

DATE: 28.08.2016

MAXIMUM MARKS: 100

TIMING: 3 Hours

Answersheet

PAPER – : TAXATION

Answer 1:

(a) Computation of total income of Mr. Ravi for the A. Y. 2016-17

Particulars	Rs.
Profits and gains of business or profession (See Working Note 1 below)	10,46,500
Income from other sources (See Working Note 2 below)	<u>32,500</u>
Gross Total Income	10,79,000
Less: Deduction under section 80C (Investment in NSC)	<u>15,000</u>
Total Income	<u>10,64,000</u>

Working Note:

Particulars	Rs.	Rs.
Net Profit as per profit and loss account		11,20,000
Add: Expenses debited to profit and loss account but not allowable as deduction		
Salary paid to brother disallowed to the extent considered unreasonable [Section 40A(2)]	2,500	
Motor car expenses attributable to personal use not allowable (Rs. 78,000 x ¼)	19,500	
Depreciation debited in the books of account	55,000	
Drawing (not allowable since it is personal in nature) [See Note (iii)]	10,000	
Investment in NSC [See Note (iii)]	<u>15,000</u>	<u>1,02,000</u>
		12,22,000
Add: Under statement of closing stock		<u>12,000</u>
		12,34,000
Less: Under statement of opening stock		<u>8,000</u>
		12,26,000
Less: Contribution to a University approved and notified under section 35(1)(ii) is eligible for weighted deduction@175%. Since only the actual contribution (100%) has been debited to profit and loss account, the additional 75% has to be deducted.		<u>75,000</u>
		11,51,000
Less: Income credited to profit and loss account but not taxable as business income		
Income from UTI [Exempt under section 10(35)]	22,000	
Interest on debentures (taxable under the head "Income from other sources")	17,500	
Winnings from races (taxable under the head "Income from other sources")	<u>15,000</u>	<u>54,500</u>

Less: Depreciation allowable under the Income-tax Rules, 1962	10,96,500 <u>50,000</u> 10,46,500
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Notes:

- (i) Advertisement expenses of revenue nature, namely, gift of sweets to important customers, is incurred wholly and exclusively for business purposes. Hence, the same is allowable as deduction under section 37.
- (ii) Disallowance under section 40A(3) is not attracted in respect of cash payment of Rs.33,000 to Gupta & Co., a goods transport operator, since, in case of payment made for plying, hiring or leasing goods carriages, an increased limit of Rs. 35,000 is applicable (i.e. payment of upto Rs. 35,000 can be made in cash without attracting disallowance under section 40A(3))
- (iii) Since drawings and investment in NSC have been given effect to in the profit and loss account, the same have to be added back to arrive at the business income.

2. Computation of "Income from other sources"

Particulars	Rs.
Interest on debentures	<u>17,500</u>
Winnings from races	<u>15,000</u>
	<u>32,500</u>

Note:

The following assumptions have been made in the above solution:

1. The figures of interest on debentures and winnings from races represent the gross income (i.e., amount received plus tax deducted at source).
2. In point no. 7 of the question, it has been given that depreciation as per Income-tax Rules, 1962 is Rs. 50,000. It has been assumed that, in the said figure of Rs. 50,000, only the proportional depreciation (i.e., 75% for business purposes) has been included in respect of motor car.

(10 Marks)

- (b)** Computation of value of taxable service and service tax payable by Rahul & Co. for the quarter ended 30.09.20XX

Particulars	Rs.
Amount collected from clients for recruitment of Permanent staff	5,00,000
Temporary staff	3,00,000
Amounts collected from clients for pre-recruitment screening	2,50,000
Domestic helps arranged for friends & relative for free [Note -1]	Nil
Amount collected from a warehouse of agricultural produce for labour provided for loading and unloading [Note-2]	1,75,000
Advance received from prospective employers for conducting campus interviews in colleges to be held in November, 20XX [Note -3]	2,00,000
Value of taxable service including service tax	14,25,000
Value of taxable service (Rs. 14,25,000 x 100/114)	12,50,000
Service tax (Rs.12,50,000 x 14/100) [rounded off]	1,75,000

Note:

- Free services are not liable to service tax as there is no consideration involved.
- Since labour supplied to a warehouse for loading and unloading of agricultural produce can neither be considered as supply of farm labour nor loading, unloading of agricultural produce, such service is not covered in the negative list of services and hence, is taxable [Section 66D of the Finance Act, 1994].
- Since services agreed to be provided are also chargeable to service tax, advance received will also be liable to service tax. Such advance received from prospective employers will be taxable at the time when it is received irrespective of the fact that no campus interviews were subsequently conducted and advances received were returned to employers.
- Since none of the clients of Rahul & Co. was a body corporate in the relevant quarter, reverse charge provisions will not be applicable.

(6 Marks)

(c) Section 15 of the Customs Act, 1962 provides that in case the goods have been imported in a vehicle, the rate of duty shall be the rate in force on:-

- the date on which Bill of Entry is presented
- Or
- the date on which arrival of vehicle takes place

Whichever is later.

Therefore, the relevant date for determination of the rate of import duty, in the given case, is 20.09.20XX. Hence, the rate of import duty applicable in the given case is 12%.

(4 Marks)**Answer 2:****(a) Computation of taxable salary of Mr. Garg for the Assessment Year 2016-17**

Particulars	Rs.
Basic Salary (Rs. 80,000 x9)	7,20,000
Bonus	72,000
House Rent Allowance (Working Note 1)	1,44,000
Employer's contribution towards recognized provident fund in excess of 12% of salary [i.e., Rs. 1,10,000 - Rs. 86,400 (12% of Rs. 7,20,000)]	23,600
Gratuity (Working Note 2)	10,51,640
Uncommuted Pension [(Rs. 8,000 x 1) + (Rs. 1,600 x 2)]	11,200
Commuted Pension (Working Note 3)	<u>2,62,500</u>
Gross Salary	22,84,940
Less: Professional tax paid by Mr. Garg [deductible under section 16(iii)]	<u>5,000</u>
Taxable salary	<u>22,79,940</u>

Working Notes:

Particulars	Rs.	Rs.
(1) Taxable House Rent Allowance		
Actual HRA Received		1,80,000
As Per section 10(13A), least of the following is exempt:		
Actual HRA received	1,80,000	

	Excess of rent paid over 10% of salary (basic pay, in this case)			
	— Rent paid (Rs. 12,000 x 9)	Rs. 1,08,000		
	— Less: 10% of salary (i.e., 10% of Rs. 7,20,000)	Rs. <u>72,000</u>	36,000	
	50% of salary (i.e., 50% of Rs. 7,20,000)		3,60,000	
	Least of the above			<u>36,000</u>
	Taxable HRA			<u>1,44,000</u>
(2)	Taxable Gratuity			
	Actual Gratuity received			20,51,640
	As per section 10(10), least of the following is exempt:			
	Statutory limit		10,00,000	
	Actual gratuity received		20,51,640	
	15 days salary for each completed year of service or part thereof in excess of 6 months i.e., 15/26 x 80,000 x 35		16,15,385	
	Least of the above			<u>10,00,000</u>
	Taxable Gratuity			<u>10,51,640</u>
(3)	Commuted Pension			
	Since Mr. Garg is a non-government employee in receipt of gratuity, exemption under section 10(10A), would be available to the extent of 1/3 rd of the amount of the pension which he would have received had he commuted the whole of the pension.			
	Amount received (Commuted value of 80% of pension)			4,50,000
	Amount exempt from tax = (Rs. 4,50,000 x 100/80) x 1/3			<u>1,87,500</u>
	Taxable amount			<u>2,62,500</u>
(4)	Accumulated balance of Recognized Provident Fund (RPF)			
	Rs. 6 lakh, representing the accumulated balance of RPF, received on retirement is exempt since Mr. Garg has rendered a continuous service for a period of 5 years or more (34 years and 7 months) in PQR Ltd.			

(8 Marks)

(b) Computation of excise duty payable

Particulars	
Price of machinery	6,00,000
Add: Packing charges [Note 1 (i)]	9,000
Extra design charges [Note 1 (i)]	<u>20,000</u>
Total	6,29,000
Less: 2% cash discount on price of machinery [$6,00,000 \times 2\%$] [Note 1 (iv)]	<u>12,000</u>
Assessable value	6,17,000
Excise duty @ 12.5%	77,125

Notes :-

- While computing assessable value:-
 - Packing charges and extra designing charges have been included as such payments are 'in connection with sale'.
 - transit insurance shown separately in the invoice has not been included as it is a part of transportation cost.
 - Outwarded freight has not been included as it is incurred for transporting the goods beyond the place of removal.
 - Cash discount has been allowed as deduction as it has been passed on to the buyer.
- State VAT does not affect excise duty payable.

(5 Marks)

(c) Where an assessee has received any payment against a service to be provided which is not so provided by him either wholly or partially for any reason, the assessee may take the credit of such excess service tax paid by him, if the assessee has refunded the payment or part thereof, so received for the service not provided to the person from whom it was received [Rule 6 of the Service Tax Rules, 1994].

Since, in the given case, service provider Mohan has refunded the payment relating to the value of services not provided (Rs. 30,000) to service receiver Rakesh, he can take the credit of excess service tax paid by him on the said amount and adjust the same against his current service tax dues.

(3 Marks)**Answer 3:****(a)**

- True:** Section 10(18) exempts any income by way of pension received by Mr. A who has been awarded "Paramvir Chakra" or "Mahavir Chakra" or "Vir Chakra" or such other gallantry award as the Central Government, may, by notification in the Official Gazette, specify in this behalf.
- False:** As per section 10(10D)(c), any sum received under an insurance policy issued on or after 1.4.2003 but before 31.03.2012, in respect of which the premium payable for any year during the term of the policy exceeds 20% of actual capital sum assured, shall not be exempt from tax. Hence, the contention of Mr. Saurav is not correct since the one-time premium of Rs. 8 lakh paid by him is in excess of 20% of the sum assured [i.e. it exceeds Rs. 3 lakh, being 20% of Rs. 15 lakh]. Further, tax is deductible @2%

under section 194DA on such sum paid to Mr. Saurav, since the same is not exempt under section 10(10D).

(iii) False: The obligation under section 13A to maintain proper details of voluntary contributions in excess of Rs. 20,000 is over and above the obligation to maintain such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom.

(iv) False: Section 10(2) exempts any sum received by an individual as a member of a HUF where such sum has been paid out of the income of the family. Therefore, Rs. 20,000 should not be included in Mr. P's chargeable income. **(4 Marks)**

(b) Determination of residential status of Ms. Pratika for the A.Y. 2016-17

Ms. Pratika is a resident since she has stayed in India for 365 days during the P.Y.2015-16. Therefore she satisfies the condition of stay in India for a period of 182 days or more in the relevant previous year as per the requirement under section 6(1).

As per section 6(6), an individual is said to be "not ordinarily resident" in India in any previous year, if he has:

(a) been a non-resident in India in nine out of ten previous years preceding the relevant previous year; or

(b) during the seven previous years immediately preceding the relevant previous year, been in India for a period of, or periods amount in all to, 729 days or less.

Ms. Pratika must, therefore, satisfy either of the conditions to qualify as a not ordinarily resident.

Ms. Pratika was a non-resident in India up to A.Y.2014-15.

She was resident in India only for P.Y. 2014-15 (A.Y.2015-16) out of the ten previous years preceding P.Y. 2015-16 (A.Y.2016-17). This implies that she has been a non-resident in India in nine out of ten previous years preceding P.Y. 2015-16 (A.Y. 2016-17).

Further, she was in India only for a period of 416 days [i.e., 20 days in February, 2014 + 31 days in March 2014 + 365 days during the P.Y.2014-15] in the seven previous years preceding P.Y. 2015-16 (A.Y.2016-17).

Therefore, since Ms. Pratika satisfies both the conditions for "not-ordinarily resident", her residential status for A.Y.2016-17 would be "Resident but not ordinarily resident"

(4 Marks)

(c)

(i) Section 68 of Finance Act, 1994 casts the liability to pay service tax upon the service provider. This liability is not contingent upon the service provider realizing or charging service tax at the prevailing rate. Statutory liability does not get extinguished if service provider fails to realize or charge service tax from service receiver.

Therefore, action taken by tour operator is not correct in law. He will have to deposit service tax even if he has not collected the same from his client.

(ii) The Amount received by the tour operator from the service receiver will be taken to be inclusive of service tax. Accordingly, service tax payable by the tour operator shall be ascertained by making back calculations in the following manner:-

$$\text{Service tax Payable} = \frac{\text{Amount billed} \times \text{Service tax rate}}{(100 + \text{Service tax rate})} \quad \text{(4 Marks)}$$

(d) Computation of Mr. Mani's taxable turnover and CST payable

Particulars	Rs.	Rs.
Total inter-State sales		45,00,000
Less: Freight shown separately in the invoices [Freight not shown separately in invoices is not deductible]	1,50,000	
Goods returned by Mr. X [deductible as returned within 6 months]	45,000	
Goods rejected by Mr. Z after 6 months [deductible although returned after 6 months, as it is a case of an un-fructified sale]	<u>30,000</u>	<u>2,25,000</u>
Turnover (including CST)		42,75,000
Taxable turnover (rounded off) [Rs. 42,75,000 x 100/102]		41,91,176
CST @ 2% [Rs. 42,75,000 x 2/102]		
Since transactions are covered by valid 'C' Form, CST is 2% or sales tax rate within the State (5%), whichever is lower, i.e., 2%		
CST payable (rounded off)		83,824

(4 Marks)

Answer 4: (a)

a) Computation of business income of Mr. Vineet for the A.Y. 2016-17

Particulars	Rs.	Rs.
Net Profit as per profit and loss account		50,000
Add: Inadmissible expenses / losses		
Under valuation of closing stock	18,000	
Salary paid to brother – unreasonable [Section 40A(2)]	2,000	
Printing and stationery paid in cash [Section 40A(3)]	23,200	
Depreciation (considered separately)	1,05,000	
Short term capital loss on shares	8,100	
Donation to public charitable trust	<u>2,000</u>	<u>1,58,300</u>
		2,08,300
Less: Deductions items:		
Under valuation of opening stock	9,000	

Income from UTI [Exempt under section 10(35)]	2,400	11,400
Business income before depreciation		1,96,900
Less: Depreciation (See Note 1)		66,000
Business Income		<u>1,30,900</u>

Computation of business income as per section 44AD -

As per section 44AD, the business income would be 8% of turnover i.e., $12,11,500 \times 8 / 100 = \text{Rs. } 96,920$

The business income under section 44AD is Rs. 96,920.

As the business income under section 44AD is lower than the business income as per the normal provisions of the Act, it is advisable for Mr. Vineet to offer his business income under section 44AD.

Note 1:**Calculation of depreciation**

Particulars	Rs.
WDV of the block of plant & machinery as on 1.4.2015	4,20,000
Add : Cost of new plant & machinery	70,000
	4,90,000
Less : Sale proceeds of assets sold	50,000
WDV of the block of plant & machinery as on 31.3.2016	4,40,000
Depreciation @ 15%	66,000
No additional depreciation is allowable as the assessee is not engaged in manufacture or production of any article.	

(8 Marks)

(b)(i) In Case of renting of motor cabs, abatement of 60% from gross amount charged is available if CENVAT credit on inputs, capital goods and input services, other than input service of renting of motorcab, is not availed. Therefore, since in the given case, Mr. S avails CENVAT credit on inputs and capital goods, it cannot pay service tax on abated value.

In case of taxable services provided by way of renting of a motor vehicle designed to carry passengers on **non abated** value to any person who is not engaged in the similar line of business by any individual/HUF/partnership firm (whether registered or not) including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory; both service provider and service receiver are liable to pay service tax. 50% of tax is to be paid by service provider and 50% by service receiver.

Since in the given case, service by way of renting of motor cabs is provided by an individual (Mr. S) to another individual (Mr. T) and not to any body corporate, reverse charge provisions will not apply and entire service tax will be payable by service provider (Mr. S). Thus, service tax of Rs. 350 (14% of Rs. 2,500) is liable to be paid by Mr. S.

However, when motor cab is taken on rent by RST Ltd. (a company), reverse charge provisions will apply and 50% of tax will be paid by Mr.S (service provider) and 50% by

RST Ltd. (service receiver). Thus, Mr. S will pay Rs. 175 and RST Ltd. will pay Rs. 175.

(ii) In case of renting of motor cabs, abatement of 60% is available from gross amount charged on fulfillment of certain conditions. In other words, effective rate of service tax in case of renting of motor cabs provided on abated value is 5.6% [14% of 40%]. Since in the given case service tax payable is 5.6% of the value of taxable service [(Rs. 140/Rs. 2500) x 100 = 5.6%], service tax is payable on abated value.

In case of taxable services provided by way of renting of a motor vehicle designed to carry passengers on **abated** value to any person who is not engaged in the similar line of business by any individual/HUF/partnership firm (whether registered or not) including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory; entire service tax is liable to be paid by service receiver.

Since in the given case, renting of motor cab service is provided to a company (PQR Ltd.), reverse charge provisions will apply and entire service tax will be payable by service receiver (PQR Ltd.). Thus, service tax of Rs. 140 (5.6% of Rs. 2,500) is liable to be paid by PQR Ltd. **(8 Marks)**

Answer 5 :

- (a) Computation of income earned by minor children to be clubbed with the income of Mr. Kartik

	Particulars	Rs.
(i)	Income of son [See Note 1]	50,000
	Less: Income exempt under section 10(32) [See Note 5]	<u>1,500</u>
	Income to be clubbed	<u>48,500</u>
(ii)	Income of first daughter [See Notes 2 & 3]	10,000
	Less: Income exempt under section 10(32) [See Note 5]	<u>1,500</u>
	Income to be clubbed	<u>8,500</u>
(iii)	Income of second daughter [See Note 2]	8,500
	Less: Income exempt under section 10(32) [See Note 5]	<u>1,500</u>
	Income to be clubbed	<u>7,000</u>
	Total Income to be clubbed as per section 64(1A) [(i)+(ii)+(iii)]	64,000

Notes:

- (1) The specific provision under *Explanation 3* to section 64 for inclusion of income from business where the assets transferred directly or indirectly by an individual are invested by the transferee in business are applicable in cases of transfer to spouse or son's wife only. In case of minor, all income accruing or arising to him or her is, in any case, includible in the hands of the parent.
- (2) As per section 64(1A), in computing the total income of an individual, all such income accruing or arising to his minor child shall be included.
- (3) The income accruing or arising to a minor child on account of activity involving application of their skill, talent or specialized knowledge and experience is not includible in the total income of the parent. Therefore scholarship received by the first daughter is not includible in the hands of Mr. Kartik, assuming that the same is received on account of skill, talent or specialized knowledge of the minor daughter. The balance income of Rs.10,000 (Rs. 15,000 – Rs. 5,000) is includible in the hands of Mr. Kartik after providing deduction of Rs. 1,500

(4 Marks)

under section 10(32).

- (4) Further, as per the provisions of section 64(1A), income of a minor child suffering from any disability of the nature specified in section 80U would not be included in the total income of the parent. Therefore, in this case, the income of third daughter suffering from disability specified under section 80U is not includible in the total income of Mr. Kartik.
- (5) Under section 10(32), income of each minor child includible in the hands of the parent under section 64(1A) would be exempt to the extent of the actual income or Rs.1,500, whichever is lower.

(b) Computation of income from house property of Ms. Shikha for A.Y. 2016-17

Particulars	Rs.	Rs.
Gross Annual Value (See Note 1 below)		1,92,000
Less: Municipal taxes – paid by the tenant, hence not deductible		Nil
Net Annual Value (NAV)		1,92,000
Less: Deductions under section 24		
30% of NAV	57,600	
Interest on housing loan (See Note 2 below)		
- Interest on loan taken from bank	25,000	
- Interest on fresh loan to repay old loan for this property	5,000	87,600
Income from house property		<u>1,044,00</u>
50% share taxable in the hands of Ms. Shikha (See Note 3 below)		52,200

Notes:

1. **Computation of Gross Annual Value (GAV):** GAV is the higher of Expected rent and actual rent received. Expected rent is the higher of municipal value and fair rent, but restricted to standard rent.

Particulars	Rs.	Rs.	Rs.	Rs.
(a) Municipal value of property	1,60,000			
(b) Fair rent	1,55,000			
(c) Higher of (a) and (b)		1,60,000		
(d) Standard rent		1,70,000		
(e) Expected rent [lower of (c) and (d)]			1,60,000	

(f) Actual rent [16,000 x 12]			1,92,000	
(g) Gross Annual Value [higher of (e) and (f)]				1,92,000

2. Interest on housing loan is allowable as a deduction under section 24 on accrual basis. Further, interest on fresh loan taken to repay old loan is also allowable as deduction. However, interest on unpaid interest is not allowable as deduction under section 24.
3. Section 26 provides that where a house property is owned by two or more persons whose shares are definite and ascertainable, the share of each such person in the income of house property, as computed in accordance with sections 22 to 25, shall be included in his respective total income. Therefore, 50% of the total income from the house property is taxable in the hands of Ms. Shikha since she is an equal owner of the property.

(4 Marks)

(c) Liability to pay central excise duty falls on actual manufacturer of goods. Therefore, in this case, JBK Engineering Company, being actual manufacture, will be liable to pay excise duty. This would be so even if raw material does not belong to them and goods manufactured by them bear the brand name of Famous Hero Motors Ltd. as in case of central excise, ownership of goods is not the relevant criterion to determine duty liability.

(3 Marks)

(d) (i) **The said statement is not valid.** Mega Exemption Notification No. 25/2012 ST dated 20.06.2012, provides that services provided, inter alia, to Government by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and up-gradation are exempt but the exemption is not extendable to other services such as consultancy, designing, etc., not directly connected with these specified services.

(ii) **The said statement is not valid.** Abatement notification No. 26/2012 ST dated 20.06.2012 provides an abatement of 70% in respect of transport of goods in a vessel. Thus, transport of goods in a vessel would attract service tax at 30% of the value of taxable service provided CENVAT on inputs, capital goods input service has not been taken.

(iii) **The said statement is not valid.** Abatement Notification No. 26/2012 ST dated 20.06.2012 provides that the condition for non-availment of CENVAT credit is required to be satisfied by the service providers only.

(iv) **The said statement is not valid.** Mega Exemption Notification No. 25/2012 ST dated 20.06.2012, provides that, transport of passengers, with or without accompanied belongings, by non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire, is exempt from service tax. Therefore, any service provided for transport of passengers by air-conditioned contract carriages like buses including the ones used for point to point travel, attracts service tax.

(5 Marks)

Answer 6

(a) (i) Computation of depreciation for A.Y.2016-17

Particulars	Rs.
W.D.V. of the block as on 1.4.2015	8,50,000
Add: Purchase of new plant during the year	<u>5,50,000</u>
	14,00,000
Less: Sale consideration of old machinery during the year	<u>11,00,000</u>
W.D.V of the block as on 31.03.2016	<u>3,00,000</u>

Since the value of the block as on 31.3.2016 comprises of a new asset which has been put to use for less than 180 days, depreciation is restricted to 50% of the prescribed percentage of 15% i.e. depreciation is restricted to 7½%. Therefore, the depreciation allowable for the year is Rs. 22,500, being 7½% of Rs. 3,00,000.

The provisions under section 50 for computation of capital gains in the case of depreciable assets can be invoked only under the following circumstances:

- (a) When one or some of the assets in the block are sold for consideration more than the value of the block.
- (b) When all the assets are transferred for a consideration more than the value of the block.
- (c) When all the assets are transferred for a consideration less than the value of the block.

Since in the first two cases, the sale consideration is more than the written down value of the block, the computation would result in short term capital gains.

In the third case, since the written down value exceeds the sale consideration, the resultant figure would be a short term capital loss.

In the given case, capital gains will not arise as the block of asset continues to exist, and some of the assets are sold for a price which is lesser than the written down value of the block.

- (ii) If the four machines are sold in June, 2015 for Rs.18,00,000, then short term capital gains would arise, since the sale consideration is more than the aggregate of the written down value of the block at the beginning of the year and the additions made during the year.

Particulars	Rs.	Rs.
Sale consideration		18,00,000
Less:		
W.D.V. of the machines as on 1.4.2015	8,50,000	
Purchase of new plant during the year	<u>5,50,000</u>	<u>14,00,000</u>
Short term capital gains		<u>4,00,000</u>

(8 Marks)

(b) Computation on Net VAT liability of Ashok

Particulars	RS.	Rs.
Output VAT (50,00,000 x 12.5%) [A]		6,25,000
Input VAT [B]		
Raw material 'A' (30,00,000 x 60% x 4%) [Refer Note]	72,000	
Raw material 'B' (15,00,000 x 1%)	<u>15,000</u>	<u>87,000</u>
Net VAT payable by Ashok [A] - [B]		<u>5,38,000</u>

Note : Input tax credit is allowed only in respect of the raw material used in manufacture of taxable goods and hence, the same has been restricted to the extent of 60%.

(4 Marks)

- (c) In case of taxable service provided or agreed to be provided by way of sponsorship to any body corporate or partnership firm located in the taxable territory, person liable to pay service tax is the person receiving such service.

However, since in the given case sponsorship service is provided to an individual (Mr. A), the person liable to pay service tax will be service provider i.e., 'Taal Academy'. Further' since the status of service receiver is relevant for determining as to who would pay service tax, status of service provider is immaterial. Therefore, as long as sponsorship service is rendered to an individual, service tax will be payable by service provider i.e., 'Taal Academy' irrespective of whether the same is run by an individual or a partnership firm.

(4 Marks)

Answer 7:

- (a) As per section 194-IA, any person, being a transferee, responsible for paying to a resident transferor any sum by way of consideration for transfer of any immovable property (other than rural agricultural land) is required to deduct tax at source@1% of such sum, if the consideration for transfer is Rs. 50 lakhs or more. The deduction of tax at source has to be made at the time of credit of such sum to the account of the transferor or at the time of payment of such sum, whichever is earlier.

Accordingly, in this case, since the sale consideration of house property exceeds Rs. 50 lakh, Mr. Sanjay, the transferee, is required to deduct tax at source at 1% of Rs. 80 lakhs, being the consideration for transfer of house property.

The tax to be deducted under section 194-IA would be Rs. 80,000, being 1% of Rs. 80 lakh.

Since TDS provisions under section 194-IA are attracted in respect of transfer of any immovable property, other than rural agricultural land, no tax is required to be deducted by Mr. Sanjay from the sale consideration payable for transfer of rural agricultural land.

- (b) (i) False: Section 140(b) provides that where the Karta of a HUF is absent from India, the return of income can be verified by any other adult member of the family; such member can be a male or female member.
- (ii) True: Section 139A(2) provides that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person, whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed.

(4 Marks)

- (c) In case of continuous supply of service, the date of completion of each event which requires the service receiver to make any payment to service provider, as specified in the contract is deemed to be the date of completion of provision of service.

The point of taxation will, then, be determined accordingly in terms of provisions of

rule 3 of the POTR.

As per rule 3 of the POTR, if the invoice is issued within 30 days of the completion of the provision of the service, point of taxation is :-

- (i) date of invoice
- or
- (ii) date of payment,

Whichever is earlier.

However, if the invoice is not issued within 30 days of the completion of the provision of the service, point of taxation is :-

- (i) date of completion of service
- or
- (ii) date of payment,

Whichever is earlier.

(4 Marks)

(d) Computation of CENVAT credit available with RAm Services Ltd.:

Particulars	Rs.
Accounting and auditing services [Note 1]	10,00,000
Legal services [Note 1]	5,00,000
Security services [Note 1]	50,000
Motor vehicles taken on rent [Note 2]	Nil
Total CENVAT credit available	<u>15,50,000</u>

Note :

1. As per the definition of the input services, there is a specific inclusion with regard to the following services :-
 - (a)** Accounting and auditing services
 - (b)** Legal services
 - (c)** Security services

Hence, the CENVAT credit of the service tax paid on the aforesaid services is available.

2. The definition of input services specifically excludes the services of renting of motor vehicles which are not eligible capital goods.

(4 Marks)