Question paper

Question No. 1 is compulsory

Attempt any **five** questions from the remaining **six** questions.

Working notes should form part of the answer.

Wherever necessary suitable assumptions may be made by the candidates.

Marks

1. (a) Check the taxability of the following gifts received by Mrs. Rashmi during the previous year 2010-11 and compute the taxable income from gifts for Assessment Year 2011-12: 5

   (i) On the occasion of her marriage on 14.8.10, she has received Rs.90,000 as gift out of which Rs.70,000 are from relatives and balance from friends.

   (ii) On 12.9.10, she has received gift of Rs.24,000 from cousin of her mother.

   (iii) A cell phone of Rs.21,000 is gifted by her employer on 15.8.2010.

   (iv) She gets a gift of Rs.25,000 from the elder brother of her husband's grandfather on 25.10.2010.

   (v) She has received a gift of Rs.2,000 from her friend on 14.4.2010.

(b) G, an American citizen, is appointed by a multi-national company to its branch in New Delhi in 2007. G has never been to India before this appointment. He arrives in Bombay on 15th April, 2007 and joins the New Delhi office on 20th April, 2007. His wife and children join him in India on 20th October, 2007. The company allotted him a leased residence for purposes of his stay. This residence is occupied by him from the beginning of October, 2007. 5

On 10th February, 2008, he is transferred by his employer, on deputation basis, to be the regional chief of his employer's operations in South East Asia having headquarters in Hongkong. He leaves New Delhi on 11th February and arrives in Hongkong on 12th February, 2008. G leaves behind his wife and children in India till 14th August, 2009, when they leave along with him for Hongkong. G had come to India earlier on 15th June, 2009, on two months' leave. The members of the family occupied the residence till date of departure to Hongkong.

At the end of the period of deputation, G is reposted to India and joins the New Delhi office of his employer as chief of Indian operations on 1st February, 2011.

In what residential status G will be assessable, for the various years, to income tax in India?

(c) Virat Kholi& Co., a partnership firm, is providing taxable legal consultancy services, for the second consecutive assessment year. The firm furnishes the following information relating to the services rendered, bills raised, amounts received relating to this service, for the year ended 31.3.2011. 5

(i)	Free services rendered to poor people (value of the services computed on comparative basis)	40,000
(ii)	Advances received from clients for which no taxable service has been rendered so far	5,00,000
(iii)	Service billed to clients Gross Amount (Service tax has been charged separately in all the bills; the firm follows mercantile system of accounting)	12,00,000
(iv)	The firm has received the following amounts during the year: Relating to taxable services rendered in March, 2010 (excluding service tax at applicable rates and TDS under	5,44,680

section 194-J of the IT Act,1961 to the tune of 45,320)

Relating to taxable services rendered in current year 2010 (excluding Service tax at applicable rates and TDS under section 194-J or the IT Act,1961 to the tune of`120000) (*includes 50,000 for appearance fee before Labour Court received from another firm)	9,80,000*

Service tax has been separately received for applicable items in (iv) above.

You are required to compute the value of taxable services for the year ended 31.3.2011 and Service tax payable, briefly explaining the treatment of each item above.

(d) Compute the total value of purchases eligible for input tax credit from the following particulars:- 5

Particulars	Rs.
Inputs purchased from a registered dealer who opts for composition scheme under the provisions of the VAT Act	10,000
Inputs purchased for being used in the execution of a works contract	1,00,000
Raw material purchased from unregistered dealers	70,000
High seas purchases of inputs	1,00,000
Goods purchased for sale to other parts of India in the course of inter-State trade or commerce	20,000

2. (a) Suman, an employee furnished the following particulars for previous year ending 31.03.2011: 4

S. No.	Particulars	Rs.
(a)	Salary income as computed	6,00,000
(b)	During the year arrears of salary were received (not included in the above) related to F.Y. 2001- 02	15,000
(c)	Assessed income of Financial Year 2001-02	66,000
(d)	On 25.3.2011, amount deposited in Public Provident Fund Account	50,000

You are requested to compute relief u/s. 89 in terms of tax payable.

The rates of tax for the A.Y. 2002-2003 are:

On First Rs. 50,000	Nil
On next Rs. 10,000	10%
On next Rs. 90,000	20%
On the balance	30%

(Surcharge @ 2% when taxable income exceeds Rs. 60,000).

(b) Mr. Dhaval and his wife Mrs. Hetal furnish the following information: 4

S. No.	Particulars	Rs.
(i)	Salary income (computed) of Mrs. Hetal	4,60,000
(ii)	Income of minor son 'B' who suffers from disability specified in Section 80U	1,08,000
(iii)	Income of minor daughter 'C' from singing	86,000
(iv)	Income from profession of Mr. Dhaval	7,50,000
(v)	Cash gift received by 'C' on 2.10.2010 from friend of Mrs. Hetal on winning of singing competition	48,000
(vi)	Income of minor married daughter 'A' from company deposit	30,000

Compute the total income of Mr. Dhaval and Mrs. Hetal for the assessment year 2011-12.

(c) (i) Should service tax be paid even if not collected from the client or service receiver? 2 x 2

(ii) Where a service provider maintains books of accounts on mercantile basis relating to taxable services provided by him, will service tax be payable on accrual basis?

(d) Who are not eligible for composition scheme? 4

3. (a) Mr. Sukhvinder is engaged in the business of plying goods carriages. On 1st April, 2010, he owns 10 trucks (out of which 6 are heavy goods vehicles). On 6th May, 2010, he sold one of the heavy goods vehicles and purchased a light goods vehicle on 2nd May, 2010. This new vehicle could however be put to use only on 15th June, 2010. 8

Compute the total income of Mr.Sukhvinder for the assessment year 2011-12, taking note of the following data :

	Rs.	Rs.
Freight charges collected		12,70,000
Less : Operational expenses	6,25,000	
Depreciation as per section 32	1,85,000	
Other office expenses	15,000	8,25,000
Net Profit		4,45,000
Other business and non – business income		70,000

What shall be your answer in case heavy goods vehicle was sold on 2nd May, 2010 and light goods vehicle was purchased on 6th May, 2010?

(b) (i) A particular service has been brought into the service tax net with effect from1.6.2010. Mr. Vignesh has provided this service on 20.5.2010; the payment for the same was received on 10.6.2010. Is service tax payable on the same? 2 x 2

(ii) Mr. Saravanan has collected a sum of Rs. 15,000 as service tax from a client mistakenly, even though no service tax is chargeable for such service. Should the amount so collected be remitted to the credit of the Central Government?

(c) Enumerate the tax rates under VAT. 4

4. (a) Ramesh is the karta of Ramesh (HUF) in which the other members are his wife Padma, major son Guru and a minor daughter Champaka. The following details of this HUF, resident in India, pertaining to the year ended 31st March, 2011 are made available to you: 8

(a) Rent (at Rs. 10,000 per month) received from a flat in Salem is Rs. 1,10,000. Rent of Rs.10,000 for the month of March, 2011 was received in April, 2010. Property tax paid Rs. 10,000.
Bank loan of Rs. 10,00,000 was taken for construction of this flat, bearing interest at 10%. Rs. 8,000 interest is in arrears pertaining to this year, which was paid by the HUF in May, 2011 only. Principal repayment during the year was Rs. 48,000.

(b) Ramesh represents the HUF in a partnership firm M/s. Ashok & Co., engaged in turmeric business. The firm has paid interest of Rs. 1,80,000 to the HUF computed at 15%.

For the services rendered by Ramesh to this firm as the lone Working partner, the firm has paid him a remuneration of Rs. 1,50,000 as per the provisions of the partnership deed. The "book profit" of the firm in terms of Section 40(b) is Rs. 1,35,000.

(c) The HUF is also running two businesses, as narrated below:

(i) Retail trade in food grains:

A rough account book alone is maintained. Expense bills/vouchers are not properly maintained. The total turnover is Rs. 23.75 lacs. The net profit as per the rough account is Rs. 1,41,000. This has been arrived at after considering a penalty of Rs.8,000 levied by Sales-tax authorities for misuse of "C" Form.

(ii) Business of Civil construction:

Cash received from contractee	Rs. 31,00,000
Value of materials supplied by contractee	Rs. 7,00,000

No books of account are maintained.

(d) The HUF has received dividend of Rs. 90,000 from shares held in a foreign company.

(e) Tuition fees of Rs. 20,000 was paid for the purpose of part-time education of Ms. Champaka in an Indian college.

(f) The following sums have been paid by the HUF in respect of Life Insurance Premium:

Policy holder's name	***Insurer***	***Premium Rs.***	***Late fee Rs.***
Mrs. Padma	LIC	30,000	500
Guru	IRDA approved private insurer	42,000	1,500

Part of the above premiums were paid from out of agricultural income of Rs. 60,000 derived from agricultural lands situated in Colombo.

You are required to compute the total income of Ramesh (HUF) for the assessment year 2011-12, showing clearly the computation under proper heads of income. You are also required to indicate with reasons, whether any item is to be considered in the hands of Ramesh (individual).

(b) List the documents to be submitted along with a service tax return. 4

(c) (i) Under what circumstances registration can be cancelled under VAT? 2 x 2

(ii) Briefly explain the income variant of VAT.

5. (a) Compute the tax liability of Mr. Madhavan for the Assessment year 2011-12 from the following particulars : 4

		Rs.
(i)	Net house property income as computed under the head "Income from house property"	2,70,000
(ii)	Income from business before adjusting the following	90,000
	(a) Carried forward business loss	70,000
	(b) Current depreciation	30,000
	(c) Carried forward unabsorbed depreciation	1,40,000
(iii)	Short term capital gain – jewellery	1,60,000
(iv)	Long term capital loss – shares – 10(38)	40,000
(v)	Long term capital gains – Debentures	2,00,000

(vi)	Dividend on shares held as stock in trade	10,000
(vii)	Divided from a company carrying on agricultural operation	12,000
(viii)	Income from growing and manufacturing coffee (cured and roasted)	1,00,000

During the previous year 2010-11, the assessee has donated Rs.35,000 to an approved local authority for the promotion of family planning and purchased NSC VIII issue for Rs.1,00,000.

(b) Mrs. Indira, a landlord, derived income from rent from letting a house property to M/s Vaibhav Corporation Ltd. of Rs.1,00,000 per month. She charged the service tax @ 10.3% on lease rent charges. Calculate the deduction of tax at source (TDS) to be made by M/s Vaibhavi Corporation Ltd. on payment made to Mrs. Indira and narrate related formalities in relation to TDS. 4

(c) (i) Explain the term "Vocational Training Institute" under the provisions of service tax. 2 x 2

(ii) With reference to commercial training or coaching services, state whether service tax is applicable in the following cases:
BTL Engineering College offering B.Tech to students. However, the college has been derecognized by the All India Council for Technical Education.

(d) Mr. X, a manufacturer sells goods to Mr. B, a distributor for Rs.2,000 (excluding VAT). Mr. B sells goods to Mr. K, a wholesale dealer for Rs.2,400. The wholesale dealer sells the goods to a retailer for Rs.3,000, who ultimately sells to the consumers for Rs.4,000. 4
Compute the tax liability, input credit availed and tax payable by the manufacturer, distributor, wholesale dealer and retailer under invoice method assuming VAT rate @ 12.5%.

6. (a) Answer any **two sub-parts** out of **three sub-parts** of the question 2 x 4

(i) (a) Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account for the Financial year ended on 31st March, 2011 audited under section 44AB. Her total income for the assessment year 2011-12 is Rs. 2,35,000. She wants to furnish her return of income for assessment year 2011-12 through a tax return preparer.

(b) Can an individual, who is not in India, sign the return of income from outside India? Is there any other option?

(ii) Explain with brief reason whether the return of income can be revised under section 139(5) of the Income-tax Act, 1961 in the following cases:
(i) Defective or incomplete return filed under section 139(9).
(ii) Belated return filed under section 139(4).
(iii) Return already revised once under section 139(5).
(iv) Return of loss filed under section 139(3).

(iii) State with proper reasons whether the following statements are True/False with regard to the provisions of the Income-tax Act, 1961:
(i) Mr. Priyank is a partner, but not a working partner, in a firm, whose turnover for the previous year 2010-11 is Rs.75 lacs. The due date of filing the return of income by Mr. Priyank is 31st July, 2011, if he is getting only interest on capital from the firm.
(ii) Partnership firms deriving loss need not file return of income.

(b) An assessee who has collected service tax from a client is unable to perform the service. Briefly explain the situations in which and the conditions subject to which he can adjust the service tax relating to above, against his forthcoming service tax liability. 4

(c) Compute the VAT payable at each stage using 'invoice method' from the particulars given below: 4

Stage	Particulars	Profit (as % of cost price)
I	Sambhav Medicaids Ltd. sold the medicines manufactured by it to the distributors of medicines – Rishabh Pharmacy – at Rs. 4,000	---
II	Rishabh Pharmacy sold the medicines to the wholesalers – Suhani Medicos	62.5%
III	Suhani Medicos sold the medicines to the retailers – Galaxy Medicines	20%
IV	Galaxy Medicines sold the medicines to the ultimate consumers	25%

Assume that the VAT Rate is 4% and that there was no value addition at various stages of sale except profit margin.

7. (a) Mr. Rahul Jadav furnishes the following particulars relating to his house properties and other incomes and expenditure for the year 2010-11 : 8

(i) First House : This house is taken by him on lease for 10 years which is let to a tenant, for his residence, at a monthly rent of Rs.2,400

He has incurred the following expenses during this year :

Lease rent	Rs. 1,000/month
Salary of Durban	Rs. 200/month
Interest on loan taken to pay for the acquisition of the lease	Rs. 200/month

(ii) Second House : This house was constructed by him in 2001, but was transferred to his wife in 2005 out of love and affection. He, however, continues to stay in this house with his wife till date. He has taken a loan for the construction of this house for which interest of Rs.6,000 becomes due for the year, but had not been paid by him. He has paid repair expenses of Rs.1,000 during the year.

(iii) Taxable income from business for this year amounts to Rs.64,000.

Compute gross total income of Mr. Rahul Jadav for the assessment year 2011-2012.

(b) (i) Can service tax return be revised by a person? 2 x 2

(ii) Ms. Amrapali, a registered service provider did not render any services during the financial year 2010-11. Whether she is required to file service tax return?

(c) Under which of the following cases, the purchases are eligible for availing input tax credit: 4

(a) Ram & Co. of Gujarat purchased the goods to be resold within the State of Gujarat.

(b) Rishabh purchases goods from a registered dealer. He claims that he has paid the amount of VAT on the said goods, but the invoice pertaining to said purchases has been lost on account of negligence of a clerk in his office.

(c) Goyal Manufacturers purchased some raw materials and used it in the manufacture of exempted goods.

Answers

1. (a)

Computation of taxable income of Mrs. Rashmi from gifts for A.Y.2011-12

Sl. No.	Particulars	Taxable amount Rs.	Reason for taxability or otherwise of each gift
1.	Relatives and friends	Nil	Gifts received on the occasion of marriage are not taxable.
2.	Cousin of Mrs. Rashmi's mother	24,000	Cousin of Mrs. Rashmi's mother is not a relative. Hence, the gift is taxable.
3.	Elder brother of husband's grandfather	25,000	Brother of husband's grandfather is not a relative. Hence, the gift is taxable.
4.	Friend	2,000	Gift from friend is taxable.
	Aggregate value of gifts	45,000	

Since the aggregate value of gifts received by Mrs. Rashmi during the previous year 2010-11 exceeds Rs.50,000, the whole of the amount is chargeable to tax under section 56(2) of the Income-tax Act, 1961.
Gift received from employer shall be taxable under head salaries amounting to Rs. 16,000 (Rs. 21,000 less Rs. 5,000).

1 (b)

The period of stay of G for various years is given below :

Accounting Year	Assessment Year	Period of stay (in days)
2007-08	2008-09	303
2008-09	2009-10	---
2009-10	2010-11	61
2010-11	2011-12	59

G is a non-Indian citizen and arrives in India for the first time on 15th April, 2007 though he joins duty on 20th April, his period of residence in India will commence from 15th April. He leaves India on 11th February, 2008. His stay in India amounts to 303 days in the year 2007-08.
G arrives in India for a second time on 15th June, 2009 and stays till 14th August, 2009 a period of 61 days in the year 2009-10.
G arrives for a third time in India on 1st February, 2011. His stay in India in the year 2010-11 is for a period of 59 days.
Under section 6(1) of the Act, an individual is said to be resident in India in any previous year if he satisfies one of the following basic conditions:
(i) is in India in the previous year for a period of 182 days or more ;
(ii) is in India for a period of 60 days or more in the previous year and 365 days or more during the four years preceding the previous year.

The exceptions provided in the explanation to section 6(1) will not apply to G since he is not an Indian citizen.

A person will be considered to be 'not ordinarily resident' if he satisfies any of the following 2 additional conditions-
(i) he has been a non-resident in India in 9 out of 10 previous years preceding the relevant previous year ; or
(ii) he has been in India for a period of 729 days or less in 7 previous years preceding the relevant previous year.
Maintenance of a residence in India or the stay of the wife and children in India are not relevant for determining the residential status of G.

In the above background, G's case will be decided as under :

(i) Assessment year 2008-09 : has been in India for 303 days. He will be a resident under the basic conditions. Since he does not satisfy either of the additional conditions to become ordinarily resident, he will be a “resident but not ordinarily resident” for this year.

(ii) Assessment year 2009-10 : has not been in India at all ; though his wife and children continue to reside in New Delhi, he will be a non-resident for this year.

(iii) Assessment year 2010-11 : has been in India for 61 days. He satisfies one limb of the basic condition but having been in India for period (s) amounting to 303 days only in the four previous years preceding this year and not 365 days, he will be non-resident for this year.

(iv) Assessment year 2011-12 : has been in India for 59 days. Since the total stay in India during four years preceding assessment year 2011-12 does not exceed 365 days (amounts to 362 days) and has not been in India for 60 days in the current year, he will be a non-resident for this year also.

1 (c)

Computation of value of taxable service and tax thereon

Particulars	Details	Amount
Free services rendered to poor people		Nil
Advances received from clients		5,00,000
Service billed to clients		Nil
Receipt of value of taxable services provided in March, 2010 (Rs. 5,44,680 + Rs. 45,320)		5,90,000
Receipt of value of taxable services provided in current year 2010		
Net Receipt	9,80,000	
Add : TDS	1,20,000	
	11,00,000	
Less : Fee for appearance before Labour Court, an authority	50,000	10,50,000
Value of taxable services		21,40,000
Service Tax thereon [Rs.21,40,000 * 10.3%]		2,20,420
- Service tax		2,14,000
- Education Cess		4,280
- SHEC		2,140

Note:
1. Free service is not taxable.
2. Service tax is payable on receipt of value of taxable service provided or to be provided. Thus, advance received shall be taxable.
3. Legal Consultancy service is covered under the purview of taxable service from 01-09-2009, hence receipt against services provided before such date is not taxable.
4. It is to be noted that service tax is separately charged in the bill and accordingly received.
5. It is assumed that assessee is not a small service provider for FY 2010-11.

1 (d)

1. Computation of purchases eligible for input tax credit:-

Particulars	Rupees
Inputs purchased for being used in the execution of a works contract	1,00,000
Goods purchased for sale to other parts of India in the course of inter-State trade or commerce	20,000
Purchases eligible for input tax credit	1,20,000

Note: For the purpose of computation of value of purchases eligible for input tax credit, following have not been included:-

(1) Inputs purchased from a registered dealer who opts for composition scheme under the provisions of the Act of worth Rs. 10,000.

(2) Raw material purchased from unregistered dealers of worth Rs. 70,000.

(3) The inputs imported from outside the territory of India commonly known as high seas purchases of worth Rs.1,00,000.

2 (a)

1. Tax payable for A.Y. 2011-12

Computation of tax	Excluding arrears of salary (Rs.)	Including arrears of salary (Rs.)
Current year salary	6,00,000	6,00,000

Add : Arrears of salary	--	15,000
Gross Total income	6,00,000	6,15,000
Less : Deduction under chapter VI-A		
-u/s 80C – P.P.F. Contribution	50,000	50,000
Total income	5,50,000	5,65,000
Income tax thereon	44,000	47,000
Add : Education cess @ 3% (includes 1% secondary and higher education cess)	1,320	1,410
Tax payable	45,320	48,410

B. Tax payable for A.Y. 2002-03

Computation of tax	Excluding arrears of salary (Rs.)	Including arrears of salary (Rs.)
Current year income	66,000	66,000
Add : Arrears of salary	--	15,000
Total income	66,000	81,000
Income tax thereon	2,200	5,200
Add : Surcharge @ 2%	44	104
Tax payable	2,244	5,304

C. Relief u/s. 89

Particulars	Rs.	Rs.
(i) Tax payable on arrears in A.Y. 2011-12 :		
Tax on income including arrears	48,410	
Less : Tax on income excluding arrears	45,320	3,090
(ii) Tax payable on arrears in A.Y. 2002-03:		
Tax on income including arrears	5,304	
Less : Tax on income excluding arrears	2,244	3,060
Relief u/s. 89 (i.e. excess tax payable in A.Y. 2002-03 for arrears)		30

D. Tax payable for A.Y. 2011-12 after relief u/s. 89

Particulars	Rs.
Income tax payable on income including arrears	48,410
Less : Relief u/s. 89 as per workings (C) above	30
Tax payable	48,380

2(b)

2. Computation of Total Income of Mr. Dhaval and Mrs. Hetal for the A.Y. 2011-12

Particulars		Mr. Dhaval Rs.	Mrs. Hetal Rs.
Salaries			4,60,000
Profits and gains of business or profession		7,50,000	
Income from other sources			
Income by way of interest from company deposit earned by minor daughter A[See Note (d)]	30,000		
Less : Exemption under section 10(32)	1,500	28,500	
Total Income		7,78,500	4,60,000

Notes:

(a) The income of a minor child suffering from any disability of the nature specified in section 80Ushall not be included in the hands of the parents. Hence, Rs.1,08,000, being the income of minor son 'B' who suffers from disability specified under section 80U, shall not be included in the hands of either of his parents.

(b) The income derived by the minor from manual work or from any activity involving exercise of his skill, talent or specialised knowledge or experience will not be included in the income of his parent. Hence, in the given case Rs.86,000, being the income of the minor daughter 'C' shall not be clubbed in the hands of the parents.

(c) Under section 56(2)(vii), cash gifts received from any person/persons exceeding Rs.50,000 during the year in aggregate is taxable. Since the cash gift in this case does not exceed Rs.50,000, the same is not taxable.

(d) The clubbing provisions are attracted even in respect of income of minor married daughter. The income of the minor will be included in the income of that parent whose total income is greater. Hence, income of minor married daughter 'A' from company deposit shall be clubbed in the hands of the Mr. Dhaval and exemption under section10(32) of Rs.1,500 per child shall be allowed in respect of such income.

2 (c)

1. (a) Section 68 of the Finance Act, 1994 casts the liability to pay service tax upon the service provider or upon the person liable to pay service tax as per rule 2(1)(d) of the Service Tax Rules, 1994. This liability is not contingent upon the service provider realizing or charging the service tax at the prevailing rate. The statutory liability does not get extinguished if the service provider fails to realize or charge the service tax from the service receiver.

   (b) Service tax is not payable on accrual basis and the method of accounting is irrelevant for making payment of service tax. Service tax is payable to the Government only when any payment is received-whether in advance or after the bill is raised-from the client or service receiver for the taxable services provided.

2 (d)

2. Following are not eligible for composition scheme:-
   (i) a manufacturer or a dealer who sells goods in the course of inter-state trade or commerce; or
   (ii) a dealer who sells goods in the course of import into or export out of the territory of India.
   (iii) a dealer transferring goods outside the State otherwise than by way of sale or for execution of works contract.

3(a)

3. Section 44AE shall not apply for AY 2011-12 as Mr. Sukhvinder owns more than 10 goods vehicle during the period May 2, 2010 to May 6, 2010. Therefore, his total income shall be Rs. 5,15,000 as computed below.

   Section 44AE would apply in the case of Mr. Sukhvinder since he is engaged in the business of plying goods carriages and owns not more than ten goods carriages at any time during the previous year.
   Section 44AE provides for computation of business income of such assessees on a presumptive basis. The income shall be deemed to be Rs.5,000 from a heavy goods vehicle and Rs.4,500 from a vehicle other than a heavy goods vehicle - for every month or part the month during which such goods vehicle is owned by the assessee in the previous year or such higher sums as declared by the assessee in his return of income.
   Mr. Sukhvider's business income calculated applying the provisions of section 44AE is Rs.5,75,500 (See Notes 1 & 2 below) and his total income would be Rs.6,45,500.
   However, as per section 44AE(7), Mr. Sukhvinder may claim lower profits and gains if he keeps and maintains proper books of account as per section 44AA and gets the same audited and furnishes a report of such audit as required under section 44AB. If he does so, then his income for tax purposes from goods carriages would be Rs.4,45,000 instead of Rs.5,75,500 and his total income would be Rs.5,15,000.
   Notes -
   1. Computation of total income of Mr. Sukhvinder for A.Y. 2011-12

Particulars	Presumptive Income	Where books are maintained
Income from business of plying goods carriages [see Note 2 below]	5,75,500	4,45,000
Other business and non-business income	70,000	70,000
Total Income	6,45,500	5,15,000

   2. Calculation of presumptive income as per section 44AE

Type of carriage	No. of months	Rate/month	Amount
(1)	(2)	(3)	(4)
4 light goods vehicle – held throughout the year	12	4,500	2,16,000

1 heavy goods vehicle – held upto 2nd May	2	5,000	10,000
5 heavy goods vehicle – held throughout the year	12	5,000	3,00,000
1 light goods vehicle – held from 6th May	11	4,500	49,500
Total			5,75,500

3(b)

(d) No service tax is payable for the part or whole of the value of services, which is attributable to services provided during the period when such services were not taxable. The time of receipt of payment towards the value of services will not be relevant for this purpose. For the service tax to be leviable, on the date on which the service was rendered, it should be exigible to the levy.
In the given case, Mr. Vignesh has provided the service on 20.05.2010 and has received the payment on 10.06.2010. Assuming that, the invoice was raised by Mr. Vignesh before 01.06.2010, he will not be liable to collect service tax.

(e) Section 73A of the Finance Act, 1994 casts an obligation on every person who has collected service tax from any recipient of service in any manner as representing service tax, to remit the same to the credit of the Central Government. On account of this provision, where any person has collected any amount, which is not required to be collected from any other person, in any manner as representing service tax, he should also immediately pay the amount so collected to the credit of the Central Government.
Hence, Mr. Saravanan has to remit the service tax collected by him on the nontaxable services to the credit of the Central Government before the due date.

3 (c)

3. Tax rates under VAT:
   i. Exempted category:- There are about 50 commodities which are legally barred from taxation and items which have social implications.
   ii. 4% VAT category:- Under 4% VAT rate category, there are largest number of goods comprising of items of basic necessities, all agricultural and industrial inputs, capital goods and declared goods.
   iii. 12.5% category:-The remaining commodities, common for all the States, fall under the general VAT rate of 12.5%.
   iv. 1% Category:-The special rate of 1% is meant for precious stones, bullion, gold and silver ornaments etc.
   v. Non-VAT goods:- Petrol, diesel, ATF, other motor spirit, liquor and lottery tickets are kept outside VAT. The States may or may not bring these commodities under VAT laws.

4(a)

4. Computation of Total Income of Ramesh (HUF) for the A.Y. 2011-12

Particulars	Note	Amount (Rs.)	Amount (Rs.)
Income from House Property			
Gross annual value	1	1,20,000	
Less: Municipal taxes		10,000	

Net annual value		1,10,000	
Less: Deductions under section24		33,000	
(i) 30% of net annual value			
(ii) Interest on borrowed capital (10% of Rs.10,00,000)	2	1,00,000	

Income from house property			(23,000)
Profit and Gains of Business or Profession			
Own business			
(a) Profits from retail food grains business	3	1,90,000	
(b) Profits from business of civil construction	4	2,48,000	
Share income from partnership firm			
Interest on capital received from M/s. Ashok & Co.	5	1,44,000	
Income chargeable under this head		--------------	5,82,000
Income from other sources			
(a) Dividend from foreign company	6	90,000	

(b)	Agricultural income from lands in Colombo	7	60,000	

Income chargeable under this head				1,50,000

Gross total income				7,09,000
Deduction under Chapter VI-A				
Deduction under section 80 C		8		1,00,000

Total Income				6,09,000

Notes:

(1) Income from house property is chargeable on accrual basis. Rent received is taken as Gross annual value in the absence of other information relating to Municipal Value, Standard Rent and Fair Rent.

(2) Interest of borrowed capital under section 24(b) is allowed on the accrual basis. So deduction shall be allowed even if interest is paid after the end of the previous year.

(3) Retail food grains business
The assessee is not maintaining expenses bills/vouchers properly and hence will not be in a position to show a profit lesser than the presumptive profits under section 44AD.
As per section 44AD, presumptive income is 8% of Rs.23.75 lacs = Rs.1,90,000.
No separate deduction can be claimed in respect of any expenditure, as all expenses are deemed to be allowed. In any case, penalty for infraction of law is not an allowable expenditure.

(4) Business of civil construction
- (a) Since no books of account are maintained, the presumptive provisions of section 44AD will squarely apply.
- (b) Gross receipts will not include the value of materials supplied by contractee.
- (c) Chargeable income is 8% of Rs. 31,00,000 = Rs. 2,48,000

(5) Share income from M/s. Ashok & Co.
- (a) As per proviso to section 28(v), the income to be included in the hands of the partner is only to the extent allowed in the hands of the firm, due to application of section 40(b).
- (b) As per section 40(b), maximum interest allowable is 12%. Hence, the interest allowed in the hands of the firm would have been Rs. 1,44,000 only, and not Rs.1,80,000.
- (c) The entire remuneration of Rs.1,50,000 is allowable in the hands of the firm since the remuneration allowable for the first Rs. 3 lakh of book profit, is the higher of Rs.1,50,000 or 90% of book profit. In this case, the allowable remuneration isRs.1,50,000, since it is higher than Rs.1,21,500, being 90% of Rs. 1,35,000.

(6) Dividend from foreign company is not eligible for exemption under section 10(34).

(7) Agricultural income from land situated outside India is not exempt under section 10(1). Since the HUF is resident, the agricultural income will form part of total income.

(8) Deduction under section 80C:
- (a) Any sum paid to keep in force any insurance on the life of eligible person qualifies for deduction. However, late fees does not qualify for deduction under section 80C.
- (b) Insurance taken with IRDA approved private insurer is also eligible for deduction.
- (c) The source of income used for making the payment of insurance premium is immaterial.
- (d) Tuition fee paid for full-time education is allowable only in the case of individual assessee. Hindu undivided families are not eligible for deduction in respect of payment of tuition fees, whether for full time or part time education.

Deduction allowed under section 80C is as under:

S.No.	Eligible item	Amount (Rs.)
(i)	Insurance premium	72,000
(ii)	Principal repayment of housing loan from bank	48,000

		1,20,000

Deduction under section 80C restricted to Rs. 1,00,000.

4 (b)

2. Along with ST-3 return following documents should be attached:
   (i) copies of TR-6 challans which indicate the payment of service tax for the months/quarter covered in the half-yearly return;
   (ii) a memorandum in form ST-3A giving full details of the difference between the amount of provisional amount of tax deposited and the actual amount payable for each month. Form-ST-3A is to be attached only when the assessee opts for provisional payment of service tax.

4(c)

4. (a) To reduce the multiplicity of sales-tax rates between various States in India, it was recommended that VAT will have broadly the following tax rates:
   (a) Zero rate for tax free goods,
   (b) 1% on precious or semi-precious metals i.e., bullion etc.
   (c) 4% on items of basic necessities, agricultural and industrial inputs, capital goods and declared goods
   (d) 20% on non VAT goods
   (e) 12.5% on other goods.

   (b) VAT registration can be cancelled on:
   (i) discontinuance of business; or
   (ii) disposal of business; or
   (iii) transfer of business to new location; or
   (iv) annual turnover falling below the specified limit.

5(a)

5. Computation of taxable income of Mr. Madhavan for the A.Y 2011-12

		Rs.	Rs.
I.	Net income from house property		2,70,000
II.	Income from business		
	Income from business	90,000	
	Income from coffee (cured and roasted) @ 40%	40,000	
		1,30,000	
	Less :Current year depreciation –[Section 32(1)]	30,000	
		1,00,000	
	Less: Brought forward business loss	70,000	
		30,000	
	Less: Brought forward business depreciation	30,000	Nil
III	Capital gains		
	Long term capital gain – debentures	2,00,000	
	Less :Long term capital loss – shares – not eligible for set off	Nil	
	Less: brought forward unabsorbed depreciation	1,10,000	
		90,000	
	Short term capital gain – Jewellery	1,60,000	2,50,000
IV	Income from other sources		
	Dividends on shares (including shares in company carrying on agricultural operations)– exempt u/s.10(34)		Nil
	Gross total income		5,20,000
	Less :Chapter VI-A deductions		
	Deduction U/s.80C : NSC VIII issue purchase		1,00,000
			4,20,000

(a) Section 80G – Donation to a local authority for family planning. Amount donated Rs.35,000 donation is to be restricted to 10% of gross total income as adjusted below Gross total income 4,20,000 Less :Long term capital gain 90,000 Adjusted GTI 3,30,000		
Deduction limited to 10% gross total income Rs.33,000 @ 100%		33,000
Total income		3,87,000
Computation of tax liability after applying the aggregation of agricultural income with non-agricultural income		
Agricultural income + non agricultural income = Total income = 60,000 + 3,87,000		4,47,000
Tax on LTCG of Rs.90,000 @ 20%	18,000	
Tax on the remainder at slab rate	19,700	37,700
Less : Tax on income of basic limit Rs.1,60,000 plus Rs.60,000 towards agricultural income. Tax on Rs.2,20,000		6,000
Tax liability		31,700
Add : Education cess and Secondary and higher education cess @ 3%		951
Total tax liability		32,651
Total tax liability (R/o)		32,650

5(b)

(1) As per Circular No. 4/2008 dated 28th April, 2008 issued by the CBDT, the service tax paid by the tenant does not partake the nature of income of the landlord. The landlord only acts as a collecting agency for collection of service tax. Therefore, tax deducted at source under section 194-I would be required to be made on the amount of rent paid or payable excluding the amount of service tax, i.e. tax has to be deducted under section 194-I on Rs.12 lakh.

(2) TDS shall be applicable @ 10%.

(3) Hence, in the given case, TDS under section 194-I would amount to Rs. Rs.10,000, being 10% of Rs.1 lakh, to be deducted every month and cheque for net amount of Rs.90,000 will be issued by M/s. Vaibhavi Corporation Ltd. to Mrs. Indira.

(4) Tax deducted should be deposited within prescribed time.

(5) Form No. 16-A has to be issued by M/s. Vaibhavi Corporation Ltd. to Mr. Abhijit within the prescribed time.

5(c)

Notification No. 24/2004 ST dated 10.09.2004 defines a vocational training institute to mean a commercial training or coaching centre which provides vocational coaching or training that impart skills to enable the trainee to seek employment or undertake self employment, directly after such training or coaching.

Vocational training institute (w.e.f. 27/02/2010) means an Industrial Training Institute or an Industrial Training Centre affiliated to the National Council for Vocational Training, offering courses in designated trades as notified under the Apprentices Act, 1961

3. Section 65(105)(zzc) provides that the scope of taxable service shall include any service provided or to be provided to any person, by a commercial training or coaching centre in relation to commercial training or coaching. As per section 65(27), a commercial training or coaching centre means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes but does not include preschool coaching and training centre or any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognised by law for the time being in force.

The question is now answered as follows:

(i) A B.Tech degree is recognised by law and thus institutes offering such degrees are excluded from the scope of the said taxable service. However, Circular No.107/01/2009 ST dated 28.01.2009 has clarified that an institution or establishment which is derecognized by the professional councils (such as All India Council for Technical Education-AICTE, Medical Council of India-MCI, Indian Council for Agricultural Research-ICAR, Bar Council of India-BCI) created through independent Union Acts does not fall under the category of institutes/establishments which issue diploma or certificate recognized by the law for the time being in force and hence is taxable under the category of commercial coaching and training services.

Thus, BTL Engineering College being derecognized by All India Council for Technical Education shall be liable to service tax.

5 (d)

5. Computation of tax liability, input tax credit availed and tax payable under invoice method

Stage	Particulars	VAT Liability	Less VAT Credit	Tax payable to Government
1.	X, the manufacturer, sells to B, the distributor, for Rs.2,000. Therefore his tax liability will be Rs.250 (Rs.2,000 @ 12.5%). He will not have any VAT credit.	250	-	250
2.	B, the distributor, sells goods to K, the wholesale dealer, for Rs.2,400. B's tax liability will be Rs.300 (Rs.2,400 @ 12.5%). He will get set off of tax paid at earlier stage of Rs.250. Thus, tax payable by him will be Rs.50.	300	250	50
3.	K, the wholesaler dealer, sells to retailer at Rs.3,000. K's tax liability will be Rs.375 (Rs.3,000 @ 12.5%). He will get set off of tax paid at earlier stage of Rs.300. Thus, tax payable by him will be Rs.75.	375	300	75
4.	Retailer sells goods to consumers at Rs.4,000. His tax liability will be Rs.500 (Rs.4,000 @ 12.5%). He will get set off of tax paid at earlier stage of Rs.375. Thus, tax payable by him will be Rs.125/-	500	375	125

6(a)

(i) Section 139B provides a scheme for submission of return of income for any assessment year through a tax return preparer. However, it is not applicable to persons whose books of account are required to be audited under section 44AB. Therefore, Mrs. Hetal cannot furnish her return of income for A.Y.2011-12 through a tax return preparer.

As per section 140, return of income can be signed by an individual even if he is absent from India. Hence, an individual can himself sign the return of income from a place outside India. Alternatively, any person holding a valid power of attorney and duly authorised by the individual can also sign the return of income. However, such power of attorney should be attached along with the return of income.

(ii) Any person who has furnished a return under section 139(1) or in pursuance of a notice issued under section 142(1) can file a revised return if he discovers any omission or any wrong statement in the return filed earlier. Accordingly:-

(i) A defective or incomplete return filed under section 139(9) cannot be revised because it becomes void-ab-initio on expiry of 15 days (or extended period). However, the defect can be removed through filing of revised return but must be within time period of 15 days (or extended period).

(ii) A belated return filed under section 139(4) cannot be revised. Only a return furnished under section 139(1) or in pursuance of a notice issued under section 142(1) can be revised.

(iii) A return revised earlier can be revised again as the first revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. within one year from the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

(iv) A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).

(iii) (i) True: The due date for filing the return of income for a working partner of a firm subject to tax audit is 30th September of the relevant assessment year. In this case, the turnover of the firm carrying on business exceeds Rs.60 lakh and it is subject to tax audit under section 44AB. Since Mr. Priyank is not a working partner, the due date for filing the return of income of A.Y.2011-12 is 31st July 2011.

(ii) False: It is compulsory for partnership firms to file their return of income or loss in every previous year, on or before the due date.

6(b)

4. An assessee may adjust excess payment of service tax against his liability of service tax for subsequent periods. Where an assessee has deposited service tax in respect of a taxable service which is not so provided by him either wholly or partially for any reason, he may adjust the excess service tax so paid by him (calculated on a prorata basis) against his service tax liability for the subsequent period.

However, for carrying out such adjustment, the assessee must have refunded the value of taxable service and the service tax thereon to the person from whom it was received.

In such cases of adjustment, the assessee is required to file the details in respect of such suomoto adjustments done by him at the time of filing the service tax returns.

The return Form ST – 3 also provides for enclosure of documentary evidence for adjustment of such excess service tax paid.

6(c)

6. Computation of VAT payable:

Stage	Particulars	VAT Liability	Less VAT Credit	Tax to Govt.
I	Medicines sold by Sambhav Medicaids Ltd. to Rishabh Pharmacy at Rs. 4,000	= 4,000 x 4% = 160	---	160
II	Medicines sold by Rishabh Pharmacy to Suhani Medicos at Rs. 4,000 x 162.5%	= 6,500 x 4% = 260	160	100
III	Medicines sold by Suhani to Galaxy Medicines at Rs. 6,500 x 120%	= 7,800 x 4% = 312	260	62
IV	Medicines sold by Galaxy Medicines to ultimate consumers at Rs. 7,800 x 125%	= 9,750 x 4% = 390	312	78

7(a)

6. Computation of total income of Rahul Jadav for the assessment year 2011-12

		Rs.	Rs.
(A) Income from House property			
(i) First House :		Nil	
Not assessed under this head as Mr. Rahul Jadav is not the owner of this house – it is assessed under the head "Income from other sources [Note – 1]			
(ii) Second House: Self occupied hence ALV		Nil	
Less: Deduction U/s.24 in respect of interest on monies borrowed		6,000	
Income from house property			(6,000)
(B) Income from business			
Taxable business income			64,000
(C) Income from other sources:			
Rent received from first house (Rs.2400 X 12)		28,800	
Less : Actual expenses incurred			
Lease rent	12,000		
Salary to Durban	2,400		
Interest on loan borrowed Rs.200 pm	2,400	16,800	12,000
Total income			70,000

Note :

(1) As Mr. Jadav has taken the first house on lease, he is not treated as owner of this house for the purpose of charging income under the head income from house property. As the lease period is less than 12 years he is not a deemed owner as provided in section 27 (iii) (b).

(2) As second house is transferred to his wife without adequate consideration and without any agreement to live apart, Mr. Yadav is treated as deemed owner of the property as per section 27(i) for the purpose of charging income under the head income from house property.

7 (b)

5. (a) An assessee can submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of 90 days from the date of submission of the original return.

(b) Every assessee shall file a half yearly return in Form ST-3. Even if there is no service provided during a half year, a Nil return has to be filed. Therefore, Ms. Amrapali is required to file a service tax return.

7(c)

7. (a) The purchases made by Ram & Co. are eligible for claiming input tax credit because goods purchased for sale within the State are eligible for availing input tax credit.

(b) The purchases made by Rishabh are not eligible for claiming input tax credit because the purchase invoice is not available with the claimant.

(c) The credit of VAT paid on the inputs used in the manufacture of the exempted goods cannot be claimed by Goyal Manufacturers.

Forthcoming batches by CA. Pankaj Saraogi

Subject	**Centre**	**Nature**	**Days**	**Timings**	**Starting Date**
CA Final DT	AoC Connaught Palace	Face to Face	TTS	5.45pm – 8.30pm	May 31, 2011
CA IPCC Taxation	AoC Connaught Palace All over India	Face to Face Satellite	MWF	5.45pm – 8.30pm	June 15, 2011
CA IPCC Taxation	AoC North Campus	Face to Face	MWF	11.30am – 2.00pm	July 27, 2011