

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 9

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

P A R T – 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) Which of the following does not fall under the State List as stipulated in the Article 246 read with Schedule VII of the Constitution of India –
 - (a) Excise on alcoholic liquors and narcotics
 - (b) Taxes on consumption and sale of electricity
 - (c) Taxes on advertisements in newspapers
 - (d) Taxes on advertisements other than those contained in newspapers.
 - (ii) If a company assessee has not filed the prescribed income-tax return within the prescribed time limit, carry forward of losses sustained under the head 'profits and gains of business or profession' or 'capital gains' and its set-off will not be permitted as per the provisions of --
 - (a) Section 139(3) read with section 80
 - (b) Section 139(1)
 - (c) Section 139(4)
 - (d) Section 139(5).
 - (iii) Credit of Minimum Alternate Tax (MAT) in respect of excess amount of tax paid under section 115JB could be carried forward from assessment year 2006-07 onwards for –
 - (a) 5 Assessment years
 - (b) 7 Assessment years
 - (c) 8 Assessment years
 - (d) 4 Assessment years.

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- (iv) Which of the following reflects the correct position regarding the binding powers of the Central Board of Direct Taxes (CBDT) –
- (a) The instructions of the CBDT are binding on the department and the assessee
 - (b) Courts are bound by the instructions of the CBDT
 - (c) The instructions are binding on the department, but not on the assessee
 - (d) The instructions by the CBDT may impose a burden on the assessee.
- (v) An association of persons and body of individuals who are subject to tax audit in the immediately preceding financial year, making payment to resident contractor under section 194C –
- (a) Are not liable to deduct tax at source
 - (b) Shall be liable to deduct tax at source
 - (c) Are liable to deduct tax at source, if the turnover during the current year exceeds Rs.40 lakh
 - (d) None of the above.

(1 mark each)

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

- (i) Section 2(23A) defines 'foreign company' as a company, which is _____. However, all non-Indian companies are not necessarily_____.
- (ii) The Appellate Tribunal's decision would have _____ within the jurisdiction and has a _____ value outside the concerned jurisdiction.
- (iii) A loss incurring company and a profit making company may _____ in order to reduce the overall incidence of _____ under the Income-tax Act, 1961.
- (iv) Depreciation on a generator purchased and kept as stand by will be allowed in spite of the same not put to use, as it has _____ use by the assessee during the year.
- (v) The return of income has to be signed by the _____ in the case of company and in his absence by one of the _____.

(1 mark each)

- (c) Examine whether the following are 'assets' under the provisions of the Wealth-tax Act, 1957 :

- (i) A commercial complex.

- (ii) A building occupied by the assessee for business purposes.
- (iii) Aircrafts owned and used by the assessee for business purposes.
- (iv) Land owned by the assessee situated outside a municipality but within a notified area.
- (v) Jewellery, bullion and utensils made of precious metals.

(1 mark each)

2. (a) State, with reasons in brief, whether the following statements are correct or incorrect :

- (i) Taxes on income and corporation tax are collected by the Central Government and distributed between the Union and States.
- (ii) Companies formed under section 25 of the Companies Act, 1956 without any profit motive, trade, professional or similar associations become liable to tax under the Income-tax Act, 1961 under certain circumstances.
- (iii) The minimum penalty for repayment of deposits in contravention of section 269T is Rs.25,000 and is imposed by the Assessing Officer.

(2 marks each)

(b) Modern Ltd. entered into an agreement with Synergy Ltd. for granting on lease to Synergy Ltd. its 8,000 sq. mtrs. land lying vacant adjacent to the factory premises of Synergy Ltd. for a period of 12 years commencing from May, 1996.

Under the terms of the agreement, Synergy Ltd. had to build a factory building, pay an annual rent @ Rs.100 per sq. mtr. of the leased land of 8,000 sq. mtrs. and surrender the building to Modern Ltd. at the end of the lease without any consideration. Synergy Ltd. complied with the terms and conditions of the lease agreement.

The depreciated value of the building surrendered and taken possession by Modern Ltd. in May, 2008 was Rs.4.22 crore. Accounts department of Modern Ltd. is of the opinion that an equivalent amount is to be taken in the accounts of the year 2008-09 as income received.

Critically examine the matter and offer your comments.

(3 marks)

(c) "Mona Industries Ltd. had incurred substantial expenditure on foreign tours undertaken by the Chairman and Managing Director for setting-up of two new factories. The amount was claimed as a business expenditure." Comment.

(3 marks)

(d) "Under certain circumstances, the Commissioner of Income-tax cannot revise the order of his subordinate authority under section 264." Explain.

(3 marks)

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3. (a) A new 100% deduction has been introduced recently to encourage the business of operating and maintaining hospitals located anywhere in India, other than excluded areas, subject to specified conditions. Explain briefly those conditions.
(5 marks)
- (b) "The Assessing Officer has no power to make adjustment of any kind to income returned by an assessee at the time of processing the return of income under section 143(1)." Critically examine the statement.
(5 marks)
- (c) State the procedure to be followed in the following cases :
- (i) Company seeks relaxation for admission of time-barred claims.
(2 marks)
- (ii) Company seeks the return of books seized in the course of search made under section 132.
(3 marks)

PART – B

(Answer Question No.4 which is compulsory and any two of the rest from this part.)

4. (a) Choose the most appropriate answer from the given options in respect of the following :
- (i) For the purpose of central excise, the following is a 'manufacture' –
- (a) Filtration/purification of commercial grade castor oil
 - (b) Cutting and polishing of diamonds
 - (c) Testing and quality control
 - (d) Making coffee beans from raw coffee berries.
- (ii) Under the central excise law, the following are not 'goods' –
- (a) Immovable iron and steel structures
 - (b) Structures like bridges, lock gates, towers, trusses and column frames in their movable state
 - (c) Plates, rods, angles, sections, section tubes and the like in their pre-assembled or disassembled state
 - (d) PSC girders manufactured in casting yard and not at site and then taken for launch on sub-structure.

- (iii) Levy of excise duty in respect of the following does not fall within the exclusive powers conferred on the Parliament/Union Government by the Constitution of India –
- (a) Tobacco and other goods
 - (b) Medicinal and toilet preparations
 - (c) Medicinal and toilet preparations containing alcoholic liquor, opium or narcotics
 - (d) Alcoholic liquors for human consumption, opium and narcotic drugs.
- (iv) In determination of the value of imported goods, the following costs are not to be added if they are not already included in the invoice price –
- (a) Commission and brokerage
 - (b) Cost of containers which are treated as being one with the goods for customs purpose
 - (c) Buying commission
 - (d) Cost of packing whether labour or materials.
- (v) The form for 'bill of entry' for warehousing is printed on –
- (a) White paper
 - (b) Yellow paper
 - (c) Green paper
 - (d) Light pink paper.
- (vi) For offences committed under sections 132 to 135 of the Customs Act, 1962, a court shall take cognizance –
- (a) *Suo motu*
 - (b) When it is brought to the notice of a court by anybody
 - (c) With the previous sanction of the Commissioner of Customs
 - (d) None of the above.
- (vii) An *ad hoc* exemption from customs duty to non-government organisation will be issued subject to condition –
- (a) That the imported goods will not be put to any commercial use
 - (b) That the imported goods will not be sold, gifted or parted by the importer in any manner
 - (c) That (a) and (b), as above, alongwith prior permission of the Ministry of Finance
 - (d) None of the above.

(1 mark each)

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

- (i) As per the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the term 'produced' includes _____.
- (ii) Under section 13 of the Customs Act, 1962, duty is not payable on pilferred goods only in case where the goods are pilferred after the unloading and before the issue of _____.
- (iii) Section 18 of the Customs Act, 1962 provides for _____ of duty.
- (iv) Any goods on which import duty has not been paid and which are entered for exportation under section 74 of the Customs Act, 1962 shall be liable to _____ under section 113 of the Act.
- (v) It follows from the definition of 'excise duties' that for anything to be liable to excise duties it must be goods and _____ and it must be produced or manufactured in India.
- (vi) Recording of sound or other phenomena on audio or video tape _____ under excise law.
- (vii) If the raw material is supplied on principal to principal basis (e.g. Bala Ltd. supplies raw materials to job workers), the supplier is _____ under excise law.
- (viii) Under section 35(1), any person aggrieved by any decision or order passed under the Central Excise Act, 1944 by an officer lower in rank than a Commissioner may appeal to the Commissioner (Appeals) by filing an appeal within _____ from the date of communication of the order contested.

(1 mark each)

(c) Discuss the essential ingredients of the concept of 'manufacture' under the Central Excise Act, 1944 and as outlined by the Supreme Court in *Union of India vs. Delhi Cloth and General Mills and others*.

(5 marks)

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In the following events, state when does the taxable event occur in the course of imports under the customs law with reference to the principles laid down by the Supreme Court in the cases of *Garden Silk Mills Ltd. Vs. Union of India*; and *Kiran Spinning Mills Vs. CC* :

- (i) Unloading of imported goods at the customs port;
- (ii) Date of entry into Indian territorial waters;
- (iii) Date on which the goods cross the customs barrier; and
- (iv) Date of presentation of bill of entry.

(5 marks)

5. (a) Discuss in brief the essential features of the following under central excise law and give one example of each :
- (i) Specific rates of duty;
 - (ii) Tariff values; and
 - (iii) Duty based on MRP.
- (2 marks each)*
- (b) An excisable product is covered under the provisions of the Standards of Weights and Measures Act, 1976 and falls in the category of 'specified goods' subject to excise duty on the basis of retail sale price. Following particulars are made available :
- MRP printed on the package is Rs.10,894 per unit. The price is inclusive of excise duty of 14% and education and secondary and higher education cess at the currently applicable rates as per the Finance Act, 2008.
- Compute the assessable value, excise duty and cess payable if it is eligible for an abatement of 38%.
- (5 marks)*
- (c) Distinguish between conditions for availing CENVAT credit in respect of 'duty paid on inputs' and 'duty paid on capital goods'.
- (4 marks)*
6. (a) Write a note on 'compounded levy scheme' under the central excise law.
- (5 marks)*
- (b) "Circulars of the Central Board of Excise and Customs cannot prevail over law laid down by the Apex Court." Examine the statement, considering the relevant provisions of the Central Excise Act, 1944 read with Article 141 of the Constitution of India and the relevant case(s) decided by the Apex Court.
- (5 marks)*
- (c) "With the advent of VAT regime, the multiplicity of rates prevalent till then has been reduced to four broad categories." Elucidate.
- (5 marks)*
7. (a) Following particulars are available in respect of certain goods imported into India :
- FOB price : US\$30,000
- Exchange rate :
- Notified by RBI Rs.50 = US\$1
 - Notified by CBEC Rs.48 = US\$1
- Compute the assessable value as per the Customs Act, 1962 and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (5 marks)*

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- (b) 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 : Rs.50=US\$1

Basic customs duty : 20%

Education and secondary and higher education cess as applicable as per the Finance Act, 2008.

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 marks)

- (c) Anand Ltd. has imported certain goods which were confiscated on the grounds that the appellant had mis-declared some goods in terms of value and some were found mis-declared in terms of description, value and quality and that personal penalty was imposed on the company and its directors. Critically examine the above facts and the justifiability of the action taken, having regard to relevant recent judicial rulings.

(5 marks)

P A R T – C

8. Attempt **any four** of the following :

(i) Several Indian companies are migrating abroad to minimise their tax obligations and to avail of lower rates of tax. Discuss with reference to our current levels of tax on incomes.

(5 marks)

(ii) Explain how the arm's length price in relation to an international transaction is computed under the comparable uncontrolled price method as per Rule 10B of the Income-tax Rules, 1962.

(5 marks)

(iii) Discuss the modes of granting relief under avoidance of double taxation agreements and the effect of such agreements between the Government of India and the governments of other countries under section 90A of the Income-tax Act, 1961.

(5 marks)

(iv) Explain the salient features of the tax incentives available to foreign institutional investors (FIIs) under the provisions of section-115AD of the Income-tax Act, 1961.

(5 marks)

(v) Explain the powers of the Authority for Advance Rulings in regard to rejection of an application and modification of an order.

(5 marks)

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

- (a) The credit for taxes paid _____ should be allowed in the year in which the foreign taxed income is _____ in India.
- (b) Under the income test, a foreign corporation is considered a passive foreign investment company (PFIC) if _____ percent or more of the foreign corporation's gross income for the taxable year consist of passive income.
- (c) Organisation for Economic Co-operation and Development - Model Convention (OECD-MC) defines double taxation as 'the imposition of _____ in two (or more) States on the same tax payer in respect of the same subject matter and for identical periods'.
- (d) Rule 10A(a) dealing with the Transfer Pricing defines an 'uncontrolled transaction' to mean a transaction between enterprises other than _____, whether resident or non-resident.
- (e) Anti-dumping and countervailing duties are imposed under the _____ Act.

(1 mark each)

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