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Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 8

**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) The benefit of amortisation of preliminary expenses under section 35D has been extended to --
    - (a) Manufacturing companies
    - (b) Post-commencement preliminary expenses of service sector units
    - (c) Non-resident companies
    - (d) Non-resident individuals.
  - (ii) No disallowance under section 40(a)(ia) shall be made in the case of a deductor in respect of expenditure incurred in the month of March, if the TDS on such expenditure has been paid before --
    - (a) 31<sup>st</sup> December
    - (b) 30<sup>th</sup> September
    - (c) Due date for filing of the return
    - (d) 30 days from the date of tax deduction.
  - (iii) With effect from assessment year 2009-10, the rate of tax under sections 111A and 115AD, on short-term capital gains, arising from the transfer of equity shares in a company or a unit of an equity oriented funds where such transaction is chargeable to securities transaction tax (STT) is --
    - (a) 20%
    - (b) 15%
    - (c) 10%
    - (d) 25%.
  - (iv) Depreciation on new plant acquired and kept as standby in anticipation of an order of supply of goods is --
    - (a) An allowable expenditure on an asset kept as standby
    - (b) Not allowable as asset acquired but not put to use
    - (c) Partly allowable
    - (d) None of the above.

- (v) Lease rental income derived by a foreign company, by leasing its immovable property situated at Ahmedabad, India, to another foreign company whose payment in US Dollars has been made outside India as per the agreement which is also executed outside India is --
- An exempted income in India
  - Chargeable to income-tax in India as it relates to property situated in India, and deemed to accrue or arise in India
  - Subject to DTAA agreement entered into by Indian government with another country wherein foreign company is located
  - 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) :

- Expenditure incurred by a company after its incorporation and after its business had been set-up, on development of website for conducting its business partly through website could be considered as \_\_\_\_\_ expenditure.
- Interest on borrowed funds utilised for acquisition of an asset as part of extension of business, could be capitalised till the asset \_\_\_\_\_.
- Subsidy received by a company operating a sugar mill, which could be utilised only for re-payment of term loans taken by it for setting-up of new units and extension of existing business would be treated as \_\_\_\_\_.
- Where there is a failure to deduct tax at source or to deposit the tax deducted at source by a company, the company and the Principal Officer shall be deemed to be an \_\_\_\_\_ under section 201.
- Deduction in respect of contribution given by any person other than company under section 80GGC of the Income-tax Act, 1961, to a political party is \_\_\_\_\_.

(1 mark each)

- (c) "All companies are not liable to wealth-tax, even those which are liable have scope for minimising it." Comment.

(5 marks)

2. (a) State, with reasons in brief, whether the following statements are correct or incorrect :
- The cascading effect of dividend distribution tax is minimised in the case of holding and subsidiary companies.
  - The provisions of tax deduction at source do not apply to interest on corporate securities under certain circumstances.

(iii) An assessee can be asked to pay interest under section 234A for default in filing of return in time or for non-filing of return and also under section 234B for non-payment or short payment of advance tax even though there is overlapping of some period under the two provisions.

(2 marks each)

(b) A new weighted deduction has been introduced recently to encourage outsourcing of scientific research. Explain briefly its scope, applicability and advantages from the tax planning point of view.

(5 marks)

(c) A company had taken some unsecured loans by way of inter-corporate deposits (ICDs) from three other companies for use in its business and paid interest on those ICDs, which were offered for taxation by the recipient companies.

The income-tax officer contends that the unsecured loans are taxable as deemed dividends under section 2(22)(e). Can he do so? Explain.

(4 marks)

3. (a) When will the 'book profits' of a company deemed to be the total income of the company for the purposes of levy of minimum alternate tax (MAT) under section 115JB?

(3 marks)

(b) Indicate briefly the points to be taken into account while preparing annual accounts for the purpose of MAT.

(3 marks)

(c) The MAT does not apply to foreign companies operating in India. Do you agree? Give reasons.

(3 marks)

(d) What is 'reverse mortgage'? Whether loan received under the scheme of reverse mortgage amounts to income in the hands of borrower? Whether mortgage of the property under reverse mortgage is treated as transfer so as to attract capital gains under section 45? Whether alienation of the mortgaged property by the mortgagee for the purpose of recovering the loan would amount to transfer so as to attract capital gains under section 45?

(6 marks)

**P A R T – 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) The exemption notification issued under section 5A of the Central Excise Act, 1944 is not applicable in respect of DTA clearance, unless specifically provided in the notification by –
    - (a) SSI unit
    - (b) EOU unit
    - (c) Both (a) and (b)
    - (d) None of the above.
  - (ii) Under the central excise law, any article, material or substance, capable of being bought and sold for a consideration shall be deemed to be –
    - (a) Goods
    - (b) Manufactured
    - (c) Marketable and hence excisable
    - (d) Produced.
  - (iii) Questions arising out of orders made by CESTAT are appealable to High Court except those relating to –
    - (a) Classification and valuation
    - (b) Duty drawback
    - (c) Refund of excise duty
    - (d) Advance ruling.
  - (iv) Value of export goods under the Customs Act, 1962 is not determined by –
    - (a) Transaction value
    - (b) Residual method
    - (c) Computed value
    - (d) Market value.
  - (v) The term 'authorised representative' under section 35Q of the Central Excise Act, 1944 includes, among others –
    - (a) All Company Secretaries
    - (b) Company Secretaries with 10 years post qualification experience
    - (c) Company Secretaries with certificate of practice
    - (d) Physics graduates.

- (vi) Under the Customs Act, 1962, an appeal before tribunal against the order of Commissioner shall be filed within –
- 30 Days
  - 3 Months
  - 45 Days
  - None of the above.
- (vii) Smuggled goods are liable to confiscation –
- Only when they are in the same form
  - Even when the form has changed or mixed with other goods
  - Both (a) and (b)
  - 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) :
- In case of fraud, collusion, willful mis-statement and suppression of facts, or contravention of any provision of the Central Excise Act, 1944 or Rules with intent to evade payment of duty, demand for duty can be raised \_\_\_\_\_.
  - Rules made by the Central Government and regulation made by the Central Board of Excise and Customs (CBE&C) can provide for penalty upto Rs. \_\_\_\_\_ on any person who violates any provision of rules or regulations.
  - Persons claiming refund of excise duty under section 11B have to make an application within \_\_\_\_\_ from the 'relevant date'.
  - Under the Customs Act, 1962, duty, interest, penalty or fine to be rounded off to \_\_\_\_\_.
  - The person from whom documents are seized is entitled to take \_\_\_\_\_ therefrom in presence of customs officer.
  - Under section 46, an importer has to file a \_\_\_\_\_ for home consumption or warehousing.
  - Assesseees paying duty of Rs.1 crore or more per annum through personal ledger account (PLA) are required to submit annual financial information statement for each financial year by 30<sup>th</sup> November of succeeding year in prescribed form \_\_\_\_\_.
  - \_\_\_\_\_ can be granted in the case of lost, destroyed or abandoned goods under section 23 of the Customs Act, 1962.

(1 mark each)

- (c) Explain briefly the term 'import manifest'.

(5 marks)

**O R**

A manufacturing company has imported certain second-hand machinery for its use and declared its value on the basis of the 'transaction value'. Can the declared value be rejected by the authorities and, if so, when and how? What are the details which the importer must submit in support of its claim?

(5 marks)

5. (a) Under section 37B of the Central Excise Act, 1944 and section 151A of the Customs Act, 1962, the Central Board of Excise and Customs (CBE&C) issues various orders, instructions and directions to its officers from time to time. What is their binding effect? Are they binding on all departmental authorities including quasi judicial authorities like Commissioner (Appeals)? Are there any restrictions on such powers? Can they have retrospective effect?

(5 marks)

- (b) Hetal manufactures hair dye. It is packed in pouches, each pouch containing 3 grams, 3 pouches (sachets) are sold in one packet. The net weight of each pouch, as also the net weight of the commodity in 3 pouches and the maximum rate is printed on the pouches. Examine whether the provisions of section 4A of the Central Excise Act, 1944 will apply for the valuation purpose.

(5 marks)

- (c) Commissioner of Central Excise can review the order but cannot issue fresh notice extending period of limitation. Comment.

(5 marks)

6. (a) What are the options available, in the context of CENVAT credit rules, to a manufacturer manufacturing both exempt and dutiable goods or service-provider providing taxable as well as exempt services, in respect of inputs/input services used partly for manufacture of dutiable goods/taxable services and partly for exempted goods/services?

(5 marks)

- (b) Under certain circumstances, the central excise law allows an assessee to approach the Central Government with a request to revise appellate orders passed by the departmental authorities. Indicate the circumstances where such a possibility exists and the powers of the Central Government in this regard.

(5 marks)

- (c) Write a note on excise concession on export of excisable goods.

(5 marks)

7. (a) Pranav and Parul, the petitioners, were engaged in the business of import in trading of textiles and some other consumable goods. During search, the statements of both the petitioners were recorded and the petitioners were arrested for the offence under sections 132 and 135 of the Customs Act, 1962 on account of alleged false declaration, false documents and evasion of customs duty. Simultaneously, adjudication proceedings were also initiated under the Act. The accused persons were exonerated by the competent authority/tribunal in the adjudication proceedings. Criminal proceedings were carried on simultaneously and petitioners were alleged to have committed offences punishable under sections 132 and 135(1) (b). Whether the criminal prosecution can be permitted to continue against both when the adjudication proceedings are in favour of them ? Discuss.

*(5 marks)*

- (b) Eva Offshore Ltd. is engaged in drilling operations for exploration of offshore oil, gas and other related activities under contracts. The drilling operations are carried out at oil rigs/vessels which are situated outside the territorial waters of India. Until around November, 1993, the company was permitted to transship stores to the oil rigs without levy of any customs duty regardless of the fact whether oil rigs were operating within a designated area or non-designated area. Whether oil rigs engaged in operations in the exclusive economic zone/continental shelf of India, falling outside the territorial waters of India, are 'foreign going vessels' as defined by section 2(21) of the Customs Act, 1962, and are entitled to consume imported stores thereon without payment of customs duty in terms of section 87 of the Customs Act 1962 ?

*(5 marks)*

- (c) Arpit Alloys Ltd. imported a consignment of metal bars during July, 2008 by sea, weighing 5,300 tons from U.K. A bill of entry for home consumption was filed and an order for clearance was passed by the Assistant Commissioner. The company paid the applicable duty. Thereafter, delivery was taken and on examination by the company's representatives; it was found that only 5,000 tons of metal bars were available at the dock though duty was paid for the entire lot of 5,300 tons. Since there was no short landing of the cargo, the short delivery of 300 tons was also supported by the weightment certificate issued to the company by the port trust authorities. The company made a representation to the customs department for appropriate relief under the Customs Act, 1962. Examine.

*(5 marks)*

## PART – C

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

- (i) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
- Countries that employ explicit policies designed to attract international trade oriented activities by minimisation of taxes and reduction or elimination of other restrictions on business operations are described as \_\_\_\_\_.
  - The authority for advance ruling will not allow consideration of any question involving determination of \_\_\_\_\_ of any property.
  - The ruling given by the authority for advance rulings will be binding on \_\_\_\_\_.
  - Indian income-tax law does not provide any exemption in case of amalgamation of an Indian company with a foreign company wherein the resultant amalgamated company is a \_\_\_\_\_.
  - \_\_\_\_\_ means any area outside India which may be notified as such by the Central Government for the purpose under section 90A of the Income-tax Act, 1961.

(1 mark each)

- (ii) If a tax payer has legitimately reduced his tax burden by taking advantage of treaty, the benefit cannot be denied to him on the ground of loss of revenue. Explain in the context of decided case law.

(5 marks)

- (iii) A resident of India has paid tax in a foreign country in respect of his income which accrued in that country. India has no double taxation avoidance agreement with that country. Such income is also taxable in India. Is there any relief available to him in respect of the tax paid by him ? Explain.

(5 marks)

- (iv) Distinguish between 'international transactions' and 'cross border transactions'.

(5 marks)

- (v) Can a public sector undertaking which has undertaken a transaction with a non-resident, seek an advance ruling in respect of tax liability of the non-resident and also its own liability ? Indicate the scope of applicability of such advance rulings.

(5 marks)

- (vi) "Under the special provisions of the Income-tax Act, 1961, any income arising from an international transaction shall be computed having regard to the arm's length price." In this context, briefly indicate when the provisions of arm's length price will apply and when it will not apply and also state its scope.

(5 marks)

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