

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 relevant Assessment Year 2010-11, 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) There is no obligation on the part of the assessee to pay advance tax during financial year 2009-10 if the advance tax payable as computed under section 209 is less than —
 - (a) Rs.7,500
 - (b) Rs.5,000
 - (c) Rs.10,000
 - (d) None of the above.
 - (ii) The levy of minimum alternate tax (MAT) under section 115JB in case of a corporate assessee at the specified percentage of book profit is @ —
 - (a) 5%
 - (b) 15%
 - (c) 10%
 - (d) None of the above.
 - (iii) Any expenditure on scientific research on in-house research and development facility incurred by a company engaged in the production or manufacture of any article not covered by Schedule XI of the Income-tax Act, 1961 is eligible for weighted deduction of —
 - (a) 125%
 - (b) 150%
 - (c) 110%
 - (d) None of the above.

- (iv) Failure to keep, maintain or retain books of accounts, *etc.*, as required under section 44AA will attract minimum and maximum penalty of —
- Rs.25,000 and Rs.25,000 respectively
 - Rs.25,000 and Rs.1,00,000 respectively
 - Rs.25,000 and Rs.50,000 respectively
 - None of the above.
- (v) Fee for filing an appeal under section 249(1) to the Commissioner (Appeals) when the assessed income is more than Rs.2 lakh is —
- Rs.250
 - Rs.500
 - Rs.1,000
 - 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) :
- While making an appeal to the Tribunal against order of the Commissioner of Income-tax (Appeals), the requisite documents shall be sent in _____.
 - An application of fitness for appeal to the Supreme Court has to be made within _____ days from the date of High Court's judgment.
 - Where the appeal to the Commissioner (Appeals) under section 246A relates to any assessment or penalty order, the appeals have to be presented within _____ days of the date of service of the notice of the demand relating to that assessment or penalty order.
 - A minimum penalty of Rs._____ per day for the days of default shall be levied upon failure to furnish annual information return.
 - The newly introduced section 144C envisages an alternate dispute resolution mechanism by empowering the CBDT to constitute a _____ for this purpose.

(1 mark each)

- (c) Discuss briefly the provisions under section 4(1)(a)(ii) of the Wealth-tax Act, 1957 regarding assets held by a minor child.

(5 marks)

2. (a) State, with reasons in brief, whether the following statements are true or false, having regard to the provisions of the relevant direct tax laws :
- A foreign company may be treated as domestic company under the Income-tax Act, 1961.

- (ii) A belated return of income can be filed after due date but within six months from the end of the relevant assessment year.
- (iii) Any citizen of India who holds any wealth outside India is liable to pay wealth-tax on his foreign wealth.
- (iv) It is mandatory for a person to whom the provisions of section 44AB are applicable to pay tax electronically, and it may be paid from the account of any other person.
- (v) Where an appellate authority accepts the contention of the tax payer and allows the appeal, there lies no further appeal by the assessee against that order.

(2 marks each)

- (b) “With the abolition of fringe benefit tax effective from assessment year 2010-11, the actual tax burden on fringe benefits is completely eliminated.” Do you agree ?

(2 marks)

- (c) Discuss the allowability of depreciation under section 32 read with section 43, where a non-operating plant and machinery is a part of block of assets and the said block of assets is used for the purpose of business.

(3 marks)

3. (a) The book profits of a company in the previous year 2009-10 computed in accordance with section 115JB is Rs.15 lakh. If the total income computed for the same period as per the provisions of the Income-tax Act, 1961 is Rs.3 lakh, calculate the tax payable by the company in the assessment year 2010-11 and also indicate whether the company is eligible for any tax credit.

(5 marks)

- (b) What penalties can be imposed under the Income-tax Act, 1961 in the case of following defaults :

- (i) Failure to furnish return of income under section 139; and
- (ii) Failure to get accounts audited under section 44AB.

(5 marks)

- (c) Distinguish between ‘tax planning’ and ‘tax management’.

(5 marks)

PART—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) For charging excise duty, 'goods' must fulfill following conditions —
 - (a) It must be moveable
 - (b) It must be marketable
 - (c) It must be specified in the central excise tariff
 - (d) All of the above.
 - (ii) In the case of products covered by maximum retail price (MRP) specifications, the assessable value will be calculated on the basis of —
 - (a) Transaction value
 - (b) MRP less abatement
 - (c) MRP
 - (d) Percentage of tariff value.
 - (iii) The CENVAT credit can be carried forward and utilised upto —
 - (a) One year
 - (b) Five years
 - (c) Ten years
 - (d) No time limit.
 - (iv) Warehousing facility is not availed of for the following reasons —
 - (a) The importer may not require the goods immediately
 - (b) The importer wants to avoid heavy demurrage charges imposed by the port
 - (c) The importer may not have enough funds to make payment of duty immediately
 - (d) None of the above.
 - (v) Under section 25(1) of the Customs Act, 1962, an *ad hoc* exemption cannot be granted to the following items —
 - (a) Life saving drugs
 - (b) Article imported for handicapped persons
 - (c) Import of software
 - (d) Import by Indian Navy.

(1 mark each)

- (b) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
- (i) Service tax is levied on services provided within the territory of India including territorial waters of India extending upto _____ (under International Sea Act).
 - (ii) 'Labelling or re-labelling' of containers and re-packing from bulk packs to retail packs of natural or artificial mineral waters shall amount to _____.
 - (iii) When the goods manufactured are not sold but are re-used in the factory for the manufacture of other articles, the value for the purpose of excise shall be _____ of the cost of production.
 - (iv) As per section 13 of the Customs Act, 1962, duty is payable at the rate of _____ if any goods are pilfered after the unloading and before order of clearance.
 - (v) If the goods are re-imported within one year from the date of exportation, an application for refund of duty shall be made within _____ from the date on which proper officer makes an order of clearance.

(1 mark each)

- (c) Bharat Export Corporation gets its product manufactured on job work basis from Softex Ltd., an independent processor. The details of the transactions are as follows :

<i>Particulars</i>	<i>Amount (Rs.)</i>
Cost of materials sent to job worker for processing	25,000
Processor's charges (including Rs.7,000 as processing charges and Rs.5,000 as its profit)	12,000
Transport charges for receiving goods at the premises of the processor	1,000
After processing, the goods are sold by Bharat Export Corporation at Rs.58,000 from the premises of Softex Ltd. Determine the assessable value of the goods under section 4 of the Central Excise Act, 1944.	

(5 marks)

- (d) Explain the provisions for claiming drawback of duty paid on imported goods when they are re-exported.

(5 marks)

5. (a) Examine briefly, whether the process of commercial duplication by which a blank CD is transformed into software loaded marketable CD constitutes manufacturing or processing of goods ? Support your answer with recent judicial pronouncement.

(5 marks)

- (b) Define the term 'classification' and indicate briefly its salient features in the context of excise law.
(5 marks)
- (c) What are the conditions for claiming refund of import duty under the newly inserted section 26A of the Customs Act, 1962 ?
(5 marks)
6. (a) Pawan, a manufacturer, purchased certain inputs from his supplier Binod. The assessable value was Rs.2,00,000 and the central excise duty was calculated at Rs.32,960. Thus, the total purchase invoice was for Rs.2,32,960. However, Pawan settled the total invoice by paying Rs.2,08,000 only to Binod in full settlement. How much CENVAT credit can be availed by Pawan ?
(5 marks)
- (b) Whether confiscation of improperly imported goods by the customs authority under section 111 read with section 112 of the Customs Act, 1962, is justifiable where respondent imported goods free from customs duty availing benefit of Notification No.48/99-CUS dated 29th April, 1999 providing exemption exclusively to manufacturer-exporter only, even though they had no manufacturing unit at all? Critically examine the matter and offer your comments.
(5 marks)
- (c) Describe the cases where goods being exported are liable to confiscation under section 113 of the Customs Act, 1962.
(5 marks)
7. (a) (i) Briefly enumerate the persons not eligible for compounding of offences under section 9A(2) of the Central Excise Act, 1944.
(3 marks)
- (ii) Explain the amendments made by the Finance (No.2) Act, 2009 in the provisions relating to valuation audit under section 14A and CENVAT audit under section 14AA of the Central Excise Act, 1944.
(3 marks)
- (b) Discuss briefly the salient features of the system of 'advance rulings' under the Customs Act, 1962.
(5 marks)
- (c) The Central Excise Act, 1944 as well as the Customs Act, 1962 were amended recently to relax the time limits for filing reference application to the High Court and for filing memorandum of cross objections. Indicate briefly the normal time limits for this purpose and the effect of the changes.
(4 marks)

PART—C

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

(i) What are the entry options available to foreign companies ? Describe briefly.
(4 marks)

(ii) Can a resident assessee claim that the advance ruling obtained by his brother in respect of a similar issue faced by him is applicable to him also ? Will such a ruling be binding on him also ?
(4 marks)

(iii) Whether tax is required to be deducted from commission paid to an agent outside India, if no services are performed in India or there is no fixed place of business in India ? Explain and comment in the light of recent judgement of Authority for Advance Rulings (AAR).
(4 marks)

(iv) Explain, with the help of a simple example, the determination of arm's length price where more than one such price is arrived at by the Transfer Pricing Officer by following the most appropriate method.
(4 marks)

(v) Paresh, aged 66 years and ordinarily resident in India, is a professional. He has earned Rs.1,00,000 from services provided outside India. His foreign income was taxed at 20% in that country where services were rendered. India does not have any tax treaty with that country. Assuming that Indian income of Paresh is Rs.3,00,000, what relief of tax under section 91 of the Income-tax Act, 1961 will be allowed to him for the assessment year 2010-11 ? Paresh has contributed Rs.32,000 towards public provident fund during the previous year 2009-10.
(4 marks)

(vi) State, with reasons in brief, whether the following statements are true or false :

- (a) A foreign company is resident in India if it is operating its activities in India.
- (b) Arm's length price means price which is applied in a transaction between unassociated persons.
- (c) A resident having transactions with another resident can also seek advance ruling under section 245N of the Income-tax Act, 1961.
- (d) A foreign corporation is considered as a passive foreign investment company under the asset test, if 75% or more of the foreign corporation's assets produce or are held to produce passive income.

(1 mark each)