notification No. 8/2003-C.E. dated 01-03-2003 as amended for the financial year 2013-2014. The following details are provided:

(Amount in ₹)

15,000 kg of inputs purchased @ ₹ 1011.24 per kg. (inclusive of central excise duty @ 12.36%)	1,51,68,600
Capital goods purchased on 28-06-2013 (inclusive of excise duty at 12.36%)	44,94,400
Finished goods sold (at uniform transaction value throughout the year)	3,00,00,000

Calculate the amount of excise duty payable by M/s. Chetan Ltd. in cash, if any, during the year 2013-14. Rate of duty on finished goods sold may be taken at 12.36% for the year and you may assume that the selling price is exclusive of central excise duty. There is neither any processing loss nor any inventory of input and output. Show your workings and notes with suitable assumptions as required.

(c) State the powers of Authorities of the Appropriate State under section 9(2) of the CST Act.

[5+7+3]

Question 8.

(a) Answer the following with the help of decided case law:

Can the rental income from the unsold flats of a builder be treated as its business income merely because the assessee has, in its wealth tax return, claimed that the unsold flats were stock-in-trade of its business?

(b) Compute the duties payable by a 100% Export Oriented Unit (EOU) from the following information in respect of excisable goods cleared by it to Domestic Tariff Area (DTA) on 01-04-2013:

1. Assessable Value under Excise Law = ₹ 1,20,000 (Assessable Value under Customs Law = ₹ 2 lakh);
2. Basic Customs Duty (net) = 10% ;
3. Excise duty on like goods manufactured in India = 12% ;
4. Additional duty of customs u/s 3(5) of Customs Tariff Act, 1975 on similar goods = 4% ;
5. Education Cess = 2% and Secondary and Higher Education Cess = 1 %.

Assume that the goods are not liable to VAT in India. The goods have been removed in accordance with the policy and procedures applicable to the EOU, after obtaining requisite permissions.

Also determine the quantum of CENVAT credit available to the buyer under proviso to Rule 3(7)(a) of the CENVAT Credit Rules, 2004?

(c) Answer the following with the help of decided case law:

Even before the issuance of show cause notice if the Service Tax and Interest amount has been deposited by the assessee, then department cannot hold that the assessee should have known quantum of penalty also on its own and should have deposited at least its 25% within thirty days.

Whether Department's plea that assessee should have known quantum of penalty and deposited at least its 25% within thirty days was justified?

[5+5+5]