# Advanced Tax Laws and Practice

**376**

*Roll No. .........................*

*Time allowed : 3 hours* *Maximum marks : 100*

*Total number of questions : 8* *Total number of printed pages : 7*

***NOTE :*** *All the references to sections mentioned in Part-A and Part-C of the Question Paper relate to the Income-tax Act, 1961 and relevant Assessment Year 2011-12, unless stated otherwise.*

## PART — A

*(Answer ANY TWO questions from this part.)*

**1.** (a) Sure Success Ltd. wants to acquire an asset costing ₹1,00,000. It has two options available, the first one is buying the asset by taking a loan repayable in five installments of ₹20,000 each with 14% interest per annum. The second is leasing the asset for which annual lease rental charge is ₹30,000 upto 5 years. The lessor charges 1% as processing fee in the first year. Assume the internal rate of return to be 10%. The present value factors are —

| *Year* | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|
| *P/V Factor* | .909 | .826 | .751 | .683 | .621 |

Assuming that the payments are made at the end of the year, suggest which alternative is better for the company. The rate of depreciation is 15% while tax rate is 33.22%.

*(10 marks)*

(b) What is the difference between 'demerger' and 'slump sale' ?

*(5 marks)*

**2.** (a) Royal Ltd. commenced operations of the business of a new five star hotel in Mumbai on 1st April, 2010. The company incurred capital expenditure of ₹600 lakh on purchase of land and ₹95 lakh on construction of building during the period from January, 2010 to March, 2010 exclusively for the above business, and capitalised the same in its books of account as on 1st April, 2010. Further, during the previous year 2010-11, it incurred capital expenditure of ₹10 crore (out of which ₹60 lakh was for acquisition of land) exclusively for the above business.

Compute the deduction under section 35AD for the assessment year 2011-12, assuming that Royal Ltd. has fulfilled all the conditions specified in section 35AD and has not claimed any deduction under chapter VI-A under the heading 'C-Deductions in respect of certain incomes'.

*(6 marks)*

(b) Conversion of small private companies and unlisted public companies into limited liability partnership is exempt from capital gains tax subject to fulfillment of certain conditions. State these conditions as specified in section 47(xiiib).

*(6 marks)*

(c) Discuss tax implications of dividend declaration and issue of bonus shares.

*(3 marks)*

**3.** An employee is going to join your company on annual CTC of ₹18,00,000. Prepare a remuneration plan for him keeping in view the following :

(i) He wants to minimise his tax liability within the legal framework but take home salary should not be less than ₹9 lakh.

(ii) He does not own a house.

(iii) He owns a car. But he can take another car from the company.

(iv) He has two children and one of them is in a boarding school.

(v) His wife is employed and she gets children education allowance.

(vi) There is no uniform code in your company.

*(15 marks)*

**PART — B**

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

**4.** (a) Write the most appropriate answer from the given options in respect of the following :

(i) Which of the following has not been expressly defined under the Central Excise Act, 1944 —

(a) Broker
(b) Goods
(c) Curing
(d) Factory.

(ii) Which of the following scheme is optional under central excise —

(a) Duty based on tariff value

(b) Duty based on MRP

(c) Duty based on transaction value

(d) Duty based on compounded levy.

(iii) Under section 23 of the Customs Act, 1962, duty payable is remitted if imported goods are lost, destroyed or abandoned before —

(a) Goods are examined

(b) Duty has been paid

(c) The proper officer has made an order for clearance

(d) Goods are cleared for home consumption.

(iv) A proper tax planning exercise would have to take into consideration the following aspect(s) under the Customs Act, 1962 —

(a) Classification of goods

(b) Valuation of goods

(c) Exemption notifications

(d) All of the above.

(v) Effective rate of customs duty on baggage is —

(a) 36.05%

(b) 41.2%

(c) 30.9%

(d) 51.5%.

*(1 mark each)*

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

(i) The ____________ is not eligible to take credit of special CVD paid on imported goods under section 3(5) of the Customs Tariff Act, 1975.

(ii) Order of CESTAT relating to ____________ can be appealed directly to the Supreme Court of India under section 35L of the Central Excise Act, 1944.

(iii) If fuel or lubricating oil is supplied as stores to foreign going vessel, ____________ customs duty paid on the fuel or lubricating oil is refunded as duty drawback.

(iv) Assessee can apply for settlement ____________ in lifetime of applicant except in respect of some specified cases.

(v) The doctrine of promissory estoppel has its origin in principles of ____________.

*(1 mark each)*

(c) Test the veracity or otherwise of the following assertions :

(i) There can be 'manufacture' even if both inputs and final product fall under same tariff heading.

(ii) Mere change in tariff does not mean there is 'manufacture'.

*(3 marks each)*

(d) Can a show-cause notice be issued within a period of five years from the relevant date if the internal audit party finds during the audit of central excise records of a manufacturer that central excise duty has been short paid ? Explain.

*(4 marks)*

**5.** (a) Solid Shoes Co., a manufacturer of footwear, used to purchase various raw materials like fabrics, rubber, chemicals, solvent, *etc.*, which were mixed together. The thin layer of such mixture was sandwiched between two sheets of textile fabric through a calendaring machine. The resultant product 'Double Textured Rubberized Fabric' (DTRF) was cut and stitched as per requirement and was used as shoe-uppers. At times, DTRF was sent to job-workers for stitching purposes. After completing the entire process, the vulcanisation of footwear was done and then, it would be available for sale as footwear.

Some of the DTRF was used in the manufacture of canvas shoes, which were exempt from duty. The department contended that the intermediate product DTRF was a distinct product with specific properties and was used in considerable quantities for making rain-coats, holdalls, hand-bags, *etc.*, in the outside market. Since the DTRF was excisable good and it was used in the manufacture of exempted final product being canvas shoes, therefore DTRF was liable to excise duty. However, the department didn't have sufficient evidence to prove its marketability.

Examine whether contention of the department is correct by referring to case law, if any, in the light of explanation added to section 2(d) of the Central Excise Act, 1944 w.e.f. $10^{th}$ May, 2008.

*(5 marks)*

(b) Improper Ltd. made an unauthorised import of goods, which were later on confiscated. Goods were not redeemed by paying fine under section 125 of the Customs Act, 1962. The assessee contended that once the imported goods were confiscated and the option to release them was not exercised, no duty was payable. It placed reliance on section 23 of the said Act which provides that if the owner of imported goods relinquishes his title to the goods, he shall not be liable to pay the duty thereon.

Discuss briefly whether the assessee is bound to pay customs duty with reference to decided case law, if any.

*(5 marks)*

(c) Explain the interpretation of phrase 'a mistake apparent from record' as mentioned in section 35C(2) of the Central Excise Act, 1944.

*(5 marks)*

**6.** (a) Unfair Ltd. sold 100 units manufactured by it for ₹12,000 per unit. It had received interest-free advance of ₹6,00,000 from the buyer for the whole of the year. Compute the assessable value of 100 units sold in following independent cases :

(i) The price charged from other buyers is ₹11,600 per unit.

(ii) The price charged from other buyers is ₹12,800 per unit.

(iii) The normal rate of interest is 12% per annum and the price charged from other buyers is ₹12,800 per unit.

*(6 marks)*

(b) From the following information, compute the total amount of customs duty payable by the importer :

(i) Assessable value under customs : ₹6,00,000.

(ii) Tariff value notified under section 3(2) of the Central Excise Act, 1944 for payment of excise duty on like article manufactured in India : ₹5,00,000.

(iii) Basic customs duty = 10%
Central excise duty = 10%
Special CVD = Nil
Education cess = as applicable.

*(6 marks)*

(c) Mayank manufactured and exported goods worth ₹10,00,000 to Uday of UK on 1st January, 2011 and availed duty drawback of ₹15,000. Mayank imported the same goods on 8th February, 2011. What will be the customs duty payable by Mayank, if rate of basic customs duty is 10% and goods are exempt from CVD and special CVD ?

*(3 marks)*

**7.** (a) Besides excise duty concessions, what are the other procedural concessions enjoyed by small scale industries ? Explain briefly.

*(7 marks)*

(b) Discuss briefly the provisions of section 28(5) of the Customs Act, 1962 regarding conclusion of proceedings at show-cause notice stage itself, when extended period of limitation has been invoked.

*(5 marks)*

(c) Write a note on 'refund of export duty'. Is doctrine of unjust enrichment applicable to it ?

*(3 marks)*

## PART — C

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

(i) What are the factors to be considered in taking decision whether a country is tax haven or not ?

*(4 marks)*

(ii) Ajit has an undertaking (Unit-A) in free trade zone (FTZ) and another undertaking (Unit-B) in domestic tariff area (DTA). From the following particulars, compute the deduction under section 10A for the assessment year 2011-12 :

| | *Unit-A* (₹) | *Unit-B* (₹) |
|---|---|---|
| Total turnover | 60 lakh | 40 lakh |
| Export turnover (included in above) | 40 lakh | — |
| Profit earned | 21 lakh | 12 lakh |

*(4 marks)*

(iii) Explain in brief the circumstances under section 9(1)(v), (vi) and (vii) when interest, royalty and fees for technical services (FTS) shall be deemed to accrue or arise in India.

*(4 marks)*

(iv) Who can seek 'advance rulings' ?

*(4 marks)*

(v) Discuss when an enterprise is taken as 'associated enterprise' under section 92A.

*(4 marks)*

(vi) Discuss the salient aspects concerning permanent establishment.

*(4 marks)*

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