

FINAL EXAMINATION

GROUP III

(SYLLABUS 2008)

SUGGESTED ANSWERS TO QUESTIONS

DECEMBER 2014

Paper- 14 : INDIRECT & DIRECT – TAX MANAGEMENT

Time Allowed : 3 Hours

Full Marks : 100

The figures in the margin on the right side indicate full marks.

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

1. Fill in the blanks.

1×25=25

- (i) For Central Excise purposes, in the case of stock transfer, value to be adopted is the price prevailing in the _____ (depot, factory) at the time of clearance form factory.
- (ii) Cenvat credit _____ (can, cannot) be availed by a manufacturer in respect of excise duty paid on jigs purchased and used in the factory.
- (iii) Advance income-tax payable by a resident, aged 61, deriving income of ₹ 9 lacs, solely from pension and house property, is _____ (nil, ₹ 1,05,000)
- (iv) E-filing of service tax return is _____ (mandatory, optional) for a non-corporate assessee.
- (v) EOU can sell a portion of their production in Domestic Tariff Area (DTA) upto 50% of their _____ (FOB, CIF) value of exports in earlier year.
- (vi) Under Export Promotion Capital Goods (EPCG) scheme, an authorization holder can import capital goods (i.e., plant, machinery, equipment, etc.) at concessional rate of customs duty of _____ (5%, 7.5%)
- (vii) The net wealth computed under the provisions of the Wealth Tax Act shall be rounded off to the nearest _____ (hundred, thousand) rupees.
- (viii) Rate of income tax deductible at source under section 194C from payment to a contractor, which is a company, is _____. (1%, 2%)
- (ix) An assessee _____ (is, is not) legally obliged to recover indirect taxes from the customer.
- (x) Royalty payable by an Indian company to a foreign company as per an agreement approved by the Central Government is taxed at _____ (10%, 25%) in assessment year 2014-15.
- (xi) Interest on loan received by a foreign company outside India from an Indian Company on a loan utilized by the latter for a business carried on outside India _____ (shall be, shall not be) deemed to accrue or arise in India.
- (xii) In case of import by air, air-freight to be included in assessable value cannot exceed _____ (25%, 20%) of the FOB value.
- (xiii) Duty-free import of samples is allowed upto ₹ _____ (1 lakh, 3 lakhs) per annum.
- (xiv) An order passed by the Commissioner under section 12AA of the Income Tax Act refusing to grant registration to a charitable trust can be contested in appeal before _____ (Commissioner [Appeals], Income Tax Appellate Tribunal).

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- (xv) If a lathe machine (capital goods) is removed after use, the manufacturer or service provider shall pay an amount equal to the CENVAT credit taken thereon, as reduced by _____ (2.5%, 5%) for each quarter from the date of taking the credit to the date of removal.
- (xvi) A return for income tax assessment year 2011-12 filed on 1st April, 2013 is a _____ (valid, invalid) return.
- (xvii) Appeal to High Court under central excise is to be filed within _____ (90, 180) days from the date of the order of the Tribunal.
- (xviii) Failure to pay tax or interest payable on self assessment under wealth tax act is liable to penalty by deeming assessee to be in default not exceeding _____ (100%, 300%) tax in arrears.
- (xix) Beyond 200 nautical miles from the base line is called _____ (Continental shelf, High Sea).
- (xx) All excisable goods other than salt which are produced/manufactured in India by or on behalf of Government are _____ (liable, not liable) to excise duty.
- (xxi) The actual exporter shall issue a certificate to the penultimate seller in _____ (Form H, Form G) under CST Act.
- (xxii) The acknowledgement of E-payment of service tax challan contains CIN which is a unique _____ (eleven, twenty) digit identifier consists of BSR code of the bank, the date of deposit and challan sequence number.
- (xxiii) If goods were lost by fire before removal from factory, the said goods are _____ (eligible, not eligible) for remission of duty.
- (xxiv) As per Rule 9(10) of Central Excise Rules, an Input Service Distributor is required to file half yearly return in the prescribed form ST-3 within _____ (25 days, one month) from the close of half year.
- (xxv) Trading in commodity derivatives is a _____ (speculative, non-speculative) transaction as per Section 43(5) of income tax act.

Answer:

1.

(i)	The price prevailing in the depot	(xiv)	Income Tax Appellate Tribunal
(ii)	Can	(xv)	2.5%
(iii)	Nil	(xvi)	Invalid
(iv)	Mandatory	(xvii)	180
(v)	FOB	(xviii)	100%
(vi)	5%	(xix)	High Sea
(vii)	Hundred	(xx)	Liable
(viii)	2%	(xxi)	Form H
(ix)	is not	(xxii)	Twenty
(x)	25%	(xxiii)	Eligible
(xi)	Shall not be	(xxiv)	25 days
(xii)	20%	(xxv)	Non-speculative
(xiii)	3 lakhs		

2. (a) 'Any type of land held by an assessee on the valuation date is chargeable to wealth tax under the Wealth Tax Act'. Examine the correctness of the statement. 5
- (b) How capital gain is to be computed, if the consideration on transfer of capital asset is not determinable? 3
- (c) Safar Ltd., a manufacturer of motor cars, has been selling its products at a price which is substantially lower than its cost of production, consistently during the last 5 years for increasing its market share and has been paying excise duty on its clearances on the sale price of such cars. Excise authorities contend that assessable value under the circumstances cannot be less than the cost of production and excise duty should be

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paid on the cost of production. Discuss the validity of the contention of the excise authorities. 5

(d) Mr. Acharya is a Cost Accountant practicing in Salem for last 25 years. He transfer his practice of Mr. Subramany on 1st October, 2013 and receives ₹ 50 lacs for goodwill. Examine whether Mr. Acharya is liable to tax in respect of the amount received. 2

Answer:

2. (a) **As per section 2(ea)(v) of the Wealth Tax Act, 1957, only urban land is an "asset".**

An "urban land" is an assets whether it is agricultural land or non-agricultural land.

Urban land means land situated in-

- Area A or Area C

Area A – Any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or any other name) or a cantonment board and which has a population of not less than 10,000 according to the last preceding census of which relevant figures have been published before the valuation date.

Area C – Any area within distance (to be measures aerially) given below-

2 kilometers from the local limits of municipality/ cantonment board	If the population of the municipality/ cantonment board is more than 10,000 but not more than 1 lakh
6 kilometers from the local limits of municipality/ cantonment board	If the population of the municipality/ cantonment board is more than 1 lakh but not more than 10 lakh
8 kilometers from the local limits of municipality/ cantonment board	If the population of the municipality/ cantonment board is more than 10 lakh

- "Population" means the population according to the last preceding census of which the relevant figures have been published before the valuation date.
- "Municipality" includes municipal corporation, notified area committee, town planning committee, town committee or a municipality known by any other name.

but does not include-

- (i) land classified as agricultural land in the records of the Government and used for agricultural purposes. or
- (ii) Land on which construction of a building is not permissible under any law for the time being in force in the area in which such land is situated or
- (iii) The land occupied by any building which has been constructed with the approval of the appropriate authority or
- (iv) Any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him or
- (v) Any land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him.

(b) as per section 50D of the Income-tax Act, if the consideration received or accruing as a result of transfer of a capital asset by the assessee is not ascertainable or cannot be determined, then the fair market value of the said asset on the date of transfer shall be deemed to be the full value of consideration received or accruing as a result of such transfer.

Above deeming provision is to be applied for the purpose of computation of capital gain where consideration is not ascertainable.

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(c) The facts of the case are similar to that of the Supreme Court decision in CCE Vs Fiat India Pvt. Ltd. It was held that the difference between the sale price and the cost of production could be treated as extra – commercial consideration which should form part of the transaction value as per section 4(1)(a) of the Central Excise Act. The Court observed that the sale price did not reflect the full commercial cost and artificially depressed the transaction value. No prudent businessman would continually suffer huge losses only to penetrate the market. Hence, the actual selling price could not be accepted as the sale consideration for sale, which should at least cover the cost of production and reasonable profit. Following this decision, it may be said that the contention of the department is sustainable, being backed by the decision of the Supreme Court.

However, all said and done, the rationale of the decision appears debatable, since there is scope of doubt as to whether a consideration not at all received by the assessee, that too in case of unrelated buyers, can be considered to be extra-commercial consideration. Perhaps for this reason it has later been clarified in the Finance Act, 2014 that where sale price is below cost of production, the sale price will be accepted as the transaction value.

(d) In the case of CIT vs. B.C. Srinivasa Setty (1981) 128 ITR 294 (SC) the Supreme Court held that if it is not possible to ascertain the cost of acquisition of the capital asset, then transfer of such capital asset is not chargeable to tax.

Section 55(2)(a) provides that the cost of acquisition of certain self-generated capital assets, including goodwill of a business is Nil. However, in respect of self-generated goodwill of a profession cost is not to be taken as Nil, as it is not covered under section 55(2)(a). Therefore, in the given case Mr. Acharya is not liable to tax in respect of amount received as goodwill.

3. (a) mention any seven services on which reverse charge is applicable and the extent thereof. 7

(b) Sankhapid, a non-resident Indian furnishes you the following particulars of income in India during the year ended 31st march, 2014:

Particulars	₹	₹
Income from house property located in Bengaluru (computed)		1,90,000
Dividend received from Indian companies		80,000
Interest on debentures in an Indian public company (subscribed in convertible foreign currency)	2,20,000	
Less: Interest on loan taken for purchase of Debentures	25,000	1,95,000
Long-term capital gains on sale of shares purchased in US \$. The sale was not through any stock exchange		
Cost in 2004-15	3,50,000	
Sale in 2013-14	7,50,000	
	4,00,000	
Less: Commission	2,500	3,97,500
Cost Inflation Index : F.Y. 2004-05 = 480 F.Y. 2013-14 = 939 Average of TT Buying Rate and TT Selling Rate on the date of purchase of shares and the date of sale of shares are ₹ 45 and ₹ 60 respectively.		

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TT Buying Rate on the date of sale of shares is ₹ 62.50 for 1 US \$.		
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Compute the tax payable by Sankhadip for Assessment Year 2014-15 if he opts for the provisions of Chapter – XII-A of the Income –Tax Act.

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Answer:

3. (a) Categories of services that are subject to reverse charge are as follows:

Nature of service	Description	Service recipient	% payable by service provider	% payable by service recipient
Goods Transport	Transport of goods by road	Company, partnership, factory society, excise assessee	Nil	100%
Sponsorship	Sponsorship	Company or Partnership	Nil	100%
Legal	Individual advocates or a firm of advocates	Business entity	Nil	100%
Directors fees	Services by directors to companies	Company	Nil	100%
Government services	Support services by Govt. (excluding specified services)	Business entity	Nil	100%
Import of service	Service provider located in non-taxable territory	Any person	Nil	100%
Arbitral tribunal	Arbitral tribunal	Business entity	Nil	100%
Insurance	Insurance agent	Insurance company	Nil	100%
Manpower supply	Manpower supply by individual/firm/AOP	Company	25%	75%
Security	Security service by individual/firm/AOP	Company	25%	75%
Rent-a-cab	Hiring of passenger motor vehicles with abatement (60%)	Company	Nil	100%
	Without abatement		60%	40%
Works contract	Provided by non-corporates	Company	50%	50%

(b) Computation of Sankhadip for the Assessment Year 2014-15 as per Chapter XII-A

Particulars	₹	₹
Income from house property at Bengaluru (computed)		1,90,000
Dividend received from Indian companies	80,000	
Less: Exempted under section 10(34)	80,000	
		Nil
Interest on debentures of Indian companies		2,20,000
Long-term capital gain		

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Net consideration in US \$ (7,47,500/60)	US \$ 12458.33	
Cost of acquisition in US \$ (3,50,000 / 45)	US \$ 7777.77	
Long-term capital gain in US \$	US \$ 4680.56	
Long-term capital gain covered into Indian Rupee by applying TT buying rate on the date of sale (4680.56 x 62.50)		2,92,535
Total Income		7,02,535
Rounded off to		7,02,540
Tax on interest on debentures acquired in convertible foreign exchange at 20% (2,20,000 x 20%)		44,000
Tax on long-term capital gain at 10% (2,92,535 x 10%)		29,254
Tax on balance ₹ 1,90,000		Nil
Tax		73,254
Education cess at 3%		2198
Total tax liability		75,452

Note:

- No expenditure is allowed as deduction from interest on debentures being investment income under section 115D. Hence, interest on loan is not deducted.
- Under section 115D indexation benefit is not available for computing long-term capital gain as per Chapter XII-A.

Considering the level of income which is less than ₹ 10,00,000 and the fact that indexation will be available if Sankhadip elects to be taxed as a resident, he will be better off as his tax liability will be lower if he opts to be taxed at rates applicable to a resident.

4. (a) Duolex Pipes Ltd. is a manufacturer of steel pipes. Compute the CENVAT credit admissible to the company for the following excise duty/service tax incurred by it during April, 2013:

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	₹
Steel plates (raw material)	1,20,000
Production machinery	25,000
Steel and cement for making foundation for machinery	15,000
Lubricating oil	2,000
High Speed Diesel	3,000
Pollution control equipment	22,000
Machinery spares	12,000
Motor car	30,000
Legal fees to advocates	1,500
Security charges paid to Vigilant Ltd.	1,000

Ignore small scale exemption.

- (b) Dr. Jindal is running a nursing home with his friend Dr. Swaminathan as a partnership firm, JS & Co. The particulars of Dr. Jindal's Income for the year ended 31st march, 2014 are as follows:

Particulars	₹
Remuneration from JS & Co. as authorized by the partnership deed	12,00,000
50% share of profit from JS & Co.	3,00,000
His income from his private chamber at his residence	2,45,000
Fees received from PS Private Limited for attending board meeting (net of TDS ₹ 4,000)	36,000

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Dr. Jindal took a loan of ₹ 75,000 from PS Private Limited in which he holds 12% shares on 31 st march, 2014 on which date the company had ₹ 65,000 under the head 'Reserves & Surplus'.	
His share of income from property belonging to Hindu Undivided Family of which he is coparcener	20,000
He received a motor car valued ₹ 6,00,000 by way of gift from his friend on the occasion of his 25 th marriage anniversary	

Compute total income of Dr. Jindal for the Assessment Year 2014-15.

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Answer:

4. (a) Computation of CENVAT credit of Duolex Pipes Ltd.

Particulars	Value (₹)	Eligibility	Cenvat credit (₹)
Steel plates	120000	100%	120000
Production machinery	25000	50%	12500
Steel & cement for machinery foundation	15000	Not eligible	Nil
Lubricating Oil	2000	100%	2000
High Speed Diesel	3000	Not eligible	Nil
Pollution control eqp.	22000	50%	11000
Machinery spares	12000	50%	6000
Motor car	30000	Not eligible	Nil
Legal fees to Adv.	1500	100%	1500
Security – Vigilant Ltd.	1000	100%	1000
Total			154000

Notes:

- (1) Capital goods are eligible for 50% of the CENVAT credit in the financial year of receipt. Balance 50% can be taken in subsequent financial year(s).
- (2) Service tax on legal fees to advocates is assumed to be incurred by Duolex Pipes Ltd. as recipient of service under reverse charge, for which corresponding CENVAT credit is available.
- (3) Reverse charge is not applicable on security charges since the service has been rendered by a company.

(b)

Computation of total income of Dr. Jindal for Assessment year 2014-15

Particulars	(₹)	(₹)
(i) Profit & Gains from Business or Profession		
Partner's remuneration from M/s JS & Co.		12,00,000
Share of profit from M/s JS & Co.	3,00,000	
Less: Exempted under section 10(2A)	<u>3,00,000</u>	Nil
Income from private chamber		<u>2,45,000</u>
Taxable income from profession		<u>14,45,000</u>
(ii) Income from other sources		
Fees for attending board meeting (36,000 + 4,000)		40,000
Deemed dividend under section 2(22)(e) in respect of loan obtained from PS Private Ltd to the extent of accumulated profit of the company (Note 1)		65,000
Share of income from property belonging to HUF	20,000	
Less: Exempted under section 10(2)	<u>20,000</u>	Nil
Income from other sources		<u>1,05,000</u>
Gross Total Income		15,50,000

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Deduction under Chapter VI-A		Nil
Total Income		15,50,000

Notes:

1. Deemed dividend under section 2(22)(e) is not eligible for exemption under section 10(34).
2. Value of motor car received as gift from friend does not attract tax liability under section 56(2)(vii), as motor car is not included in the definition of movable property in section 56(2)(vii).

5. (a) How does the Customs Act, 1962 seek to prohibit the import of goods infringing intellectual property rights (IPR)? 5

(b) Keeping in mind the provisions of the Customs Act, 1962 and Customs Tariff Act, 1975, compute the total customs duty payable by Mr. Harshad, an importer on a machine imported by sea into India, from the following details: 4

FOB price of the machinery 10,000 (US Dollars)

Handling Charges ₹ 5,500

Exchange Rate 1 US Dollar = ₹ 60

Rates of Customs Duty:

Basic 10% Ad valorem

SAD – 4%

Additional (CVD) 15%

Ignore Education cess and SAHE cess.

(c) Godzila Jewellers Pvt. Ltd., furnishes the following details of its assets and liabilities as on 31.03.2014 and requests you to compute the net worth of the company as on that date:

	(₹ in lakhs)
Land within municipal limits (State Housing Board has initiated acquisition proceedings in respect of this land)	45
Jewellery (held as stock-in-trade)	74
Note: All items in stock purchased after 01.04.2011	
Motor cars used exclusively for business purposes	43
Commercial complex let out for 270 days during the year	67
Loan taken against jewellery and used for acquiring urban land	21

Give brief note for treatment of each item.

Answer:

5. (a) Protection under Customs Act for IPR

The Government of India has an international obligation to protect Intellectual Property Rights (IPR) at the stage of import in terms of an agreement arrived at the WTO. Under clauses (n), (o) and (u) of section 11 of the Customs Act, 1962 the Government has been empowered to prohibit, absolutely or conditionally, import or export of goods for the purpose of patent protection, trademarks or copyrights or for prevention of deceptive practices. For this purpose, Intellectual Property Rights (imported goods) Enforcement Rules, 2007 have been notified.

This said Rules provide that in case of goods infringing such IPRs, as are registered with the Commissioner of Customs, their import shall be prohibited.

The import clearances of goods, which appear to be infringing goods, shall be suspended and the goods will be detained pending complete enquiry and

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examination.

The goods ultimately found to be infringing goods are either to be destroyed or to be disposed of outside normal channels of commerce. The infringing goods cannot be re-exported.

(b)

FOB price of machine	USD	10,000
Freight @20% of FOB (actual in not known)	USD	2,000
Insurance @1.125% of FOB (actual in not known)	USD	112
CIF	USD	12,112
		₹
CIF value in INR @₹ 60 per USD		7,26,720
Add: Landing charges @1% of CIF		7,267
Assessable Value		7,33,987
Basic Duty @10%		73,399
CVD @ 15% on ₹ 8,07,386		1,21,108
Add: EC & S&HEC @3%		5,835
SAD @ 4% on ₹9,34,329		37,373
Total Custom Duty (Basic + CVD + SAD)		2,37,715

(c)

Particulars	Amt. in ₹ lakhs
Land within municipal limits (State Housing Board had initiated acquisition proceedings in respect of this land) - Not an asset u/s 2(ea) since it is land on which building is not permissible	Nil
Jewellery (held as stock-in-trade)	Nil
Note: All items in stock purchased after 1-4-2011	
Being held as stock-in-trade, not an asset	
Motor cars used exclusively for business purposes	43
Covered by section 2(ea)	
Commercial complex let out for 270 days during the year - Not an asset; requirement of minimum letting of 300 days applies only to a house let out.	Nil
	43
Loan taken against jewellery and used for acquiring urban land not deductible, since taken against an item which is not an asset	Nil
Net wealth	43

6. (a) The assessee manufactures packing machines. The end product was subject to strict quality control tests. The assessee claimed Cenvat credit for the excise duty on the testing equipments purchased by it for carrying out aforesaid tests. The Department rejected the same. Test the veracity of the rival claims. 5
- (b) 'Central Government can become a dealer under the CST Act, 1956, but the State Government cannot. Is the statement correct? Give reasons. 3
- (c) Discuss whether expenses incurred by a service provider on behalf of service receiver, which are reimbursed to the former, will form part of taxable services. Give any one example of such expenses. 3
- (d) Under what circumstances can the VAT registration of a dealer be cancelled? 4

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Answer:

(a) Eligibility for Cenvat Credit

In Flex Engineering Ltd. vs. Commissioner of Central Excise, U.P. 2012 (276) E.L.T. 153 (S.C), the issue involved was whether in case the testing is critical to ensure marketability of manufactured product i.e. the manufacture is not complete without testing; is CENVAT credit of the testing material allowed.

The Department denied CENVAT credit on the material used for testing of the packaging machines. Two questions were raised in this regard:(i) Whether duties paid on testing material would be eligible as credit under rule 2(k) of the CENVAT Credit Rules, 2004?

(ii) Whether such use of material in testing in view of the purposes mentioned above, could be said to be used in the manufacture of or use in relation to the manufacture of the final products viz., machines as assembled?

The Supreme Court held that the process of manufacture would not be complete if a product is not saleable as it would not be marketable. Thus, the duty of excise would not be leviable on it.

The Supreme Court was of the opinion that the process of testing the customized F&S machines was inextricably connected with the manufacturing process, in as much as, until this process is carried out in terms of the afore-extracted covenant in the purchase order, the manufacturing process is not complete, the machines are not fit for sale and hence, not marketable at the factory

gate. The Court was, therefore, of the opinion that the manufacturing process in the present case gets completed on testing of the said machine. Hence, the afore-stated goods viz. the flexible plastic films used for testing the F&S machines are inputs used in relation to the manufacture of the final product and would be eligible for CENVAT credit under rule 2(k) the CENVAT Credit Rules, 2004.

In view of the decision of the Apex Court, the assessee's contention has to be upheld and the Department's contention rejected.

(b) Government : Dealer

(i) The statement is not correct.

(ii) According to explanation 2 under Sec. 2(b), "a Government which, whether or not in the course of business buys, sells, supplies or distributes goods shall..... Be deemed to be a dealer of the purposes of CST Act'. The word used is 'Government' and not Central Government.

(iii) No distinction is sought to be made between Central Government and State Government.

Hence, every government, be it Central or State, buying/selling goods will be deemed to be a dealer.

(c) Reimbursement of expenses incurred on behalf of service receiver not includible

Often, a service provider incurs some expenditure on behalf of service receiver and then recovers the amount from him. Such expenditure is not part of service provided by him to service receiver, but is incurred by him as per business practice or convenience.

Following illustrations may clarify the provisions:

- Octroi/entry tax amount paid by Clearing & Forwarding Agent, CHA or Transporter on behalf of owner of goods/Principal.

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- Customs duty, dock dues, demurrage, transport charges etc. paid by Customs House Agent on behalf of client.
- Advertisement charges paid by Advertising Agency to newspaper on behalf of clients.
- Ticket charges paid by Travel Agent and recovered from his customer.
- Reimbursement of godown, salary and loading/unloading expenses by Principal to C&F Agent.

These are not part of service provided and hence are not includible. Rule 5(2) provides that the expenditure or costs that a service provider incurs, as pure agent of the client, shall be excluded from the value if such service provider fulfils prescribed conditions. The principle is also discernible from various exclusions as contained in rule 6(2).

(d) **VAT registration can be cancelled in the following cases:**

- (i) Dealer ceases to exist for which he got registered under respective state VAT Act;
- (ii) Dealer becomes insolvent;
- (iii) Change of business constitution;
- (iv) Amalgamation or liquidation of company;
- (v) Sale of entire business.

7. (a) **M/s Abani Exports Ltd. has cleared their manufactured final products during January 2014 and the duty payable for the month on his final products was as follows:**

Basic Duty – ₹ 46,000, NCCD-₹ 2,000, Education cesses as applicable

During the month, he received various inputs on which total duty paid by suppliers on inputs was as follows – Basic duty – ₹ 40,000 plus applicable education cess.

Service tax paid on input services was as follows: Service tax – ₹ 8,000, Education cess – ₹ 240.

There is no opening balance in their PLA account. How much duty the assessee will be required to pay through PLA account for the month of January 2014? 4

(b) **Mr. Sitaraman, a resident Indian, aged 57, provides following information relating to previous year ended 31.03.2014. Compute the total income and eligible carry forward of losses to the next year. 6**

Income from salaries – ₹ 3,22,000

Loss from house property – ₹ (1,65,000)

Loss from retail business – ₹ (2,25,000)

Income from speculation business – ₹ 26,000

Loss from specified business covered by section 35AD – ₹ (31,000)

Long-term capital gains from sale of residential house – ₹ 3,60,000

Long-term capital loss from sale of listed shares in recognized stock exchange (STT paid) – ₹ (1,21,000)

Loss from card games – ₹ (33,000)

Income from betting (Gross) – ₹ 51,000 (against which ₹ 10,000 has been incurred as expense)

Life Insurance Premium paid (policy taken on 10th August 2013 for self for actual capital sum assured of ₹ 9 lakh) – ₹ 1,00,000.

(c) **A 100% Export Oriented Undertaking cleared goods value of which under central excise law is ₹ 1.05 lakhs and customs Act ₹ 1.00 lakhs to Domestic Tariff Area. The rate of Basic Customs Duty is 10% Rate of Excise Duty is 12% and special CVD is 5% (Goods are exempt from VAT). Compute the duty payable and credit available. 5**

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Answer:

1. (a) Total Input Tax Credit available is as follows:

Description	Basic duty (₹)	Service Tax (₹)	Education Cess @ 2% of Basic duty or Service tax (₹)	SAH Education Cess @ 1% Basic duty or Service tax (₹)
Inputs	40,000		800	400
Input Service		8,000	160	80
Total	40,000	8,000	960	480

Credit of ₹ 48,000 (40,000 + 8,000) can be utilized for payment of any duty. Credit of Education cess of ₹ 960 can be utilized only for payment of education cess on final product. Credit of SAH Education cess of ₹ 480 can be utilized only for payment of SAH education cess on final product.

	Basic duty (₹)	NCCD (₹)	Education Cess (₹)	SAH Education Cess (₹)
(i) Duty payable	46,000	2,000	920	460
(ii) Cenvat Credit (Basic + service tax)	48,000		960	480
Net amount payable (A-B)	(2,000)		(40)	(20)

The credit of basic duty and service tax of ₹ 2,000 can be utilized for payment of NCCD of ₹ 2,000. Hence, for the month of January, 2014, assessee is not required to pay any duty through PLA. They will carry forward following balances for February 2014 – Basic Duty – Nil. Education Cess – ₹ 40. SAH Education Cess – ₹ 20.

(b) Computation of total income of Mr. Sitaraman for the A.Y. 2014-15 and the amount of loss carried forwards to next years.

Particulars	₹	₹
Salaries:		
Income from salaries	3,22,000	
Less: Loss from house property	<u>1,65,000</u>	1,57,000
Profit and gains of business or profession:		
Income from speculation business	26,000	
Less: Loss from retail business set off	<u>26,000</u>	Nil
Capital gains:		
Long-term capital gains from sale of residential house	3,60,000	
Less: Loss from retail business set off	<u>1,99,000</u>	1,61,000
Income from other sources:		
Income from betting		51,000
Gross Total Income		3,69,000
Less: Deduction under section 80C for the life insurance premium paid (restricted to 10% of ₹ 9 lakh, being actual capital sum assured)		90,000
Total Taxable Income		2,79,000

Losses to be carried forward:

	₹
(i) Loss from retail business (₹ 2,25,000 – ₹ 26,000 – ₹ 1,99,000)	Nil
(ii) Loss from specified business covered by section 35 AD	31,000

Notes:

1. Long-term capital gains from sale of listed shares in a recognized stock exchange

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is exempted under section 10(38) of income tax act. Loss from an exempt source cannot be set off against profits from a taxable source.

2. Loss from specified business covered by section 35AD of income tax act can be set-off only against profits and gains of any other specified business. Therefore, such loss cannot be set-off against any other income. The unabsorbed loss has to be carried forward for four assessment year immediately succeeding the assessment year for which the loss was first computed.
3. As per Section 58(4) of income tax act, no deduction shall be allowed for from the receipts from Card Game and betting. Loss arrived on card games of ₹ 33,000 is not to be allowed for set off in any other income. Similarly expenses of ₹ 10,000 related to receipts of ₹ 51,000 from betting also not deductible. So the Gross amount of ₹ 51,000 is taxable.

(c) Computation of Duty payable and input credit available.

	₹	₹
Value of goods under Customs Law		1,00,000
Add: Basic Customs Duty (50% of BCD is exempted)	5,000	5,000
	5,000	1,05,000
Add: Additional Duty under section 3(1) of the Customs Tariff Act @ 12% (excluding EC and SHEC as exempted)	12,600	12,600
	17,600	1,17,600
Add: Education Cess 3% on import duty ₹ 17,600	528	528
	18,128	1,18,128
Add: Special CVD u/s 3(5) of Customs Tariff Act @ 5% of total of ₹ 1,18,128)	5,906	5,906
Total	24,034	1,24,034

Excise Duty is payable – total Customs Duty = ₹ 24,034. No EC and SHEC is added to such amount. Out of this credit will be available of CVD U/S – 3(1) of ₹ 12,600 and special CVD of ₹ 5,906.

8. (a) Mr. Pramod Kumar owns one residential house in Bhubaneswar. The house is having two identical units. First unit of the house is self occupied by Mr. Pramod Kumar and the other unit is rented for ₹ 8,000 p.m. the rented unit was vacant for 3 months during the previous year. The particulars of the house for the previous year 2013-14 are as under:

Standard rent – ₹ 1,60,000 p.a.,

Municipal valuation – ₹ 1,80,000 p.a.,

Fair rent – ₹ 1,72,000 p.a.,

Municipal tax (Paid by Mr. Pramod Kumar) 5% of municipal valuation

Light and water charges – ₹ 500 p.m.,

Interest on borrowed capital – ₹ 1,200 p.m.,

Insurance charges – ₹ 5,500 p.a.,

Repairs – ₹ 15,000 p.a.,

Compute income from house property of Mr. Pramod Kumar for the A.Y. 2014-15. 10

- (b) M/s XYZ Ltd. engaged in the business has approached you on admissibility of the following expenses while computing 'profit and gains from business'. Briefly explain what would be your advice regarding admissibility of the expenses. 5

(i) Donated to an University for starting a laboratory for scientific research which is not relating to the assessee's business – ₹ 1,00,000.

(ii) Paid to Government towards damages on account of shortfall in export target – ₹

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50,000.

- (iii) Paid to Bank towards Interest on, overdraft taken for payment of advance income tax and on Loan from bank for payment of dividends to share holders – ₹ 20,000 and ₹ 40,000 respectively.
- (iv) Paid for shifting of business from the original site to the present place which is more advantageously located – ₹ 12,000.
- (v) Paid to workers towards retrenchment compensation on the closure of one of the units – ₹ 4 lakh.

Answer:

8. (a)

Computation of Income from house property of Mr. Pramod Kumar for A.Y. 2014-15

Particulars	Amount in ₹	
(A) Rented unit (50% of total area):		
Step – I Computation of Annual Letting Value		
Municipal valuation (₹ 1,80,000 x ½)	90,000	
Fair rent (₹ 1,72,000 x ½)	86,000	
Standard rent (₹ 1,60,000 x ½)	80,000	
[Annual letting value is higher of municipal valuation and fair rent, but restricted to standard rent]	80,000	
Step – II – Actual Rent:		
Rent receivable for the whole year (₹ 8,000 x 12)	96,000	
Actual rent received owing to vacancy (₹ 96,000 – ₹ 24,000)	72,000	
Step – II – Computation of Gross Annual Value:		
Gross Annual Value: (since owing to vacancy, the actual rent received is lower than the annual letting value, the actual rent received is taken as the Gross annual value)		72,000
Less: Municipal taxes (5% of ₹ 1,80,000 x 50%)		4,500
Net Annual Value		67,500
Less: Deductions under section 24		
(i) 30% of net annual value	20,250	
(ii) Interest on borrowed capital (₹ 1200 x ½ x 12)	7,200	27,450
Taxable income from let out portion		40,050
(B) Self occupied unit (50% of total area):		
Annual value		Nil
Less: Deduction under section 24:		
Interest on borrowed capital (₹ 600 x 12)	7,200	(7,200)
Income from house property		32,850

Note: No deduction will be allowed separately for light and water charges, insurance charges and repairs.

- (b) (i) Donation has been made to University to be used for scientific research for starting a laboratory. If the University is approved for the purpose of Sec. 35(1)(ii), then

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irrespective of the consideration whether the scientific research is related to assessee's business or not, deduction could be claimed @ 175% (effective from A Y 2011-12 in place of 125%) of amount paid. If it is not approved, donation could not be claimed as a deduction under Sec. 35 in the computation of business income. However, the assessee could claim deduction from Gross Total Income under Sec. 80G, if the same is eligible.

- (ii) The payment is not for any infraction of law but for failure to reach a target undertaken by the company being payment made wholly in the course of business, it is deductible u/s 37(1) of income tax act in computation of income from business.
- (iii) Interest on overdraft taken to pay advance income tax is not allowable under Sec. 36(1)(iii) and Interest on borrowings utilized for payment of dividend is allowable under Sec. 36(1)(iii) of income tax act.
- (iv) Shifting expenses of business premises resulting in an expenditure of enduring benefit is a capital expenditure and is not allowable in the computation of income from business.
- (v) Retrenchment compensation payable to workmen on the total closure of a business cannot be allowed as deduction as the expenses are not incurred for the purpose of carrying on of its business. When, the tax-payer closes one of its units and continues to carry on the same business as before, the compensation will be admissible under section 37(1) of the income tax act in the computation of business income.