

Roll No.

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 8

NOTE : All the references to sections mentioned in Part-A of the Question Paper relate to the Income-tax Act, 1961 and relevant Assessment Year 2011-12, unless stated otherwise.

PART — A

(Answer ANY TWO questions from this part.)

1. (a) Write the most appropriate answer from the given options in respect of the following :
- (i) Which schedule to the Constitution of India indicates bifurcation of powers to make laws, between Union government and State governments —
- (a) First Schedule
(b) Seventh Schedule
(c) Eighth Schedule
(d) Twelfth Schedule.
- (ii) Which article of the Constitution of India provides that no tax shall be levied or collected except by authority of law —
- (a) Article 265
(b) Article 268
(c) Article 269
(d) Article 274.
- (iii) Companies in which public are substantially interested are also referred to as —
- (a) Indian companies
(b) Investment companies
(c) Widely-held companies
(d) Closely-held companies.

- (iv) In respect of which area tax planning cannot be attempted at the time of setting-up of new business entity —
- Form of organisation
 - Locational aspects
 - Nature of business
 - Corporate restructuring.
- (v) Which return of income cannot be revised by the assessee —
- Return of loss
 - Defective return
 - Belated return
 - Revised return.

(1 mark each)

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

- The period from 1st April, 2010 to 31st March, 2015 would be covered by the _____ Finance Commission.
- A company whose gross total income consists mainly of income which is chargeable under the heads 'income from house property', 'income from capital gains' and 'income from other sources' is called _____ .
- Surcharge at the rate of _____ is applicable in case total income of a foreign company exceeds ₹1 crore for the assessment year 2011-12.
- Unabsorbed losses and unabsorbed depreciation cannot be allowed to be carried forward and set-off in the hands of the amalgamated company, except in the cases prescribed under section _____ of the Income-tax Act, 1961.
- The right to file appeals to the Commissioner (Appeals) against the orders of assessing officer is _____ to the department.

(1 mark each)

- (c) Examine whether wealth-tax is chargeable in respect of net wealth of following persons under the Wealth-tax Act, 1957 :

- Hindu deity
- Holder of an impartible estate
- Partnership firm
- Association of persons
- Trustees of a private trust.

(1 mark each)

: 3 :

2. (a) Star Gas Ltd. commenced operations of the business of laying and operating a cross country natural gas pipeline network for distribution on 1st April, 2010. The company incurred capital expenditure of ₹1,490 lakh (including cost of financial instrument ₹2 lakh) during the period January to March, 2010 exclusively for the above business and capitalised the same in its books of account as on 1st April, 2010.

Further, during the financial year 2010-11, it incurred capital expenditure of ₹6,600 lakh (including cost of land ₹1,100 lakh) exclusively for the above business. Compute the amount of deduction under section 35AD for the assessment year 2011-12, assuming that the company has fulfilled all the conditions specified in section 35AD.

(4 marks)

- (b) PQR, a partnership firm, has 3 partners namely Pankaj, Qureshi and Robert. The firm has paid salary of ₹1.5 lakh per annum to each of its partners during the previous year 2010-11 and the same is authorised by the partnership deed. The net profit of the firm as shown in the profit and loss account computed in the manner laid down in Chapter IV-D of the Income-tax Act, 1961 is ₹6 lakh after providing for salary to the partners. Compute the amount of deduction of remuneration paid to partners assuming that Qureshi is a non-working partner.

(5 marks)

- (c) Discuss with the help of a decided case law, if any, whether the claim made by the assessee in the following separate cases is correct or incorrect :

- (i) An assessee has paid the entire amount of tax due for the year by way of self-assessment tax, but filed the return of income belatedly. The assessee claims that interest under section 234A is not leviable on him.
- (ii) An assessee rendered certain services from abroad without parting with technology. The assessee does not have any permanent establishment in India. He claims that he is not liable to pay tax on income from rendering such services.

(3 marks each)

3. (a) Singhai Airlines Ltd. sold tickets to travel agents in India and allowed them to retain the amount collected by them in excess of net fare of ticket under a passenger sales agency agreement. Examine whether the above transaction amounts to commission and liable to deduction of tax at source. Cite relevant case law.

(5 marks)

- (b) Dhaval was in the business of manufacturing customised kitchen equipments. He was also the managing director and held nearly 65% of the paid-up share capital of Aarav Ltd. A substantial part of the business of Dhaval, was obtained through Aarav Ltd. For this purpose, Aarav Ltd. could pass on the advance received from its customers to Dhaval to execute the job work entrusted to him.

The assessing officer held that the advance money received by Dhaval is in nature of the loan given by Aarav Ltd. to him, and accordingly is deemed dividend within the meaning of the provisions of section 2(22)(e). The assessing officer, therefore, made the addition by treating advance money as the deemed dividend income of Dhaval.

Examine whether the action of the assessing officer is tenable in law. Cite relevant case law. (5 marks)

- (c) Hetal Ltd., engaged in providing cellular phone facilities to their subscribers, had been granted licenses by the Department of Telecommunication for operating in specific circles. For providing inter connection, Hetal Ltd. entered into agreement with MTNL/BSNL, which were regulated by the TRAI and under the agreement, Hetal Ltd. had to pay interconnection, access charges and port charges to the interconnection providers. The income-tax department was of the view that interconnection/port/access charges were liable for tax deduction at source in view of the provisions of section 194J and that these charges were in the nature of fees for technical services. Whether the contention taken by the Income-tax department are tenable in law ? Discuss. Support your answer with citation of relevant case law.

(5 marks)

PART — B

(Answer Question No.4 which is compulsory and any two of the rest from this part.)

4. (a) Write the most appropriate answer from the given options in respect of the following :
- (i) Under Rule 15 of the Central Excise Rules, 2002, compounded levy scheme is presently applicable to —
 - (a) Pan masala
 - (b) Gutkha
 - (c) Chewing tobacco
 - (d) Aluminium circles.
 - (ii) Under section 27A of the Customs Act, 1962, interest on refunds is payable, if refund due is not disbursed within —
 - (a) 3 Months from the date of application
 - (b) 6 Months from the date of application
 - (c) 3 Months from the date of order granting refund
 - (d) 6 Months from date of order granting refund.

: 5 :

- (iii) Effective rate of customs duty on general baggage is —
- 150%
 - 100%
 - 35%
 - 10%.
- (iv) With the sanction of the proper officer and on the payment of prescribed fees, the owner of any goods after warehousing —
- Cannot inspect the goods
 - Can show the goods for sale
 - Cannot sale, export or dispose off the goods
 - Cannot separate damaged or deteriorated goods from the rest.
- (v) The books of account or other documents, seized by the Central Excise Officer shall be returned within —
- 6 Months of seizure of documents
 - 90 Days of issue of show cause notice
 - 30 Days of issue of show cause notice
 - 60 Days of issue of show cause notice.

(1 mark each)

- (b) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
- Application to settlement commission can be made only when a case is pending before _____ on the date of application.
 - In the case of goods imported by post, any label or declaration accompanying the goods showing the contents, description, quantity and value shall be treated as _____.
 - Shipping bill for export of goods under claim for duty drawback should be in _____ colour.
 - Section 117 of the Customs Act, 1962 provides general penalty to a person who contravenes any provisions of the Act or abets in contravention and if no penalty has been prescribed, the penalty would be upto _____.
 - Under section 35B of the Central Excise Act, 1944, any person aggrieved by any decision or order passed by the Commissioner (Appeals) may appeal to CESTAT within _____ from the date of communication of the order contested.

(1 mark each)

(c) Discuss in brief whether CENVAT credit will be admissible in following cases :

- (i) Inputs gone in process loss.
- (ii) Cement used for installation of machinery.
- (iii) Accessories cleared alongwith the final product.
- (iv) Paints used in factory to protect plant.
- (v) Tubes and pipes used in the factory.

(1 mark each)

(d) When does e-filing of return become mandatory under the Central Excise Rules, 2002 ?

(5 marks)

5. (a) Priya and Co. manufactured 1,000 units of Product-P, out of which 800 units were cleared to a sister unit for captive consumption and balance 200 units were lying in stock. Compute assessable value for central excise purposes of Product-P from the following particulars :

- Cost of production of 1,000 units as per CAS-4 = ₹7,90,000.
- Profit margin as per annual report of the company = 12% on cost.
- Selling price per unit (excluding excise duty and other taxes) = ₹900.

What will be your answer, if balance 200 units were sold to an unrelated buyer @ ₹925 per unit on the same day ? Give reasons for your answer.

(5 marks)

(b) Bholaram imported certain goods in November, 2009 and an 'into bond' bill of entry was presented on 28th November, 2009. Assessable value was US \$1,00,000. Order permitting the deposit of goods in warehouse for 3 months was issued on 2nd December, 2009. Bholaram neither obtained extension of warehousing period nor cleared the goods within the permitted warehousing period of 1st March, 2010. Only after a notice was issued under section 72 of the Customs Act, 1962 demanding duty and other charges, Bholaram removed the goods on 15th April, 2010.

Compute the amount of duty payable by Bholaram while removing the goods from warehouse, assuming that no additional duty or special additional duty is payable. You are supplied with the following information :

	28.11.2009	01.03.2010	15.04.2010
Rate of exchange per US \$	₹46	₹45	₹44
Rate of basic customs duty	15%	10%	5%

(5 marks)

: 7 :

- (c) What is the remedy available to an assessee aggrieved by following decisions/orders in each separate case :
- (i) Adjudication order passed by Additional Commissioner of Central Excise.
 - (ii) Adjudication order passed by the Commissioner of Central Excise.
 - (iii) Order passed by the Commissioner (Appeals) relating to rebate of duty of excise on goods exported outside India.
 - (iv) Order passed by the Tribunal relating to valuation of goods.
 - (v) Order passed by the Tribunal relating to penalty.

(1 mark each)

6. (a) The assessee, a manufacturer of small juicer, used to avail of the benefit of SSI-exemption. The said goods were sold under their own brand named 'Fatafat'. However, in case of sale to Smart Tele Shopping (STS), who were further selling the product through tele-shopping network, the supervisors of STS used to examine the goods and affix a sticker thereon containing the name of STS.

The department denied SSI-exemption in respect of goods bearing the name/symbol of STS contending that the same amounts to affixation of brand name so as to dis-entitle the exemption. Discuss in the light of decided case law, if any, whether contention of the department is tenable in law.

(5 marks)

- (b) Is the port trust liable to pay duty on goods pilfered while in their possession ? Explain in brief under the Customs Act, 1962.

(5 marks)

- (c) What is *ad hoc* exemption under the Customs Act, 1962 ? Can it be granted even after duty is paid ?

(3 marks)

- (d) What is ACES ? Discuss briefly.

(2 marks)

7. (a) What are the conditions governing refund of import duty under section 26A of the Customs Act, 1962 ? Explain briefly.

(5 marks)

- (b) Distinguish between the following :

- (i) Export under bond by 'merchant exporter' and 'manufacturer exporter' under Rule 19 of the Central Excise Rules, 2002.
- (ii) 'Brand rate' and 'special brand rate' for duty drawback.

(4 marks each)

(c) Can an application for advance ruling be made by the following :

- (i) Government department.
- (ii) A resident importing goods under project import scheme.

(1 mark each)

PART — C

8. Attempt *any five* of the following :

- (i) What is 'tax heaven' ? What are the parameters to consider whether a jurisdiction is tax heaven or not, as outlined by the Organisation for Economic Co-operation and Development (OECD) ?

(4 marks)

- (ii) Mahesh, aged 64 years, is resident and ordinarily resident in India. His income is ₹16,80,000 from a business in India and ₹5,45,000 from a business in a foreign country with whom India has agreement for avoidance of double taxation (ADT). According to the ADT agreement, income is taxable in the country in which it is earned and not in other country. However, in the other country, such income can be included for computation of tax rate.

According to the tax laws of the foreign country, Mahesh has paid ₹32,000 as tax in that country. During the previous year, Mahesh has paid ₹28,000 as tuition fee for his daughter in India and ₹90,000 as tuition fee for his son outside India for full time education. Mahesh has also received an interest of ₹48,000 on Government securities. Find out the tax liability of Mahesh for the assessment year 2011-12. Does it make any difference, if Mahesh is a non-resident ?

(4 marks)

- (iii) What are the entry options available for foreign companies planning to set-up business operations in India ? Explain briefly.

(4 marks)

- (iv) Explain the binding nature of advance rulings under the Income-tax Act, 1961.

(4 marks)

- (v) What is the role of 'Transfer Pricing Officer' ? Is it possible for the Assessing Officer to pass the assessment order pertaining to the assessment year 2011-12 without considering arm's length price determined by the Transfer Pricing Officer ?

(4 marks)

- (vi) Distinguish between 'Cross Border Transactions' and 'International Transactions'.

(4 marks)