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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 2015-16, unless stated otherwise.

PART — A

1. (a) Jatin submits the following information relevant for the assessment year 2015-16 :

	₹
Short-term capital gains	1,25,000
Income from owning and maintaining race horses	20,000
Income from units of mutual fund	17,000
Long-term capital gains in respect of buildings	7,000
Business profits	14,000
The following items have been brought forward :	
Long-term capital loss in respect of assessment year 2012-13	30,000
Brought forward business loss from assessment year 2013-14	15,000
Brought forward loss from the activity of owning and maintaining race horses from the assessment year 2011-12	27,000
Speculation losses of the assessment year 2012-13	35,000

Calculate the gross total income of Jatin for assessment year 2015-16.

(5 marks)

(b) From the following information, advice as to which shall be a better option, *i.e.*, repair or replacement of machine :

- The cost of repair is ₹90,000 and the machine will work for 4 years.
- An expenditure of ₹18,00,000 shall be incurred on the purchase of new machine and the scrap value of machine after 10 years would be ₹72,000.

- On purchase of new machine the production will increase and the profit of the organisation will increase from ₹9,00,000 to ₹15,00,000 per year.
- Rate of interest is 15% (on purchase).
- The old machine can be sold at present for ₹1,50,000 and after 4 years it would be sold for ₹30,000.
- The rate of income-tax is 30% and no surcharge is payable. Education cess is applicable as per rules.

(5 marks)

- (c) Alfa Ltd., a domestic company purchased its own unlisted shares on 4th July, 2014. The consideration for buy-back amounting to ₹10.50 lakh was paid on the same day. The amount received by the company two years back for issue of such shares was ₹6.5 lakh. The Assessing Officer has issued a notice to tax the gains on shares to which company denies. State the correctness of the contention of Assessing Officer and also compute the tax payable, if any. Also, compute the amount of interest, if any, payable by company assuming that the tax due is paid to the credit of the Central Government on 29th September, 2014.

(5 marks)

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

2. (a) Ms. Alicia is a German national working in Sinsang Ltd., in Turkey. Sinsang Ltd., neither has any office in India nor done any business in India. The company deputed Ms. Alicia to India on 31st January, 2015 for conducting market survey. She went back to Turkey on 30th March, 2015. Salary of US \$50,000 for the period of her stay in India was credited in an account maintained by her in India.

Examine the taxability of the salary income received by her in India. Would your answer be different, if Sinsang Ltd. is maintaining its office in Delhi ?

(5 marks)

- (b) Narrate the provisions of the Income-tax Act, 1961, with respect to surcharge on income-tax for various types of assesseees for the assessment year 2015-16.

(5 marks)

- (c) State the rate of deduction allowable under the Income-tax Act, 1961 while assessing income from business or profession in the following cases :
- (i) For acquisition and installation of new plant or machinery by a manufacturing company.
 - (ii) For expenditure (revenue or capital) on in-house scientific research by a company engaged in business or manufacture or production of any article other than those specified in the Eleventh Schedule of the Income-tax Act, 1961.
 - (iii) Contribution to approved scientific research association including social and statistical research.
 - (iv) Capital expenditure (other than on acquisition of land, goodwill or financial instrument) incurred for setting-up and operating cold chain facility.
 - (v) Expenditure incurred by companies on notified skill development projects.

(5 marks)

OR (Alternate question to Q.No. 2)

- 2A. (i) Nitin, a resident of India has the following incomes during the previous year 2014-15 :

	₹
Income from textiles business in India	7,30,000
Income from garment business in Canada (<i>with which India does not have double tax avoidance agreement</i>)	2,40,000
Tax levied in Canada on the above said income	54,000
Purchase of NSC VIII Issue	70,000

Compute the tax liability of Nitin.

(5 marks)

- (ii) What do you mean by 'transfer pricing' ? Explain its importance and benefits.
- (iii) Under what circumstances an application for advance ruling will not be allowed ? Is advance ruling binding on the income-tax department ? When does an advance ruling become *void* ?

(5 marks)

PART — B

3. (a) Cost of production of a product manufactured by ABC Ltd. worked out to ₹350 per piece. Out of the total produced pieces, company sold 120 pieces @ ₹700 per piece to industrial consumers, 70 pieces to a Central Government department @ ₹690 per piece, 210 pieces to wholesaler @ ₹720 per piece and 70 pieces in retail @ ₹800 per piece. 20 pieces were distributed as free samples. Out of the 70 pieces sold to Government department, 20 pieces were rejected by them, which were subsequently sold to other customers @ ₹300 per piece, without bringing them back into the factory. Balance pieces were in stock, out of which 25 pieces got damaged and have become unsaleable.

All the above prices are exclusive of excise duty and VAT. The rate of excise duty on the product is 12% *plus* education cess @ 3%.

- (i) Calculate the amount of excise duty payable.
- (ii) Advise the management about the steps to be taken in respect of 25 pieces which were damaged in storage and became unsaleable.

(5 marks)

- (b) Shyam Ltd. makes an unauthorised import of 3,000 pieces of a product CIF priced at \$2 per piece by air from USA. The consignment is liable to be confiscated. The import is adjudicated. Assistant Commissioner gives to the company an option to pay a fine in *lieu* of confiscation. It is proposed to impose fine equal to 50% of margin of profit. The market price is ₹200 per piece. The rates of duty are as under :

Basic customs duty	20%
Additional customs duty under section 3(1)(vi)	12%
Additional customs duty under section 3(5)	Nil
Exchange rate is ₹50 per U.S. Dollar.	

Compute — (i) the amount of fine; and (ii) total amount payable by the company to clear the consignment. (*Calculations should be made to the nearest rupee*).

(5 marks)

- (c) Comment on the applicability or otherwise of service tax, in the following cases :
- (i) Service provided by a private transport operator to higher secondary school in relation to transportation of students to and from the school.
 - (ii) Vehicle parking service provided to general public in a shopping mall.

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- (iii) Transportation of petroleum and petroleum products and household effects by railways.
- (iv) Transportation of postal mails and mail bags by a vessel.
- (v) Transport facility provided by a school (not recognised by government) to its students through a fleet of buses and cabs owned by the school.

(5 marks)

- (d) Majboot Constructions undertakes works contracts and maintains sufficient records to quantify the labour and other service charges. From the details given below, calculate the taxable turnover, input tax credit and net VAT payable under the State VAT law (output VAT rate is 12.5%) :

	₹
Total contract price (<i>excluding VAT</i>)	90,00,000
Materials purchased and used for the contract taxable @ 12.5% VAT (<i>inclusive of VAT</i>)	16,87,500
Labour charges paid for execution of the contract	20,00,000
Other service charges paid for the execution of the contract	12,00,000
Cost of consumables used not involving transfer of property in goods	3,00,000

Majboot Constructions also purchased a plant for use in the contract for ₹10,40,000 (inclusive of VAT). In the VAT invoice relating to the plant, VAT was charged at 4% separately. Assume 100% input tax credit is available on capital goods immediately.

(5 marks)

- (e) Mahesh Engineers Ltd. removed goods from their factory at Kanpur on 20th April, 2015 for sale from their depot at Baroda. On that date, the normal transaction value of goods at Kanpur factory was ₹35,000 while normal transaction value at Baroda depot was ₹33,000. The rate of excise duty was 12% *ad valorem*. The said goods were sold from Baroda depot on 15th May, 2015. On that date the normal transaction value at Baroda depot was ₹39,000 and rate of duty was 16%.

Mahesh Engineers Ltd. paid the duty on ₹35,000 @ 12%. The Central Excise Department claimed that central excise duty should be levied @ 16% on the value ₹39,000.

Examine the Department's claim and comment.

(5 marks)

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

4. (a) State whether the physician samples of the patentor and proprietary medicines are excisable goods despite being statutorily prohibited from being sold. Discuss briefly in the light of a decided case law.

(5 marks)

- (b) With reference to section 9AA of the Customs Tariff Act, 1975, state briefly the provisions of refund of anti-dumping duty with reference to relevant case law.

(5 marks)

- (c) The petitioner, a charitable society is engaged in running internationally renowned schools. It allowed other schools to use its name, logo and motto and as a consideration thereof, received collaboration fees from such schools which comprised of a non-refundable amount and an annual fee. The schools were required to observe certain obligations/terms and un-impeachable confidentiality.

Department contended that the petitioner was engaged in providing franchise service and accordingly issued show cause notice proposing to recover service tax along with interest and penalty.

Examine the validity of the Department's action with reference to decided cases, if any.

(5 marks)

OR (Alternate question to Q.No. 4)

- 4A. (i) Bhuwan Ltd. was awarded a contract for providing repair and maintenance services in respect of an immovable property for ₹3,50,000. As per the terms of contract, the material required for repair and maintenance was also provided by Bhuwan Ltd. Are said services subject to service tax ? If so, determine the service tax liability of Bhuwan Ltd.

(5 marks)

- (ii) Is assessee required to reverse the CENVAT credit availed on capital goods destroyed by fire when the insurance company reimburses the value of such capital goods inclusive of excise duty ? State with relevant provisions of law.

(5 marks)

- (iii) Quoting the relevant provisions of the law, state the relevant dates for determining :
- (a) Rate of duty, when warehoused goods are removed for home consumption.
 - (b) Rate of duty, if the warehoused goods are not removed from the warehouse within the permissible period.

(5 marks)

5. (a) Who are not eligible for composition scheme under the VAT regime ?

(3 marks)

- (b) With reference to the Central Excise Act, 1944 and the rules thereunder, state with reasons, whether the following persons require registration or not :

- (i) Persons manufacturing goods which are chargeable to *nil* rate of duty.
- (ii) Central Government undertakings manufacturing excisable goods.
- (iii) 100% export oriented undertaking (EOU).

(3 marks)

- (c) Write a brief note on taxpayer's identification number (TIN) for the purpose of VAT.

(3 marks)

- (d) XYZ Ltd., an Indian company, provides a taxable service to its other establishment in USA. Can the services provided by an establishment of a person in a taxable territory to another establishment of the same person in a non-taxable territory be considered as export of service ? Give reason in brief.

(3 marks)

- (e) A show cause notice demanding customs duty was issued in case of clearance made by 100% export oriented undertaking (EOU) to domestic tariff area (DTA). Is the show cause notice defective in law ? Explain in brief.

(3 marks)

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6. (a) Explain the role of Company Secretaries under the VAT regime in India. *(5 marks)*
- (b) (i) Name the quarterly returns to be filed under Rule 12 of the Central Excise Rules, 2002. *(3 marks)*
- (ii) When is duty drawback prohibited under the Customs Act, 1962 ? *(2 marks)*
- (c) "All purchases of goods meant for re-sale or manufacture of taxable goods are eligible for input tax credit." Comment. *(5 marks)*

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