

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 8

NOTE : 1. Answer **ALL** Questions.

2. All the references to sections mentioned in Part-A of the Question Paper relate to the Income-tax Act, 1961 and relevant Assessment Year 2016-17, unless stated otherwise.

PART — A

1. (a) A company wants to raise capital of ₹40,00,000 for a project wherefrom earnings before tax would be 30% of the capital employed. The company can raise debt finance @ 12% p.a.

The following three alternatives for raising capital are available for the company :

- (i) ₹40,00,000 by equity capital
- (ii) ₹20,00,000 by equity capital and ₹20,00,000 by loans
- (iii) ₹8,00,000 by equity capital and ₹32,00,000 by loans.

Assume that the company would distribute the entire amount of profits as dividend. The tax rate is 30.9% and dividend distribution tax rate is 20.358%.

Work out which one of the above three alternatives should the company opt to minimise its tax liability ?

(5 marks)

- (b) What is 'advance ruling' ? State the procedure to obtain advance ruling.

(5 marks)

- (c) Comment with reasons on the taxability or otherwise of the following incomes for the year ended on 31st March, 2016 as per the Income-tax Act, 1961 :

- (i) Akhil, a not ordinarily resident, earned ₹65,000 from a business in Australia when he was in Australia. Later the profits were remitted to India.
- (ii) Birender, an ordinarily resident and a financial consultant, received a fee of ₹50,000 from an Indian company carrying on business in Canada for the services rendered there. The fee was directly deposited in a bank in Canada.
- (iii) Chandan, an ordinarily resident, earned agricultural income of ₹25,000 from land in England. He spent the entire income for his son's education in India.

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- (iv) Dinesh, a citizen of India, got employment in Burma. He left India on 1st September, 2015 after earning ₹5,00,000 in India. He earned ₹7,00,000 in Burma during the previous year.
- (v) Girish, a resident, brought to India, his income earned in 2010-11 in Sri Lanka which was not taxed in Sri Lanka.

(5 marks)

Attempt all parts of either Q.No. 2 or Q.No. 2A

2. (a) Discuss the meaning of 'associated enterprises' as defined under section 92A.

(5 marks)

- (b) Mrs. Kareena, an individual resident and citizen of India, earned remuneration in foreign currency from an enterprise in foreign country during her stay in that country in the previous year 2015-16. There is no DTAA with that country. The remuneration was ₹8,00,000 and ₹1,60,000 was deducted at source by the enterprise. Income from other sources of Mrs. Kareena in India was ₹2,00,000.

Compute the relief available to her under section 91 assuming that Mrs. Kareena brings ₹3,00,000 in India in convertible foreign exchange by 30th September, 2016. Also, compute the taxable income and tax liability of Mrs. Kareena for the assessment year 2016-17.

(5 marks)

- (c) Give examples of five incomes in India which are exempt under section 10 in respect of non-residents.

(5 marks)

OR (Alternate question to Q.No. 2)

- 2A. (i) What is advance pricing agreement ? State the validity period of the agreement. Also, specify the binding force of the agreement.

(4 marks)

- (ii) From the following information, determine the tax payable under section 115-O by a domestic company on the dividend distributed by it where the rate of dividend distribution tax is 20.358% :

— It received dividend of ₹5,00,000 on 20th November, 2015 from its subsidiary company which paid dividend distribution tax under section 115-O.

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- It distributed dividend of ₹33,00,000 on 14th December, 2015 to its shareholders.
- Out of ₹33,00,000, the company paid dividend of ₹3,00,000 to a person on behalf of the New Pension System Trust.

(3 marks)

(iii) What is an LLP ? How is it different from a partnership firm ?

(3 marks)

(iv) Distinguish between 'tax planning' and 'tax evasion'.

(5 marks)

PART — B

3. (a) Madhur Ltd. is engaged in the manufacture of machines. It has supplied one machine to Zeal & Co. at a price of ₹8,50,000 (excluding taxes and duties) on which a cash discount @ 2% is allowed as per terms of contract, as Zeal & Co. made full payment in advance. Further, following additional expenses have been incurred :

<i>Particulars</i>	<i>₹</i>
Expenses pertaining to installation and erection of the machine at Zeal & Co.'s premises (<i>machine was permanently affixed to earth</i>)	30,000
Packing charges	12,500
Design and engineering charges	4,000
Cost of material supplied free of charge by Zeal & Co. (<i>used in production of machine</i>)	10,000
Pre-delivery inspection charges (<i>charged by Madhur Ltd.</i>)	1,000
Bought out accessories supplied with the machine	8,000

Determine the total amount of central excise duty payable thereon from the aforesaid information assuming the rate of excise duty to be 12.5%.

(5 marks)

- (b) A material was imported by air at CIF price of US \$5,000. Freight paid was US \$1,500 and insurance cost was US \$500. The banker realised the payment from importer at the exchange rate of ₹65 per US dollar. Central Board of Excise and Customs notified the exchange rate at ₹63 per US \$. Find the value of material for the purpose of levying customs duty.

(5 marks)

(c) Raj Ltd. of Madhya Pradesh made a total purchase of input and capital goods of ₹55,00,000 during the month of January, 2016. The following further information is available :

- Goods worth ₹9,00,000 were purchased from West Bengal on which central sales tax @ 2% was paid.
- The purchases made in January, 2016 include goods purchased from unregistered dealers for ₹21,50,000.
- It purchased capital goods (not eligible for input credit) worth ₹9,50,000 and those eligible for input credit for ₹9,00,000.
- Sales made in Madhya Pradesh during the month of January, 2016 is ₹10,00,000 on which VAT @ 12.5% is payable.

Assuming that all purchases made are exclusive of tax and VAT @ 4% is paid on them, calculate —

- (i) The amount of input tax credit available for the month of January, 2016;
- (ii) VAT payable for the month of January, 2016; and
- (iii) Input tax credit carried forward.

Note : The input VAT credit on eligible capital goods can be availed in 36 equal monthly installments.

(5 marks)

(d) The residents welfare association (RWA) of Rising Sun Housing Society in Mumbai provides the following information with respect to the various amounts received by it in the month of September, 2015 :

<i>Particulars</i>	<i>₹</i>
Monthly maintenance charges from member families (₹2,500 each from 200 families)	5,00,000
Electricity charges levied by State Electricity Board on the members of RWA (the same were collected from members and remitted to the Board on behalf of the members)	3,50,000

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Electricity charges levied by State Electricity Board on RWA in respect of electricity consumed for common use of lifts and lights in the common area (<i>bill was raised in the name of RWA which collected the said charges by apportioning them equally among the 200 families and then remitted the same to the Board</i>)	4,00,000
Proceeds from sale of entry tickets to a cultural programme conducted by the RWA in the park of the society	40,000
Proceeds from sale of space for advertisements in members' directory (<i>members ₹1,00,000 and non-members ₹2,00,000</i>)	3,00,000
Fees received from two members who sold their flats in September, 2015	20,000

Compute the value of taxable services and service tax liability of RWA of Rising Sun Housing Society for the month of September, 2015.

Note : (i) Wherever applicable service tax is included in the receipts of RWA; (ii) RWA of Rising Sun Housing Society is not eligible for small service providers' exemption under Notification No. 33/2012-ST dated 20th June, 2012; and (iii) Wherever applicable, the point of taxation falls in the month of September, 2015.

(5 marks)

(e) Manish provides you the following information :

	₹
Royalty for providing technical know-how for manufacture of products	25,00,000
Royalty received for permanent transfer of trade mark	20,00,000
Annual royalty from authorship of books	18,00,000
Royalty received from temporary transfer of patent registered outside India	3,00,000
Royalty received from music company for allowing recording of song composed by Manish for further distribution	6,00,000
Research and development cess paid for import of technology	50,000

Compute the value of taxable service and tax liability (*ignore small service providers' exemption*).

Note : All charges are exclusive of service tax @ 14%.

(5 marks)

Attempt all parts of either Q.No. 4 or Q.No. 4A

4. (a) Apple Ltd. cleared certain goods to Peaches Ltd. paying higher rate of excise duty in the month of March, although the rate of duty on the said goods had been reduced in the budget of the same financial year. Peaches Ltd. refused to pay the higher duty which Apple Ltd. had paid by mistake. Peaches Ltd. raised a debit note in the month of June of the same year and Apple Ltd. applied for refund of the excess duty paid in August. The Department rejected the claim on the ground that the incidence of duty has been passed by Apple Ltd. to Peaches Ltd.

While claiming refund, Apple Ltd. relied on the debit note raised by Peaches Ltd. in the month of June to demonstrate that its customer Peaches Ltd. had not paid the excess duty to Apple Ltd. The Department contended that since the debit note was issued in the month of June and not in March, it could not be the basis for refund.

Examine with the help of decided case law, whether the contention of the Department is valid in law.

(5 marks)

- (b) Bleak Ltd. imported super kerosene oil (SKO) and stored it in a private warehouse. An *ex-bond* bill of entry for home consumption was filed and duty was paid as per the rate prevalent on the date of presentation of such bill of entry and the order for clearance for home consumption was passed. On account of highly combustible nature of SKO, the importer made an application to permit the storage of oil in the same warehouse until actual clearance for sale or use in terms of section 49 of the Customs Act, 1962. The application was allowed. However, the rate of duty increased when the goods were actually removed from the warehouse. The Department demanded the differential duty. The company challenged the demand.

Whether the company will succeed ? Discuss briefly by referring to decided case law, if any.

(5 marks)

- (c) Indian Coffee Co-operative Society Ltd. entered into agreements with a thermal company for running and maintenance of a guest house and with Lemon Ltd., for running and maintenance of catering services for the township of the company. The society charged amounts in cash from individual customers for food, eatables and beverages supplied according to rates stipulated in the menu card. The society did not pay any service tax as it was of the view that it did not provide any service to the thermal company or

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Lemon Ltd., but only sold goods in their canteens to the individual customers and not to the company. The companies provided a place for running the canteen on rent and reimbursed certain expenses for maintenance and running. Thus, there should not be any service tax liability on this activity. However, the Department demanded service tax treating the activity of the society as outdoor catering services. Decide with the help of case law whether Department is justified in demanding service tax.

(5 marks)

OR (Alternate question to Q.No. 4)

4A. (i) (a) Explain 'place of removal' under section 4(3)(c) of the Central Excise Act, 1944.

(3 marks)

(b) What legal action can be taken in case the retail price is not mentioned or is tampered after the removal of goods ?

(2 marks)

(ii) Under reverse charge mechanism, which services have been notified where service tax is jointly payable by both the service provider and service receiver ?

(5 marks)

(iii) Clean Power Co., a 100% export oriented undertaking (100% EOU) imported DG sets and furnace oil duty-free, for setting-up captive power plant for its power requirements for export production. They used the power so generated for export production but sold surplus power into domestic tariff area (DTA).

The Customs Department has demanded duty on DG sets and furnace oil as surplus power has been sold in domestic tariff area (DTA).

Discuss whether the demand of Customs Department is valid in law by referring to decided case law, if any.

(5 marks)

5. (a) Mention briefly the provisions relating to date for determination of rate of central excise duty.

(3 marks)

(b) What are the consequences in case the assessee fails to pay the central excise duty by the due date under Rule 8 of the Central Excise Rules, 2002 ?

(3 marks)

(c) Refund of import duty is available to an importer under section 26A of the Customs Act, 1962, if the goods are found to be defective and an application for refund of duty is made before the expiry of six months from the relevant date. What does the term 'relevant date' mean for the purposes of section 26A of the Customs Act, 1962 ?

(3 marks)

(d) Specify the penalty imposable for failure to pay service tax under section 76 of the Finance Act, 1994.

(3 marks)

(e) Specify the point of taxation in respect of payments pertaining to copyrights and trade marks.

(3 marks)

6. (a) What is the proposed GST regime ? Mention the State taxes and levies to be subsumed under GST.

(6 marks)

(b) (i) Briefly discuss the availability of input tax credit under VAT in respect of stock transfer.

(ii) Mention the methods which are generally used for computation of VAT.

(3 marks each)

(c) Mention, with reasons, whether the following are liable to service tax —

(i) A transaction in money

(ii) A provision of service by an employee to the employer in the course of his employment.

(iii) Fees paid to the Appellate Tribunal established under the Customs Act, 1962.

(1 mark each)