

P16_Practice Test Paper_Syl12_Dec13_Set 2

TAX MANAGEMENT AND PRACTICE

Full Marks: 100

Section A Answer all Questions

1. Answer any three Question [3x5=15]

Answer the following with the help of decided case laws

- (a) Whether the theoretical possibility of product being sold is sufficient to establish the marketability of a product?
- (b) Whether the machine which is not assimilated in permanent structure would be considered to be moveable so as to be dutiable under the Central Excise Act?
- (c) How to determine whether a product is covered by 'cosmetics' or 'medicaments'?
- (d) Whether the price used for selling of a product below the cost price for penetration of market can be considered as transaction value?

2. Answer any two Questions [2x5=10]

(a) An SSI unit paid central excise duty for the quarter ending March 2012 on 31st March, 2012 by demand draft with GAR-7 challan. However, the bank received and stamped GAR-7 challan on 2nd April 2012 on account of weekly holiday. Whether any interest will be charged on SSI unit for late payment of duty? If yes, whether interest will be charged as per the provisions of rule 8(3) of the Central Excise Rules, 2002 or as per the provisions of delayed payment of duty under section 11AA of the Central Excise Act 1944. Also calculate the amount of interest payable by SSI unit if the amount of duty is ₹3,10,000.

(b) The plastic jars manufactured by a company got destroyed by fire, in respect of which the company presents the following details:

- (i) Inputs used in manufacture of such plastic jars - ₹2,24,720 (inclusive of excise duty of ₹24,720 of which Cenvat credit has been taken);
- (ii) Value of input services used in manufacture of such plastic jars - ₹28,090 (inclusive of service tax of ₹309 of which Cenvat Credit has been taken);
- (iii) Transaction value of plastic jars destroyed - ₹4,00,000;
- (iv) Duty on finished goods - 12% (plus 2% education cess and 1% SHEC)
- (v) Value of insurance compensation received ₹4,00,000.

You are required to:

- (a) State the amount of remission that will be granted to the company under Rule 21 if other conditions are satisfied;
- (b) Calculate the amount of Cenvat credit required to be reversed, if any.

P16_Practice Test Paper_Syl12_Dec13_Set 2

What will be your answer if the amount of insurance compensation is ₹4,49,440.

(c) State the provision of Rule 17 of the Central Excise Rules regarding removal of goods by a 100% Export Oriented Undertaking for Domestic Tariff Area.

3. Answer all Questions

(a) An importer imported some goods for subsequent sale in India at \$ 37,000 on CIF basis. Relevant exchange rate as notified by the Central Government ₹65. The item imported attracts basic duty at 16% and education Cess as applicable. If similar goods were manufactured in India, Excise Duty payable as per Tariff is 12% plus education Cess of 2% and SAH 1%. Special Additional Customs Duty is 4%. Find the total duty payable. [5]

OR,

An importer imported Mulberry Raw Silk products (not thrown) from China. CIF value was US \$ 45,000 and quantity 2,250 Kgs. Exchange rate was US \$ = ₹64 on date of presentation of Bill of Entry. Customs Duty rates are – (i) Basic Customs Duty 18%, (ii) Education Cess 2%, (iii) SAH Education Cess - 1%. There is no excise duty payable on these goods if manufactured in India. As per Notification No. 106/2003-Cus dated 10-7-2003, anti-dumping duty has been imposed on these goods imported from China, manufactured by any producer in People's Republic of China. The anti-dumping duty will be equal to difference between amount calculated @ US \$31.69 per Kg and 'Landed value' of goods. Compute Customs Duty liability & anti-dumping liability.

(b) (i) What are the conditions to be fulfilled to granting exemption from CST in the case of stock transfers? [3]

(ii) In the case of loss of original copy of VAT invoice, can an assessee claim input credit on the basis of Xerox copy of the same invoice? Give your answer with supporting of the relevant provision of the VAT Act. [2]

(c) What is 'Importer Exporter Code Number' (IEC)? State the manner in which IEC has to be applied for. In what export/ import document should the same be stated? [5]

4. Answer any two Questions [2x5=10]

(a) A interior decorator charges ₹7,75,000 from a client for providing professional services. The break-up of the bill is as follows:-

(i) Value of furniture sold to the client - ₹3,50,000

(ii) Labour and facility charges - ₹2,50,000

(iii) Value of materials consumed in providing the service - ₹1,75,000

Compute the amount of service tax to be charged from the client.

(b) Compute taxable value and service tax from following sums received by M/s. DSS Society (exclusive of service tax) (Ignore small service provider's exemption)-

(i) Collection from running a school upto 12th Standard: ₹25 lakhs;

(ii) Fees for conduction of examinations, etc. in school: ₹2 lakhs;

(iii) Collection from conveyance facility to students of school: ₹5 lakhs;

(iv) Collection from pre-school education: ₹4 lakh;

(v) Collection from running an approved vocational educational course: ₹3 lakhs;

(vi) Running a boarding school with fees of ₹15 lakhs (package offered inclusive of food, rent, etc.);

P16_Practice Test Paper_Syl12_Dec13_Set 2

- (vii) Running courses recognized by foreign law: ₹4 lakhs and collections from bus facility to such students: ₹2 lakhs;
- (viii) Running a coaching centre: ₹15 lakhs (including ₹1 lakh for coaching in dance);
- (ix) Placement services: ₹4 Lakhs
- (x) College education fees (affiliated to Indian university) ₹15 lakh;
- (xi) Holding admission test for admission to college: ₹3 lakh;
- (xii) Campus recruitment fees: ₹2 lakhs.

(c) Mr. A received advance of ₹1,01,124 (inclusive of service tax but after deducting TDS of ₹11,236) on 5.4.2012, but, such services could not be provided to the extent of 40% and he had to refund the proportionate total sum including service tax on 10.07.2012. What shall be the treatment of such receipt and refund?

Section B

Answer all the Questions

5. Answer any three questions [3x5=15]

Answer the following with the help of decided case laws-

- (a) Whether the refund collected illegally by the assessee by producing bogus TDS certificates can be treated as income of the assessee?
- (b) Can exemption under section 10(10C) be availed by a retiring employee of Reserve Bank of India opting for the Optional Early Retirement Scheme?
- (c) Can the valuation done by any authority of the State Government for the purpose of payment of stamp duty in respect of land or building be taken as actual sale consideration received by the purchaser?
- (d) Can the Assessing Officer reassess issues other than the issues in respect of which proceedings were initiated under section 147 when the original "reason to believe" on basis of which the notice was issued ceased to exist?

- 6. (a)** X, maintaining the financial year as his accounting period, is engaged in the business of manufacture of dyes and chemicals as small-scale industrialist. Intending to expand his activities he wants to take Mr. Yadav, a person experienced in the line, in equal partnership with him with effect from July, 2012. Mr. Yadav is to contribute ₹3,00,000 as capital and Mr. Suresh is to contribute by way of capital the fixed assets of his proprietary business. Particulars of such fixed assets are as follows:

Particulars	Original Cost ₹	Book Value on March 31, 2012 ₹	Income-tax written down value on March 31, 2012 ₹	Market value on June 30, 2012 ₹
Plant & machinery	1,50,000	80,000	70,000	1,80,000
Land & buildings	50,000	35,000	30,000	90,000
Furniture	15,000	5,000	6,000	6,000

P16_Practice Test Paper_Syl12_Dec13_Set 2

Mr. Suresh proposes to write up the values of these assets in his books to their market value as at June 30, 2012 so that the partnership firm taken over the assets at such values and credits Mr. Suresh's opening capital account by ₹3,76,000. X wants your advice on the undernoted questions:

- (i) By writing up the values in books of the proprietorship prior to the commencement of the partnership does he become liable to a balancing charge and/or capital gains?
- (ii) Does the taking over the assets by the partnership firm give rise to a balancing charge and/or capital gains and/or revocation of development rebate or investment allowance in Mr. Suresh's hands?
- (iii) What will be the cost of the fixed assets to the partnership firm for granting depreciation under the Income-tax Act, 1961?

Advice Mr. Suresh giving your reason.

[5]

(b) XYZ Ltd. proposes to construct a hospital for its workers. The alternatives open to it are:

- (i) To purchase building worth ₹40 lakhs, the purchase price being payable in two annual equal installments.
- (ii) To purchase the aforesaid building but instead of paying the price in installments, an agreement would be entered into with the vendor of the building to pay him 10 per cent of the net profits of the company for an indefinite period of time.
- (iii) To contribute ₹30 lakh to the UP Government, which will construct a building on land owned by it and allow the company to use it as a hospital for its workers though the ownership of the building will vest with the Government. Consider each proposal in detail and advise the company to enable it to make the right choice.

[5]

7. Answer any two Questions [2x5=10]

(a) A public sector company is proposing to enter into an agreement for transfer of technology with a Japanese company. The consideration is a lump sum royalty of ₹42,00,000 (net of the India taxes). The company will get the necessary Government approval. It wants to know the tax implications and in particular whether the Indian tax payable by it would be grossed up. Advise the company.

(b) For the assessment year 2013-14, the Calcutta Co-operative Society derives total income from the following sources: income from processing with the aid of power: ₹10,000; income from collective disposal of labour of its members: ₹15,000; interest from another co-operative society: ₹30,000; income from house property: ₹80,000; and income from other business: ₹61,000. Determine its taxable income.

(c) On April 1, 2012, D and Mrs. D purchased all the shares of a private limited company. The company had the unabsorbed allowances/losses:

	₹
Accumulated loss	3,00,000
Unabsorbed depreciation	8,00,000

State the effect of change of shareholders on the right of the company to carry forward the above items.

(d) A particular expense has been regularly allowed to the assessee every year from assessment year 1961-62. However, for the assessment year 2004-05, this expense was disallowed by the Assessing Officer vide his order under section 143(3) on 30.06.2012. The assessee filed an appeal against such order of Assessing Officer which ultimately went up to Supreme Court and the Apex Court on 05.07.2012 held that deduction for this particular expense is not allowable.

P16_Practice Test Paper_Syl12_Dec13_Set 2

Discuss, for what period, notice under section 148 can be issued under provision of section 150(1) assuming:

- (a) The Assessing Officer allowed the deduction of such expenses for assessment years 2005-06 to 2011-12.
- (b) The Assessing Officer did not allow deduction of such expenses after assessment year 2004-05.

8. Answer any one Question [1x5]

- (a) Suggest some tax planning measures in relation to wealth tax.
- (b) Under what circumstances can the Assessing Officer make a reference to the Valuation Officer for the purpose of making an assessment under the Wealth-tax Act?

9. Answer any two Questions [2x5=10]

(a) Anuradha Ltd. a foreign company, enters into an agreement with Nitin Ltd., an India company. The agreement relates to a mater included in the industrial policy of the central government and is in accordance with the policy. During the year 2012-13, a royalty of ₹60 lakh is paid by Nitin Ltd. to Anuradha Ltd. Anuradha Ltd. has spent ₹15 lakh on expenses covered under sections 28 to 44. Compute the tax payable by Anuradha Ltd. under the following situations:

- (i) Nitin Ltd. pays income-tax payable by Anuradha Ltd., as per the terms of agreement entered into before 1-6-2002.
- (ii) The agreement does not provided that Nitin Ltd. will bear the tax, but it is mutually agreed between the parties that royalty of ₹60 lakh will be paid net of taxes.
- (iii) The agreement was entered into on 5th June 2002.

(b) *ERR Ltd., a foreign company, owns a property in Chennai. It is given on rent (rent being 5,000 US\$ per month) to Deter Ltd., another foreign company. The two companies are non-residents in India. The agreement is made outside India. Rent is payable in foreign currency outside India. As per agreement, rent is accrued outside India. Discuss whether the rental income of ERR Ltd. is chargeable to tax in India under the Income-tax Act,1961.*

(c) *Why are foreign collaboration Agreement entered into? Give their types.*