

**Paper 16 – Tax Management and Practice**

**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 all the questions.**

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

**Answer the following with the help of decided case law:**

**(a)** CENVAT Credit cannot be utilized for paying sums payable under Section 11D of Central Excise Act, 1944. Comments. **[5]**

**(b)** 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? **[5]**

**(c)** 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]**

**(d)** Principle of law enunciated from the decision of Supreme Court is applicable to all cases, irrespective of stage of pendency as it is assumed that Supreme Court judgment is law from inception, unless, Supreme Court expressly states that the decision would have a prospective effect.

Whether CESTAT was correct in dismissing the appeal and application? **[5]**

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

**(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

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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. [5]

**(b)** On 8-4-2013, 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. [5]

**(c)** 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. [5]

**3. Answer all Questions [3 x 5 = 15]**

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

Machinery imported from USA by air	US\$8800
Accessories compulsorily supplied with Machine	US\$1200
Air freight	US\$3000
Insurance	US\$100
Local agent's commission	₹4,500
Exchange rate	1 US\$=₹40
Customs duty on machine	10% ad valorem
Customs duty on accessory	20% ad valorem
Additional duty of Customs 12%, but effective rate by exemption notification	8%
Additional duty of customs under section 3(5) of Customs Tariff Act, 1975	4%
Education Cess + Secondary and Higher Education Cess	2% + 1%

**[5]**

**OR,**

Compute the duties payable by a 100% EOU from the following information in respect of excisable goods cleared by it to Domestic Tariff Area on 1-4-2013:

- (a) Assessable value under Excise Law = ₹1,20,000 (Assessable Value under Customs Law = ₹2 lakh);
- (b) Basic Customs Duty (net) = 10% ;
- (c) Excise duty on like goods manufactured in India = 12% ;
- (d) Additional duty of customs u/s 3(5) of Customs Tariff Act 1975 on similar goods = 4% ;
- (e) 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?

**(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. **[5]**

**(c)** 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:

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S.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. **[5]**

### 4. Answer any two Question [2x5=10]

(a) 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. **[5]**

(b) 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]**

(c) Usha provides technical consultancy service 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]

### 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 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? [5]

(b) 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? [5]

(c) 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)? [5]

(d) 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? [5]

6. 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

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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) which is not credited in profit and loss account. **[10]**

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

**(a)** During the accounting period ending March 31,2014, a charitable trust derived (a) income from property held for charitable purposes : ₹3,00,000 (₹1,70,000 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. **[5]**

**(b)** The following information is submitted by X for the assessment year 2014 – 2015 (i.e., previous year ending March 31,2014)-

	₹
Capital gain on sale of a property situated in Pune (amount is received in Mauritius)	18,10,000
Income from a business in Pune controlled from Mauritius	20,50,000
Income from a business in Mauritius controlled from Pune (amount is received in Mauritius)	15,90,000

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Rent from a commercial property in UK received in Mauritius but later on remitted to India	28,80,000
Consultancy fees received from an Indian company (for a project situated in UK) (amount is deposited in his account with Citibank, Pune branch, however, it is withdrawn by him in Mauritius)	10,50,000
Interest from deposits with an Indian company received in Mauritius	1,30,000
Profits for the year 2012-13 of a business in Mauritius remitted to India during the previous year 2013-14 (not taxed in India earlier)	7,70,000
Gift received from parents of Mrs. X	10,00,000
Royalty received from the Government of West Bengal (paid to him in Mauritius for project situated in Mauritius)	3,00,000

Determine the net income of X for the assessment year 2014-15 in the following cases -

- Case 1 - If X is resident and ordinarily resident in India,
- Case 2 - If X is resident but not ordinarily resident in India,
- Case 3- If X is non-resident in India.

[5]

(c) Sweta Ltd. is one hundred per cent subsidiary company of Hema. Ltd. Sweta Ltd. owns Plants A and B (depreciation rate 30 per cent, depreciated value of the block ₹3,00,000 on April 1, 2013). Plant B(old) was purchased and put to use on November 10,2011 (cost being ₹70,000). Plant B is transferred by Sweta Ltd. to Hema Ltd. on December 14, 2013 for (a) ₹8,000, (b) ₹2,70,000, (c) ₹4,10,000. It is put to use by Hema Ltd. on the same day. Hema Ltd. owns Plant C on April 1, 2013 (depreciation rate 30 per cent, depreciated value; ₹60,000). Find out the tax consequences if Hema Ltd. is an Indian company or if Hema Ltd. is a foreign company. [5]

### 8. Answer any one Question [1x5]

(a) Discuss in respect of the following items, the manner of treatment for Mrs. X's wealth-tax assessment for the assessment year 2014-15.

- A house property at Calcutta was given to her as a gift by her husband on October 1, 1965. She, with her husband and children, is living in the house for the last 15 years. Its value on March 31, 2014 was ₹ 3,50,000.
- She has another house property at Nainital given to her as a gift by her father on January 1, 1972 on the occasion of her birthday. This house is also used by her as her own residence where she lives during summer vacations only. The value of the house on March 31, 2014 was ₹ 22,00,000.
- Jewellery received from her father at the time of her marriage in 1956 was of the value of ₹1,80,000 on March 31, 2014.

[5]

**(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 ? **[5]**

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

**(a)** Explain the modes of doing business through tax havens. **[5]**

**(b)** Discuss taxation aspect of international mergers and acquisitions. **[5]**

**(c)** Retails India Ltd. is an Indian company. The following incomes are noted from its books of account:

₹

Income from a business in India 7,60,000

Income from a business in a foreign country with whom India has ADT agreement 4,32,000

According to the ADT agreement, ₹4,32,000 is taxable in India. However, it can also be taxed in the foreign country @ 11.85% which can be set off against Indian tax liability. Find out the Indian tax liability. **[5]**