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Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 7

NOTE : All references to sections mentioned in Part-A of Question Paper relate to the Income-tax Act, 1961 and the relevant Assessment Year 2009-10 unless stated otherwise.

PART – A

(Answer ANY TWO questions from this part.)

1. (a) Choose the most appropriate answer from the given options in respect of the following :
 - (i) Part I of the First Schedule to the Finance Act, 2008 gives income-tax rates for different assessees for –
 - (a) The assessment year 2008-09
 - (b) The assessment year 2007-08
 - (c) The assessment year 2006-07
 - (d) The assessment year 2009-10.
 - (ii) Rules for computing net agricultural income are provided in –
 - (a) The Income-tax Act, 1961
 - (b) The Income-tax Rules, 1962
 - (c) The First Schedule to annual Finance Act
 - (d) None of the above.
 - (iii) If the assessee has taken an asset on lease, the depreciation under the Income-tax Act, 1961 shall be allowed to –
 - (a) The lessor
 - (b) The lessee
 - (c) The financial institution providing the finance
 - (d) None of the above.
 - (iv) As per the Income-tax Act, 1961, bonus shares allotted to preference shareholders is deemed as dividend to the extent of accumulated profit under –
 - (a) Section 2(22) (a)
 - (b) Section 2(22) (b)
 - (c) Section 2(22) (c)
 - (d) Section 2(22) (d) .

- (v) What is the last date of assessment under section 172(4), if the return of income by a non-resident shipping company was furnished on 14th September, 2008 –
- (a) 31st March, 2009
 - (b) 30th September, 2009
 - (c) 31st December, 2010
 - (d) 31st December, 2009
- (vi) Section 91 provides for unilateral relief to the person who is –
- (a) Resident in India
 - (b) Not ordinarily resident
 - (c) Non-resident
 - (d) All the above.
- (vii) The authority for advance rulings under the Income-tax Act, 1961 shall not constitute –
- (a) A retired judge of the Supreme Court
 - (b) A retired judge of the High Court
 - (c) An officer of the Indian Revenue Service
 - (d) An officer of the Indian Legal Services.
- (viii) How much deduction is available to eligible companies in respect of expenditure on in-house research and development facility approved by the prescribed authority under section 35(2AB) –
- (a) 100%
 - (b) 125%
 - (c) 150%
 - (d) No deduction.
- (ix) For the valuation of perquisites to employees, who is not included in members of his household –
- (a) Spouse
 - (b) Children
 - (c) Brothers and sisters
 - (d) Servants.
- (x) Income-tax is deductible at source, if any person makes any payment of rent to –
- (a) The Government
 - (b) The Reserve Bank of India
 - (c) Public charitable trust
 - (d) A mutual fund.

(1 mark each)

- (b) Write notes on the following :
- (i) Infrastructure facility under section 80-IA.
 - (ii) Memorandum of cross objection.
- (5 marks each)*
2. (a) Compute the liability towards dividend distribution tax under section 115-0 in following cases –
- (i) A domestic company engaged in the business of growing and manufacturing tea in India, has declared a final dividend of Rs.10 lakh for the financial year 2008-09.
 - (ii) A foreign company which has made prescribed arrangements for declaration and payment of dividends within India, pays preference share dividend of Rs.100 lakh for the financial year 2008-09.
- (3 marks each)*
- (b) Apex Ltd. is an Indian company which is a 100% subsidiary of Zorex Ltd., a foreign company. Zorex Ltd. sells its products to Apex Ltd. at \$50 per unit. At the same time, it sells its products to another company Yera Ltd. in India at \$75 per unit. Total income of Apex Ltd. for the financial year 2008-09 is Rs.14,00,000 after making payment for 200 units @ \$50 (\$1 = Rs.45). Apex Ltd. has deducted tax at source while making payment to Zorex Ltd.
- Compute the "arm's length price" and "taxable income" of Apex Ltd. and Zorex Ltd. assuming that Yera Ltd. has purchased 100 units @ \$75 (\$1 = Rs.45).
- (6 marks)*
- (c) A company has violated the provisions of the Income-tax Act, 1961 for which punishment specified is 2 years imprisonment and fine. The company contends that since the law specifies mandatory imprisonment, which cannot be given to a company, no fine can be imposed for such violation. Discuss the legality of the contention of the company.
- (4 marks)*
- (d) Briefly mention the cases when the application for advance ruling shall not be allowed by the authority for advance ruling.
- (4 marks)*
3. (a) The Income-tax Act, 1961 provides for filing of electronic returns and for paying tax electronically.
- (i) What is the meaning of expression 'pay tax electronically' ?
 - (ii) Who are the persons covered by such a requirement ?
 - (iii) Will it also apply to payment of tax deducted at source or collected at source ?
- (2 marks each)*

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(b) Can an assessee make electronic payment of his taxes from the account of another person ?

(2 marks)

(c) An assessing officer intends to direct an assessee to get his accounts audited by a chartered accountant under section 142(2A) in view of the complexity of the accounts and interests of revenue. Can he do so without giving him an opportunity of being heard ? Who will meet the expenses of and incidental to such an audit ?

(6 marks)

(d) An assessee, whose taxable income is nil, has filed a return of income beyond the time limit specified under section 139 in order to claim refund of tax deducted at source from his interest income. The income-tax authorities refuse to process the same on the ground that the same is filed beyond the time limit. Is it justified ?

(6 marks)

PART - B

(Answer ANY FOUR questions from this part.)

4. (a) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :

- (i) _____ has exclusive power to make any law imposing a tax not mentioned in the Concurrent List or State List.
- (ii) There are _____ Chapters in Central Excise Tariff out of which Chapter 77 is blank.
- (iii) The expenditure or costs incurred by the service provider as a pure agent of the recipient of service and recovered from service receiver are _____ for the purpose of valuation of the taxable services.
- (iv) Section 13 of the Customs Act, 1962 provides that duty is not payable on pilfered goods only in cases where the goods are pilfered after the unloading and before _____.
- (v) Un-manufactured tobacco _____ included in the list of 'goods of special importance' called 'declared goods' under section 14 of the Central Sales Tax Act, 1956.
- (vi) The promissory *estoppel* plea fails where _____ intervenes.
- (vii) Indirect taxes are passed on to the consumers. Tax planning is _____ relevant and important in indirect taxes as it is in direct taxes.

(1 mark each)

(b) Distinguish between the following :

- (i) 'Form ARE-1' and 'Form ARE-2' under the central excise.
- (ii) 'Duty drawback under section 74' and 'duty drawback under section 75' of the Customs Act, 1962.

(4 marks each)

5. (a) Bestcool Ltd., an assessee, is manufacturing refrigerators and selling after packing in factory for transport convenience and putting 'retail sale price' (RSP) on them. The assessee has contended that a pre-packaged commodity is such that a consumer purchases it in packed form without opening it, but refrigerators are never sold to customer in packed form. These are shown to customer, tested and then sold, so these should be assessed under section 4 of the Central Excise Act, 1944 and not under section 4A. Discuss whether the contention of Bestcool Ltd. is valid in law. You may take help of decided case law(s), if any.

(5 marks)

- (b) The assessee-importer imported certain goods from a foreign supplier, who is holding 40% equity in assessee company. The department has rejected the transaction value contending that the price was influenced by relationship. Is the action of the customs department justified? Explain with reference to decided case law(s).

(5 marks)

- (c) Bharat Suppliers supplied aviation turbine fuel to a 'domestic Indian carrier' for purpose of international flight and sought for sales-tax exemption deeming it export of goods out of territory of India. The assessing officer did not treat it as export sale as there was no outside destination where the goods, i.e., aviation turbine fuel, was taken. If the goods are 'exported' it must be correspondingly 'imported' in other country, so in this case, supply of aviation turbine fuel to the aircraft was treated as 'local sale', i.e., sale within the State in which the fuel was supplied. You are required to advise with reference to present position of law in this regard.

(5 marks)

6. (a) Planner Ltd. is providing taxable as well as exempted services. The value of taxable and exempted services is Rs.16 lakh and Rs.24 lakh respectively. All the inputs/input services are used by the company in providing taxable as well as exempted services for which separate accounts are not maintained. The total input credit available is Rs.3 lakh on inputs/input services and Rs.6 lakh on capital goods. Find the amount payable by Planner Ltd. under the CENVAT Credit Rules, 2004.

(5 marks)

- (b) Krishna, holding Indian passport, brings 1 kg. gold, out of which gold worth Rs.6,00,000 is in the form of tola bars and balance of Rs.2,00,000 in the form of gold jewellery (not being personal jewellery), valued at international rates. She is returning after 15 months stay abroad. What is the amount of duty payable if :

(i) the duty is paid in convertible foreign currency; or

(3 marks)

(ii) the duty is paid in Indian currency.

(2 marks)

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- (c) Total inter-State sale of Sunita traders, Jodhpur during the second quarter of the year 2007-08 was Rs.6,70,000. The sales were inclusive of sales tax charged in invoices at appropriate rates. The goods were liable to tax @ 4% if sold within the State of Rajasthan.

Goods worth Rs.52,000 were returned by a buyer in May, 2008 after 6 months of sale and goods worth Rs.20,600 were rejected by another buyer and sent back in June, 2008.

Determine the amount of taxable turnover and central sales tax payable thereon by Sunita Traders, if Form-C was received from all the buyers. Assume rate of central sales tax is 3% against Form-C.

(5 marks)

7. (a) Explain the powers of the Central Government to increase the duty of excise under section 3 of the Central Excise Tariff Act, 1985 in following cases :

- (i) Where the rate of duty specified in First and Second Schedule is nil; and
- (ii) Where the rate of duty is 14%.

(2 marks each)

- (b) Discuss the reasons whether CENVAT credit will be admissible in the following cases :

- (i) Low sulphur heavy stock (LSHS) and furnace oil used for generation of electricity used for manufacture of final product.
- (ii) Refractory material and refractories consumed in the factory of the manufacture of final product in the year of acquisition.

(2 marks each)

- (c) Discuss briefly the discretionary power of the Appellate Tribunal to refuse to admit an appeal against the order of the Commissioner (Appeals) under the Customs Act, 1962.

(4 marks)

- (d) "Service tax and value added tax, (i.e., sales tax) are mutually exclusive." Elucidate.

(3 marks)

8. (a) State, with reasons in brief, whether the following statements are true or false :

- (i) Even a large industry will be entitled for the SSI exemption under notification No. 8/2003 dated 1st March, 2003, if its turnover in previous year was less than Rs.4 crore.
- (ii) Where excise duty becomes refundable as a consequence of a judgement, decree, order or direction of appellate authority, Customs, Excise and Service Tax Appellate Tribunal (CESTAT) or any court, revenue should implement the appellate order. The time limit of one year for filing refund application is not applicable in such case.

- (iii) The Assistant/Deputy Commissioner of Customs may cancel licence of private warehouse by serving one month's notice, in writing, to the licensee.
- (iv) Section 104 of the Customs Act, 1962 empowers the officer of customs to arrest any person in India or within Indian territorial waters, who is engaged in smuggling of the goods.
- (v) There are no provisions which enable the filing of revised return under service tax.
- (vi) Registration under the Central Sales Tax Act, 1956 is effective from the date on which application for registration is made, even if registration is granted later.

(2 marks each)

- (b) State whether there are provisions under the service tax laws for the following :
- (i) Provisional assessment.
 - (ii) CENVAT credit audit.
 - (iii) Return under service tax.

(1 mark each)

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