

Paper-14: Indirect and Direct - Tax Management

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

1. Fill up the blanks:

[1×25]

- (i) According to Section 2(3) of the Customs Act, 1962, baggage includes unaccompanied baggage but does not include _____.
- (ii) Section 13 of the Customs Act, 1962 provides that, if the pilfered goods are restored to the importer after pilferage, the importer shall _____.
- (iii) In the case of goods imported or exported by post, any label or declaration accompanying the goods which contains the description, quantity and value thereof shall be deemed to be _____ for import or export, as the case may be, for the purposes of the Customs Act, 1962.
- (iv) Section 117 of the Customs Act, 1962 provides general penalty to a person who contravenes any provisions of the Act or abets in contravention and if no penalty has been prescribed, the penalty would be up to _____.
- (v) Under the provisions of the Central Excise Act, 1944, if a registration certificate is granted by the central excise authorities, it will _____, unless it is suspended or revoked by the appropriate authority or is surrendered by the person/ company concerned or it ceases to be valid on the death of the individual owner.
- (vi) The application for refund under Section 11B of the Central Excise Act, 1944 has to be filed within _____.
- (vii) In the fifteen digit registration number (Excise Control Code), under the Central Excise Act, 1944, the first ten characters represent _____.
- (viii) Rule 6 of the Central Excise Rules, 2002 governs _____.
- (ix) Under Section 2(f) of the Central Excise Act, 1944, 'Labelling or re-labelling' of containers and re-packing from bulk packs to retail packs of natural or artificial mineral waters shall be considered as _____.
- (x) The Customs, Excise, Service Tax Appellate Tribunal (CESTAT) may in its discretion, refuse to admit an appeal where the amount of fine or penalty determined does not exceed _____.
- (xi) Section 4 of the Central Excise Act, 1944 provides for determination of excise duty liability on the basis of _____ of excisable goods.

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- (xii) Explanation to Rule 3(4) of CENVAT Credit Rules, provides that CENVAT Credit _____ utilized for payment of service tax in respect of services where the person liable to pay tax is the service recipient.
- (xiii) _____ governs the valuation of taxable services, for the purposes of levy of service tax.
- (xiv) As per Rule 6(1) of the Service Tax Rules, 1994 _____ is the due date for payment of service tax, in case of a partnership firm.
- (xv) Service tax is levied on services provided within the taxable territory of India including territorial waters of India extending up to _____ (under International Sea Act).
- (xvi) To avoid disputes between sale of goods and services, Section 66E of the Finance Act, 1994 provides certain activities to be specifically treated as _____.
- (xvii) Section 2(42C) of the Income Tax Act, 1961 defines _____ as, the transfer of one or more undertakings as a result of the sale, for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.
- (xviii) Section 17(2)(iv) of the Income Tax Act, 1961 provides that, amount paid by _____, in respect of any obligation which otherwise would have been payable by the employee, is taxable as a perquisite in the hands of the employee.
- (xix) Section 2(29C) of the Income Tax Act, 1961 defines _____ as the rate of income-tax (including surcharge on income-tax, if any) applicable in relation to the highest slab of income in the case of an individual, association of persons or, as the case may be, body of individuals] as specified in the Finance Act of the relevant year.
- (xx) Section 194B of the Income Tax Act, 1961 provides that, any person responsible for paying to any person any income by way of winnings from lottery, or crossword puzzle or card game and other game of any sort shall be liable to deduct tax at source, at the time of _____ of such income @ 30%.
- (xxi) Section 139(4) of the Income Tax Act, 1961 provides that, a belated return can be filed by the assessee for any previous year at any time, before the _____.
- (xxii) Section 272B of the Income Tax Act, 1961 provides that, if any person fails to comply with the provisions of Section 139A or to quote or intimate his Permanent Account Number, as required under section 139A or willfully quotes or intimates a number which is false, then he shall be liable to a penalty of _____.

- (xxiii) Section 271(1)(c) of the Income Tax Act, 1961 provides that, if the Assessing Officer is satisfied that, any person has concealed the particulars of his income; or furnished inaccurate particulars of such income, then, he may direct such person to pay the penalty, in addition to tax, if any, payable by him, which shall not be less than the amount of tax sought to be evaded, but not exceeding _____.
- (xxiv) Section 206A of the Income Tax Act, 1961 provides that, any banking company, a co-operative society, or a public company, who is responsible for paying to a resident, interest (other than interest on securities), not exceeding ₹10,000, the person responsible for making the payment, is _____ to deduct tax at source under Section 194A.
- (xxv) Rule 10A(a) of the Income Tax Rules dealing with the Transfer Pricing Regulations defines an "uncontrolled transaction" to mean a transaction between enterprises other than _____ enterprises, whether resident or non-resident.

Question 2

- (a) M/s. XYZ Ltd., a manufacturer of various excisable goods, furnishes you with the following information for the year ended 31st March, 2015. From the under mentioned information, determine whether the company will be entitled to avail SSI exemption under Notification No. 8/2003 dated 01-03-2003 during the financial year 2015-16:
- (i) Clearances of finished excisable goods covered under Section 4A of Central Excise Act [Notified abatement 20% of RSP of goods] ₹150 lakhs;
 - (ii) Value of clearances of inputs as such under Rule 3(5) of Cenvat Credit Rules, 2004 on which Cenvat Credit has been taken - ₹25 lakhs;
 - (iii) Value of clearances of excisable goods bearing brand name of foreign company which is assigned in favour of XYZ Ltd. - ₹86 lakhs;
 - (iv) Value of clearance as licensee of goods carrying the brand name of another person upon full payment of duty - ₹250 lakhs;
 - (v) Value of clearance of waste and scrap which were exempt from duty - ₹30 lakhs;
 - (vi) Value of clearances of plastic containers for packing of pickles produced by them under brand name of Nilons Pickles. Nilons pickles use these plastic containers- ₹30 lakhs;
 - (vii) Clearances of other excisable goods - ₹134 lakhs.
- (b) "A 100% Export-Oriented Undertaking (EOU) engaged in manufacture of excisable goods should pay excise duty in a special manner and general provisions do not apply to them." Discuss.

- (c) A commodity is imported into India from a country covered by a notification issued by the Central Government under section 9A of the Customs Tariff Act, 1975.

Following particulars are made available:

CIF value of the consignment: US\$25,000

Quantity imported: 500 kgs.

Exchange rate applicable : ₹60=US\$1

Basic customs duty: 20%.

Education and Secondary and Higher Education Cess as applicable.

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

Appraise the liability on account of normal duties, cess and the anti-dumping duty.

Assume that only 'Basic Customs Duty' (BCD) and education and secondary and higher education cess are payable.

[5+5+5]

Question 3

- (a) List out the member of Approval Committee under Special Economic Zones Act, 2005.
- (b) Roma Care Ltd. imported a lift from England at an invoice price of ₹17,50,000. The assessee had supplied raw material worth ₹7,50,000 to the supplier for the manufacture of said lift. Due to safety reasons, the lift was not taken to the jetty in the port but was unloaded at the outer anchorage. The charges incurred for such unloading to ₹25,000 and the cost incurred on transport of the lift from outer anchorage to the jetty was ₹50,000. The importer was also required to pay ship demurrage charges ₹10,000. The lift was imported at an actual cost of transport ₹45,000 and insurance charges ₹20,000.
Compute its assessable value.
- (c) Determine the value of purchases eligible for input credit in the case given below –

| | |
|--|-----------|
| Inputs purchased from a registered dealer (however, the dealer has opted for the composite scheme under the VAT) | 8,00,000 |
| Raw material purchased from unregistered dealer | 1,50,000 |
| Inputs used for being used in the execution of work contract | 80,000 |
| High seas purchase of inputs | 75,000 |
| Goods purchased for sale to other parts of India in course of inter-state trade or commerce | 10,00,000 |

[5+5+5]

Question 4

- (a) Discuss with reference to decided case laws as to how the 'value' shall be determined under section 14 of the Customs Act, 1962 in respect of the goods purchased on high seas.
- (b) X provides computer maintenance service since 2002. During the quarter ending December 31, 2014, he provides computer maintenance service to A Ltd. X receives ₹15,00,000 from A Ltd. and ₹16,40,000 from holding company of A Ltd. A Ltd. is of the view that only ₹15,00,000 is chargeable to tax (service tax on ₹15,00,000 will be paid by A Ltd.). Find out service tax liability in this case on the assumption that any additional liability will be borne by X (and not by A Ltd. or its holding company).
- (c) Discuss whether the following services are chargeable to service tax -
- (i) Marketing service provided by Punjab Government to a business entity.
 - (ii) Development of course contents for Delhi University against a charge.
 - (iii) Service provided as agents for inland waterways.
 - (iv) Sale of time for broadcasting on Radio Mirchi.

[5+5+5]

Question 5

- (a) XYZ Ltd. is engaged in manufacture of chemical (since 1960) and paper (since 2010). The following data is noted from the balance sheet of XYZ Ltd. as on March 31, 2014:

| Particulars | Amount (₹) |
|--------------------------|--------------------|
| Equity share capital | 60,00,000 |
| Preference share capital | 10,00,000 |
| General reserve | 40,00,000 |
| Revaluation reserve | 6,00,000 |
| Share premium Total | 8,00,000 |
| Total | 1,24,00,000 |

| | Amount (₹) | | |
|----------------------------------|-------------------|------------------|--------------------|
| | Chemical division | Paper division | Total |
| Land | 30,00,000 | 20,00,000 | 50,00,000 |
| Plant and machinery | 16,00,000 | 36,00,000 | 52,00,000 |
| Stock | 5,00,000 | 9,00,000 | 14,00,000 |
| Debtors and other current assets | 4,00,000 | 11,00,000 | 15,00,000 |
| Less : Creditors | 4,00,000 | 3,00,000 | 7,00,000 |
| Total | 51,00,000 | 73,00,000 | 1,24,00,000 |

Revaluation reserve was created by making upward revision of land belonging to chemical division (₹1 lakh) and paper divisions (₹5 lakh). The company wants to transfer paper division on April 1, 2014 by way of slump sale for a total consideration of ₹108 lakh

(transfer expenses being ₹38,000). By taking into consideration the following additional information, find out the amount of capital gains and other tax consequences.

1. Transfer agreement does not specify value of individual assets/liabilities. However, the value of land of paper division for the purpose of stamp duty is ₹46 lakh. The same amount is adopted by the stamp valuation authority of the MP Government.
2. The rate of depreciation on plant and machinery owned by XYZ Ltd. is 15 per cent. The depreciated value of the block (consisting of chemical division and paper division) on April 1, 2014 is ₹70 lakh for income-tax purpose. Apart from transferring plant and machinery of paper division, the company purchases an old Plant P for ₹1 lakh and sells Plant Q for ₹20 lakh (situation 1) or ₹50 lakh (situation 2) in September 2014. Plant P and Q belong to chemical division.

Plant and machinery (old) of the paper division was purchased in May 2010 for ₹95 lakh. The division started commercial production in June 2010. However, one of the plant (cost ₹10 lakh) was put to use in March 2011. No other asset for paper division is purchased/sold between May 2010 and March 2014.

(b) Discuss whether the following services are chargeable to service tax -

- (i)** Commission received for canvassing advertisement for publishing.
- (ii)** Pre-school education provided by Star Play School. Star Play School is not recognized by any authority.
- (iii)** Charges are collected by a developer for distribution of electricity within a residential complex.
- (iv)** Publication of advertisement in Hindustan Times.

[10+5]

Question 6

(a) X, Y and Z are members of X (HUF). They are also partners of XYZ & Co., a partnership firm. X (HUF) deposits ₹ 90,000 in XYZ & Co. (interest rate being 20 per cent). On April 1, 2014 there is a partial partition of X(HUF) and after partial partition, the deposit of ₹90,000 with the firm is divided between the three members- X, Y and Z equally. In other words, from April 1, 2014, deposit of ₹90,000 is transferred in the individual names of X, Y and Z and the firm pays interest on the deposit to the individual partners. Discuss whether interest on deposit is covered by section 40(b) and interest will be partly disallowed.

(b) For the assessment year 2010-11, assessment of X Ltd. is completed under section 143(1) [income assessed: ₹ 4,47,000]. On March 28, 2015, the Assessing Officer issues a notice under section 148 to X Ltd. that an income of ₹ 45,760 has escaped assessment. The said notice is received by X Ltd. on April 3, 2015. Is the notice valid?

(c) X is aged 35 years. His father has settled a house property in trust giving whole life interest therein to X. The income from the property for the years 2011-12 to 2014-15 was ₹70,000,

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₹81,000, ₹82,000 and ₹86,000 respectively. The expenses incurred each year were ₹3,000, ₹17,000, ₹500 and ₹18,000 respectively. Calculate the value of life interest of X in the property so settled on the valuation date March 31, 2015 on the assumption that the value of house as per Schedule III is (a) ₹15 lakh, or (b) ₹6 lakh. [Multiplier at the age of 35 is 10.804].

[5+5+5]

Question 7

- (a) Company P which has an accumulated business loss of ₹10,00,000 and unabsorbed depreciation of ₹7,00,000 wants to reorganize its business by amalgamating with a rival company Q, which is engaged in the same line of production but with a smaller capital, but has an efficient management set up and more modern machinery. Company Q is agreeable to the amalgamation.

What are the alternative courses available to the companies for effecting the merger and how would you advise them as to the best course of action?

- (b) A furnishes the following particulars for the compilation of his wealth-tax return for assessment year 2015-16:

| Particulars | ₹ |
|---|-----------|
| 1. Gifts of jewellery made to wife from time to time aggregating ₹60,000 market value on valuation date | 3,00,000 |
| 2. Flat purchased under installment payment scheme in 1972 for ₹7,50,000, used for purposes of his residence and market value as on March 31, 2015 (installment remaining unpaid : ₹50,000) | 18,00,000 |
| 3. Urban land transferred to minor handicapped child valued on March 31, 2015 | 5,00,000 |

Compute the net wealth of Mr. X, as on 31.03.2015. Make suitable assumptions, if required.

- (c) Who can be treated as an agent of a non-resident foreign collaborator for the purpose of proceedings and/or any other matters under the Income Tax Act?

[5+5+5]