

FINAL EXAMINATION

GROUP III

(SYLLABUS 2008)

SUGGESTED ANSWERS TO QUESTIONS

JUNE 2015

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.
Wherever required, the candidate may make suitable assumptions and state them clearly in the answers.

Working notes should form part of the relevant answer.

All questions relate to the assessment year 2015-16, unless stated otherwise in the question.

All sub-divisions of a question should be answered continuously.

Answer Question No. 1 which is compulsory and any five from the rest.

1. Fill up the blanks.

1×25=25

- (i) Cenvat credit _____ be availed by a manufacturer in respect of excise duty paid on jigs and dies purchased and used in the factory.
- (ii) Refund of excise duty can be claimed by an assessee within a period of _____ from relevant date u/s 11B of the Central Excise Act, 1994.
- (iii) Maximum amount of deduction available u/s 24 of the Income-tax Act, 1961 towards interest on loan taken in April, 2014 for construction of house property which is self-occupied is ₹ _____.
- (iv) An Indian company holds 30% shares in a foreign company. It has received gross dividend of ₹ 1,00,000 and has incurred expenditure of ₹ 10,000 for earning the same. The income-tax chargeable u/s 115BBD of the Income-tax Act, 1961 is ₹ _____.
- (v) An individual assessee has sold residential house and intends to purchase a residential house in London within a period of one year. Exemption under section 54 of the Income-tax Act, 1961 _____ (will be/will not be) available.
- (vi) A resident individual having turnover of ₹ 80 lakhs for the year ended 31.03.2015 has paid interest of ₹ 25,000 to a non-resident on 12-05-2014. In order that no disallowance is made u/s 40(a)(i) of the Income-tax Act, 1961, the maximum time limit available for deducting and paying tax source is _____.
- (vii) Expenditure incurred by an Indian company for fulfilling corporate social responsibility as per provisions of the Companies Act _____ (is/is not) a deductible business expenditure.
- (viii) Filing of return of income is _____ for an individual, resident in India, having a bank account in Sri Lanka and deriving total income of ₹ 1,40,000 before deduction under Chapter VIA.
- (ix) Time limit for passing an order under section 143(3) of the Income-tax Act is _____ from the end of the relevant assessment year.

Suggested Answer_Syl2008_June2015_Paper_14

- (x) Declared services are covered by section _____ of the Finance Act, 1994.
- (xi) Composition Scheme _____ be availed by a registered dealer who makes inter-State purchases.
- (xii) Under Export Promotion Capital Goods (EPCG) scheme, an authorisation holder can import capital goods (i.e., plant, machinery, equipment, etc.) at concessional rate of customs duty of _____.
- (xiii) The net wealth computed under the provisions of the Wealth Tax Act shall be rounded off to the nearest _____ rupees.
- (xiv) For a firm house not to be treated as an “asset” under section 2(ea) of the Wealth Tax Act, it should be located _____ kilometers beyond the municipal or corporation limits.
- (xv) Compounded levy scheme is _____ (compulsory/optional) scheme under Central Excise Law.
- (xvi) Certificate of registration under Central Sales Tax Act is to be issued by the registration authority in the prescribed Form _____ (B/G).
- (xvii) A service provider having turnover of ₹ 40 lakhs during last previous year could not pay the service tax on the due date that is 6th January, 2015 is liable to pay interest at the rate of _____ (15% / 18%) p.a. if deposited on 23rd March, 2015.
- (xviii) Restaurant with Air-conditioned / central heating and bar are required to pay service tax on _____ (40% / 60%) of value / amount of service.
- (xix) As per rule 2(a) of the CENVAT Credit Rules, if a manufacturer of automobile uses parts and components to manufacture an automobile, these parts and components will be _____ (eligible/not eligible) for Cenvat Credit as inputs.
- (xx) Excisable goods shall be exported within _____ (six/nine) months from the date on which they were cleared for export from factory of manufacturer or warehouse unless such period extended by the Commissioner of Central Excise.
- (xxi) Dismantling charges for removing the second hand plant at suppliers place and shipping to Indian importer is _____ (includible/not includible) in the FOB Value under Customs Valuation.
- (xxii) An assessee having unexplained credits which has been deemed as income under section 68 of Income Tax Act will be taxed at the special rate of _____ (20% / 30%) plus surcharge and cess as applicable without deduction of any expenditure or allowance under any provision of Income Tax Act.
- (xxiii) As per Section 194I of Income Tax Act, tax deduction at source will be made at the rate of _____ (2% / 10%) from payment to payee or credit to payee account for use of any land or building.
- (xxiv) An appeal against the order of Commissioner (Appeals) under Wealth Tax Act is to be filed within _____ (30 / 60) days from the date of communication of the order or within the extended time.
- (xxv) The Supreme Court and the High Court can give judgment only on the question of _____ (fact / law).

Answer:

1.

(i)	Can	(xiv)	25
(ii)	One year	(xv)	Optional
(iii)	₹ 2,00,000	(xvi)	B
(iv)	₹ 15,450	(xvii)	15%
(v)	Will not be	(xviii)	40%
(vi)	31 st July, 2015	(xix)	Eligible
(vii)	is not	(xx)	Six
(viii)	Mandatory	(xxi)	Includible

Suggested Answer_Syl2008_June2015_Paper_14

(ix)	2 years	(xxii)	30%
(x)	66E	(xxiii)	10%
(xi)	Cannot	(xxiv)	60
(xii)	5%	(xxv)	Law
(xiii)	One hundred		

2. (a) **BHARAT FERTILIZERS P. LTD.** carried out repairs of several machinery in its plant. Metal scrap and waste were generated during the course of such repairs. Will such generation be regarded as “manufacture” for excise duty purposes? Support your view with the decisions of the Apex Court. 5

- (b) Under Customs law, can be benefit of certain exemptions granted in respect of any imported goods, be availed in respect of smuggled goods of identical nature? 4

- (c) The details relating to VAT transactions undertaken by **DEEPTHI & Co.**, a registered VAT dealer, during the month of March, 2015 are given below:

Raw Materials:	(₹)
Purchases from local market (invoice value)	6,60,000
Input VAT rate is 10%	
Goods purchased from dealers opting for Composition Scheme	3,12,000
Capital goods at invoice values:	
Machinery purchased on 01-02-2014	3,37,500
Input VAT rate for capital goods is 12.5%	
Sales of finished goods manufactured:	
Sales within State excluding VAT at 10%	8,00,000
Sales within State of zero-rated goods (output VAT at 0%)	1,20,000
Input credit on capital goods is available on eligible machinery, spared over 2 years.	
Raw materials have been used for producing finished goods of both types of finished goods (zero-rated as well as chargeable goods in the ratio of 4:1).	

Compute the net VAT liability of the dealer. There are no opening or closing stocks. 6

Answer:

2. (a) **Generation of metal scrap & waste during the course of repairs**

Manufacture in terms of section 2(f) of the Central Excise Act includes any process incidental or ancillary to the completion of the manufactured product. This ‘any process’ can be a process in manufacture or process in relation to manufacture of the end product, which involves bringing some kind of change to the raw material at various stages by different operations. The process in relation to manufacture means a process which is so integrally connected to the manufacturing of the end product without which, the manufacture of the end product would be impossible or commercially inexpedient.

The Apex Court, in the case of **Grasim Industries Ltd. vs. UOI 2011 (273) E.L.T. 10 (S.C.)** observed that in the present case, it is clear that the process of repair and maintenance of the machinery of the cement manufacturing plant, in which M.S. scrap and Iron scrap arise, has no contribution or effect on the process of manufacturing of the cement, (the end product). The repairing activity in any

Suggested Answer_Syl2008_June2015_Paper_14

possible manner cannot be called as a part of manufacturing activity in relation to production of end product. Therefore, the M.S. scrap and Iron scrap cannot be said to be a by-product of the final product. At the best, it is the by-product of the repairing process.

Hence, it held that the generation of metal scrap or waste during the repair of the worn out machineries / parts of cement manufacturing plant does not amount to manufacture.

- (b) The question which arose before the Apex Court for consideration in the case of **CCus. (Prev.), Mumbai vs. M. Ambalal & Co.** 2010 (260) E.L.T. 487 (SC) was whether goods that were smuggled into the country could be considered as imported goods' for the purpose of granting the benefit of the exemption notification.

The Apex Court held that the smuggled goods could not be considered as imported goods' for the purpose of benefit of the exemption notification. It opined that if the smuggled goods and imported goods were to be treated as the same, then there would have been no need for two different definitions under the Customs Act, 1962.

The Court observed that one of the principal functions of the Customs Act was to curb the ills of smuggling on the economy. Hence, it held that it would be contrary to the purpose of exemption notifications to give the benefit meant for imported goods to smuggled goods.

In the light of the aforesaid decision of the Apex Court, the exemption available for any imported goods cannot be given for smuggled goods of identical nature.

- (c)

COMPUTATION OF VAT PAYABLE BY DEEPTHI & CO. FOR MARCH, 2015

Particulars	₹
Output VAT	
Sales within State (VAT at 10% on 8,00,000)	80,000
Sales within State of zero-rated goods	0
Total VAT payable [A]	80,000
Less: Input Tax credit	
Purchases from local market (Raw materials) VAT rate is 4% [6,60,000×10/110]	60,000
Capital goods on Machinery [₹ 37,500 spread over 2 years]	18,750
Total ITC available [B]	78,750
Net VAT liability of the dealer [(A)-(B)]	1,250

Note:

ITC is not available only where the raw materials are used for producing finished goods which are exempted from VAT, and not where the rate of VAT is zero. ITC not available for goods bought from dealers opting for Composition Scheme.

Suggested Answer_Syl2008_June2015_Paper_14

3. (a) Mr. Upadhyaya is providing various types of services to several types of industrial houses and construction engineers. The following details for the month of March, 2015:

Duty on trucks purchased for transporting construction materials to site	12,00,000
Diesel for trucks	2,20,000
Duty on Air-conditioners installed in office	1,50,000
Duty on Van for transporting labourers to work sites	9,00,000

You are required to compute the Cenvat credit available to the assessee. 5

- (b) Is remission of duty permissible under section 23 of the Customs Act, 1962 when the remission application is filed after the expiry of the warehousing period (including extended warehousing period)? 4

- (c) Yadhav, a registered dealer in CST, furnishes the following data for the year ended 31-03-2015:

Particulars	₹
Inter-State sales excluding CST, wherever collected	12,00,000
Freight charged, not shown separately in invoices (shown separately in a separate account in ledger)	40,000
Sales return by customer L, within 5 months	1,00,000
Goods rejected by customer M, returned after 6 months	30,000
Excise duty collected, recorded separately in books	1,10,000

Sales return are shown in a separate ledger account and are not deducted from sales account.

Compute the taxable turnover and CST payable by the dealer. 3

- (d) Specify the rate of income-tax deduction at source for the following amounts, with brief reasons: 3

Particulars	₹
Interest paid by a partnership firm to a resident individual not having PAN	4,500
Payment made to a non-resident entertainer	25,000
Dyeing charges paid to a firm during the year ended 31-03-2014	82,000

Answer:

3. (a) The answer can be written in either of two ways for the point no. (iii) duty on air-conditioners installed in office.
- If the service provider does not use the AC in providing his service, then the Cenvat is not eligible for the duty portion which is shown in the below answer.
 - But if the service provider uses the AC in providing his service, then the Cenvat credit is eligible for the duty portion which is shown in the alternative answer.

Particulars	₹
Duty on Trucks, falling under tariff sub-heading 8704, used for the transport of construction material [Motor vehicles used for transportation of inputs used for providing an output service are eligible capital goods]	12,00,000
Air-conditioners installed in office [Capital goods do not include equipment or appliance used in an office. If used by a service provider for providing service, it is eligible for	Nil

Suggested Answer_Syl2008_June2015_Paper_14

Cenvat credit. In the present case, Mr. Upadhyaya is a service provider and it is assumed that he does not use the Air-conditioners for providing his service]	
Car for use of employees for coming to site an [Motor vehicles for passengers are not eligible capital goods in case of construction service]	Nil
Total	12,00,000
CENVAT credit available on capital goods (50% of ₹ 12,00,000) [upto 50% CENVAT credit can be availed in case of capital goods in the year of purchase]	6,00,000
Diesel for trucks [Specifically excluded from the definition of inputs]	Nil
Total CENVAT credit available to the assessee	6,00,000

Alternative answer:

Particulars	₹
Duty on trucks, falling under tariff sub-heading 8704, used for the transport of construction material [Motor vehicles used for transportation of inputs used for providing an output service are eligible capital goods]	12,00,000
Air-conditioners installed in office [Capital goods do not include equipment or appliance used in an office. If used by a service provider for providing service, it is eligible for Cenvat credit. In the present case, Mr. Upadhyaya is a service provider and here it is assumed that he uses the Air-conditioners for providing his service. So, the duty paid on air-conditioners are eligible for Cenvat credit]	1,50,000
Car for use of employees for coming to site [Motor vehicles for passengers are not eligible capital goods in case of construction service]	NIL
Total	13,50,000
Cenvat credit available on capital goods (50% of ₹ 13,50,000) [upto 50% Cenvat credit can be availed in case of capital goods in the year of purchase]	6,75,000
Diesel for trucks [Specifically excluded from the definition of inputs]	NIL
Total Cenvat credit available to the assessee	6,75,000

(b) Determination of remission of duty whether permissible or not u/s 23 of the Customs Act, 1962

Section 23 states that only when the imported goods have been lost or destroyed at any time before clearance for home consumption, the application for remission of duty can be considered. Further, even before an order for clearance of goods for home consumption is made, relinquishing of title to the goods can be made; in such event also, an importer would not be liable to pay duty.

Therefore, the expression "at any time before clearance for home consumption" would mean the time period as per the initial order during which the goods are warehoused or before the expiry of the extended date for clearance and not any period after the lapse of the aforesaid periods. The said expression cannot extend to a period after the lapse of the extended period merely because the licence holder

Suggested Answer_Syl2008_June2015_Paper_14

has not cleared the goods within the stipulated time.

Moreover, since in the given case, the goods continued to be in the warehouse, even after the expiry of the warehousing period, it would be a case of goods improperly removed from the warehouse as per section 72(1)(b) read with section 71. The circumstances made out under section 23 were not applicable to the present case since the destruction of the goods or loss of the goods had not occurred before the clearance for home consumption within the meaning of that-section. When the goods are not cleared within the period or extended period as given by the authorities, their continuance in the warehouse will not attract section 23 of the Act.

(c)

Inter-State sales excluding CST, wherever collected	12,00,000
Add: Freight charged, not shown separately in invoices (This will be included in turnover)	40,000
Less: Sales return by customer L, within 5 months ₹ 1,00,000, not includible in turnover (This will be excluded in turnover)	1,00,000
Less: Goods rejected by customer M, returned after 6 months (This will be excluded in turnover; there is no time limit in case of rejection of goods)	30,000
Add: Excise duty collected, recorded separately in books (This will be included in turnover)	1,10,000
Taxable turnover	12,20,000
CST at 2%	24,400

(d)

Particulars	Rate of TDS
Interest paid by a partnership firm to a resident individual not having PAN: U/s 194-A, tax is to be deducted only where interest payable is ₹ 5000.	Nil
Payment made to a non-resident entertainer: Tax to be deducted u/s 194E	20%
Dyeing charges paid to a firm during the year ended 31-3-2013 : Tax to be deducted u/s 194C since the total payments exceed ₹ 75,000	2%

4. (a) How is the value of service in relation to Money Changing determined for service tax purposes? 3

(b) Briefly discuss Duty drawback on re-exports. 4

(c) Hemali & Co., have taken service tax registration on centralised basis, for their premises at Salem (in Tamil Nadu), covering 12 other locations in different States. They have rendered a service, not covered in the negative list, at Srinagar. The assessee has a branch at Delhi, which is the nearest place from where most of the services to the services to the present service receiver is being provided. Branch at Mumbai has also rendered some service.

State with brief reasons, which place has to be taken as the "location of the service provider", as per the Place of Provision of Services Rules, 2012. 3

(d) Mr. Lokesh is employed in a company and has earned salary of ₹ 10.5 lakhs for the year ended 31-03-2015. He has paid profession tax of ₹ 14,000, life insurance premium of ₹ 1,60,000, donation of ₹ 86,000 to a project eligible for deduction under section 35AC and donation of ₹ 90,000 to a charitable trust registered under section 12AA and recognised under section 80G.

Suggested Answer_Syl2008_June2015_Paper_14

Compute his total income for the assessment year 2015-16.

5

Answer:

4. (a) Determination of value of service in relation to Money Changing (Rule 2B of the Service Tax Rules, 1994)

Rule 2B prescribes the value of services rendered in relation to money changers w.e.f. 1.4.2011. The value shall be as follows:

- (i) The difference between the buying rate or the selling rate, as the case may be, and the RBI reference rate for that currency for that day multiplied by units of currency exchanged;
- (ii) If RBI reference rate is not available the value shall be 1% of the value of money exchanged in Indian rupees;
- (iii) When both the currencies are not Indian rupees, 1% of the lesser of the amounts receivable if the two currencies are converted at RBI reference rate.

(b) Duty drawback on Re-export

Section 74 of Customs Act, 1962 provide for drawback if the goods are re-exported as such or after use. This may happen in cases like import for exhibitions, goods rejected or wrong shipment etc.

The re-exported goods should be identifiable as having been imported and should be re-exported within two years from date of payment of duty when they were imported. This period (of two years) can be extended by CBE&C on sufficient cause being shown.

These should be declared and inspected by Customs Officer. Original shipping bill under which the goods were imported should be produced. The goods can be exported as cargo by air or sea, or as baggage or by post. After inspection, export and submission of application with full details, 98% of the customs duty paid while importing the goods is repaid as drawback.

Section 74 is applicable when imported goods are re-exported as it is and article is easily identifiable, while section 75 is applicable when imported materials are used in the manufacture of goods which are then exported - ABC India Ltd. v. UOI 1992(61) ELT 205 (Del HC).

(c) "Location of the service provider"

As per section 2(h) of the Place of Provision of Services Rules, 2012, "location of the service provider" means-

- (i) where the service provider has obtained a single registration, whether centralized or otherwise, the premises for which such registration has been obtained; where the service provider is not covered under sub-clause (a), the following is to be considered:
where services are provided from more than one establishment, whether business or fixed, the establishment most directly concerned with the provision of the service".

Here, the assessee has taken a single registration at Salem. When sub-cl. (a) applies, sub-clause (b) will not apply.

Hence the location of the service provider has to be taken as the premises at Salem.

Suggested Answer_Syl2008_June2015_Paper_14

(d)

Particulars	₹	₹
Income chargeable as "Salaries"		
Gross salary	10,50,000	
Less: Profession tax	14,000	
Chargeable amount/Gross total income		10,36,000
Less: Deductions under Chapter VIA		
Section 80C: LIP Paid ₹ 1,60,000. Restricted to	1,50,000	
Section 80GGA : Donation to project eligible u/s 35AC, 100% allowable	86,000	
Total deductions excluding section 80G		2,36,000
Adjusted total income for deduction u/s 80G		8,00,000
Total donations to charitable trusts not to exceed 10% of above.	80,000	
Permissible deduction 50% of lower of Rs 90,000/ 80,000		40,000
Total income		7,60,000

5. (a) Hema Polymers Ltd, manufactures PFY. Goods are sold at its factory gates at Chennai as well as from its depot at Kachipuram. The prices prevailing at these two places are different. On 21-03-2013, 10,000 kgs have been removed from the factory to the depot at Kachipuram. On this day, sales have taken place at both the factory and the depot, the sale price being ₹ 1000 per kg. and ₹ 1010 per kg respectively. Determine the assessable value as per section 4(b) of the Central Excise Act for the above 10,000 kgs. moved to the depot.
Will your answer be different if the last sale at the depot was on 17-03-2013 (15000 kgs at ₹ 990 per kg)? 5

- (b) State, with reasons, whether the following expenses are deductible in computing income under the head "Profits and Gains from business or profession" for the Assessment year 2015-16 : 4

- (i) Consultancy fee of ₹ 40,000 is credited to the account of the consultant on 1st January, 2015 without deduction of tax at source as applicable under section 194J of the Income-tax Act. Tax was not deducted up to 31st March, 2015. Tax was deducted on 1st April, 2015 and deposited on 20th May, 2015.
- (ii) A company was generating electricity privately for its factory. Later, at its expense, electric lines were laid from the trunk road to the factory. It paid ₹ 5 lakhs to the State Electricity Board as its contribution for this purpose. The ownership of the power line was to vest with the State Electricity Board.

- (c) Mrs. Susan furnishes the following details of her assets as on 31-03-2015:

Particulars	₹ in lacs
Jewellery	19
Units in UTI Gold Mutual Fund	5
Industrial plot bought on 21-03-2013	9
Urban house plot	22
[On this, she had started construction of a residential house; the construction is around 60% complete]	
Amount spent for house construction in above plot	18
Office building	31

Compute her net wealth as on 31-03-2015, briefly explaining the treatment of each item. 6

Suggested Answer_Syl2008_June2015_Paper_14

Answer:

5. (a) Assessable value for sales made through depots

When goods are sold through depot, there is no 'sale' at the time of removal from factory. In such cases, price prevailing at depot (but at the time of removal from factory) shall be the basis of Assessable Value. The value should be 'normal transaction value' of such goods sold from the depot at the time of removal or at the nearest time of removal from factory, [rule 7 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000].

As per Valuation Rule 2(b), "normal transaction value" means the transaction value at which the greatest aggregate quantities of goods are sold.

Thus, if an assessee transfers a consignment of PFY to his depot from factory on 21-3-2013, and that variety and quality of PFY is normally being sold at the depot on 21-3-2013 at transaction value of ₹ 1,010 per kg to unrelated buyers, where price is the sole consideration for sale, the consignment cleared from the factory at Chennai on 21-3-2013 shall be assessed to duty on the basis of 1,010 per kg as the assessable value.

If assuming that on 21-3-2013 there were no sales of that variety from Kancheepuram depot but the sales were effected on 21-3-2013, then the normal transaction value on 17-3-2013 from the said depot to unrelated buyers i.e. 990 per kg, where price is the sole consideration shall be the basis of assessment.

- (b) (i) Consultancy expenses of ₹ 40,000/- will not be allowed as deduction while computing business income for the previous year 2014-15 by virtue of Section 40(a)(ia) as the income tax deduction at source as required under 194J of income tax act was not made by 31st March 2015. Since Tax deducted on 1st April 2015 and it was deposited on 20th May 2014 the consultancy expenses of ₹ 40,000/- will be allowed as deduction for the previous year 2015-16 only on payment basis.
- (ii) The new electric power lines were laid to run the .factory efficiently but since the ownership of the power lines was to vest with the State Electricity Board, the contribution of ₹ 5,00,000 paid to the State Electricity Board shall be allowable as revenue expenditure under section 37(1) of income tax act.

(c)

Particulars	₹ in lacs
Jewellery [Is an asset as per sec 2(ea)]	19
Units in UTI Gold Mutual Fund [Is not an asset covered under sec. 2(ea)]	Nil
Industrial plot bought on 21-03-2013 [Is includible since the holiday period of 2 years is over]	9
Urban house plot [Is an asset as per sec. 2(ea)] [See note below]	22
Amount spent for house construction in above plot [No asset has come into existence, hence not includible]	
Office building [Is not an asset as per sec 2(ea)]	Nil
Net Wealth	50

Suggested Answer_Syl2008_June2015_Paper_14

Note on urban land on which house is under construction:

There are two possible views:

1. Urban land and building under construction are to be treated separately; each will have to be seen whether they are asset as per sec. 2(ea). This has been done here. [CWT v. Giridhar G. Yadalam 325 ITR 223 (Karn)].
2. The second view is that once construction is started, it is no longer land. Building under construction is not an asset. Hence, the value of both land and building cannot be regarded as asset. [CIT vs. Neena Jain 189 Taxman 308 (P&H)]

Note: If the second view is adopted, net wealth would be ₹ 28 lacs.

6. (a) M/s. Techno Motors Ltd. engaged in the manufacturing of Motor Cars has paid Service Tax (including EC and SHEC) on following services received during the month of February 2015. Compute the Cenvat Credit available for the month of February 2015 with suitable notes wherever required in support of such computation. 5

- (i) Sales promotion services- ₹ 4,00,000
- (ii) Quality control services - ₹ 3,00,000
- (iii) Market research for the new car to be launched – ₹ 3,50,000
- (iv) Insurance of the cars manufactured – ₹ 60,000
- (v) Outdoor catering services provided to the employees- ₹ 50,000

- (b) M/s. ASP, a LLP provides following information for the Previous Year 2014-15. Compute taxable income, tax liability and carry forward of tax credit if any for the Asst. Year 2015-16. 10

Net profit as per P&L A/c – ₹ 90.63 lakhs

Depreciation as per P&L A/c – ₹ 6.20 lakhs

Depreciation as per Income Tax Rules – ₹ 7.50 lakhs

Inadmissible expenses- ₹ 1.64 lakh

Deduction u/s 10AA (computed)- ₹ 82.70 lakhs

Deduction under Chapter VIA- under section 80 GGC for ₹ 32,000 and under section 80IA is ₹ 60,200.

Answer:

6. (a) Computation of Cenvat Credit available by M/S Techno Motors Ltd for the month of February 2015

Particulars of services	Amount in ₹
(i) Sales promotion services (Note-1)	4,00,000
(ii) Quality control services (Note-1)	3,00,000
(iii) Market research for the new car to be launched (Note-1)	3,50,000
(iv) Insurance of the cars manufactured.(Note-2)	60,000
(v) Outdoor catering services provided to the employees (Note-3)	Nil
Total CENVAT CREDIT Available	11,10,000

Note:

- (1) There is a specific inclusion with regards to Sales promotion service, Market research service and Quality control services in the definition of Input Services. Hence Cenvat Credit of the service tax paid on the aforesaid service is available.
- (2) Services of general insurance when used by a manufacturer of motor vehicle in respect of motor vehicle manufactured (not a capital goods) is treated as an

Suggested Answer_Syl2008_June2015_Paper_14

input Services. The credit of service tax paid on the insurance of cars manufactured is available for cenvat credit.

- (3) Outdoor catering to the employees are specifically excluded from the definition of Input Services. Hence CEVAT Credit of service tax paid on such services is not available.

(b) Computation of Taxable income and Tax payable of M/S ASP, LLP for the Previous Year 2014-15 (Asst. Year 2015-16) Amount in ₹

Particulars	₹ in Lakhs	
Net Profit as per Profit & Loss A/c		90.63
Add: Inadmissible expenses	1.64	
Add: Depreciation as per P&L A/c	6.20	
Less: Depreciation as per Income Tax Rules	(7.50)	0.34
Total		90.97
Less: Deduction u/s 10AA		(82.70)
Business Income		8.27
Gross Total Income		8.27
Less: Deduction under chapter VI-A:		
-Section 80GGC	(0.32)	
-Section 80-IA	(0.602)	0.922
Total Income		7.348
Total Tax Payable @ 30% + Education Cess @ 3%		2.271

Computation of Adjusted Total Income for the purposes of Alternate Minimum Tax M/S ASP, LLP, Previous Year 2014-15 (Asst. Year 2015-16)

Particulars	Amount in ₹	
Total Income		7.348
Add: Deduction u/s 10AA	82.70	
Add: Deduction under Section 80IA	0.602	83.302
Adjusted Total Income		90.65
Tax on Adjusted Income (including cess) @ [18.5% + 3% cess = 19.055% of ATI] (rounded off)]		17.273
Total Tax Payable:		
Total Tax Payable = Normal Tax ₹ 2.271 lakhs or AMT ₹ 17.273 lakhs whichever is higher.		₹ 17.273 lakhs
AMT Credit = 17.273 lakhs – ₹ 2.271 lakhs		₹ 15.002 lakhs

7. (a) M/s. CARE Energy Ltd. has imported a machinery from M/s BML Ltd, England at an invoice price of ₹ 20.00 lakhs. From the following information determine the Assessable Value for levy of Customs duty. 5
- (i) M/s CARE Energy Ltd had supplied raw material to M/s BML Ltd, England , which is used in the manufacturing of the machinery – ₹ 5.00 lakh.
- (ii) Due to safety reason, the machinery was not taken to jetty in the port but was unloaded at the outer anchorage. The charges incurred for such unloading is ₹ 25,000 and cost incurred on transportation of machinery from outer anchorage to the jetty is ₹ 50,000.
- (iii) The importer paid ship demurrage charges for ₹ 10,000.
- (iv) Cost of transportation is ₹ 45,000 and insurance charges ₹ 20,000 for import of the machinery.

Suggested Answer_Syl2008_June2015_Paper_14

(b) M/s. ABC Ltd. is engaged in the manufacturing of industrial equipments prepared its financial statements in compliance to the provisions of Companies Act. While computing the taxable income for the assessment year 2010-11, arrived with unabsorbed depreciation and missed to file the return of income by the due date as specified in the provisions of Income Tax Act. In the next assessment year 2012-13 the unabsorbed depreciation of the assessment year 2010-11 has been adjusted and return was filed within due date. The Assessing Officer denied to allow the carry forward of depreciation and adjustment as above. Is the Assessing Officer right in his approach? Explain with reference to provisions of Income Tax Act and decided cases. 5

(c) Following details pertaining to Mr. Vashist, a resident Indian aged 52, are furnished to you: 5

	Particulars	₹
(a)	Salary received from LMN Ltd.	7,20,000
(b)	Profession tax paid by employer	10,000
(c)	Loss from own business not covered by section 35AD	2,10,000
(d)	Long-term capital gain from sale of listed shares in recognized stock exchange	1,20,000
(e)	Long-term capital gains from sale of residential house plot	1,10,000
(f)	Winnings from T.V. games show (Net of TDA ₹ 33,000)	77,000
	Expenses incurred for participating in the show	5,000
(g)	Loss incurred from betting	52,000
(h)	Loss from agricultural lands in India	32,000

Compute the total income of the assessee under proper heads of income for the assessment year 2015-16.

Answer:

7. (a)

M/s CARE Energy Ltd.
Computation of Assessable Value on import of Machinery

Particular	Amt. in ₹
Value of goods	20,00,000
Add: Raw material supplied	5,00,000
FOB Value	25,00,000
Charges for bringing the goods from outer anchorage to jetty is known as Barging / Lighterage or barge charges. (unloading ₹ 25,000 + transportation ₹ 50,000/-)	75,000
Ship demurrage on chartered vessel	10,000
Freight charges(Transportation charges)	45,000
Insurance charges	20,000
Cost Insurance and Freight CIF	26,50,000
Add: 1% loading charges on CIF	26,500
Assessable value	26,76,500

Suggested Answer_Syl2008_June2015_Paper_14

(b) As per section 80 of income tax act, loss cannot be carried forward unless it is determined in pursuance of return filed within the time limit allowed under section 139(3). If an assessee fails to file the return of loss on or before due date of furnishing return as prescribed by section 139(1), the losses cannot be carried forward. This provision does not include unabsorbed depreciation which is regulated with reference to section 32(2) of income tax act. A similar matter came up before Hon'ble Supreme Court in case of CIT vs. Govind Nagar Sugar Ltd. (2011) 334 ITR 13(Delhi).

On this issue, the Delhi High Court observed that, the provisions of section 80 and section 139(3) of income tax act, requiring the return of income claiming loss to be filed within the due date, applies to, inter alia, carry forward of business loss and not for the carrying forward of unabsorbed depreciation. As per the provisions of section 32(2) of the income tax act, the unabsorbed depreciation becomes part of next year's depreciation allowance and is allowed to be set-off as per the provisions of the Income-tax Act, 1961, irrespective of whether the return of earlier year was filed within due date or not. The High Court hold that the unabsorbed depreciation will be allowed to be carried forward to subsequent year even though the return of income of the current assessment year was not filed within the due date.

So the Assessing Officer is not right in his approach.

(c)

Computation of total income of Mr. Vashist Assessment Year 2015-16

Particulars	₹	₹
Salaries:		
Received from employer	7,20,000	
Profession tax paid by employer (to be treated as perquisite)	10,000	
	7,30,000	
Less: Profession tax paid	10,000	7,20,000
Profit and Gains of business or profession		
Loss from non-speculation business not covered by S. 35AD [Cannot be set off against salaries]	2,10,000	
Capital gains:		
Long-term capital gains:		
(a) From sale of listed shares in recognized stock exchange ₹ 1,30,000 exempt u/s 10(38)	Nil	
(b) From sale of residential house plot	1,10,000	
Total LTCG	1,10,000	
Business loss can be set off against LTCG		
Hence chargeable LTCG is		0
Balance business loss to be carried forward	1,00,000	
Income from other sources		
(a) Income from T.V. Games show Gross	1,10,000	
No expenditure is allowable from this income [No other loss can be set off against this winnings]		
(b) Loss from card games	52,000	
[Can neither be set off, nor carried forward]		
Income chargeable under this head		1,10,000
Gross total income/Total income		8,30,000

Note: Agricultural income being net loss, the same has to be ignored.

Suggested Answer_Syl2008_June2015_Paper_14

8. (a) Compute the total income from the following data relating to Mr. Abhinav, aged 59, a resident Indian, for the assessment year 2015-16: 6

Particulars	₹
Income from let out property (Loss)	2,30,000
Salary received from ABC Ltd.	3,92,000
Income from capital gains:	
Short-term from sale of house plot Loss	3,10,000
Long-term from sale of listed shares in NSE	2,90,000
Income from fertiliser business carried on by minor son	3,20,000
Loss from gambling	35,000
Winnings from a TV Games show (Net of TDS ₹ 2,40,000)	5,60,000
Expenses incurred for attending this TV show	60,000
Life insurance premium paid for minor son	1,20,000
Additional Information:	
Brought forward business loss for the assessment year 2013-14, carries on by the assessee in his name (Business was stopped on 31-03-2013)	1,40,000

- (b) Provide brief calculations / answers for the following questions: 2x2=4

- (i) Mr. A, an individual purchased a car on 1-7-2013 for ₹ 6 lakhs. This is the only asset in the block. Apart from business use, it is estimated that 20% of the usage is for personal purposes. The car is sold on 30-3-2014 for ₹ 5 lakhs. No other asset was purchased in this block during the year ended 31-3-2015. Ascertain the short term capital gain/loss chargeable to tax. u/s 50 of the Income-tax Act, 1961.
- (ii) An assessee owns a piece of land of area 80,000 sq. ft. in the limits of a municipality, whose population as per last census was 92,000 and whose present population is 1,20,000. Is this land an asset under the wealth Tax Act?

- (c) SRK Limited has a carried forward MAT credit of ₹ 3 lakhs under section 115JAA(3) of the Income-tax Act from assessment year 2014-15. The company's total income and book profit under section 115JB in assessment year 2015-16 are ₹ 6 lacs and ₹ 7.50 lakhs respectively.

Compute the tax payable by the company for assessment year 2015-16 and the amount to be carried forward under section 115JAA. 5

Answer:

8. (a)

Computation of total Income of Mr. Abhinav for the assessment year 2015-16

Particulars	₹	₹
Income from let out property (Loss) [Can be set off against salaries]	2,30,000	
Salary received from ABC Ltd.	3,92,000	
Less: Loss from HP set off	2,30,000	
		1,62,000
Profit and gains of business or profession		
Income from business done by minor son	3,20,000	
Less: Brought forward of loss from own business pf AY 2013-14 set off	1,40,000	
		1,80,000
Income from capital gains:		
Short-term from sale of house plot Loss		3,10,000

Suggested Answer_Syl2008_June2015_Paper_14

Long-term from sale of listed shares in NSE	2,90,000	
Less: Exempt u/s 10(36)	2,90,000	
Changeable LTCG		0
Income after set off of STCG loss against other income above		32,000
Income from other sources		
Winnings from a TV Games show (Gross)		8,00,000
Gross total income		8,32,000
Less: Deduction u/s 80C		
LIP paid	1,20,000	
To be restricted to	1,00,000	
Deduction under chapter VIA cannot exceed the normal income (i.e., excluding special income)		32,000
		8,00,000

Notes

- No deduction is available from winnings in TV games show.
- Loss from gambling can neither be set off, nor carried forward.
- For deduction under Chapter VIA, gross total income is to be reduced by special income like LTCG, winnings from games show, etc.

(b) (i)

Original cost		6,00,000
Depreciation at 15%	90,000	
Less: Disallowance for personal use	18,000	
Depreciation allowable for AY 2014-15		72,000
WDV as on 31-3-2014		5,28,000
Sold for		5,00,000
STCL under u/s 50		-28,000

- (ii) Urban land, which is covered by the definition of 'asset' means land situated in the area which is comprised within the jurisdiction of a municipality and which has a population of not less than 1,00,000 according to the last preceding census.

The population as per last census alone is relevant and not the present one. Hence the impugned land is not regarded as an asset.

(c)

Computation of tax payable by SRK Ltd for Assessment Year 2015-16 and MAT credit to be carried forward to Assessment Year 2016-17

Particulars	₹
Total Income	6,00,000
Book Profit	7,50,000
Tax on total income (₹ 6,00,000 × 30.9%)	1,85,400
Minimum Alternate Tax (₹ 7,50,000 × 19.06%)	1,42,950
Difference between MAT and tax on total income (₹ 1,42,950 – ₹ 1,85,400) (a)	42,450
MAT credit brought off from assessment Year 2014 – 15 (b)	3,00,000
MAT credit set-off (Lower of (a) and (b))	42,450
Tax payable for assessment year 2015-16 (₹ 1,85,400 – ₹ 42,450)	1,42,950
MAT credit to be carried forward to assessment year 2016-17 (₹ 3,00,000 – ₹ 42,450)	2,57,550