

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 6

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 company claims deduction of certain expenditures in computation of its total income under the Income-tax Act, 1961. Consider the allowability or otherwise of the following expenditures giving brief reasons for your answers :
 - (i) Payments made by the company for sponsoring a sports tournament.
 - (ii) Water pollution treatment plant installed permanently in the factory in compliance with statutory requirements.
 - (iii) As a holding company, it has borrowed money and advanced the same to its subsidiary in whose business it has deep interest. The subsidiary uses the same for its business. The company claims interest paid on such borrowings as a deduction.
 - (iv) Expenditure incurred for earning share income from a firm.
 - (v) Provision made in the accounts of the company on a scientific basis in respect of liabilities estimated to arise under warranty provided to customers in respect of products sold.

(4 marks each)
2. (a) Explain briefly special provisions made under the Income-tax Act, 1961 regulating tax incidence on capital gains in case of demerger.

(7 marks)

(b) What are the special provisions regarding computation of tax on non-resident sportsman being foreign citizen and non-resident sports association ? Are these assesseees required to file their return of income ?

(7 marks)

(c) Discuss briefly whether the following returns can be revised under section 139(5) of the Income-tax Act, 1961 :
 - (i) Return of loss filed under section 139(3);
 - (ii) Belated return filed under section 139(4);
 - (iii) Revised return filed under section 139(5);
 - (iv) Defective or incomplete return filed under section 139(9);
 - (v) Return filed knowing it to be false; and
 - (vi) Return filed for the assessment year 2006-07, assessment of which is yet to be completed.

(1 mark each)

3. (a) A company wants to issue 'sweat equity shares' to its key employees. Explain briefly the concept and its tax implications on the recipient and the company. (5 marks)
- (b) Briefly discuss the legal propositions in case of any conflict between the provisions of the Double Tax Avoidance Agreement (DTAA) and the Income-tax Act, 1961. (5 marks)
- (c) Ronnie Ltd. is engaged in the manufacture of steel. On the basis of the following particulars of its properties as on 31st March, 2008, compute the net wealth of Ronnie Ltd. for the assessment year 2008-09 :

	<i>Rs. in Lakhs</i>
Guest house situated in a rural area	40
Residential flat provided to a director whose salary is Rs.2 lakh per annum	10
Urban land on which no construction is permitted as per municipal laws	30
Cars used for business of the company	8
Cash balance as per books	2.50
Bank balance as per books of account	7
Aircraft used for the business of the company	800
Gold	5

Note : 1. Loans taken for purchase of — (i) Urban land : Rs.40 lakh; and
(ii) Aircraft : Rs.300 lakh.

2. Outstanding fringe benefit tax liability : Rs.2 lakh.

(10 marks)

PART—B

(Answer ANY FOUR questions from this part.)

4. (a) Sunil is engaged as a management consultant by Rana Sugar Ltd. His duty is to advise the company on matters relating to production, marketing, etc. Service tax is demanded from him under the category of 'management consultant' on the professional charges paid to him by Rana Sugar Ltd. Sunil filed objections to the demand by contending that he cannot be considered as a 'management consultant' as he does not possess any professional qualification in the area of management and therefore cannot be asked to pay service tax under the category of management consultant. Is the stand of Sunil justified ? Give your views in the light of decided case law, if any.

(5 marks)

- (b) Mercury Wires Ltd. filed the bill of entry in respect of an imported consignment on 19th August, 2002. The goods were found to be in order when examined on 25th August, 2002. After payment of duty, the proper office gave the out of charge order on 25th August, 2002 itself. When the importers went to take delivery of the goods on 2nd September, 2002, they found the packages in torn condition and two packages had been pilfered. They filed refund claim in respect of the packages pilfered. The claim was rejected by the customs authority on the ground that pilferage had taken place after the grant of out of charge order. Decide with the help of decided case law, if any, whether rejection of the claim of the importers is in accordance with law.

(5 marks)

- (c) Star Laminates Ltd. manufactured laminate sheets. In the process of manufacture a solution named, 'Rasol' whose life was short and which was also not marketable came into being. The Assistant Commissioner of Excise issued notice to the assessee demanding duty on 'Rasol' for the reasons that 'Rasol' is included in the Tariff Schedule and hence dutiable. The assessee has filed objection to the demand by contending that no duty can be demanded only because of inclusion of a commodity in the Tariff Schedule, if it is not marketable or capable of being marketed. Decide the issue with the help of decided case law, if any.

(5 marks)

5. (a) Re-write the following sentences after filling-up the blank spaces with appropriate word(s)/figure(s) :

- (i) Manufacturer-exporter can clear goods for export without payment of duty under Rule 19 of the Central Excise Rules, 2002 by issuing _____ in prescribed form UT-1.
- (ii) The _____ of taxable services provided from outside India and received in India shall make an application for registration.
- (iii) According to section 2(3) of the Customs Act, 1962, baggage includes unaccompanied baggage but does not include _____.
- (iv) _____ implies the assessee being authorised to pay a pre-determined sum to the Excise Department, at fixed periodical intervals, instead of paying duty on a consignment-to-consignment basis.
- (v) Capital goods intended for use in any 100% export-oriented unit (EOU) can be warehoused for a period of _____ years from the date on which the proper officer has made an order under section 60 of the Customs Act, 1962 permitting the deposit of the goods in the warehouse.
- (vi) Submission of _____ to prove stock transfer is mandatory under the Central Sales Tax Act, 1956.

(1 mark each)

- (b) Examine whether the following activity amounts to 'manufacture' within the meaning of section 2(f) of the Central Excise Act, 1944 :
- (i) Conversion of aluminium ingots into aluminium billets by process of re-melting and adding other alloys. These billets were captively consumed by the assessee for production of irrigation pipes and also being sold in the open market.
 - (ii) Crushing of betel nuts and processing them with spices and oils.
 - (iii) Conversion of sugar into big crystals.
- (3 marks each)*
6. (a) What are the sales that are exempted from tax under the Central Sales Tax Act, 1956 ?
- (5 marks)*
- (b) Explain the provisions of section 4A of the Central Excise Act, 1944 relating to valuation of goods on the basis of their retail sale price.
- (4 marks)*
- (c) Define 'Indian customs waters' and explain its significance under the Customs Act, 1962.
- (4 marks)*
- (d) How do you determine the value of 'taxable service', where the consideration received is not wholly or partly consisting of money ?
- (2 marks)*
7. (a) The following information is furnished by Kanha on 8th February, 2007 in respect of articles of jewellery imported from USA :
- | | |
|---|----------------|
| FOB value | \$20,000 |
| Exchange rate | \$1 = Rs.44 |
| Air freight | \$4,500 |
| Insurance charges | Not known |
| Landing charges | Rs.1,000 |
| Basic customs duty | 10% |
| Excise duty chargeable on similar goods in India as per tariff rate | 16% |
| Additional duty of customs u/s 3(5) of the Customs Tariff Act, 1975 | As applicable. |
- Calculate the total customs duty payable by Kanha.

(7 marks)

(b) Krishna, a manufacturer of dutiable as well as exempted goods, supplies the following information for the month of January, 2007 :

- (i) Price of exempted goods cleared from the factory : Rs.200 lakh.
- (ii) Assessable value of dutiable goods cleared (Rate of duty 16%) : Rs.150 lakh.
- (iii) CENVAT credit of input 'P' (used only in the manufacture of exempted goods) : Rs.24 lakh.
- (iv) CENVAT credit of input 'Q' (used only in the manufacture of dutiable goods) : Rs.16 lakh.
- (v) CENVAT credit of common input 'R' (used in the manufacture of exempted as well as dutiable goods but no separate accounts are maintained in respect of such input 'R') : Rs.18 lakh.

Compute the amount of excise duty payable by Krishna for the month of January, 2007.

(5 marks)

(c) Bhaskar Trading Company reported aggregate sales of Rs.35,00,000 which include the following :

- (i) Excise duty : Rs.9,00,000
- (ii) Deposit for returnable containers : Rs.6,00,000

The rate of sales tax is 3%. However, it was not shown separately in the sales invoices. Compute the tax liability under the Central Sales Tax Act, 1956.

(3 marks)

8. (a) State, with reasons in brief, whether the following statements are correct or incorrect :

- (i) Service tax for the month of March has to be paid by 31st March.
- (ii) The claim for refund of service tax has to be filed within six months from the relevant date.
- (iii) Any person effecting inter-State sale can collect tax in respect of such sale even if he is not registered under the Central Sales Tax Act, 1956.
- (iv) Appeals against orders of Commissioner (Appeals) relating to duty drawback cannot be filed before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT).

- (v) Settlement Commission can entertain an application of an assessee only if the additional amount of customs duty accepted as payable exceeds Rs.2 lakh.
- (vi) CENVAT credit can be taken on the basis of bill of lading.

(2 marks each)

- (b) State the basic conditions to be fulfilled for exemption to 'penultimate sale for export' under the Central Sales Tax Act, 1956.

(3 marks)

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