

**MOCK TEST PAPER – 1**

**IPCC: GROUP – I**

**PAPER – 4 : TAXATION**

**SUGGESTED ANSWERS / HINTS**

**1. (a) Computation of taxable income of Dr. Sandeep for the previous year ended 31.03.2012**

| Particulars                                                                                                    | ₹               | ₹                      |
|----------------------------------------------------------------------------------------------------------------|-----------------|------------------------|
| <b>Income from Salaries</b>                                                                                    |                 |                        |
| Salary received @ ₹ 5,000 per month                                                                            |                 | 60,000                 |
| <b>Income from house property</b>                                                                              |                 |                        |
| Gross annual value                                                                                             | 27,000          |                        |
| Less: Municipal tax                                                                                            | <u>2,000</u>    |                        |
| Net annual value                                                                                               | 25,000          |                        |
| Less: Deduction under section 24 @ 30%                                                                         | <u>7,500</u>    | 17,500                 |
| <b>Income from business or profession</b>                                                                      |                 |                        |
| Net income as per income & expenditure account                                                                 | 2,46,000        |                        |
| Add: Rent paid for residence at Delhi                                                                          | 30,000          |                        |
| Medicines consumed – personal use                                                                              | 10,000          |                        |
| Municipal tax relating to let out property included in administrative expenses – disallowed                    | <u>2,000</u>    |                        |
|                                                                                                                | 2,88,000        |                        |
| Less: Depreciation (See working note 2)                                                                        | 90,000          |                        |
| Rent credited to income & expenditure account                                                                  | 27,000          |                        |
| Dividend from Indian companies [Exempt under section 10(34)]                                                   | <u>9,000</u>    | 1,62,000               |
| <b>Capital Gains (Long term capital gains)</b>                                                                 |                 |                        |
| Sale consideration                                                                                             | 5,00,000        |                        |
| Less: Indexed cost acquisition (1,50,000 x 785/331)                                                            | <u>3,55,740</u> | <u>1,44,260</u>        |
| <b>Gross Total income</b>                                                                                      |                 | <b>3,83,760</b>        |
| Less: Deduction under chapter VIA – section 80GG (See Note 1)                                                  |                 |                        |
| Under section 80GG, rent paid would be allowable as a deduction to the extent of the least of the following :- |                 |                        |
| (i) 25% of total income = 25% of ₹ 2,39,500                                                                    | 59,875          |                        |
| (ii) Excess of rent paid over 10% of total income (₹ 30,000 - ₹ 23,950)                                        | 6,050           |                        |
| (iii) ₹ 2,000 per month                                                                                        | 24,000          |                        |
| Least of the above                                                                                             |                 | <u>6,050</u>           |
| <b>Total Income</b>                                                                                            |                 | <b><u>3,77,710</u></b> |

**Note :**

1. Deduction under section 80GG is to be made from Gross total income. Gross total income as defined under section 80B(5) means the total income computed in accordance with the provisions of this Act, before making any deduction under Chapter VI-A. Under section 112(2), Long term capital gains have to be reduced from Gross total income and Chapter VI-A deductions should be allowed as if the Gross total income so reduced were the Gross total income of the assessee. Therefore, in this case, for the purpose of allowing deduction u/s 80GG, Total Income = ₹ 3,83,760 – ₹ 1,44,260 = ₹ 2,39,500.

2. Depreciation on plant & machinery

|                                                                                                                      | ₹             |
|----------------------------------------------------------------------------------------------------------------------|---------------|
| On opening WDV of ₹ 5,00,000 @ 15%                                                                                   | 75,000        |
| On equipment acquired ₹ 2,00,000 @ 15%<br>(50% thereon, since acquired in December i.e. held for less than 180 days) | <u>15,000</u> |
|                                                                                                                      | <u>90,000</u> |

3. Since the property was acquired by Dr. Sandeep through inheritance, the cost of acquisition to him will be the cost to the previous owner. However, indexation will be from the year in which the assessee (i.e., Dr. Sandeep in this case) first held the asset i.e. F.Y. 1997-98.

- (b) As per Rule 3 of Point of Taxation Rules, 2011,

The point of taxation shall be -

- (a) the time when the invoice for the service provided/to be provided is issued.

However, in case the invoice is not issued within 14 days of the completion of the provision of the service, the point of taxation shall be date of such completion.

- (b) in a case, where the person providing the service, receives a payment before the time specified in clause (a), the time, when he receives such payment, to the extent of such payment.

For the purpose of this rule, wherever any advance by whatever name known, is received by the service provider towards the provision of taxable service, the point of taxation shall be the date of receipt of each such advance.

**Advance portion**

| Particulars                                            | ₹        |
|--------------------------------------------------------|----------|
| Advance received towards all services in October, 2011 | = 60,000 |

|                                                              |                                                                   |
|--------------------------------------------------------------|-------------------------------------------------------------------|
| Amount billed for <b>taxable services</b>                    | = 2,50,000 – 50,000<br>= 2,00,000                                 |
| Advance received towards taxable services                    | $= \frac{60,000}{2,50,000} \times \frac{2,00,000}{1}$<br>= 48,000 |
| Service tax @ 10% (since, service tax is charged separately) | = 48,000 x 10%<br>= 4,800                                         |
| Education cess @ 2%                                          | = 96                                                              |
| Secondary and higher education cess @ 1%                     | = 48                                                              |
| Total service tax liability                                  | = 4,944                                                           |

In this case, the due date for payment of service tax will be 5<sup>th</sup> November, 2011.

#### Balance portion

| Particulars                                             | ₹                                     |
|---------------------------------------------------------|---------------------------------------|
| Amount billed for taxable services                      | = ₹ 2,00,000                          |
| Advance received towards taxable services               | = 48,000                              |
| Amount billed but not received towards taxable services | = ₹ (2,00,000 - 48,000)<br>= 1,52,000 |
| Service tax @ 10%                                       | = 1,52,000 x 10%<br>= 15,200          |
| Education cess @ 2%                                     | = 304                                 |
| Secondary and higher education cess @ 1%                | = 152                                 |
| Total service tax liability                             | = 15,656                              |

In this case, the due date for payment of service tax will be 5<sup>th</sup> February, 2012.

#### (c) Computation of VAT and invoice value:-

| Particulars                                                                              | ₹             |
|------------------------------------------------------------------------------------------|---------------|
| Imported material cost                                                                   | 50,000        |
| [Since, this is not a VAT levied inside the State, it will form part of cost of input]   | 6,250         |
| Add: Cost of local materials                                                             | 1,50,000      |
| Less: VAT @ 12.5%                                                                        | <u>18,750</u> |
| [Since, credit of ₹ 18,750 would be available, it will not be included in cost of input] | 1,31,250      |
| Add: Other expenses and profit                                                           | <u>96,500</u> |

|                                                         |               |
|---------------------------------------------------------|---------------|
| Sales Price of goods                                    | 2,84,000      |
| Add: VAT on the above @12.5%                            | <u>35,500</u> |
| Invoice value charged by Mr. Shanky to the manufacturer | 3,19,500      |

VAT charged by Mr. Shanky is ₹ 35,500.

2. (a) **Computation of Total Income of Mrs. Akanksha for A.Y. 2012-13**

| Particulars                                                                         | ₹             | ₹                |
|-------------------------------------------------------------------------------------|---------------|------------------|
| <b>Income from salary</b>                                                           |               |                  |
| Basic salary                                                                        |               | 6,00,000         |
| Dearness allowance                                                                  |               | 2,40,000         |
| Bonus                                                                               |               | 1,00,000         |
| Commission (calculated as percentage of turnover)                                   |               | 1,50,000         |
| Entertainment allowance                                                             |               | 30,000           |
| Children's hostel allowance                                                         | 15,000        |                  |
| Less : Exemption (300 x 12 x 2)                                                     | <u>7,200</u>  | 7,800            |
| Excess contribution to recognized provident fund by employer (Refer working Note 1) |               | 1,81,200         |
| Interest credited to recognized provident fund account (exempt)                     |               | -                |
| Rent free unfurnished accommodation (Refer working Note 2)                          |               | 70,000           |
| <b>Gross salary</b>                                                                 |               | <b>13,79,000</b> |
| Less : <b>Deduction u/s.80C</b>                                                     |               |                  |
| Life insurance premium paid for insurance of life of her major son.                 | 15,000        |                  |
| Employee's contribution to recognized provident fund                                | 3,00,000      |                  |
| Deduction u/s.80CCC in respect of LIC pension fund                                  | <u>12,000</u> |                  |
|                                                                                     | 3,27,000      |                  |
| Deduction limited to ₹ 1,00,000 as per section 80CCE                                |               | 1,00,000         |
| Deduction u/s 80D                                                                   |               | <u>12,000</u>    |
| Total income before deduction u/s.80G                                               |               | 12,67,000        |
| <b>Deduction u/s.80G :</b>                                                          |               |                  |
| Actual Donation to public charitable institution = ₹ 2,00,000                       |               |                  |

|                                                                                                                                                  |  |                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------|
| Restricted to the maximum of 50% of 10% of total income before allowing deduction under section 80G<br>i.e. 50% of ₹ 1,26,700 (10% total income) |  | <u>63,350</u>           |
| <b>Total income</b>                                                                                                                              |  | <b><u>12,03,650</u></b> |
| Tax on total income                                                                                                                              |  | 2,06,095                |
| Add : Education cess @ 2%                                                                                                                        |  | 4,122                   |
| Add : Secondary and higher education cess @ 1%                                                                                                   |  | <u>2,061</u>            |
| <b>Total tax liability</b>                                                                                                                       |  | <b><u>2,12,278</u></b>  |
| <b>Rounded off</b>                                                                                                                               |  | <b><u>2,12,280</u></b>  |

**Working Notes:**

**(1) Employer's contribution to R.P.F. in excess of 12% of salary**

|                                                                                       |                 |
|---------------------------------------------------------------------------------------|-----------------|
| Employer's contribution                                                               | 3,00,000        |
| Less : 12% of basic salary, dearness allowance & commission<br>i.e. 12% of ₹ 9,90,000 | <u>1,18,800</u> |
|                                                                                       | <u>1,81,200</u> |

**(2) Value of rent free unfurnished accommodation**

|                                                               |                  |
|---------------------------------------------------------------|------------------|
| Basic salary                                                  | 6,00,000         |
| Dearness allowance                                            | 2,40,000         |
| Bonus                                                         | 1,00,000         |
| Commission @ 0.2% of turnover                                 | 1,50,000         |
| Entertainment allowance                                       | 30,000           |
| Children's hostel allowance                                   | <u>7,800</u>     |
| Gross Salary                                                  | <u>11,27,800</u> |
| 15% of salary                                                 | 1,69,170         |
| Actual rent paid by the company                               | 70,000           |
| The least of the above is chargeable perquisite i.e. ₹ 70,000 |                  |

- (b) The contention of Mr. Raman is not tenable in law. **Circular No. 96/7/2007 ST dated 23.08.2007** clarifies that Consulting engineers include self-employed professionally qualified engineer, whether or not employing others for assistance.

Services provided by such self-employed professionally qualified engineer to a client in relation to one or more discipline of engineering is liable to service tax

under consulting engineer service [section 65(105)(g)]. Hence Mr. Raman is liable to pay service tax.

(c) The said statement is not valid as a registered dealer is eligible for the composition scheme provided his turnover does not exceed ₹ 50 lakhs in the last financial year. However, the following are not eligible for the 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) Since the assessee is a resident and ordinarily resident in India, her global income would form part of her total income i.e., income earned in India as well as outside India will form part of her total income.

She possesses a self-occupied house at London as well as at Jaipur. At her option, one house shall be treated as self-occupied, whose annual value will be nil. The other self-occupied house property will be treated as "deemed let out property".

The annual value of the London house is ₹ 9,00,000 and the Jaipur flat is ₹ 3,15,000. Since the annual value of London house is more, it will be beneficial for her to opt for choosing the same as self-occupied. The Jaipur house will, therefore, be treated as "deemed let out property".

As regards the Mumbai house, arrears of rent will be chargeable to tax as income from house property in the year of receipt under section 25B. It is not essential that the assessee should continue to be the owner. 30% of the arrears of rent shall be allowed as deduction.

Accordingly, the income from house property of Mrs. Neha will be calculated as under:

|    | Particulars                                                              | ₹   | ₹             |
|----|--------------------------------------------------------------------------|-----|---------------|
| 1. | <b>Self-occupied house at London.</b>                                    |     |               |
|    | Annual value                                                             | Nil |               |
|    | Less: Deduction under section 24                                         | Nil |               |
|    | Income from house property                                               | Nil |               |
| 2. | <b>Deemed let out house property at Jaipur</b>                           |     |               |
|    | Annual value (Higher of municipal value and fair rent) [4,20,000 x 9/12] |     | 3,15,000      |
|    | Less: Municipal Taxes (Property tax+Sewerage tax)                        |     | <u>18,000</u> |

|           |                                                                      |                 |                      |
|-----------|----------------------------------------------------------------------|-----------------|----------------------|
|           | <b>Net Annual Value (NAV)</b>                                        |                 | 2,97,000             |
|           | Less: Deductions under section 24                                    |                 |                      |
|           | 30% of NAV                                                           | 89,100          |                      |
|           | Interest on borrowed capital (See Note below)                        | <u>1,91,940</u> | <u>2,81,040</u>      |
|           |                                                                      |                 | 15,960               |
| <b>3.</b> | <b>Arrears in respect of Mumbai property</b>                         |                 |                      |
|           | Arrears of rent received                                             | 60,000          |                      |
|           | Less: Deduction @ 30%                                                | <u>18,000</u>   | <u>42,000</u>        |
|           | <b>Income chargeable under the head "Income from house property"</b> |                 | <u><b>57,960</b></u> |

| <b>Note : Interest on borrowed capital</b>               |  | <b>₹</b>               |
|----------------------------------------------------------|--|------------------------|
| Interest for the current year (₹ 50,800 + ₹ 1,31,300)    |  | 1,82,100               |
| Add: 1/5th of pre-construction interest (₹ 49,200 x 1/5) |  | <u>9,840</u>           |
| <b>Interest deduction allowable under section 24</b>     |  | <u><b>1,91,940</b></u> |

- (b) (a) 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. Priyanshi Jain is required to file a service tax return.
- (b) The said statement is not tenable in law. 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. Hence "Once filed, service tax return can be revised further."
- (c) It is said that VAT is a logical beauty. Under VAT, credit of duty paid is allowed against the liability on the final product manufactured or sold. Therefore, unless proper records are kept in respect of various inputs, it is not possible to claim credit. Hence, suppression of purchases or production will be difficult because it will lead to loss of revenue. A perfect system of VAT will be a perfect chain where tax evasion is difficult.

Further, the greatest advantage of the system is that it does not interfere in the choice of decision for purchases. This is because the system has anti-cascading effect. How much value is added and at what stage it is added in the system of production/distribution is of no consequence. The system is neutral with regard to choice of production technique, as well as business organisation. All other things remaining the same, the issue of tax liability does not vary the decision about the source of purchase. VAT facilitates precise identification and rebate of the tax on - purchases and thus ensures that there is no cascading effect of tax. In short, the

allocation of resources is left to be decided by the free play of market forces and competition. Hence, it can be concluded that VAT helps in checking tax evasion and in achieving neutrality.

4. (a) (i) **True** : As per section 40A(3A), in the case of an assessee following mercantile system of accounting, if an expenditure has been allowed as deduction in any previous year on due basis, and payment exceeding ₹ 20,000 has been made in the subsequent year otherwise than by account payee cheque or account payee bank draft, then the payment so made shall be deemed to be the income of the subsequent year in which such payment has been made.
- (ii) **True** : Section 36(1)(xv) allows a deduction of the amount of securities transaction tax paid by the assessee in respect of taxable securities transactions entered into in the course of business during the previous year as deduction from the business income of a dealer in shares and securities.
- (iii) **True** : According to the Explanation 5 to section 32(1), allowance of depreciation is mandatory. Therefore, depreciation has to be provided mandatorily while calculating income from business / profession whether or not the assessee has claimed the same while computing his total income.
- (iv) **False** : Additional depreciation can be claimed only in respect of eligible plant and machinery acquired and installed by an assessee engaged in the business of manufacture or production of any article or thing. In this case, the assessee is engaged in trading activities and the new plant has been acquired and installed in a trading concern. Hence, the assessee will not be entitled to claim additional depreciation under section 32(1)(iia).
- (v) **True** : Section 36(1)(ib) provides deduction in respect of premium paid by an employer to keep in force an insurance on the health of his employees under a scheme framed in this behalf by GIC or any other insurer. The medical insurance premium can be paid by any mode other than cash, to be eligible for deduction under section 36(1)(ib).
- (vi) **False** : Expenditure incurred in making payment to the employee in connection with his voluntary retirement either in the year of retirement or in any subsequent year, will be entitled to deduction in 5 equal annual installments beginning from the year in which payment there of is made to the employee.
- (b) The advice given by Honey Limited to sub-contractor Moon Ltd. is not tenable in law.

A sub-contractor is also a taxable service provider. The services provided by sub-contractor which are used by main contractor does not in any way alter the fact of provision of taxable service by the sub-contractor.

Service tax paid by the contractor to sub-contractor will be eligible for input credit to the main contractor.

A given taxable service which is intended for use as an input service by another service provider would not alter the taxability of the service provided.

- (c) Invoices are crucial documents for administering VAT. In the absence of invoices VAT paid by the dealer earlier cannot be claimed as set off.

A VAT invoice:

- (i) helps in determining the input tax credit;
- (ii) prevents cascading effect of taxes;
- (iii) facilitates multi-point taxation on the value addition;
- (iv) promotes assurance of invoices;
- (v) assists in performing audit and investigation activities effectively;
- (vi) checks evasion of tax.

5. (a) **Computation of total income and tax liability of Mr. Yogesh for the A.Y.2012-13**

| Particulars                                                                                                                                                         | ₹                | ₹               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------------|
| <b>Capital Gains:</b>                                                                                                                                               |                  |                 |
| Sale price of the residential house                                                                                                                                 | 31,00,000        |                 |
| Valuation as per Stamp Valuation authority<br>(Value to be taken is the higher of actual sale price or valuation adopted for stamp duty purpose as per section 50C) | 35,00,000        |                 |
| Therefore, Consideration for the purpose of Capital Gains                                                                                                           | 35,00,000        |                 |
| Less: Indexed Cost of Acquisition = $5,00,000 \times 785/244$                                                                                                       | <u>16,08,607</u> |                 |
|                                                                                                                                                                     | 18,91,393        |                 |
| <b>Less:</b> Exemption under section 54 ₹ 12,00,000                                                                                                                 |                  |                 |
| Exemption under section 54EC ₹ 5,00,000                                                                                                                             | <u>17,00,000</u> |                 |
| <b>Long-term Capital Gain</b>                                                                                                                                       |                  | <b>1,91,393</b> |
| <b>Income from other sources:</b>                                                                                                                                   |                  |                 |
| Interest on bank deposits                                                                                                                                           |                  | <u>32,000</u>   |
| <b>Gross Total Income</b>                                                                                                                                           |                  | <b>2,23,393</b> |
| Less: Deduction under Chapter VI-A                                                                                                                                  |                  |                 |
| Section 80C – Investment in PPF (restricted to ₹ 32,000) (See Note 1)                                                                                               |                  | <u>32,000</u>   |
| <b>Total Income</b>                                                                                                                                                 |                  | <b>1,91,393</b> |
| <b>Total Income (Rounded off)</b>                                                                                                                                   |                  | <b>1,91,390</b> |

|                                                                     |  |                     |
|---------------------------------------------------------------------|--|---------------------|
| <b>Tax liability</b>                                                |  |                     |
| Tax@20% on ₹ 11,390, being (₹ 1,91,390–<br>₹ 1,80,000) (See Note 2) |  | 2,278               |
| Add: Education Cess @ 2%                                            |  | 46                  |
| Secondary and Higher Education Cess @ 1%                            |  | <u>23</u>           |
| <b>Total tax liability</b>                                          |  | <b><u>2,347</u></b> |

**Note:**

- (1) Deduction under section 80C should be restricted to gross total income excluding long term capital gain.
  - (2) The basic exemption limit can be adjusted against long term capital gains, since the entire income comprises of only long term capital gains. The balance long term capital gains of ₹ 11,390 is taxable @ 20% plus education cess @ 2% and secondary and higher education cess @ 1%.
- (b)** Payment of tax in cases of new services [Rule 5 of Point of Taxation Rules 2011] - Where a service, not being a service covered by rule 6, is taxed for the first time, then, –
- (a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
  - (b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within the period referred to in rule 4A of the Service Tax Rules, 1994.
- The facts given in the question does not fall under any of the above two clauses. Hence service tax is payable on the same.
- (c)** 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.

**6. (a) Computation of total income of Mr. Amit for the A.Y. 2012-13.**

| Particulars                                                            | ₹               |
|------------------------------------------------------------------------|-----------------|
| Income from retail trade – as per books (See Note 1 below)             | 75,000          |
| Income from plying of vehicles – as per books (See Note 2 below)       | <u>2,10,400</u> |
|                                                                        | <b>2,85,400</b> |
| Less: Set off of brought forward depreciation relating to A.Y. 2011-12 | <u>1,00,000</u> |

|                                                                      |                      |
|----------------------------------------------------------------------|----------------------|
| Gross total income                                                   | 1,85,400             |
| Less: Deduction u/s.80C – Contribution to PPF and bank fixed deposit | <u>1,00,000</u>      |
| <b>Taxable income</b>                                                | <b><u>85,400</u></b> |
| <b>Tax liability</b>                                                 | <b>Nil</b>           |

**Note :**

- (1) **Income from retail trade:** Presumptive business income under section 44AD is ₹ 1,73,600 i.e. 8% of turnover of ₹ 21,70,000. However, the income computed as per books is ₹ 75,000 which is to be further reduced by the amount of unabsorbed depreciation. Since the income computed as per books is lower than the income deemed under section 44AD, the assessee can adopt the income as per books.

The requirement to maintain books of accounts under section 44AA and to get them audited under section 44AB in case the assessee claims the profit and gains of business to be lower than the presumptive income determined under section 44AD, would arise only if the total income exceeds the basic exemption limit. In this case, since the total income does not exceeds the basic exemption limit, this mandatory requirement does not arise.

The total unabsorbed depreciation is ₹ 1,00,000. Out of this, ₹ 75,000 can be set-off against income from retail trade. The balance of ₹ 25,000 remains to be set-off from income from plying of vehicles.

- (2) **Income from plying of vehicles :** Income calculated under section 44AE(1) would be ₹ 5,000 x 12 x 5 which is equal to ₹ 3,00,000. However, the income from plying of vehicles is ₹ 2,10,400 less ₹ 25,000, being the balance unabsorbed depreciation remaining to be set-off under section 32(2). Therefore, the taxable income from plying of vehicles is ₹ 1,85,400, which is lower than the presumptive income of ₹ 3,00,000 calculated as per section 44AE(1). Hence, the assessee can consider the taxable income i.e. ₹ 1,85,400, provided he maintains books of account as per section 44AA and gets his accounts audited and furnishes an audit report as required under section 44AB.

It is to be further noted that in both the above cases, had presumptive income provisions been opted, all deductions under sections 30 to 38, including depreciation would have been deemed to have been given full effect to and no further deduction under those sections would be allowable.

If the assessee opted for income to be assessed on presumptive basis, his total income would be as under:

| Particulars                                                                                                         | ₹                      |
|---------------------------------------------------------------------------------------------------------------------|------------------------|
| Income from retail trade u/s 44AD [₹ 21,70,000 @ 8%]                                                                | 1,73,600               |
| Income from plying of vehicles u/s 44AE [₹ 5,000 x 12 x 5]                                                          | <u>3,00,000</u>        |
|                                                                                                                     | 4,73,600               |
| Less: Set off of brought forward depreciation – not possible and it is deemed that it has been allowed and set off. | <u>Nil</u>             |
| <b>Gross total income</b>                                                                                           | <b>4,73,600</b>        |
| Less: Deduction u/s.80C - Contribution to PPF and bank fixed deposit                                                | <u>1,00,000</u>        |
| <b>Taxable income</b>                                                                                               | <b><u>3,73,600</u></b> |
| Tax thereon                                                                                                         | 19,360                 |
| Add: Education cess @ 2% and Secondary and higher education cess @ 1%                                               | <u>581</u>             |
| <b>Total tax liability</b>                                                                                          | <b><u>19,941</u></b>   |

**Note:** If the assessee has not maintained books of account as required under section 44AA for the business of plying of vehicles, then, he has to offer income only on presumptive basis given above.

(b) **Notification No. 53/2010-S.T. dated 21.12.2010** has been issued to exempt the service of providing the right to use the packaged or canned software under 'information technology software services' from the whole of service tax on fulfillment of following conditions:-

- (i) the value of the packaged or canned software domestically produced/imported, for the purposes of excise duty or countervailing duty (if imported) has been determined on the basis of MRP valuation (i.e. under section 4A of the Central Excise Act, 1944) and
- (ii) (a) In case of domestic production-the appropriate duties of excise on such value have been paid by the manufacturer, duplicator or the person holding the copyright to such software, as the case may be, in respect of software manufactured in India; or
  - (b) In case of import-the appropriate duties of customs including the additional duty of customs on such value, have been paid by the importer in respect of software which has been imported into India.
- (iii) a declaration made by the service provider on the invoice relating to such service that no amount in excess of the retail sale price declared on the said goods has been recovered from the customer.

(c) The said statement is not valid in law as the following records should be maintained under VAT system:

- (i) Purchase records
- (ii) sales records
- (iii) VAT account
- (iv) separate record of any exempt sale

Further, the following records should also be kept and produced to an officer:

- (i) copies of all invoices issued, in serial number;
- (ii) copies of all credit and debit notes issued, in chronological order;
- (iii) all purchase invoices, copies of customs entries, receipts for payment of customs duty or tax, and credit and debit notes received to be filed chronologically either by date of receipt or under each supplier's name;
- (iv) details of the amount of tax charged on each sale or purchase;
- (v) 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;
- (vi) details of goods manufactured and delivered from the factory of the taxable person;
- (vii) details of each supply of goods from the business premises, unless such details are available at the time of supply in invoices issued at, or before, that time;

Failure to keep these records may attract penalty. All such records should be preserved for the period specified in respective State provisions.

7. (a) (i) Since the total income of ₹ 3,20,000 exceeds the basic exemption limit of ₹ 1,80,000, the mandatory requirement of filing return under section 139(4C) will apply.

The accounts of the charitable trust running an educational institution with an aggregate annual receipt of less than ₹ 100 lacs is eligible for exemption under section 10(23C)(iiiad) and therefore, the accounts of such trust need not be audited under section 44AB.

Therefore, the due date of filing of return of income of the public charitable trust running an educational institution eligible for exemption under section 10(23C)(iiiad) is 31st July 2012.

- (ii) A registered trade union is having income from property, which is exempt under section 10(24).

Section 139(4C) mandates filing of return only when the total income exceeds the maximum amount which is not chargeable to tax without giving effect to the provisions of section 10. Even without giving effect to section 10(24), the total income is below basic exemption limit and therefore, there is no mandatory requirement to file the return of income.

- (iii) Since the total income of the public trust hospital, without giving effect to the exemption under section 10(23C)(via), is less than the basic exemption limit of ₹ 1,80,000, the trust need not file its return of income.
  - (iv) The fourth proviso to section 139(1) requires every person, whose total income without giving effect to the provisions of, *inter alia*, Chapter VIA exceeds the maximum amount not chargeable to tax, to compulsorily furnish the return of income for the relevant assessment year on or before the due date. The gross total income of Mr. Vimal before deduction under section 80C exceeds the basic exemption limit of ₹ 1,80,000 and therefore, Mr. Vimal has to furnish his return of income for the assessment year 2012-13. The due date for filling return of income is 31<sup>st</sup> July, 2012.
- (b) (1) As per *Circular No. 4/2008 dated 28<sup>th</sup> 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 ₹ 12 lakh.
- (2) Tax is deductible @ 10% under section 194-I.
  - (3) Hence, in the given case, TDS under section 194-I would amount to ₹ 10,000, to be deducted every month.
  - (4) Tax deducted should be deposited within prescribed time i.e. on or before seven days from the end of the month in which the deduction is made and upto 30<sup>th</sup> April for the month of March.
- (c) Rule 7 of Point of Taxation Rules 2011, *inter alia* provides that in case of Individuals or proprietary firms or partnership firms providing any of the following taxable services:-
- (a) Architect's Services
  - (b) Interior Decorator's Services
  - (c) Practicing Chartered Accountant's Services
  - (d) Practicing Cost Accountant's Services
  - (e) Practicing Company Secretary's Services
  - (f) Scientific or Technical Consultancy Services
  - (g) Legal Consultancy Services

(h) Consulting Engineer's Services (inserted vide *Notification No. 41/2011 ST dated 27.06.2011*)

the date of receipt or payment of consideration would be the point of taxation

In the given case, amount of service tax liable to be paid by Mr. Y

$$= \frac{\text{Gross Amount} \times \text{Rate of tax}}{(100 + \text{Rate of tax})} = \frac{2,26,640 \times 10.30}{110.30} = 21,164$$

M/S Sharda & Co. is required to deposit service tax of ₹ 21,164 on or before 31.03.2012.

(d) The major deficiencies of VAT system in India are as under:

- (1) There is lack of uniformity in the rates of VAT in different States. Distortion occurs on account of different rates of VAT, composition Scheme, exemptions, difference in classification of goods, etc.
- (2) Central Sales Tax is not integrated with the State VAT. Therefore, it is difficult to put the purchases from other States at par with the purchases within the State. Consequently, the advantage of neutrality is confined only for purchases within the State.
- (3) For complying with the VAT provisions, the accounting cost has increased which may not be commensurate with the benefit to traders and small firms.
- (4) VAT is paid at various stages and not at last stage. This has increased the requirement of working capital and the interest burden on the same.
- (5) VAT, being a consumption tax, tends to be regressive since the proportion of income spent on consumption is large for the poor than the rich.
- (6) As a result of introduction of VAT, the administrative cost to the States has increased on account of number of dealers going up significantly.

Note: Any four points may be mentioned.