

Roll No.....

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 Question Paper relate to the Income-tax Act, 1961 and the relevant Assessment Year 2008-09 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) Which part of the First Schedule attached to the Finance Bill prescribes the rates of the income-tax for current assessment year —
 - (a) Part I
 - (b) Part II
 - (c) Part III
 - (d) Part IV.
 - (ii) What percentage of the net proceeds of shareable central taxes are transferred to the States as per recommendations of the Twelfth Finance Commission —
 - (a) 29.5%
 - (b) 30%
 - (c) 30.5%
 - (d) 31%.
 - (iii) A foreign company means a company which is not —
 - (a) An Indian company
 - (b) A domestic company
 - (c) Either an Indian company or a domestic company
 - (d) An Indian company as well as a domestic company.
 - (iv) Deduction under section 33AB is granted to persons engaged in the business of growing and manufacturing —
 - (a) Tea
 - (b) Coffee
 - (c) Rubber
 - (d) Any of the above.

- (v) To be eligible to carry forward and set-off of business losses and unabsorbed depreciation of demerged company, the resulting company should continue the original business for —
 - (a) A minimum period of 5 years
 - (b) 7 years
 - (c) 2 years
 - (d) No specified period.
- (vi) For the assessment year 2008-09, the rate of dividend distribution tax including surcharge and cess, for Indian companies is —
 - (a) 12.5%
 - (b) 14.025%
 - (c) 16.995%
 - (d) 28.325%.
- (vii) Income-tax rate on income from advertisement of a non-resident foreign sportsman for the assessment year 2008-09 is —
 - (a) 10%
 - (b) 12.5%
 - (c) 15%
 - (d) 20%.
- (viii) Know-how acquired on or after 1st April, 1998 by the assessee and used for the purpose of his business or profession is eligible for depreciation at the rate of —
 - (a) 10%
 - (b) 20%
 - (c) 25%
 - (d) 40%.
- (ix) An application for advance ruling under section 245Q(1) of the Income-tax Rules, 1962 should be made in —
 - (a) Form No.34B
 - (b) Form No.43
 - (c) Form No.34C
 - (d) Form No.3AAA.

(x) What maximum amount of penalty can be imposed for failure to pay advance tax —

- (a) Rs.1,000
- (b) Rs.5,000
- (c) Rs.10,000
- (d) No penalty.

(1 mark each)

(b) Write notes on the following :

- (i) Filing of return in electronic form
- (ii) Fringe benefit tax by foreign companies.

(5 marks each)

2. (a) Discuss briefly the provisions of section 80-ID relating to deduction in respect of profits and gains from business of hotels and convention centres in specified areas. Why such a deduction is being allowed ?

(8 marks)

(b) What is special tax audit under section 142(2A) ? Whether such special audit can be ordered even if the accounts are already audited ? Who has to bear the cost of special audit ?

(7 marks)

(c) Who is Transfer Pricing Officer under the Income-tax Act, 1961 ? What is the time limit for completion of assessment in case reference is made to him ?

(5 marks)

3. (a) Kapil is employed by an Indian subsidiary company of a foreign holding company. ESOP shares are issued by the foreign holding company to Kapil at a pre-determined price of Rs.90 per share. On the date of vesting, fair market value of foreign holding company's shares is Rs.900 per share. On the date of allotment, the fair market value is Rs.1,100 per share. While during the grant period, Kapil was not based in India at all, he was based in India on 10th June, 2007 when shares were allotted to him. Find out the fringe benefit tax liability. What will be the cost of acquisition of shares in the hands of Kapil ? Can Kapil claim any deduction in respect of pre-determined price of Rs.90 per share which is paid by him to get the allotment of shares ?

(8 marks)

(b) A company is engaged in the business of carrying of passengers by buses and cars. State whether buses and cars are chargeable to wealth-tax and also discuss whether expenditure on maintenance of buses and cars including salary of drivers is chargeable to fringe benefit tax.

(6 marks)

- (c) A company wants to submit a return of income. Can it be submitted in paper format ? Is it possible to attach with the return of income, audit report under section 44AB and chartered accountant's certificate in Form No.29B ? Discuss the relevant provisions pertaining to submission of return of income by an Indian company.

(6 marks)

PART—B

(Answer ANY FOUR questions from this part.)

4. (a) Choose the most appropriate answer from the given options in respect of the following :
- (i) The term 'adjudicating authority' under section 2(a) of the Central Excise Act, 1944 does not include the —
 - (a) Central Board of Excise and Customs
 - (b) Central Excise Officer
 - (c) Additional Commissioner of Central Excise.
 - (ii) A unit availing SSI exemption can avail of CENVAT credit on capital goods but such credit can be utilised only —
 - (a) If the value of capital goods exceeds Rs.100 lakh
 - (b) After clearances of Rs.150 lakh
 - (c) If the capital goods are exported.
 - (iii) Once a registration certificate is granted by the central excise authorities, it —
 - (a) Will be valid for 5 years
 - (b) Will be valid for 10 years from the date of issue
 - (c) Has a permanent status unless it is suspended or revoked by the appropriate authority or is surrendered by the person/company concerned or it ceases to be valid on the death of the individual owner.
 - (iv) The application for refund under section 11B of the Central Excise Act, 1944 has to be made within —
 - (a) One year from the relevant date
 - (b) Two years from the end of the relevant financial year
 - (c) Six months from the end of the relevant assessment year.
 - (v) If the pilfered goods are restored to the importer after pilferage —
 - (a) The importer should reimburse the government of the expenses incurred in such restoration
 - (b) The importer becomes liable to duty
 - (c) There will be remission of duty.

- (vi) The relevant date for determining the rate of duty in case of goods entered for export is —
- (a) The date of 'let export' order by the proper officer permitting export and loading of cargo on board under section 51 of the Customs Act, 1962
 - (b) The date of payment of duty
 - (c) The date of invoice.
- (vii) An export general manifest or an export report in the prescribed form is to be delivered to the proper officer by the —
- (a) Person in-charge of the conveyance carrying export goods
 - (b) Exporter
 - (c) Company Secretary.
- (viii) Public warehouses under the Customs Act, 1962 are appointed by the —
- (a) Commissioner of Customs
 - (b) Assistant Commissioner of Customs
 - (c) Officer-in-charge of the concerned warehousing station.
- (ix) The State from which movement of goods commences shall be the appropriate State empowered to —
- (a) Issue registration certificate
 - (b) Assess, collect and enforce payment of CST
 - (c) Exempt goods from the levy of CST.
- (x) In the case of a joint venture, an application for advance ruling in respect of a question of law or fact regarding the liability to be service tax, can be made only —
- (a) When all the partners of the joint venture are non-residents
 - (b) When the service proposed involves consideration not less than Rs.5 lakh
 - (c) When one of the partners is a non-resident.

(1 mark each)

- (b) Re-write the following sentences after filling-up the blank spaces with appropriate word(s)/figure(s) :
- (i) Indirect taxes _____ affects the prices of commodities and services.
 - (ii) At present, service tax is levied under the Union Government's power to tax vide Entry _____ of List I of Schedule VII to the Constitution of India.
 - (iii) In the case of goods imported or exported by post, any label or declaration accompanying the goods which contains the description, quantity and value thereof shall be deemed to be _____ for import or export, as the case may be, for the purpose of the Customs Act, 1962.

- (iv) The central sales tax rate applicable for sale of declared goods not covered by Form-C is the _____ rate of tax as applicable to those particular goods in the State.
- (v) As a measure of tax planning in central excise, in case of doubt, it may be advisable to make payment of duty _____.

(1 mark each)

5. (a) When should the excisable goods be valued on the basis of retail sale price ?

(2 marks)

- (b) Examine whether the valuation based on retail sale price would apply in the following cases :

- (i) Sale of refrigerators to bottling companies like, Pepsi, Coca Cola, etc., packed in a package declaring MRP on them. However, MRP and contract price were different.
- (ii) Sale of 12 mineral water bottles of 200 ml. capacity packed in a single package with MRP declared on the package of 12 bottles but not on individual bottles. Instead, it was written on the individual bottles (a) not for resale; (b) specially packed for Bharati Airways.

(2 marks each)

- (c) The registered offices of a manufacturing company and one of the bulk buyers of its products are situated in the same premises. Further, the factory of the assessee company was located in the industrial area owned by such bulk buyer of the assessee for which the assessee company pays a suitable rent. The assessee company gives 40% discount to the said bulk buyer, which is similar to the discount given to other bulk buyers. The department questions the discount on the ground that the two parties can be deemed to be 'related persons' as the registered offices of both the parties are located in the same premises. Examine.

(5 marks)

- (d) A company imported certain goods and warehoused them initially for a period of one year. The company surrendered the goods and the auction of the goods was duly advertised. However, subsequently the company made a request for permission to re-export the goods under section 69(1) of the Customs Act, 1962 and for cancellation of the auction sale. The request was not granted and the goods were auctioned. The company contends that it is entitled to withdraw the offer of surrender subsequently and hence, the auction was not valid. Examine

(4 marks)

6. (a) Marwar Exports is a 100% export-oriented undertaking (100% EOU). It is selling part of its products in domestic tariff area (DTA), i.e., within India, in terms of para 6.8 of the Foreign Trade Policy. As per present law, duty on clearances of goods to DTA from 100% EOU will be equal to 25% of basic customs duty, countervailing duty under section 3(1) of the Customs Tariff Act, 1975 plus additional

duty under section 3(5) of Customs Tariff Act, 1975, if applicable, and cess as applicable. A show cause notice was issued demanding customs duty in respect of clearances made by Marwar Exports (100% EOU) in DTA. The assessee is of the view that the show cause notice is defective in law because the duty to be paid by the assessee is the duty of excise and not the customs duty. Examine the validity of the demand in the light of decided case law, if any.

(5 marks)

- (b) Sunita, the proprietress of SB Enterprises is a registered dealer in Ajmer (Rajasthan). From the following particulars relating to the quarter ending 31st March, 2008, find out her taxable turnover and the tax payable under the Central Sales Tax Act, 1956 :

- (i) Goods worth Rs.1,10,000 were invoiced to its agent at Agra (UP) but while the goods were in transit, these were sold to Uttar Pradesh Government for Rs.1,20,510. The rate of tax in respect of such goods in the appropriate State is 12.5%.
- (ii) Sale to a 100% export-oriented undertaking (EOU), goods worth Rs.10,10,000, in New Delhi. The rate of tax in the State is 1%.

The above selling prices are inclusive of central sales tax. The dealer has submitted all necessary declarations, wherever required.

(5 marks)

- (c) Hitech Energy Ltd. is engaged in oil exploration and has imported software containing seismic data. The importer is entitled to exemption from customs duty subject to the production of an 'Essentiality Certificate' issued by the Director General of Hydrocarbons at the time of importation of the goods.

The Essentiality Certificate was not made available to the importer within a reasonable time by the concerned government authority. The Customs Department therefore rejected the claim for exemption. Examine whether the Customs Department's action is justified.

(5 marks)

7. (a) State, with reasons in brief, whether the following statements are correct or incorrect :
- (i) 'Waste and scrap' can be the goods and dutiable if specifically mentioned in the Central Excise Tariff Act, 1985.
- (ii) A Practising Company Secretary can appear before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) as an authorised representative.
- (iii) As per section 74(1) of the Customs Act, 1962, if imported goods are exported as such, without putting into use, the drawback given is 100% of duty paid on import.

- (iv) The concept of 'deemed value' contained in section 14 of the Customs Act, 1962 has been substituted with the concept of 'transaction value' by the Finance Act, 2007.
- (v) The recipient of taxable services provided from outside India and received in India is required to make an application for registration as per provisions of section 69 of the Finance Act, 1994 and the rules made thereunder.
(2 marks each)
- (b) Discuss whether the CENVAT credit is required to be reversed in the following cases :
- (i) Where on any goods manufactured or produced by an assessee, the payment of duty is ordered to be remitted under Rule 21 of the Central Excise Rules, 2002.
(3 marks)
- (ii) If inputs or capital goods before being put to use are written off fully or provision is made in books of account to write off fully.
(2 marks)
8. (a) Define 'principal inputs' under the CENVAT Credit Rules, 2004. What are the forms of return to furnish information relating to principal inputs and when are these to be submitted ?
(4 marks)
- (b) Which issues can be taken before the Settlement Commission under the Customs Act, 1962 ?
(5 marks)
- (c) State whether the following goods are declared as 'goods of special importance' in inter-State trade or commerce under section 14 of the Central Sales Tax Act, 1956 :
- (i) Hides and skins
(ii) Liquid Petroleum Gas (LPG) for commercial use
(iii) Un-manufactured tobacco.
(1 mark each)
- (d) What does the term 'duty demanded' include for the purpose of deposit of duty, pending appeal, under section 35F of the Central Excise Act, 1944 ?
(3 marks)