SOLUTION TO IPCC TAXATION PAPER HELD ON 17/11/2010

Q 1(a) Mr. Soohan submits the following details of his income for the AY 2010-2011 from which Calculate the gross total income and amount of losses to be carry forwarded **(5 marks)**

Income from salary	Rs. 3,00,000
Income from house property	Rs. (40,000)
Income from sugar business	Rs. 50,000
Loss of iron ore business b/f (it was discontinued in the AY 2003-2004)	Rs. 1,20,000
Short term capital gains	Rs. (60,000)
Long term capital gains	Rs. 40,000
Dividend	Rs. 5,000
Income from winning of lottery (gross)	Rs. 50,000
Winning in card games	Rs. 6,000
Agriculture income	Rs. 20,000
Long term capital gains from listed equity shares on which STT has been paid	Rs. 10,000
Short term capital gains u/s 111A	Rs. (10,000)
Bank interest	Rs. 5,000

Solution:

Calculation of Gross Total Income for the AY 2010-2011

Income from Salary				3,00,000
Income from House Property				(40,000)
Income from Business And Profession	Profit from sugar business Less: BF loss from iron ore business	50,000 (50,000)		NIL
Income from Capital Gains	LTCG STCG	40,000 (40,000)	NIL	
	LTCG from listed equity shares-STT is paid Less Exempt u/s 10(38)	10,000 10,000	NIL	NIL
Income from Other Sources	Dividend Less: Exempt u/s 10(34)	5,000 5,000	NIL	
	Lottery winnings		50,000	
	Winnings from Card Games		6,000	
	Agriculture Income Less: Exempt u/s 10(1)	20,000 20,000	NIL	
	Bank Interest		5,000	61,000
Gross total income				**3,21,000**

Losses to be Carried Forward to the AY 2011-2012

a) Loss from iron ore business Rs. 70,000
b) LTCL Rs. 20,000
c) STCL u/s 111A Rs.10,000

Q 1(b) Mr. A is a proprietor of Akash Enterprises having 2 units. He transferred on 1/4/2009 his unit 1 by the way of slum sale for the total consideration of Rs. 25,00,000. The expenses incurred for this transfer were Rs. 28,000. His balance sheet as on 31/3/2009 is as under: **(5 marks)**

Liabilities	Rs.	Assets	Unit 1 (Rs.)	Unit 2 (Rs.)	Rs.
Capital	15,00,000	Building	12,00,000	2,00,000	14,00,000
Revalution reserve (for building of unit 1)	3,00,000	Machinery	3,00,000	1,00,000	4,00,000
Bank loan (70% for unit 1)	2,00,000	Debtors	1,00,000	40,000	1,40,000
Trade creditors (25% for unit 1)	1,50,000	Other assets	1,50,000	60,000	2,10,000
Total	**21,50,000**	**Total**	**17,50,000**	**4,00,000**	**21,50,000**

Other information is as follows:

(1) Revaluation reserve is created by revising upward the value of the building of unit 1.
(2) No individual value of any asset is considered in the transfer deed.
(3) Other assets on unit 1 include patents acquired on 1/7/2007 for Rs. 50,000 on which no depreciation has been charged.

Compute the amount of capital gains for the AY 2010-2011

Solution:

Calculation of capital gains under section 50B-slum sale

Sale consideration	25,00,000
Less: Selling expenses	28,000
Net sale consideration	24,72,000
Less: net worth of the organization	15,72,500
STCG	**8,99,500**

NOTE: Since the time period for which organization is being run, is not given to us, we have assumed the time period to be less than 3 years and that's why STCG has been calculated

Calculation of net worth of the organization

Net worth = book value of assets less book value of liabilities
Net worth = 17,50,000 – 1,77,500
Net worth = 15,72,500

Calculation of book value of assets

Building	Rs. 12,00,000
Machinery	Rs. 3,00,000
Debtors	Rs. 1,00,000
Other assets	Rs. 1,50,000
Total book value of assets	Rs. 17,50,000

Calculation of book value of liabilities

Bank loan	(70%)	Rs. 1,40,000
Creditors	(25%)	Rs. 37,500
Total book value of liabilities		Rs. 1,77,500

Q1(c) Smart & express co is providing taxable information technology software services. The firm furnishes the following information relating to the services rendered, bills raised, amount received pertaining to this services for the financial year ended on 31/3/2010 as under: **(5 marks)**

1)	Amount received being 10% of the assignment fees on 31/3/2010 for the up gradation and enhancement of the software services to be rendered during the FY 2010-2011	Rs. 6,00,000
2)	Services provided to UNICEF , an approved international organization in Ganghinagar, for analysis, design and programming of latest information technology software	Rs. 5,00,000
3)	Services billed to client (in one of the bill amount to Rs. 3,00,000 service tax was not charged due to the conflicting nature and in another bill the firm failed to recover the service tax from the client which was separately charged. The bill amount including service tax and education cess was Rs. 8,82,400)	Rs. 30,00,000
4)	Amount received for services rendered during the current financial year (excluding payment for 2 bills in item (3) above for which payment received during the current financial year)	Rs. 1,04,78,500

Service tax and education cess has been charged separately in all bills except wherever mentioned when it is not so charged separately. Compute the value of total taxable services and service tax payable thereon for the year ended 31/3/2010, assigning reasons in brief to the treatment of all items.

Solution

Calculation of value of taxable services and amount of service tax

Particulars	**Reason**	**Value of taxable service**
Advance amount for the up gradation to be done in	Service tax is payable on the advance amount received since for the purpose of service tax cash	6,00,000

FY 2010-2011	basis of accounting is followed.	
Services to UNICEF	Services to approved international organizations exempted services	NIL
Services to various clients	Services are taxable even if service tax is not charged by the service provider	3,00,000 / 110.3 X 100 = 2,71,985
Services to various clients	Services are taxable even if service tax is charged by the service provider but not received	8,00,000 / 110.3 X 100 = 7,25,294
Amount received from various clients	Service tax is payable on the amount received	1,04,78,500

Total value of services	Rs. 1,20,75,779
Service tax @ 10%	Rs. 1,20,75,77.9
Add: primary education cess @ 2%	Rs. 24151.56
Add: secondary and higher education cess	Rs. 12075.78
Service tax payable rounded off u/s 37D of Central Excise Act	**Rs. 12,43,805**

Q 1(d) Mr. Rajesh is a registered dealer and gives the following information. You are required to compute the net tax liability and total sales under the VAT from the following information. **(5 marks)**

1) Rajesh sells his products to dealers in his state and other states as well.
2) The profit margin in 15% of cost of production and VAT rate of sales is 12.5% of sales.
3) Intra state purchase of raw material is Rs. 2,50,000 (excluding VAT of 4%)
4) Purchase of raw material from an unregistered dealer Rs, 80,000 (including VAT of 12.5%)
5) Import of raw material Rs. 1,85,000 (excluding custom duty of 10%)
6) Purchase of raw material from other state Rs. 50,000 (excluding CST of 2%)
7) Transportation charges, wages and other manufacturing expenses excluding tax Rs. 1,45,000
8) Interest on bank loan Rs. 70,000.

Solution:

	Calculation of Total sale price	**Rs.**
(1)	Cost of materials purchased from intra state excluding tax	2,50,000
(2)	Cost of materials purchased from unregistered dealer including VAT	80,000
(3)	Cost of materials purchased from overseas	2,03,500
(4)	Cost of materials purchased from interstate trade including CST	51,000
(5)	Transportation charges, wages and other expenses	1,45,000
(6)	Interest paid	70,000
	Total cost of production	7,99,500
	Add: profit margin 15% of cost	1,19,925
	Total sale price	9,19,425
	VAT @ 12.5%	1,14,928.13
	Less: Input VAT credit (only for intra state sale transaction) 2,50,000 X 4%	10,000
	VAT amount payable rounded off in multiples of Re. 1	**1,04,928**

Q 2(a) (i) Which income of Sikkimese individual is exempted from tax under section 10(26AAA)? **(4 marks)**

Solution:

Incomes of individual who is of Sikkimese origin: Section 10(26AAA): In case of an individual, being a Sikkimese, any income which accrues or arises

(a) from any source in the State of Sikkim; or
(b) by way of dividend or interest on securities from any place

Shall be fully exempt from tax. Provided these incomes shall not be exempt to a Sikkimese woman who, on or after 1/4/2008 marries an individual who is not a Sikkimese.

Explanation For the purposes of this clause, “Sikkimese” shall mean—

(i) an individual, whose name is recorded in the register of Sikkim Subjects immediately before the 26/4/1975; or
(ii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual’s father or husband or paternal grandfather or brother from the same father has been recorded in that register.

Q 2(a) (ii) How will you calculate the period of holding in case of the following assets? **(4 marks)**

1) Shares held in a company in liquidation
2) Bonus shares
3) Flat in a co-operative society
4) Transfer of a securities by a depository (ie DEMAT account)

Solution:

Period of holding in various situations

(1) Shares held in a company in liquidation: period of holding will start from date of allotment of shares in a company in liquidation and the period subsequent to the date on which the company goes into liquidation shall be excluded.
(2) Bonus shares: Period of holding will start from the date of allotment of shares.
(3) Flat in a co-operative society: Period of holding will start from the date of allotment of shares in the society.
(4) Transfer of shares in the DEMAT account by a depository: Period of holding will start from the date when shares were credited to the DEMAT account and the method of First in First out shall be followed.

Q 2(b) How can an assessee adjust the excess payment of service tax against his liability of service tax for the subsequent periods? What is the basic condition for it? **(4 marks)**

Solution:

Excessive payment of service tax

(1) According to service tax rule 6(3) where an service provider has paid service tax to the Central Government on service, which is not so provided by him the service provider may adjust the excess service tax so paid by him against his future service tax liability.
(2) This is allowed only if the service provider has refunded the service tax to the person from whom it was received.
(3) The service provider will have to submit documentary evidence of such adjustment at the time of filing of service tax return in form ST-3.
(4) This adjustment shall be done on the pro-rata basis over the future period.
(5) It has been provided that service provider making quarterly payment can adjust excess service tax in 2 installments at the time of each relevant quarterly payment or 6 installments at the time of each relevant monthly payment as the case may be.
(6) Such excess amount can be adjusted to the maximum of Rs. 1,00,000.

Q 2 (c) What records should be maintained under VAT system by a registered dealer? **(4 marks)**

Solution:

VAT RECORDS TO BE MAINTAINED

1) Purchase records
2) Sales records (Separate record of any exempt sale)
3) Record of Inter-State Sales and Inter-State transfer of goods (supported by statutory declarations)
4) VAT account

VAT DOCUMENTS TO BE RETAINED

1) Copies of Sale Invoices issued, in serial number;
2) Copies of all credit and debit notes issued;
3) All purchase invoices,
4) Credit and debit notes received from supplier;
5) Total of the output tax and the input tax in each period and a net total of the tax payable or the excess carried forward, as the case may be, at the end of each month

PERIOD OF PRESERVATION OF RECORDS

All such records shall be preserved for such period as specified in the respective State Provisions.

Q3 (a) Dr. Shuba is a Medical Practitioner. Her age is 64 years as on 1/1/2010. The receipts and payment account for the PY 2009-2010 of hers is as under **(8 marks)**

Opening cash	10,000	Purchase of commercial vehicle before 30/9/2009	4,00,000
Receipts from sale of medicine	2,50,000	Drawings	2,50,000
Consultation fees	50,000	Deposits in bank for 5 years	1,50,000
Visiting fees	2,00,000	Surgical equipments before 30/9/2009	50,000
Lecturers	5,000	Installment of loan paid (including interest of Rs. 22,333)	1,21,000
Family pension	2,80,000	Medical insurance premium	32,000
Saving bank interest	1,000	Installment of housing loan (principal component Rs. 48,000)	1,08,000
Loan from bank	3,00,000	Advance tax paid	20,000
Share from HUF	50,000	Purchase of medicine	47,000
Agriculture income	1,00,000	Payment for medical journal	5,000
Income from lottery (net of TDS of 30%)	35,000	Vehicle expenses	50,000
		Closing cash	48,000
Total	**12,81,000**	**Total**	**12,81,000**

Other information is as under:

(1) She resides in her own house which was constructed in 1998 with a loan from LIC housing of Rs. 10,00,000 out of which 6,00,000 was still due. She got it refinanced from SBI on 1/4/2009 at the rate of 10%. One fourth portion of the house is used for clinic purposes.

(2) She invested in the term deposits Rs. 1,50,000 in the Bank of Baroda on 1/7/2009 for a period of 5 years in the name of her minor daughter at 9% interest pa.

(3) She purchased commercial vehicle on 1/7/2009 at Rs. 4,00,000. A loan of Rs. 3,00,000 was taken to buy the van at 8% pa interest. One fourth use of vehicle is estimated to be personal.

(4) She paid medical insurance premium for herself of Rs. 16,000 and for her dependent mother Rs. 16,000.

(5) She got her share from HUF's income of Rs. 50,000

Calculate the taxable income of Dr. Shuba for the AY 2010-2011

Solution:

Calculation of taxable income of Dr. Shuba for the AY 2010-2011

Income from salary	NIL
Income from house property	(45,000)
Income from business and profession	1,97,667
Income from capital gains	NIL
Income from other sources	3,29,625
Gross total income	4,82,292
Less: deduction u/s 80C: housing loan repaid ¾ of 48,000 80D: medical insurance premium for self (restricted) Medical insurance premium for mother	 36,000 15,000 15,000
Taxable income (rounded off u/s 288A)	**4,16,290**

Calculation of business and profession income

Incomes		
Receipts from sale of medicines		2,50,000
Consultation fees		50,000
Visiting fees		2,00,000
Total		**5,00,000**
Expenses		
Depreciation on commercial vehicle	¾ of 50% of Rs. 4,00,000	1,50,000
Interest on the loan to buy commercial vehicle	¾ of 8% of Rs. 3,00,000	18,000

Depreciation on surgical instruments	15% of 50,000	7,500
Interest on the housing loan	¼ of (1,08,000 – 48,000)	15,000
Interest on loan		22,333
Purchase of medicine		47,000
Payment for medical journals		5,000
Vehicle expenses	¾ of 50,000	37,500
Total		3,02,333
Income less expenses = profits		**1,97,667**

Calculation of income from house property – self occupied house 3/4

Gross annual value	NIL
Less: municipal taxes paid	NIL
Net annual value	NIL
Less: statutory deduction u/s 24(a)	NIL
Less: interest on the borrowed capital u/s 24(b)	45000 (75% of Rs. 60,000)
House property income	**(45,000)**

Calculation of income from other sources

Lecturers fees		5,000
Family pension Less: exempt u/s 56 is Lower of a)1/3 of 2,80,000 = 93333 b) Rs. 15,000	2,80,000 15,000	 2,65,000
Interest on saving bank account		1,000
Share of income of HUF Less: exempt u/s 10(2)	50,000 50,000	 NIL
Agriculture income Less: exempt u/s 10(1)	1,00,000 1,00,000	 NIL
Lottery income Add: TDS	35000 15,000	 50,000
Interest income in the name of minor daughter Less: exempt u/s 10(32)	10,125 1,500	 8,625
Total		**3,29,625**

Q 3(b) Write a note in brief on the provisional payment of service tax **(4 marks)**

Solution:

Provisional payment of Service Tax: In case service provider is unable to correctly estimate the actual amount of service tax liability at the time of payment, for any month or quarter then he may make a written request to assistant or deputy commissioner of central excise for making the payment on the of the service tax on the provisional basis. For the purposes of provisional assessment at the time of filling the return, the service provider is required to file a statement in form ST-3A giving details of the difference between the service tax deposited and service tax liable to be paid. The assistant or deputy commissioner of central excise, on the basis of ST-3A may complete the assessment after calling for necessary documents if needed.

Q3 (c) State the variants of VAT. Present them in a diagram and explain each one briefly. **(4 marks)**

Solution:

Variants of VAT : VAT could be levied under the following three variants:
a) Gross product variant.
b) Income variant.
c) Consumption variant.

The Gross Product Variant: This variant allows deductions for VAT paid on all purchases of raw materials and components from the output VAT. But no deduction of VAT is allowed on purchase of capital goods. That is, taxes on capital goods such as plant and machinery are not deductible from the tax base in the year of purchase and tax on the depreciated part of the plant and machinery is not deductible in the subsequent years.

The Income Variant: This Variant of VAT allows for deductions for VAT paid on purchases of raw materials and components as well as VAT paid on the capital goods in the ratio of life of capital goods from the output VAT. In practice, however, there are many difficulties connected with this method since life of an asset can not be calculated with accuracy.

Consumption Variant: This variant of VAT allows for full deduction for VAT paid on purchases of raw materials and components as well as VAT paid on the capital assets. This method does not distinguishes between capital and current expenditure.

Among the three variants consumption variant is most widely used in the different parts of the world but we follow Income variant in India.

Q 4(a)(i) Explain the consequences of not deducting tax and paying to the Government account u/s 201. **(4 marks)**

Solution:

Consequences of not deducting and paying TDS: Where a person who is required to deduct tax at source, does not deduct, or after deducting fails to pay, the whole or any part of tax, then following shall be the consequences:

(1) Such person shall be deemed to be an assessee in default.
(2) He will be liable for payment of tax, interest, penalty and face prosecution.
(3) Further disallowance of expenditure under section 40(a) will be attracted.

Q 4(a)(ii) Can a political party claim exemption of its income u/s 13A of the Income Tax Act, 1961 **(4 marks)**

Solution:

Income of political parties: Section 13A: The following incomes are exempt in the hands of political parties

1. Income taxable under head house property
2. Income taxable under head other sources
3. Income by way of voluntary contribution from any person
4. Income of Capital gains

Conditions For Claiming Exemption By Political Parties

1. The political party maintains such books of accounts and other document as would enable the assessing officer to properly compute its total income.
2. It maintains a record of voluntary contributions exceeding Rs.20,000 and name and address of the person who made such contribution. This condition is over and above the condition of maintaining books of accounts.
3. The accounts of the party are audited by a CA.
4. The political party is registered with the Election Commission of India.
5. Political party is required to file the return of income if it has to claim the exemption under section 13A

Q4 (b) How will a taxable service be valued when the consideration thereof is not in terms of money? **(4 marks)**

Solution:

Service for which consideration was received in kind: Rule 3 of Service Tax Valuation Rules, 2006: If consideration of services has been received in kind then the service tax shall be imposed and for this the value of the identical services provided shall be deemed to be the value of such services which have been provided and for which consideration has been received in kind. However if there are no other identical services then market value of the facility or product received as a consideration for the taxable services shall be regarded as the value for services.

Q4 (c) State with reasons in brief whether the following statements are correct or incorrect with the reference to the provisions of VAT **(2 marks each)**

(i) It is permitted to issue tax invoice inclusive of VAT i.e. aggregate of sales price and VAT
(ii) A registered dealer is compulsorily required to get his books of accounts audited under VAT laws of different states irrespective of limit of turnover.

Solution:

(i) Tax invoice showing aggregate of sale price and VAT
The statement is false. It is not allowed to issue the tax invoice which shows the aggregate of sale price and VAT. If it is done then the purchaser will not be allowed to take the set off of input tax credit from his output tax liability.

(ii) Audit of accounts of dealer
The statement is false. The audit of accounts of dealer is not compulsory in all cases irrespective of the quantum of turnover. Audit will be done as per the limit of turnover which shall be set by the respective state governments.

Q 5 (a) From following details find out the taxable salary for the AY 2010-2011 **(8 marks)**

1) Mr. X is employee of Rama & Co. Ltd in Gurgoan. He was appointed an 1/1/2009 in the scale of 20,000-1,000-30,000.
2) He is paid DA of 10% of basic salary
3) Bonus equivalent to one month of basic salary.
4) He contributed 15% of his basic salary and DA towards recognized provident fund and the company makes the contribution of same amount.
5) He is provided with rent free accommodation which was taken on rent of Rs. 10,000 pm.
6) He is provided the facility of laptop which was cost of Rs. 50,000
7) Company reimburses the medical treatment bill of his dependent brother of Rs. 25,000
8) The monthly salary of Rs. 1,000 of a house keeper is reimbursed by the company.
9) A gift voucher of Rs. 10,000 on the occasion of his marriage anniversary was given to him.
10) He is provided with conveyance allowance of Rs. 1000 pm which is given by the company towards actual expenses.
11) He is provided with personal accident policy for which premium of Rs. 5,000 is paid by the company
12) He is getting telephone allowance of Rs. 500 pm.
13) Company pays medical insurance premium of his family of Rs. 10,000.

Solution

Calculation of taxable salary of Mr. X for the AY 2010-2011

Basic salary	20,000 x 9 21,000 x 3	2,43,000
Dearness allowance	10% of basic salary	24,300
Bonus	1 month of basic salary	21,000
Contribution of employer to RPF Less: exempt is 12% of salary	15% of 2,43,000 + 24,300 = 40,095 12% of 2,43,000 = 29,160	10,935
Rent free accommodation Lower of: b) Rent payable by employer c) 15% of salary	10,000 x 12 = 1,20,000 10% of salary = 27,000	27,000
Facility of use of laptop		Exempt
Reimbursement of medical bills Less: exempt	25,000 15,000	10,000
Reimbursement of salary of house keeper		12,000
Gift which is convertible into cash		10,000
Conveyance allowance Less: actual expenditure	12,000 12,000	NIL
Personal accident policy premium paid by employer Less: exempt	5,000 5,000	NIL
Telephone allowance	500 x 12	6,000
Medical Insurance premium for the family of Mr. X Less: exempt	10,000 10,000	NIL
Taxable salary		**3,64,235**

Calculation of perquisite value for RFA

Basic salary	2,43,000
DA (for retirement benefits)	NIL
Bonus	21,000
Telephone allowance	6,000
Salary for RFA	2,70,000
10% of salary	27,000
NOTE: it has been assumed that the population of Gurgoan is between 25 lakhs and 10 lakhs	

Q5 (b) What do you mean by e-flings of returns? Is there any facility of e-filing of service tax return? If yes, then which of the services are eligible for this facility? **(4 marks)**

Solution:

(1) **E-filing of returns:** means a facility for the electronic filing of return by the assessee from his office, home or any other place of choice through internet by using computer.
(2) **E-filing of service tax** is allowed and it is mandatory if the amount of service tax during the preceding financial year or during current financial year exceeds Rs. 10 lakhs. In other cases it is optional. CBEC has assured all service provider opting for e-filing of return that the department will not impose penalty of Rs. 1000 for non filing of ST-3 return for delay upto 1 month from the due date prescribed under rules.
(3) E-filing can be done for all taxable services.

Q 5 (c) What are the conditions to be fulfilled by the dealer accepting the composition scheme under the VAT? **(4 marks)**

Solution:

Composition scheme

a) The composition Scheme is a special method for determining the tax liability for small dealers who otherwise are liable to pay VAT (i.e., whose turnover is above the threshold exemption limit).
b) It is applicable on dealers whose turnover in the preceding year does not exceed Rs. 50 lakhs**.**
c) Dealer shall be liable to pay VAT at the rate which shall be fixed by the state government but it can be minimum of 0.25%
d) A dealer is not eligible for composition scheme are:
   1) Dealer who sells goods in course of Inter-State Sale (i.e., who is registered under CST); or
   2) A dealer who sells goods in course of import / export; OR
   3) A dealer transferring goods outside State otherwise than by way of sale (i.e., stock transfer) of for execution of works contract.
   4) A dealer purchasing goods from unregistered dealer.
e) It is not mandatory but it is an elective option which can be exercised by making an application within 30 days from the first day of the beginning of the FY.

Q 6(a) Sai Ltd. Has a block of assets carrying 15% rate of depreciation, whose WDV on 1/4/2009 was Rs. 40,00,000. It purchased another asset of the same block on 1/11/2009 for Rs. 14,40,000 and put to use on the same date. Sai Ltd. Was amalgamated with Shirdi Ltd w.e.f 1/1/2010. You are required to compute the depreciation allowable to Sai Ltd and Shirdi Ltd. For the PY ending 31/3/2010 assuming the assets was transferred at the price of Rs. 60,00,000. **(8 lakhs)**

Solution:

Calculation of depreciation under block of assets method

Opening value of the block		40,00,000
Add: value of the new asset purchased and put to use		14,40,000
Less: money received or receivable on the sale of an asset		NIL
Closing value of the block		54,40,000
Depreciation u/s 32	40,00,000 x 15% = 6,00,000 14,40,000 x 15% / 2 = 1,08,000	7,08,000
Opening value of the next year		47,32,000

Distribution of depreciation as per 5th proviso of section 32

Assessee	No of days used	Pro-rata amount of depreciation
Sai Ltd – old asset	275	4,52,055
Shirdi Ltd – old asset	90	1,47,945
Sai Ltd – New asset	61	43,629
Shirdi Ltd – New asset	90	64,371

Total amount of depreciation

Assessee	Pro-rata amount of depreciation on old asset	Pro-rata amount of depreciation on new asset	Total
Sai Ltd	4,52,055	43,629	4,95,684
Shirdi Ltd	1,47,945	64,371	2,12,613

Q6 (b) State with reasons in brief whether the following statements are correct or incorrect with the reference to the provisions of service tax **(2 marks each)**

(i) The scope of taxable service shall include any service provided or to be provided to a business entity, by another business entity , in relation to advice, consultancy or assistance in any branch of law including service provided by the way of appearance before any court, tribunal or authority.

(ii) Service tax provisions are not applicable in Jammu and Kashmir because State Government concurrence was not obtained in respect of Finance Act 1994.

Solution:

(i) The statement is false.

Services of legal consultancy is taxable service but any appearance before court , tribunal or authority has been specifically exempted and put outside the scope of taxable service.

(ii) The statement is true.

As per section 64 of Finance Act 1994 service tax is not applicable in the state of Jammu and Kashmir. This is so because the concurrence of the state government of Jammu and Kashmir was not taken before the introduction of Finance Act 1994.

Q6 (c) Mention the purchases which are not eligible for input tax credit (any eight) under VAT. **(4 marks)**

Solution:

In the following cases no credit for input tax is available:

(1) Goods purchased from other states (i.e., through Inter-State Sale – on which CST has been paid)
(2) Goods purchased from outside India (i.e., imported goods)
(3) Goods purchased from Unregistered Dealer;
(4) Goods purchased without having invoice in support;
(5) Good purchased but invoice is not showing the amount of VAT separately;
(6) Goods purchased from registered dealer who has opted for composition scheme under State VAT Act;
(7) Goods purchased for being utilized in manufacture of exempted goods;
(8) Good purchased for personal consumption/use.

Q7 (a) (i) Mr.Shah an accounts manager, has retired from JK Ltd on 15/1/2010 after rendering services for 30 years and 7 months. His salary is Rs. 25,000 pm up to 30/9/2009 and Rs. 27,000 thereafter. He also gets Rs. 2,000 pm as DA (55% of this forms part of salary for the retirement purposes). He is not covered under the payment of Gratuity Act 1972. He has received Rs. 8,00,000 as gratuity from his employer. Calculate the taxable amount of gratuity. **(4 marks)**

Solution:

Calculation of exemption of Gratuity

Gratuity received		8,00,000
Less: exempt u/s 10(10)		3,50,000
Taxable gratuity		**4,50,000**
Least is exempt from tax	Actual amount received	8,00,000

	Maximum limit of	3,50,000
	15/30 x average salary x completed years of job 15/30 x 26,900 x 30	4,03,500

Calculation of average salary

Month	Basic salary	DA (R)	Commission on % of sales	Total
Dec	27,000	1,100	NIL	28,100
Nov	27,000	1,100	NIL	28,100
Oct	27,000	1,100	NIL	28,100
Sep	27,000	1,100	NIL	28,100
Aug	25,000	1,100	NIL	26,100
July	25,000	1,100	NIL	26,100
June	25,000	1,100	NIL	26,100
May	25,000	1,100	NIL	26,100
Apr	25,000	1,100	NIL	26,100
Mar	25,000	1,100	NIL	26,100
Total of all 10 months				**2,69,000**
Average salary				**26,900**

Q7(a)(ii) State under which heads the following incomes are taxable **(4 marks)**

(1) Rental income in case of dealer in house property.
(2) Dividend on shares in case of a dealer in shares.
(3) Salary of partner from partnership firm.
(4) Rental income from machinery.
(5) Winning from lottery by a person having the same as a business activity.
(6) Salary payable to member of parliament.
(7) Receipt without consideration.
(8) Interest on employee's contribution in URPF received at the time of retirement.

Solution:

Taxability of incomes under various heads

1) Rental income in case of dealer in house property – income from house property
2) Dividend on shares in case of a dealer in shares – income from other sources
3) Salary of partner from partnership firm – income from business and profession
4) Rental income from machinery – income from other sources
5) Winning from lottery by a person having the same as a business activity – income from other sources
6) Salary payable to member of parliament – income from other sources
7) Receipt without consideration – income from other sources
8) Interest on employee's contribution in URPF received at the time of retirement – income from other sources

Q7(a)(iii) Explain briefly the applicability of section 22 for the chargeability of income tax for: **(4 marks)**

(1) House property situated in foreign country.
(2) House property with the disputed ownership.

Solution:

(1) Treatment of house property situated in a Foreign Country: If an assessee is resident and ordinary resident in India then his house property income from a foreign country shall be chargeable to tax as per section 22 of income tax act. However if assessee is not ordinary resident or non resident then income shall be chargeable to tax in India only if the rental income is received in India. In above cases income shall be calculated assuming that such house property is situated in India. Further if the municipal corporation of a foreign country has charged some municipal taxes and they are paid by the assessee then such municipal taxes shall be reduced from gross annual value to get NAV.

(2) Disputed Ownership: If the title of the ownership is disputed in the court of law, the income shall be chargeable to tax under section 22 in the hands of the recipient of rental income. Further if the municipal corporation has charged some municipal taxes and they are paid by the assessee then such municipal taxes shall be reduced from gross annual value to get NAV.

Q 7 (b) Shashwant Hotels Pvt. Ltd has given the following information for the FY 2009-2010. You are required to compute the value of taxable service and service tax without assigning any reason for the treatment:

(1) Reception room and parking space were let out for film shooting for 3 months. Amount received for this is Rs. 5,00,000

(2) The conference hall was let out to a Gujrati Samaj Trust for a week for a music competition for Rs. 50,000

(3) The hotel was booked by a customer for 3 days for a marriage function. The room booking chares were received in advance (excluding service tax) in the same year of Rs. 50,000. The electricity charges separately billed Rs. 20,000, hire charges including catering charged for 3 days billed of Rs. 3,25,000 after deducting the advance amount.

(4) During the year, conference hall was let out to MNO Ltd. The charges received were as under:
Hall rent of Rs. 4,00,000, computer and projector system charges Rs. 25,000, electricity charges Rs. 30,000. Hall rent includes charges for snacks and cold drinks of Rs. 50,000.

(5) The hotel garden was let out to a political party for 2 days for a meeting. The charges received Rs. 25,000.

The hotel charges 10% of service charge which is later distributed as tips to employees. The above charges are excluding service tax. All the charges have been received in FY 2009-2010. The hotel is registered under service tax.

Solution:

Calculation of total value of services

Reception room and parking space		5,00,000
Conference hall		50,000
Electricity charges for marriage function		20,000
Hire charges including catering services Less: Partial abatement 40%	3,75,000 1,50,000	 2,25,000
Hall rent from MNO Ltd. Less: charges for snacks and cold drinks	4,00,000 50,000	 3,50,000
Computer, projector and electricity		55,000
Garden let out to Political party		25,000
Total value of services		12,25,000
Add 10% of service charge (including abatement)	10% of 14,25,000	1,42,500
Taxable value of services		13,67,500
Service tax @ 10%		1,36,750
Add: primary education cess @ 2%		2,735
Add: secondary and higher education cess @ 1%		1,367.5
Service tax liability rounded off u/s 37D of Central Excise duty Act		1,40,853

Q 7 (c) Compute the VAT amount payable by Mr. Shyam who purchases goods from a manufacturer on payment of Rs. 4,16,000 (including VAT) and earn 20% profit on purchase price. VAT rate on purchase and sale is 4%. **(4 MARKS)**

Solution:

Calculation of invoice value

Purchased price of goods excluding VAT (4,16,000 / 104 X 100)	4,00,000
Add: Profit margin	80,000
Amount of bill	4,80,000
Add: VAT @ 4%	19,200
Total invoice value	4,99,200

VAT to be paid by Mr. A

VAT charged in the invoice	19,200
Less: Input credit (4% of Rs. 4,00,000)	16,000
Net VAT payable	3,200