

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 8

**P A R T – A**

(Answer ANY TWO questions from this part.)

1. (a) Distinguish between 'domestic company' and 'foreign company'. Are they treated alike under the income-tax rate structure ?

(8 marks)

- (b) P Ltd. owns two undertakings. Undertaking-A is eligible for deduction under section 80-IA and Undertaking-B is not eligible for such deduction. Date of commencement of operation in both the undertakings is 14<sup>th</sup> September, 2001.

The profits earned by both the undertakings are as under :

Previous Year	Undertaking-A (Rs. in Lakhs)	Undertaking-B (Rs. in Lakhs)
2001-02	(-) 6	(-) 4
2002-03	(-) 4	10
2003-04	5	9
2004-05	8	6
2005-06	9	(-) 3

Calculate total income of P Ltd. for last three assessment years.

(6 marks)

- (c) Discuss the liability to deduct tax at source on the following payments :
- (i) Sikkim Government pays a sum of Rs.50,000 as commission to its agent on sale of lottery tickets.
  - (ii) A turf club gives a prize of Rs.2,00,000 to the owner of a winning horse.
  - (iii) Bank of India is the tenant of a building owned by the Central Government. It pays a sum of Rs.75,000 per month by way of rent.
  - (iv) Evershine Ltd. pays a sum of Rs.2,500 per month as retainer fee to its counsel.
  - (v) Dividend of Rs.25,000 is paid on preference shares on 15<sup>th</sup> November, 2005 by an Indian company.
  - (vi) Rs.1,00,000 paid to Govind being amount of 1<sup>st</sup> prize in the lottery conducted by the Nagaland Government.

(6 marks)

2. (a) What is the tax base for the purpose of 'fringe benefit tax' (FBT) ? Who is liable to pay FBT ? What is the current FBT rate ?
- (4 marks)
- (b) Will the FBT liability arise, even if (i) the employer is not liable to pay income-tax on his total income; and (ii) the employer does not have any employee ?
- (4 marks)
- (c) Are all companies liable to wealth-tax ? What is wealth-tax rate applicable in case of companies ?
- (4 marks)
- (d) Discuss whether the wealth-tax is attracted in the following cases :
- (i) Value of assets and debts located outside India.
  - (ii) Land in urban area where construction is not allowed.

- (iii) Residential quarters allotted by the firm to its employees.
- (iv) Aircraft used for business purposes.
- (v) Guest house and land appurtenant thereto.
- (vi) Motor cars for use by officers for official purposes only.
- (vii) Shares, debentures, fixed deposits in banks – Rs.20 lakh.
- (viii) Cash in hand in the books of a sole-proprietor amounting to Rs.70,000.

(1 mark each)

3. Write notes on any four of the following :

- (i) Annual information return
- (ii) Revision of orders favourable to assessee by Commissioner of Income-tax
- (iii) Distribution by a company on reduction of share capital
- (iv) Tax relief in India where there is no double taxation avoidance agreement
- (v) Slump sale.

(5 marks each)

**P A R T – B**

(Answer ANY FOUR questions from this part.)

4. (a) "Though taxable event is 'manufacture', duty payable is as applicable on the date of removal under central excise." Critically examine and state whether there are any exceptions to this rule.

(4 marks)

- (b) What are the propositions laid down under section 12 of the Customs Act, 1962 to levy customs duty ?

(4 marks)

- (c) Is there any exemption to small service providers from the scope of service tax levy ? If so, indicate the limit, if any. Are there any other general exemptions available under section 93 of the Finance Act, 1994 ?

(4 marks)

- (d) Can government be treated as 'dealer' for the purposes of the Central Sales Tax Act, 1956 ? What is the rate of tax applicable, if the inter-State sale is made by the government to a registered dealer ?

(3 marks)

5. (a) State whether all Company Secretaries are covered by the service tax levy ? What is 'taxable service' in the context of a Company Secretary ? What will be the value of such taxable service ?

(3 marks)

- (b) Distinguish between the following :

- (i) 'Clearance of goods for home consumption' and 'clearance of goods for warehousing' under the Customs Act, 1962.
- (ii) 'Special audit under section 14A' and 'special audit under section 14AA' of the Central Excise Act, 1944.
- (iii) 'Safeguard duty' and 'anti-dumping duty' under the Customs Tariff Act, 1975.

(4 marks each)

6. (a) The management of your company is unable to determine the value of excisable goods manufactured by it. It wants to opt for provisional assessment for the present. As a Company Secretary, prepare a note on provisional assessment for the benefit of your company.

(3 marks)

- (b) An importer provided the producer with a mould to be used in production of imported goods. The cost of mould is Rs.5,00,000 which is expected to produce 25,000 pieces. The importer has imported 5,000 pieces in the first lot. Is it necessary to add the cost of mould in transaction value ? If yes, what will be the amount to be added ? The importer is expecting an increase in the rate of customs duty next month, so he has requested to the proper officer that if cost of mould is required to be added in transaction value, the full cost of mould, *i.e.*, Rs.5,00,000 may be added in the transaction value of first lot of 5,000 pieces itself. Is his demand valid in law ?

(3 marks)

- (c) Smart Computers Ltd. is engaged in manufacturing of mini computer processing system with floppy drive, keyboard and CPU. Though, it did not manufacture monitors and printers, it bought duty-paid monitors and printers from market and supplied to customers, if required by them. Such supply of monitors and printers was made in approximately 30% of the cases. The department has contended that the value of monitors and printers is includible in the value of computers claiming that they are parts of the computers. The assessee has approached you to advise –

- (i) Whether the value of monitors and printers is includible in the value of computers ?
- (ii) Whether for the entitlement to the benefit of Notification No.8/2003 dated 1<sup>st</sup> March, 2003, the value of monitors and printers shall be included ?

(3 marks)

- (d) The consignments imported by Young Ltd. were assessed provisionally under section 18 of the Customs Act, 1962 and provisional duty was paid. On final assessment, the finally assessed duty was adjusted against the provisional duty paid and the excess duty paid became refundable to the assessee under section 18(2) of the Act.

On claim of refund by assessee, the revenue contended that an application for refund should be made under section 27. The assessee contended that section 27 had no application in this case.

Further, the assessee, after having recovered the amount of excess duty paid from the customers, argued that the doctrine of unjust enrichment is not applicable in the said case.

The questions for consideration are –

- (i) Whether an application for refund of duty, provisionally paid under section 18, is required to be made under section 27 of the Customs Act, 1962 ?
- (ii) Whether the provisions of unjust enrichment as laid down under section 27 of the Customs Act, 1962 are applicable to a refund arising consequent to final assessment under section 18(2) ?
- (iii) Whether the amount paid on provisional assessment under section 18 is a duty ?

*(2 marks each)*

7. (a) Examine the following statements with reference to CENVAT Credit Rules, 2004 and indicate, giving brief reasons, whether they are true or false :

- (i) An assessee can claim CENVAT credit in respect of –
  - capital goods acquired on lease; and
  - capital goods on which depreciation has been claimed under the Income-tax Act, 1961.

- (ii) A manufacturer selling his business to another person cannot transfer his unutilised CENVAT credit to the purchaser.
- (iii) Where the capital goods are cleared as waste and scrap, the manufacturer has to pay an amount equal to the duty leviable on transaction value and such amount paid can be availed as CENVAT credit.
- (iv) Credit of basic excise duty can be utilised for payment of education cess whereas the *vice-versa* is not possible.
- (v) A company manufacturing beverages can avail CENVAT credit in respect of duty paid on an inkjet printer purchased for printing the date of manufacture and sale price on bottles containing beverages manufactured and cleared by it.

(2 marks each)

- (b) Pearl Ltd. is a manufacturer of mineral water. It has declared all the retail prices meant for different States on each bottle. The department has proposed to levy duty on the basis of the highest retail price printed on the bottles. But, Pearl Ltd. claims that each such price should be taken depending on the State to which the goods are being cleared. Discuss the validity of the stand of the department.

(3 marks)

- (c) Anthony has stored excisable goods in a warehouse. He is neither a manufacturer nor a producer nor a procurer of excisable goods. Is Anthony liable to pay excise duty on removal of goods from the warehouse?

(2 marks)

8. Attempt any five of the following :

- (i) In a case where stock of goods is transferred from one State to another State otherwise than by way of sale, on whom the burden of proof lies and how can it be discharged ?
- (ii) Write a short note on sale to foreign diplomatic mission, etc., in India under the Central Sales Tax Act, 1956.
- (iii) 'Authority for advance ruling' formed under section 245-O of the Income-tax Act, 1961 functions as Central Sales Tax Appellate Authority also. Do you agree ? Also state the period within which the appeal has to be filed to the Appellate Authority.
- (iv) Are recipients of taxable services discharging their service tax liability under section 68(2) of the Finance Act, 1994 entitled to avail credit of the service tax paid on taxable services received by them under the CENVAT Credit Rules, 2004 ? If so, what is the procedure to be adopted ?
- (v) Anuj Ltd. is a supplier of goods and engages the services of a transporter company Brij Ltd. for transporting the goods to its customer Chirag Ltd. Transportation charges shall be paid by Anuj Ltd. to the transporter Brij Ltd. (input service provider) along with service tax. How can the service tax so paid by Anuj Ltd. be recovered from its customer Chirag Ltd. ? Is there any revenue loss to Chirag Ltd. in this case ?
- (vi) Define 'residential complex' for the purpose of service tax. How is it relevant for the purpose of service tax levy ?

(3 marks each)

-- o --