

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 and Part-C of the Question Paper relate to the Income-tax Act, 1961 and relevant Assessment Year 2014-15, unless stated otherwise.

PART — A

(Answer ANY TWO questions from this part.)

1. Discuss, with the help of decided case laws, whether the following expenditure are revenue or capital in nature :
 - (i) Expenditure incurred on purchase of computer software. The assessee has capitalised such expenditure in accounts.
 - (ii) Expenditure incurred on feasibility study conducted for examining proposals for technological advancement relating to the existing business, where the project was abandoned without creating a new asset.
 - (iii) Amount spent on replacement of an old machine with a new one. Assessee claims that the machine installed in the textile plant is a part of the entire composite machinery of spinning mill, hence it is a repair of the old and existing machine.
 - (iv) Expenditure incurred on total reconditioning and overhauling of machinery, which broke down several years ago, to make the same functional and increase its useful life by replacing many vital parts, overhauling and repairing of its power transmission unit, replacing electronic panel, geometrical aligning and painting of machine.
 - (v) Corporate membership fee paid by a company to the golf club for running the business to earn profit, if the membership is for a limited period of six years.

(3 marks each)

2. (a) Write short notes on the following :
 - (i) *Suo motu* revision by the Commissioner
 - (ii) Powers of the Commissioner to waive or reduce penalty
 - (iii) Valuation of building for the purpose of wealth-tax
 - (iv) Slump sale and demerger.

(3 marks each)

- (b) Discuss the provisions of dividend distribution tax under section 115-O. What is the penalty under section 271C for non-payment of dividend distribution tax ?

(3 marks)

3. (a) X Ltd. has share capital of ₹60 lakh. For expansion of business, it requires additional ₹60 lakh. To finance the project, the company has three options :

- (i) Issue of equity shares only.
- (ii) Issue of equity shares of ₹30 lakh and issue of 12% debentures amounting to ₹30 lakh.
- (iii) Issue of equity shares of ₹15 lakh, issue of 12% debentures of ₹30 lakh and remaining amount from borrowings from bank @20% interest per annum.

Assuming that the expected rate of return is 25%, advise which alternative the company should opt to maximize the rate of return. The rate of tax being 30.9%.

(5 marks)

- (b) An employee has been offered a job in Delhi in a private company at a basic salary of ₹15,000 per month. Besides basic salary, he is given an option to choose between Package-I or Package-II as detailed below :

Package-I

- (i) HRA ₹4,500 per month (rent payable ₹4,500 per month)
- (ii) Education allowance @ ₹400 per month for one child
- (iii) Telephone allowance @ ₹1,500 per month
- (iv) Medical allowance @ ₹2,000 per month
- (v) Conveyance allowance @ ₹1,500 per month (private purpose).

Package-II

- (i) Rent-free company owned unfurnished house, fair rent being ₹50,000 per annum.
- (ii) Free education facility to a child in the institution owned by the company, reasonable fee ₹800 per month.

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- (iii) Free telephone facility at the residence of employee.
- (iv) Medical reimbursement upto ₹24,000 per annum.
- (v) Facility of motor car for private use valued at ₹18,000 per annum.

Decide, which package will be suitable to minimize tax liability of the employee.

- (c) What are the features of a widely held company under section 2(18) ? (5 marks)
- (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) What can be the maximum rate of sales tax on declared goods —
 - (a) 4%
 - (b) 5%
 - (c) 12.5%
 - (d) 14%.
 - (ii) Which of the following motor-vehicle is not eligible as capital goods for the purpose of CENVAT credit to manufacturers —
 - (a) Dumper
 - (b) Tipper
 - (c) Bicycle
 - (d) Motorcycle.
 - (iii) Arrest can be made by any Central Excise Officer not below the rank of —
 - (a) Inspector
 - (b) Superintendent
 - (c) Assistant Commissioner
 - (d) Commissioner.

- (iv) Which of the following is not 'notified goods' for the purposes of section 123(2) of the Customs Act, 1962 —
- (a) Synthetic yarn
 - (b) Electronic calculators
 - (c) Mobile phones
 - (d) Watches.
- (v) Fees for filing memorandum of cross-objections by an assessee to CESTAT under the Customs Act, 1962 is —
- (a) ₹500
 - (b) ₹1,000
 - (c) ₹5,000
 - (d) None of the above.
- (vi) Under section 48 of the Customs Act, 1962 if the goods are not cleared after unloading, the same will be disposed after —
- (a) 15 Days
 - (b) 30 Days
 - (c) 45 Days
 - (d) 60 Days.

(1 mark each)

- (b) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
- (i) The _____ is not eligible to take credit of special CVD paid on imported goods under section 3(5) of the Customs Tariff Act, 1975.
 - (ii) A Company Secretary who has obtained _____ can act as an authorised representative in appeal.
 - (iii) Assessee can apply for settlement _____ in the lifetime of applicant except in respect of some specified cases.
 - (iv) Any conveyance or _____ used as a means of transport in the smuggling of any goods or in the carriage of any smuggled goods shall be liable to confiscation under section 115 of the Customs Act, 1962.

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- (v) Prosecution can be launched in court only with previous sanction of _____ in case of prosecution against officer of the rank of Assistant Commissioner of Customs and above.
- (vi) The concept of promissory *estoppel* has been explained in section 115 of _____.

(1 mark each)

(c) Distinguish between the following :

- (i) 'Special audit under section 14A' and 'special audit under section 14AA' of the Central Excise Act, 1944.
- (ii) 'Duty drawback under section 74' and 'duty drawback under section 75' of the Customs Act, 1962.

(4 marks each)

5. (a) Sure Cure Ltd. is manufacturer of medicines. It manufactured physician samples for free distribution to medical practitioners. The words - "Physician's sample - not for sale" were printed on the samples. Sale of physician samples is expressly prohibited under the Drugs and Cosmetics Act, 1940 and the rules made thereunder. The assessee contended that free samples are not liable to excise duty as these are not being sold and moreover the samples are not marketable in view of the statutory prohibition.

Examine the veracity of the assessee's contention with reference to decided case law.

(5 marks)

- (b) The assessee, an EOU, wrongly claimed an exemption. However, before claiming the same, it sought a clarification from the Development Commissioner. The Development Commissioner replied in favour of the assessee quoting a letter of Ministry of Commerce. Thereafter, the assessee claimed the exemption on import.

The Department issued a show cause notice under section 28(4) of the Customs Act, 1962, demanding duty for the period during which the exemption was wrongly claimed invoking extended period of limitation of 5 years on grounds that the assessee had misutilised the exemption and had sought clarification from a wrong authority. Is the action of Department justified in light of the provisions of the Customs Act, 1962 ? Discuss with the help of decided case law.

(5 marks)

- (c) Sincere Traders filed an appeal alongwith an application for stay before the CESTAT. However, since there had been a delay in filing the appeal, the assessee also filed an application for condonation of delay. The CESTAT ordered that the delay would be treated as condoned, if the assessee deposits 50% of the amount of tax. By the same order, the CESTAT also finally disposed of the assessee's application for stay.

Examine whether the CESTAT's order of depositing 50% of the tax amount for condoning the delay is legal ? Support your answer by citing relevant case law.

(5 marks)

6. (a) Jyoti Ltd. is a manufacturer, having two factories at Mumbai and Pune with turnover of ₹250 lakh and ₹140 lakh respectively in the previous year 2012-13. Turnover during the year 2013-14 from two factories was ₹270 lakh and ₹150 lakh respectively. Compute the total amount of excise duty paid by Jyoti Ltd. during 2013-14 in each of the following independent cases :

- (i) If it has availed CENVAT credit on inputs.
(ii) If it has not availed CENVAT credit on inputs.

Turnover represents value of clearances for home consumption computed in accordance with Notification No. 8/2003, excluding excise duty. Normal duty payable is 12% *plus* applicable cesses.

(5 marks)

- (b) Compute the duties payable by a 100% EOU from the following information in respect of excisable goods cleared by it to DTA (Domestic Tariff Area) in accordance with the policy and procedure applicable to the EOU, after obtaining requisite permissions :

| | |
|--|-----------|
| (i) Assessable value under central excise law | ₹1,80,000 |
| (ii) Assessable value under customs law | ₹2,00,000 |
| (iii) Rate of basic customs duty | 10% |
| (iv) Rate of excise duty on like goods manufactured in India | 12% |
| (v) Additional duty of customs under section 3(5) of the Customs Tariff Act, 1975 | 4% |
| (vi) Education cess | 2% |
| (vii) Secondary and higher education cess | 1% |

Assume that goods are not liable to VAT in India.

Also determine the quantum of CENVAT credit available to buyer.

(5 marks)

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- (c) Mrs. Kavita, a resident of India and carrying out her profession in USA, returned to India after 9 months of stay and brought —
- (i) Used personal effects (including jewellery ₹60,000) : ₹80,000
 - (ii) Professional equipments (including personal computer for ₹45,000) : ₹1,20,000
 - (iii) Used household articles : ₹25,000
 - (iv) A laptop worth : ₹75,000
 - (v) Other articles not falling under Annexure-I : ₹32,000.
- Determine the duty payable by Mrs. Kavita.

(5 marks)

7. (a) What are the powers of Central Excise Officers under the Central Excise Act, 1944 and the Customs Act, 1962 to recover the sums due to Government ? Explain briefly.
- (b) Explain the procedure for clearance of warehoused goods for home consumption under section 68 of the Customs Act, 1962. Can title to such warehoused goods be relinquished ?
- (c) What are the classes of importers, for whom e-payment of customs duty has been made mandatory ? What is 'ICEGATE' in this connection ?

(6 marks)

(6 marks)

(3 marks)

PART – C

8. Attempt *any four* of the following :

- (i) Briefly explain the concept of 'advance pricing agreement'.

(5 marks)

- (ii) Briefly state the quantum of interest required (in percentage), when the following criteria are applied for two enterprises to be deemed as associated enterprises :
- (a) Shareholding with voting power - either direct or indirect.
 - (b) Advancement of loan by one enterprise to other, constituting certain percentage of the book value of the total assets of the other enterprise.

- (c) Based on the Board of directors or members of the governing board of one enterprise, appointed by the other enterprise.
- (d) Total borrowing guarantee by one enterprise for the other.
- (e) Based on the quantum of supply of raw material and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, supplied by the other enterprise.

(1 mark each)

- (iii) Whether an advance ruling pronounced by the authority can be challenged by the applicant or any income-tax authority under Articles 226/227 of the Constitution before the High Court or under Article 136 of the Constitution before the Supreme Court ?

(5 marks)

- (iv) Would non-resident match referees and umpires in the games played in India fall within the meaning of sportsmen to attract taxability under the provisions of section 115BBA ? Discuss briefly with the help of decided case law, if any.

(5 marks)

- (v) Bimal, a non-resident individual, is due to receive interest of ₹40 lakh from a notified infrastructure debt fund eligible for exemption under section 10(47). He incurred an expenditure amounting to ₹5,000 for earning such income. Assuming that Bimal is a resident of notified jurisdictional area (NJA), discuss the tax implications under section 94A, read with sections 115A and 194LB.

(5 marks)