

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) Will the two units of a single legal entity surrounded by a common boundary wall be considered as one factory for the purpose of availing CENVAT credit, if they have separate central excise registrations? **[5]**

(b) Whether the manufacture and sale of the specified goods that do not physically bear a brand name, from sale outlets, would disentitle the assessee from benefit of SSI exemption? **[5]**

(c) Whether turpentine oil is manufactured with the aid of power and whether assessee will not be entitled the benefit of exemption? **[5]**

(d) Whether the assessee manufactures blank CDs/DVDs as an intermediate product to be classifiable as excisable goods?

Whether the writ petition was maintainable for quashing of a show cause notice and also of an adjudication order when the alternative remedies by way of an appeal has not been exhausted. **[5]**

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

(a) List out the member of Approval Committee under Special Economic Zones Act, 2005. **[5]**

(b) M/s. XYZ Ltd., a manufacturer of various excisable goods, furnishes you with the following information for the year ended 31st March, 2014. From the under mentioned information, determine whether the company will be entitled SSI exemption under Notification No. 8/2003 dated 01-03-2003 during the financial year 2014-15:

(i) Clearances of finished excisable goods covered under Section 4A of Central Excise Act [Notified abatement 20% 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 ABC 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. [5]

(c) "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. [5]

3. Answer all Questions

(a) 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]

Or,

Discuss with reference to decided case laws as to how the 'value' shall be determined under section 14 of the Customs Act, 1962 in the following case - The goods are purchased on high seas.

(b) Gopal 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. [5]

(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]

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

(a) X provides computer maintenance service since 2002. During the quarter ending December 31, 2013, 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 on this case on the assumption that any additional liability will be borne by X (and not by A Ltd. or its holding company). **[5]**

(b) 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]**

(c) 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. **[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 for the purpose of Section 54EC of IT Act, 1961, the period of investment of six months should be reckoned after the date of transfer or from the end of the month in which transfer of capital asset took place? **[5]**

(b) Did the Income Tax Appellate Tribunal (ITAT) fall into error in not holding that the loss of ₹4,92,71,000/- on account of derivative transaction was a speculative loss, and was entitled to the benefit of Section 73, in view of the Explanation to Section 73 of the Income Tax Act. **[5]**

(c) Whether consideration for transfer of sales tax incentive taxable as revenue receipt? **[5]**

(d) Whether addition made by AO of notional interest which was not in existence is correct? **[5]**

6. ABC Ltd. is engaged in manufacture of chemical (since 1960) and paper (since 2009). The following data is noted from the balance sheet of ABC Ltd. as on March 31, 2013—

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

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

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, 2013 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.

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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 ABC Ltd. is 15 per cent. The depreciated value of the block (consisting of chemical division and paper division) on April 1, 2013 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 2013. Plant P and Q belong to chemical division.

Plant and machinery (old) of the paper division was purchased in May 2009 for ₹95 lakh. The division started commercial production in June 2009. However, one of the plant (cost ₹10 lakh) was put to use in March 2010. No other asset for paper division is purchased/ sold between May 2009 and March 2013. **[10]**

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

(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, 2013 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, 2013, 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. **[5]**

(b) For the assessment year 2009-10, assessment of X Ltd. is completed under section 143(1) [income assessed: ₹ 4,47,000]. On March 28, 2014, 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, 2014. Is the notice valid? **[5]**

(c) Company X 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 Y, 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 Y 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? **[5]**

8. Answer any one Question [1x5]

(a) 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 2010-11 to 2013-14 was ₹70,000, ₹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

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so settled on the valuation date March 31, 2014 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]**

(b) X furnishes the following particulars for the compilation of his wealth-tax return for assessment year 2014-15:

| 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, 2014 (installment remaining unpaid : ₹50,000) | 18,00,000 |
| 3. Urban land transferred to minor handicapped child valued on March 31, 2014 | 5,00,000 |

Explain how you will deal with these items. Make suitable assumptions, if required. **[5]**

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

(a) 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]**

(b) Discuss the taxability of the following incomes in case of a foreign company, assuming that the Indian subsidiary has no authority to enter into or conclude contracts on behalf of the foreign company:

- (i) Income derived from back office operations performed by its Indian subsidiary.
- (ii) Income from providing stewardship services to its Indian subsidiary involving briefing of the staff of the Indian company to ensure that the output meets the requirements of foreign company. **[5]**

(c) Ravi, aged 66 years and ordinarily resident in India, is a professional. He has earned ₹4,00,000 from services provided outside India. His foreign income was taxed at 20% in that country where services were rendered. India does not have any tax treaty with that country. Assuming that Indian income of Ravi is ₹3,00,000, what relief of tax under section 91 of the Income-tax Act, 1961 will be allowed to him? Ravi has contributed ₹32,000 towards public provident fund. **[5]**