

Roll No.....

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 the Question Paper relate to the Income-tax Act, 1961 and the relevant Assessment Year 2009-10 unless stated otherwise.

P A R T – A

(Answer ANY TWO questions from this part.)

1. Attempt **any four** of the following giving brief reasons and reference to decided case law(s), if any :

- (i) Can the amount of share application money be treated as undisclosed income, if it was found that the subscribers to the share capital were not genuine ?
- (ii) Whether the expenditure incurred on replacement of turbine rotor would be allowed as revenue expenditure under section 31, if the turbine rotor was an essential part of turbo generator set ?
- (iii) Whether the proportionate one-time lease rent paid by the mining lessee for acquiring leasehold rights would be a capital expenditure or revenue expenditure ?
- (iv) Can assessee be asked to pay the difference amount of tax short deducted as an assessee-in-default, if the full tax had already been paid by the recipient of income ?
- (v) Can an assessment framed under section 143(3) be reopened under section 147 on the ground of change of opinion on the part of the Assessing Officer on mode of valuation of stock-in-trade ?

(5 marks each)

2. (a) Discuss **any two** of the following with reference to the provisions of the Income-tax Act, 1961 as amended by the Finance Act, 2007 :

- (i) Exclusive jurisdiction of the Settlement Commission.
- (ii) Consequences of abatement of proceedings before the Settlement Commission.
- (iii) Bar on subsequent application for settlement.

(4 marks each)

(b) What is the meaning attributed to 'disaster' under the Income-tax Act, 1961 ? Is there any exemption under the Act in respect of compensation received on account of disaster ?

(6 marks)

- (c) What is the tax benefit available to an assessee engaged in the business of hotel or business of building, owning and operating a Convention Centre in the National Capital Region and what are the conditions to be fulfilled for availing such tax benefit ?

(6 marks)

3. (a) Century Ltd., an Indian company, is engaged in the manufacture and sale of cotton textiles. Its net profit for the year ended 31st March, 2009 after debit/credit of the following items to the profit and loss account was Rs.84,00,000 :

- (i) Legal fees of Rs.15,000 incurred in defending title to building owned by Managing Director.
- (ii) Rs.6,00,000 paid to an employee in connection with his voluntary retirement.
- (iii) Payment of advance fringe benefit tax Rs.1,00,000.
- (iv) Interest of Rs.80,000 paid on arrears of income-tax.
- (v) Advertisement charges of Rs.1,85,000 paid for the advertisement in souvenir published by a public sector undertaking.
- (vi) Income-tax paid on monetary perquisites provided to the employees Rs.1,10,000.
- (vii) Payment of Rs.7,00,000 towards retrenchment compensation for employees of one of the units of its holding company closed down during the year.
- (viii) Capital expenditure of Rs.45,000 incurred for the purpose of promoting family planning amongst the employees of its subsidiary company.
- (ix) Payment of Rs.21,000 as banking cash transaction tax.
- (x) Compensation of Rs.25,000 received from supplier for delay in supply of raw materials.
- (xi) Dividend of Rs.1,00,000 received from X Ltd., an Indian company, but X Ltd. is yet to pay dividend tax under section 115-O.

Compute the total income of Century Ltd. for the assessment year 2009-10. Furnish explanation for the treatment of the various items given above.

(10 marks)

- (b) Write notes on the following :

- (i) Tax credit in respect of tax paid on deemed income under Minimum Alternate Tax (MAT) provisions against tax liability in subsequent years.
- (ii) Stay of demand by Income-tax Appellate Tribunal (ITAT) in the light of amendments made by the Finance Act, 2008.

(5 marks each)

P A R T – 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 relevant section of the Customs Act, 1962 which deals with the refund of export duty is –
 - (a) Section 26
 - (b) Section 26A
 - (c) Section 27
 - (d) Section 28.
 - (ii) Which of the following are not excisable goods –
 - (a) Goods exempt from duty by an exemption notification
 - (b) Duty-paid goods
 - (c) Goods mentioned in the Central Excise Tariff Act, 1985
 - (d) Nil rated goods.
 - (iii) As per section 4(3) (b) of the Central Excise Act, 1944, persons shall not be deemed to be related, if –
 - (a) They are inter-connected undertakings
 - (b) They are relatives
 - (c) The buyer is a sole distributor
 - (d) They have interest in the business of each other.
 - (iv) Application for registration under central excise should be submitted in –
 - (a) Form - RA
 - (b) Form - RC
 - (c) Form - A-9
 - (d) Form - A-1.
 - (v) In cases where credit of duty availed or utilised under the Central Excise Act, 1944 is not within the normal limits –
 - (a) The Commissioner can impose a penalty of Rs.1 lakh
 - (b) The Commissioner can direct special audit under section 14AA by a Cost Accountant nominated by him
 - (c) The right to claim CENVAT credit may be forfeited
 - (d) An investigation by a Chartered Accountant may be initiated by the Commissioner.

- (vi) Interest on delayed refunds under section 11BB of the Central Excise Act, 1944 is paid at the rate of –
- (a) 6% per annum
 - (b) 9% per annum
 - (c) 13% per annum
 - (d) 12% per annum.
- (vii) The Tribunal may refuse to take up the appeal, if duty involved or penalty/ fine confirmed under central excise does not exceed –
- (a) Rs.5,000
 - (b) Rs.50,000
 - (c) Rs.10,000
 - (d) Rs.1,00,000.
- (viii) Section 95 of the Customs Act, 1962 lays down that master of every vessel carrying coastal goods will maintain –
- (a) Coastal book
 - (b) Advice book
 - (c) Bill of coastal goods
 - (d) Bill of transshipped goods.
- (ix) The doctrine of promissory *estoppel* has its genesis in –
- (a) Doctrine of *stare decisis*
 - (b) Doctrine of *res judicata*
 - (c) Law of principles
 - (d) Law of equity.
- (x) In order to avail the benefit of concession in rate of central sales tax, the government department making purchases can issue –
- (a) Form-C
 - (b) Form-D
 - (c) Form-E1
 - (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) If software is downloaded from internet, it will be _____ and service tax will be payable.
 - (ii) Central Value Added Tax (CENVAT) on all excisable goods is levied and collected under section _____ of the Central Excise Act, 1944.

- (iii) For the purpose of customs valuation, rate of exchange means the rate of exchange determined by _____.
- (iv) Application to Settlement Commission can be made only when a case is _____ on the date of application.
- (v) As per section 15 of the Central Sales Tax Act, 1956, sales tax on declared goods shall not be levied in excess of _____.

(1 mark each)

5. (a) Explain whether the Adjudicating Authority has any discretion to impose penalty under section 11AC of the Central Excise Act, 1944 less than the amount of duty determined under section 11A(2) of the Act.
- (5 marks)
- (b) Mention the provisions of the Customs Act, 1962 relating to determination of duty where goods consist of a set of articles.
- (5 marks)
- (c) Mention the categories in which taxable services provided from outside India and received in India shall be determined as per the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006.
- (3 marks)
- (d) "Burden of proving that the transfer of goods is otherwise than by way of sale shall be on the sales tax authorities." Do you agree with the statement? Give reasons for your answer.
- (2 marks)
6. (a) Healthcare Ltd. imported some medicines and put stickers indicating, *inter alia*, the name and address of the importer and MRP as required under rule 33 of the Standards of Weights and Measures (Packaged Commodities) Rules, 1997. The assessee has argued that such labeling is not accompanied by repacking and hence, the process is not manufacture. Examine.
- (5 marks)
- (b) The goods imported by Perfect Ltd., the assessee, were detained on 14th September, 2008. However, the assessee could not produce the documentary evidence. Consequently, the impugned goods were seized on 8th February, 2009. The department issued a show cause notice to the assessee on 15th May, 2009. The assessee put forth a question of limitation alleging that the impugned show cause notice had been issued after a period of six months. The goods were detained on 14th September, 2008, but the show cause notice was issued on 15th May, 2009. Perfect Ltd. has sought for quashing of the show cause notice and also for the return of the goods. Examine.
- (5 marks)

- (c) Raman, a taxable service provider, outsourced a part of the work by engaging Suman, another service provider, generally known as sub-contractor. Service tax has been paid by Raman for the total work. The department has asked Suman to pay service tax on services provided by him to Raman. Examine.

(5 marks)

7. (a) The goods manufactured by Royal Ltd. have been exempted from excise duty with effect from 1st March, 2009. Earlier these goods were liable to duty @14.42%. Its inputs were liable to excise duty @20.6%. Following information is supplied on 1st March, 2009 :

- (i) The inputs costing Rs.1,44,720 are lying in stock.
- (ii) The inputs costing Rs.77,184 are in process.
- (iii) The finished goods valuing Rs.4,82,400 are in stock, the input cost is 50% of the value.
- (iv) The balance in CENVAT receivable account is Rs.1,79,104.

The department has asked Royal Ltd. to reverse the credit taken on inputs referred above. However, Royal Ltd. contends that credit once validly taken is indefeasible and not required to be reversed. Decide.

What would be your answer if the balance in CENVAT receivable account as on 1st March, 2009 is Rs.29,104 ?

(8 marks)

- (b) Total sales of a registered dealer of Jodhpur (Rajasthan) for the last quarter of the financial year 2008-09 in the course of inter-State trade are as under :

Total Sales Value (Rs.)	VAT Rate in State	Nature of Purchasing Dealer	Nature of Goods
4,06,000	12.5%	Registered	Undeclared
4,04,000	1 %	Registered	Declared
2,25,000	12.5%	Government	Undeclared
1,02,000	2 %	Unregistered	Undeclared
6,12,000	2 %	Registered	Declared
2,02,000	1 %	Unregistered	Declared
5,41,000	(Generally exempted goods)		

Determine the taxable turnover of the dealer under the Central Sales Tax Act, 1956 for the quarter if --

- (i) he has collected tax from the customers at central sales tax rate and tax so collected is included in sales;
- (ii) sale to registered dealers has been made on Form-C; and
- (iii) sale of undeclared goods made to registered dealers includes sale of Rs.1,00,000 of such goods which a registered dealer has purchased for export after entering into contract of export under Form-H.

(7 marks)

8. (a) State, with reasons in brief, whether the following statements are correct or incorrect :
- (i) Section 11B of the Central Excise Act, 1944 provides only for the refund of duty of excise.
 - (ii) Section 32-O of the Central Excise Act, 1944 provides that application for settlement can be made only once in life-time of an applicant.
 - (iii) Taxable services provided or to be provided by a Practising Company Secretary in his professional capacity for representing the client before the statutory authority in the course of proceedings initiated under any law for the time being in force, are exempt from service tax.
 - (iv) Provisions for goods in transit in Chapter VIII of the Customs Act, 1962 do not apply to baggage, goods imported by post and stores.
 - (v) No tax in inter-State sale shall be payable in case of sale to any official, personnel, consular or diplomatic agent of any foreign diplomatic mission or Consulate in India or the UN agency, if a certificate in Form-I is submitted.
- (2 marks each)
- (b) Define 'large tax-payers units'. Who are not eligible under this scheme ?
- (3 marks)
- (c) What is the general or residual penalty provided under Rule 27 of the Central Excise Rules, 2002 ?
- (2 marks)

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