Advanced Tax Laws and Practice **376**

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 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) Prior recommendation of the President of India is required to Bills affecting taxation in which States are interested under Article —

(a) 271 of the Constitution of India

(b) 281 of the Constitution of India

(c) 274 of the Constitution of India

(d) 273 of the Constitution of India.

(ii) All income arising to any person by virtue of a revocable transfer of assets is chargeable as the income of the transferor and shall be included in his total income under the Income-tax Act, 1961 —

(a) As per section 60

(b) As per section 61

(c) As per section 62

(d) As per sections 60 and 62.

(iii) As per section 5, the following is not included in the total income of a non-resident company —

(a) Income which accrues or arises in India during the previous year

(b) Income which is deemed to accrue or arise in India

(c) Income which arises or accrues outside India

(d) Income which is received or deemed to be received in India.

(iv) As per Article 270(1) read with Article 4(a) of the Constitution of India, the proceeds of corporation tax are --

(a) Not divisible among the States

(b) Divisible among the States

(c) Divisible between the Centre and States

(d) None of the above.

(v) Part II of the First Schedule of Finance Bill gives —

(a) Rates of income-tax

(b) Rates of TDS

(c) Tax on agricultural income

(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) Any person discontinuing any business or profession shall give notice to the Assessing Officer under section 176(3) within __________ days thereof.

(ii) As per Explanation 4 to the section 115JB, every company to which the section applies shall furnish a report in the prescribed form from ____________.

(iii) The Commissioner (Appeals) may admit an appeal under Chapter XX of the Income-tax Act, 1961 after the expiration of __________ of the receipt of order appealed against if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(iv) A domestic company is liable to pay dividend tax at the rate of _________ of dividend declared.

(v) As per section 263(2), the revision order shall be passed within _________ from the end of the financial year in which the order was passed by the Assessing Officer.

(1 mark each)

(c) Distinguish between 'tax evasion' and 'tax avoidance'. Indicate whether the following acts can be considered as tax evasion/tax avoidance :

(i) Rajat deposits Rs.70,000 in PPF account to avail tax deduction under section 80C.

(ii) Raman is using a motor car for his personal purposes, but charges as business expenditure.

(5 marks)

2. (a) Answer ***any two*** of the following :

(i) What is the quantum of Minimum Alternate Tax (MAT) for a 'domestic company' and 'foreign company' for the assessment year 2010-11 ?

(ii) An enterprise seeks your advice regarding the applicability of the provisions of section 80-IC and the conditions, if any, to be fulfilled. Elucidate.

(iii) Explain the meaning of 'jewellery' and 'urban land' under the Wealth-tax Act, 1957.

(3 marks each)

(b) Distinguish between the following :

(i) 'Section 271AA' and 'section 271B'.

(ii) 'Section 80-IE' and 'section 80-IC' in regard to substantial expansion.

(3 marks each)

(c) Discuss the concept of 'deemed dividend' under section 2(22).

(3 marks)

3. (a) Examine whether penalty can be levied under section 271(1)(c) even in a case where addition of concealed income does not result in taxable income but only reduces the returned loss keeping in view Explanation 4 to section 271(1)(c) and cite relevant case law, if any.

(5 marks)

(b) Rana Iron Ltd. (RIL) provided 'free meal coupons' to its employees. RIL entered into an agreement with Atul who was in the business of providing such coupons. The employees were provided with coupons of Atul at the rate of Rs.50.00 per day per employee. RIL claimed that the value of the said coupons was not taxable perquisite within the meaning of Rule 3(7)(iii) of the Income-tax Rules, 1962.

Assessing Officer found that some of the coupons were misused for purchase of grocery and cosmetic items. It was estimated by the Assessing Officer that the misuse amounted to 30% of the amount of the 'free meal coupons' considered it as a perquisite to the employees. The assessee company was held to be in default for non-deduction of TDS from the employees to the extent of the value of the alleged perquisite and held liable for levy of interest towards the short deduction of tax and levy of penalty. RIL contested the same.

Examine whether the assessee company had defaulted in its responsibility to deduct appropriate amount of tax from the employees. Cite relevant case law.

(5 marks)

(c) Pankaj is holding 15% equity shares of Young India Ltd., a company in which public is not substantially interested. Pankaj needs Rs.5,00,000 to purchase a car for his personal use. He can borrow at a interest of 5% per annum from his company or from a bank @ 10% per annum interest. The company has sufficient accumulated profit to advance the requisite loan. Suggest the better alternative to Pankaj from income-tax point of view.

(5 marks)

P A R T — 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) Non-dutiable goods means —

(a) The product not given in the Tariff Act

(b) The product given in the Tariff Act

(c) The product given in the Tariff Act with rate of duty

(d) The product given in the Tariff Act with zero rate of duty.

(ii) At the time of manufacture of Product-X, the rate of basic excise duty (BED) was 14% while at the time of removal the rate of duty was 9%. The duty applicable for the Product-X will be —

(a) 14%

(b) 9%

(c) 11.5%

(d) None of the above.

(iii) Excisable goods can be removed for export without payment of duty by using --

(a) B-3 bond

(b) B-2 bond

(c) B-4 bond

(d) B-7 bond.

(iv) Registration under the central excise law is not required if the turnover of an SSI unit is —

(a) Less than Rs.150 lakh

(b) Less than Rs.90 lakh

(c) Less than Rs.10 lakh

(d) Less than Rs.100 lakh.

(v) In the case of Excise Audit, 2000, selection of the assessee is based on —

(a) Risk factor

(b) Value of goods

(c) Merit of the assessee

(d) Any other factor.

(vi) Yearly audit is applicable where excise duty paid in cash is more than —

(a) Rs.3 crore

(b) Rs.1.5 crore

(c) Rs.1 crore

(d) Rs.4 crore.

(vii) Deemed export means —

(a) Export through agent

(b) Sale of goods to UN agencies

(c) Local sale to a foreigner

(d) None of the above.

(viii) As per Rule 7 of the drawback rules, the special brand rate of duty drawback should be applied —

(a) Within 90 days from the date of exports

(b) Within 60 days from the date of exports

(c) Within 30 days from the date of exports

(d) Within 45 days from the date of exports.

(1 mark each)

(b) Rewrite the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :

(i) Excisable goods consumed within the factory for manufacture of final product is called _______________.

(ii) Goods included in the ___________ schedule of the Central Excise Act, 1944 are the same on which excise duty is payable under section 4A.

(iii) MRP provisions are not applicable for packaged commodities meant for _____________.

(iv) Duty rebate is not allowed if the rebate amount is less than ____________.

(v) As per section 2(38) of the Customs Act, 1962, 'stores' means goods for use in a ____________.

(vi) Anti-dumping duty is imposed when export price is _______ than normal price in the exporting country.

(vii) As per section 27 of the Customs Act, 1962, interest on delayed refund is payable after expiry of _________ months from the date of receipt of such order.

(1 mark each)

(c) Following particulars are available in respect of consignment of goods imported :

(i)	Cost at the factory of the exporter	:	US$ 20,000
(ii)	Carriage/freight/insurance upto the port of shipment in the exporter's country	:	US$ 400
(iii)	Charges for loading on to the ship at the shipping port	:	US$ 100
(iv)	Freight charges of the ship for transport upto the Indian port	:	US$ 1,200

Compute the assessable value for the purpose of levy/payment of customs duty.

(5 marks)

5. (a) Determine the basis of valuation under section 4 or section 4A of the Central Excise Act, 1944 in the following cases, citing case law wherever available —

(i) Packaged products with MRP printed/marked thereon, exported to Nepal.

(ii) A packaged commodity covered under MRP notification and also the Standard of Weights and Measures Act, 1976 unpacked and shown to the customer, tested and then sold to the customer.

(iii) Chocolates distributed as free gift along with his bottles of soft drinks.

(iv) Ice creams sold in bulk to hotels.

(v) Telephone instruments supplied in bulk to a service provider with MRP duly marked and the purchaser (*i.e.*, the service provider) lent the instruments to its customers/subscribers retaining ownership.

(5 marks)

(b) Examine the powers of the Central Government to exempt partly or wholly any goods subject to customs duty, and also whether the withdrawal thereof would come under the purview of the doctrine of estoppel. Cite relevant case law, if available.

(5 marks)

(c) What is the theory of 'unjust enrichment' ? What are statutory provisions to stop such practices ?

(5 marks)

OR

Discuss the circumstances under which no custom duty is levied.

(5 marks)

6. (a) A small scale manufacturer has achieved turnover of Rs.1.52 crore during financial year 2009-10. Normal duty payable on the product is 10% plus education cess. Compute the excise duty payable by SSI unit —

    (i) If the unit wants to avail CENVAT credit; and

    (ii) If the unit wants to avail exemption and CENVAT credit.

    (Note : The turnover is without taxes and duties.)

    (5 marks)

   (b) What is 'importer exporter code' (IEC) number ? What is the procedure for obtaining IEC number ?

    (5 marks)

   (c) When does e-payment of duty become mandatory under the Central Excise Act, 1944 ?

    (5 marks)

7. (a) Differentiate between the following :

    (i) 'Excise audit under section 14A' and 'special audit under section 14AA' of the Central Excise Act, 1944.

    (ii) 'Preferential rates of customs duty' and 'lower customs duty under trade agreements' under the Customs Tariff Act, 1975.

    (iii) 'Transit of goods without payment of duty' and 'transshipment of goods without payment of duty' under the Customs Act, 1962.

    (3 marks each)

   (b) Compare and contrast 'Rule 8' and 'Rule 9' of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000.

    (3 marks)

   (c) What are the provisions of CENVAT credit on capital goods ? Explain with relevant case law.

    (3 marks)

PART—C

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

   (i) Discuss the scope of the provisions the Central Government may make under section 90(A)(1) of the Income-tax Act, 1961 in respect of an agreement between specified associations.

    (4 marks)

(ii) Compute the 'arm length price' (ALP) in the following cases :

(a) Medical Instruments Ltd. is a 100% Indian subsidiary of a US company. The parent company sells one of its products to the Indian subsidiary at a price of US$ 100 per unit. The same product is sold to unrelated buyers in India at a price of US$ 125 per unit.

(b) The US parent company sells the same product to an unrelated company in India @ US$ 80 per unit.

(2 marks each)

(iii) Compute the income-tax in the following cases :

(a) Royalty of Rs.10 lakh received by a foreign company from an Indian concern in pursuance of an agreement approved by the Central Government in the previous year 2007-08.

(b) Rs.10 lakh long-term capital gains received by an overseas financial organisation on transfer of units purchased in foreign currency.

(2 marks each)

(iv) What is the procedure for making an application for obtaining advance rulings under section 245Q of the Income-tax Act, 1961 ?

(4 marks)

(v) Discuss the steps for calculating relief under double taxation treaty.

(4 marks)

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

(a) A tax heaven is a country where there is lot of scope for tax evasion.

(b) A non-resident is not liable to pay income-tax on the income earned and received outside India.

(c) Section 92 of the Income-tax Act, 1961 empowers income-tax officer to penalise a non-resident for tax avoidance.

(d) As per section 115A of the Income-tax Act, 1961 where the total income of a foreign company includes any dividend, income-tax payable on such dividend will be at the rate of 30%.

(1 mark each)

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