

PAPER – 5 : INCOME-TAX AND CENTRAL SALES TAX

QUESTIONS

1. Explain the meaning of the following terms in the context of new section 10AA inserted by the Special Economic Zones Act, 2005 -
 - (a) Export;
 - (b) Export turnover;
 - (c) Manufacture.
2. The following are the particulars of income of Mr. Anand for the previous year 2005-06 -

Particulars	Rs.
(i) Interest on deposits with an Indian company received in Canada	23,000
(ii) Income from agriculture in India received in Canada	24,000
(iii) Rent from a property in Secunderabad received in USA	92,000
(iv) Rent from a property in Canada received there	63,000
(v) Income from a business in Hyderabad managed from Canada	1,07,000
(vi) Income from profession in USA which was set up in Hyderabad, received there.	54,000
(vii) Cash gift received in Bangalore from his maternal uncle for his birthday	50,000
(viii) Cash gift received in Hyderabad from his friend on the occasion of his marriage	40,000
(ix) Untaxed foreign income of earlier years brought to India this year	12,000
(x) Profits earned from a business in USA which is controlled from Bangalore, one-fourth of such profits received in Bangalore	88,000

Compute his total income for A.Y. 2006-07 if he is (i) resident and ordinarily resident; (ii) resident but not ordinarily resident; (iii) non-resident.

3. Fill in the blanks having regard to the provisions of Income-tax Act, 1961 (A.Y.2006-07) -
 - (i) The maximum ceiling limit for exemption under section 10(10C) with respect to compensation received on voluntary retirement is -----.
 - (ii) The W.D.V. of a block (Plant and Machinery, rate of depreciation 15%) as on 31.3.05 is Rs.3,20,000. A machinery costing Rs.50,000 was acquired on 1.9.05 but put to use on 1.11.05. During Jan'06, part of this block was sold for Rs.2,00,000. The depreciation for A.Y.2006-07 would be -----.
 - (iii) Mr.Ram contributed an amount of Rs.20,000 for research in social science, which is not connected to his business. Mr.Ram is eligible under section 35 to a deduction of -----.
 - (iv) Mr. Seshadri, aged 67 years, paid medical insurance premium of Rs.16,000 by cheque and Rs.1,000 by cash during November, 2005 under a Medical Insurance Scheme of the General Insurance Corporation. The above sum was paid for insurance of his own health. He would be entitled to a deduction under section 80D of a sum of -----.
 - (v) The deduction under section 80QQB in respect of royalty income of authors of certain books is subject to a maximum limit of -----.

4. Compute the salary income for the A.Y. 2006-07 in the following cases:
 - (a) Mr. Anand, who is in Government service, receives Rs.5,000 p.m. as basic salary; Rs.800 p.m. as dearness allowance and Rs.500 p.m. as entertainment allowance.
 - (b) Mrs. Gouri, who is the General Manager of a private software company, received Rs.18,000 p.m. as basic salary and Rs.3,000 p.m. as entertainment allowance.
 - (c) Mr. Rahul is employed in a multinational company at Chennai for a salary of Rs.80,000 per month. Value of taxable perquisites is Rs.2,00,000 for the year. He pays professional tax of Rs.5,000 for the year.
5. Write short notes on -
 - (i) Zero coupon bond;
 - (ii) Marginal relief.
6. Rajesh owns a house which consists of three floors, construction of which was completed in March, 2003. All the three floors are let out on a rent of Rs.3,000 each per month. The annual municipal value of the house is Rs.1,00,000. Municipal tax due for the year is Rs.12,000. Rajesh paid Rs.18,000 towards municipal tax during the year which included municipal tax of Rs.6,000 in respect of the year 2004-05. Rajesh had borrowed Rs.50,000 for repair of the house property. Interest of Rs.9,000 is payable for the current year on the said loan. He appointed a person to collect the rent on a salary of Rs.75 per month. One of the floors remained vacant for 4 months during the year. Compute Rajesh's income from house property for the A.Y. 2006-07.
7. Is benefit of deduction under section 10B available to undertakings set up in domestic tariff area (DTA) subsequently approved as a 100% export oriented undertaking (100% EOU)? If yes, from which year and for what period is such deduction available?
8. Alpha Industries furnishes you the following information relevant for the financial year 2005-06. You are required to compute the admissible depreciation for the year and the written down value as on 31.3.06.

Particulars	Rs.
Block I Buildings (comprising of 2 buildings) [Rate of depreciation 10%]	
Written down value as on 31.3.2005	18,00,000
Block II Plant & Machinery (comprising of 20 looms) [Rate of depreciation 15%]	
Written down value as on 31.3.2005	8,00,000
Cost of purchase of 10 looms [purchased on 4.6.2005]	5,00,000
Sale price of 12 looms [sold on 1.2.2006]	4,20,000
Cost of purchase of 5 looms [purchased on 1.3.2006]	2,50,000

9. Choose the correct answer having regard to the provisions of the Income-tax Act, 1961(A.Y.2006-07)
 - (i) Who are the persons who are compulsorily required to file a return of income or loss on or before the due date specified in section 139(1), irrespective of their level of total income -
 - a) Only companies
 - b) Only firms
 - c) Both companies and firms.
 - (ii) If Ganesh's total income is Rs.10,15,000, the marginal relief available to him is -
 - a) Rs.15,000
 - b) Rs.29,950
 - c) Rs.14,950

- (iii) Poorna received Rs.30,000 as arrears of rent during the P.Y.2005-06. The amount taxable under section 25B would be -
- 30,000
 - 21,000
 - 20,000
- (iv) Karan stays in Mumbai. His basic salary is Rs.10,000 p.m., D.A. (60% of which forms part of pay) is 6,000 p.m., HRA is Rs.5,000 p.m. and he is entitled to a commission of 1% on the turnover achieved by him. Karan pays a rent of Rs.5,500 p.m. The turnover achieved by him during the current year is 12 lakhs. The amount of HRA exempt under section 10(13A) is -
- Rs.48,480
 - Rs.45,600
 - Rs.49,680
- (v) Kamal is provided with a rent free unfurnished accommodation, which is owned by his employer, ABC Ltd., in New Delhi. The value of perquisite in the hands of Kamal is
- 20% of salary
 - 15% of salary
 - 10% of salary
10. Mr. Bhuvan purchased 10,000 shares of XYZ Ltd., listed in the Bombay Stock Exchange for Rs.120 per share on 12.11.97. XYZ Ltd. made a 1:1 bonus issue during October 2000. The second bonus issue was made during June, 2005, when 1 bonus share was allotted for every 4 shares held by a shareholder. Bhuvan sold the entire shares of XYZ Ltd. held by him on 31.3.2006 @ Rs.300 per share. These shares were sold through the Bombay Stock Exchange and securities transaction tax was paid on such sale. Determine the taxable capital gains of Bhuvan for the A.Y.2006-07. Also, indicate the nature of capital gain. [Cost Inflation Index for the F.Y.1997-98 is 331 and F.Y.2005-06 is 497]
11. State with reasons, whether the following statements are true or false.
- The term 'Salary' for the purpose of exemption of leave salary under section 10(10AA) refers to the last drawn salary
 - Prem's gross salary is Rs.5,04,000. He is allowed deduction on account of professional tax paid amounting to Rs.5,000. The standard deduction allowable under section 16(i) shall be Rs.30,000 for A.Y.2006-07.
 - Under section 64(1A), income accruing to a minor child, being a minor married daughter, will be taxable in the hands of the minor, since clubbing provisions are not applicable to a minor married daughter
 - Under section 80GGB, deduction is allowable in respect of contribution to political parties by any person other than local authority and every artificial juridical person wholly or partly funded by the Government
12. Sridhar, a Company Secretary, has taxable income of Rs.2,42,000 from his profession during the P.Y.2005-06. Income earned by him from other sources is Rs.20,000. He pays medical insurance premium Rs.4,000 for insuring the health of his dependent parents; Rs.5,000 for self and spouse and Rs.1,500 for his sister. He incurs expenditure of Rs.30,000 on medical treatment of his dependent mentally retarded (severe disability) brother in an approved hospital duly certified. He pays rent of Rs.5,000 per month. Calculate his total income for A.Y. 2006-07.
13. In respect of sale of which assets is concessional rate of tax available under section 111A? What is the concessional rate of tax and what are the conditions for availing this benefit? Discuss the treatment of unexhausted basic exemption limit and deductions under Chapter VI-A in this regard.

14. Discuss the provisions of section 80-IAB relating to deduction in respect of profits and gains derived by an undertaking or enterprise engaged in the development of a special economic zone.
15. (a) Discuss the exemption available under the Income-tax Act in respect of specified income arising from any international sporting event in India.
(b) What are the exemptions available under section 10 in respect of companies engaged in the business of generation or transmission or distribution of power and subsidiaries of such companies? What are the conditions to be fulfilled to avail such exemptions?
16. Choose the correct answer having regard to the provisions of the Central sales tax Act, 1956 -
 - (i) The collection of central sales tax is done by
 - (a) the State in which the movement of goods has first taken place;
 - (b) the State in which the movement of goods ends;
 - (c) the Central Government directly
 - (ii) Modi Oils Ltd., New Delhi sent via its pipeline special purified oil to Beta Oils Ltd. in Faridabad, Haryana, through its branch at Faridabad. This transaction is treated as:
 - (a) Branch transfer by Head Office to branch
 - (b) Inter-State sale
 - (c) Intra-State sale.
 - (iii) Aniketh of Madurai, Tamil Nadu sold to a Malaysian ship at Mumbai port, some goods for consumption on board the ship. Such sale will be -
 - (a) inter-state sale
 - (b) export sale as it is a foreign ship
 - (c) intra-state sale
 - (iv) A dealer engaged in effecting an inter-state sale is required to get himself registered where his turnover exceeds -
 - (a) Nil
 - (b) Rs.1,00,000
 - (c) Rs.3,00,000
 - (v) Where the goods sold are exempt from State sales tax, the applicable rate of CST is -
 - (a) Nil
 - (b) 3%
 - (c) 4%
17. Fill in the blanks, having regard to the provisions of the Central Sales Tax Act, 1956 -
 - (i) If aviation turbine fuel is sold to any designated Indian carrier (notified by the Central Government) for the purposes of its international flight, such sale shall be deemed to take place in the course of -----.
 - (ii) Mohan effected his first inter-state sale on 12.3.2006 and applied for registration on 10.4.2006. The effective date of registration will be -----.
 - (iii) Turnover means the ----- of the sale prices received and receivable in respect of sale of any goods in the course of -----.
 - (iv) The Central Sales Tax rate on sale of declared goods to an unregistered dealer is -----.
18. Discuss whether the following statements are True/False under CST Act :
 - (a) Excise duty should not be deducted from sale price and turnover.
 - (b) Where the dealer being a proprietor dies – the certificate of registration will be cancelled.

- (c) 'Place of business' does not include place of business of the agent.
- (d) Mr. Shyam, a dealer, who did not get himself registered, is liable for penalty (Mr. Shyam has made only one inter-State sale).
19. Write short notes on the following -
- (a) Deemed exports
- (b) Deemed dealers
20. The turnover of XYZ (P) Ltd., Trivandrum for the year 2005-06 is Rs.54 lakhs (including CST). Compute the CST and turnover of the company from the following additional information available from their records -
- The CST on goods transacted by the company are subject to State sales-tax @7%. These goods are not covered by section 14.
- The company made inter-State sales of Rs.24 lakhs to registered dealers, which includes erection charges of Rs.3 lakhs, excise duty of Rs.1.50 lakhs and packing charges of Rs.60,000. Freight and delivery charges shown separately in the invoice is Rs.60,000.
- The company also made inter-State sales aggregating to Rs.30 lakhs to unregistered dealers, which included excise duty of Rs.2.50 lakhs and transport charges of Rs.1 lakh charged separately in the invoice. There was a sales return of goods worth Rs.50,000 (invoice value) within 6 months.

SUGGESTED ANSWERS/HINTS

1. (a) "Export" in relation to the SEZs means taking goods or providing services out of India from a SEZ by land, sea, air, or by any other mode, whether physical or otherwise.
- (b) "Export turnover" means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India.
- (c) "Manufacture" shall have the same meaning as assigned to it in clause (r) of section 2 of the Special Economic Zones Act, 2005 i.e. to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, cutting, polishing, blending, repair, remaking, re-engineering and includes agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining.
2. Computation of total income of Mr. Anand for A.Y.2006-07

Particulars	Resident & ordinarily resident	Resident but not ordinarily resident	Non-resident
(i) Interest on deposits with an Indian company received in Canada	23,000	23,000	23,000
(ii) Income from agriculture in India received in Canada [Agricultural income is exempt under section 10(1)]	-	-	-
(iii) Rent from a property in Secunderabad received in USA	92,000	92,000	92,000
(iv) Rent from a property in Canada received there	63,000	-	-

(v)	Income from a business in Hyderabad managed from Canada	1,07,000	1,07,000	1,07,000
(vi)	Income from profession in USA which was set up in Hyderabad, received there.	54,000	54,000	-
(vii)	Cash gift received in Bangalore from his maternal uncle for his birthday (not taxable since received from a relative)	-	-	-
(viii)	Cash gift received in Hyderabad from his friend on the occasion of his marriage (not taxable since received on the occasion of his marriage)	-	-	-
(ix)	Untaxed foreign income of earlier years brought to India this year – not taxable since not income of the current year.	-	-	-
(x)	Profits earned from a business in USA which is controlled from Bangalore, one-fourth of such profits received in Bangalore	88,000	88,000	22,000
Total Income		4,27,000	3,64,000	2,44,000

3. (i) Rs.5,00,000
(ii) Rs.21,750
(iii) Rs.25,000
(iv) Rs.15,000
(v) Rs.3,00,000

4. Computation of taxable salary for the A.Y. 2006-07

Particulars		Rs.
(a)	Mr. Anand	
	Salary @ 5,000 p.m.	60,000
	Dearness Allowance @ Rs.800 p.m.	9,600
	Entertainment Allowance @ Rs.500 p.m.	6,000
	Gross Salary	75,600
	Less: Deduction u/s 16	
	Entertainment allowance (Least of the following)	
	1) Rs.5,000	
	2) 1/5th of Rs.60,000 = Rs.12,000	
	3) Actual receipt Rs.6,000	5,000
	Taxable Salary	70,600
(b)	Mrs. Gouri	
	Salary @ Rs.18,000 p.m.	2,16,000
	Entertainment Allowance @ Rs.3,000 p.m.	36,000
	Gross Salary	2,52,000
	Less: Deduction u/s 16	

Entertainment allowance (not eligible for deduction as she is not a Government employee)	Nil
Taxable Salary	<u>2,52,000</u>
(c) Mr. Rahul	
Salary @ Rs.80,000 p.m.	9,60,000
Value of taxable perquisites	<u>2,00,000</u>
Gross Salary	11,60,000
Less: Deduction u/s 16 – Profession tax	<u>5,000</u>
Taxable Salary	<u>11,55,000</u>

5. (i) Zero Coupon Bond

As per section 2(48), 'Zero Coupon Bond' (ZCB) means a bond issued by any infrastructure capital company or infrastructure capital fund or a public sector company on or after 1st June, 2005, in respect of which no payment and benefit is received or receivable before maturity or redemption from such issuing entity and which the Central Government may notify in this behalf.

Section 36(1)(iiiia) provides a deduction for the discount on ZCB on pro rata basis having regard to the period of life of the bond to be calculated in the manner prescribed. 'Discount' is the difference between the amount received or receivable on issue of the bond and the amount payable on maturity or redemption of the bond. 'Period of life of the bond' means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption.

The Finance Act, 2005 has rationalized the tax treatment of ZCBs and introduced a new tax regime for the purpose. As per the new scheme, the income on transfer of a ZCB (not being held as stock-in-trade) is to be treated as capital gains. Section 2(47)(iva) provides that maturity or redemption of a ZCB shall be treated as a transfer for the purposes of capital gains tax.

ZCBs held for not more than 12 months would be treated as short term capital assets. Where the period of holding of ZCBs is more than 12 months, the resultant long term capital gains arising on maturity or redemption would be treated in the same manner as applicable to capital gains arising from the transfer of other listed securities or units covered by section 112. Thus, where the tax payable in respect of any income arising from transfer of ZCBs exceeds 10% of the amount of capital gains before giving effect to the provisions of the second proviso to section 48 on indexation, then, such excess shall be ignored for the purpose of computing the tax payable.

(ii) Marginal relief

In case of such individuals/HUFs/AOPs/BOIs having a total income exceeding Rs.10,00,000, the additional amount of income-tax payable (together with surcharge) on the excess of income over Rs.10,00,000 should not be more than the amount of income exceeding Rs.10,00,000. This is called 'marginal relief'.

Income-tax on total income of Rs.10 lakhs works out to Rs.2,50,000. Surcharge is not attracted on this tax since the total income does not exceed Rs.10 lakhs. However, if the total income is say, Rs.10,30,000, tax on the same would be Rs.2,84,900 (i.e. Rs.2,59,000 +25,900, being surcharge of 10%). The additional tax works out to Rs.34,900 (i.e., 2,84,900-2,50,000). However, the additional tax cannot exceed the amount by which Rs.10,30,000 exceeds Rs.10,00,000. That is, the additional tax cannot exceed Rs.30,000. Therefore, the total tax payable would be only Rs.2,80,000 (i.e. 2,50,000 + 30,000). The marginal relief is Rs.4,900 (i.e. 34,900-30,000).

6. Computation of income from house property of Mr. Rajesh for the A.Y.2006-07

Particulars	Rs.	Rs.
Gross Annual Value (Note)		96,000
Less: Municipal taxes paid during the year		<u>18,000</u>
Net Annual Value		78,000
Less: Deduction u/s 24		
30% of Net annual value	23,400	
Interest on loan	<u>9,000</u>	<u>32,400</u>
Income from House Property		<u>45,600</u>

Note: Municipal value of the house – Rs.1,00,000; Actual rent received $(3,000 \times 2 \times 12) + (3,000 \times 8) = \text{Rs.}96,000$; If one floor had not remained vacant for 4 months, actual rent would have been Rs.1,08,000 [Rs.96,000 + $(3,000 \times 4)$], which is higher than the municipal value of Rs.1,00,000. Therefore, the actual rent (i.e. Rs.96,000) is lower than the municipal value of Rs.1,00,000 owing to vacancy. In such a case, the gross annual value is actual rent of Rs.96,000.

7. The CBDT has, vide Circular no.1/2005 dated 6.1.2005, clarified that if an undertaking set up in Domestic Tariff Area (DTA) and deriving profit from export of articles or things or computer software manufactured or produced by it, is subsequently approved as a 100% EOU by the Board appointed by the Central Government in exercise of powers conferred under section 14 of the Industries (Development and Regulation) Act, 1951, it shall be eligible for deduction under section 10B. The deduction would be available only from the year in which the undertaking has got the approval as a 100% EOU. Further, the deduction would be available only for remaining period of ten consecutive assessment years, beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software, as a DTA unit. Also, in the year of approval, the deduction is restricted to the profits derived from exports, from and after the date of approval of the DTA unit as a 100 per cent EOU. Moreover, the deduction to such units in any case will not be available after A.Y.2009-10.

8. Computation of Written Down Value of Block of Assets as on 31.3.2006

Particulars	Amount in Rs.
Block – I : Building	
WDV as on 1.04.2005	18,00,000
Less: Depreciation @10%	<u>1,80,000</u>
WDV as on 31.03.2006	<u>16,20,000</u>
Block – II : Plant & Machinery	
WDV as on 1.04.2005	8,00,000
Add: Additions during the year	
10 looms on 4.6.2005	5,00,000
5 looms on 1.3.2006	<u>2,50,000</u>
	<u>15,50,000</u>
Less: Sale during the year – 12 looms on 1.2.2006	<u>4,20,000</u>
	<u>11,30,000</u>
Less: Depreciation (See Note below)	<u>1,50,750</u>
WDV as on 31.03.2006	<u>9,79,250</u>

Admissible depreciation for the P.Y.2005-06 (A.Y.2006-07)

Block	Asset	Depreciation (Amount in Rs.)
I	Building	1,80,000
II	Plant and Machinery	<u>1,50,750</u>
	Admissible depreciation for the P.Y.2005-06	<u>3,30,750</u>

Note: Since 5 looms of Plant & Machinery are acquired only on 1.3.2006 and put to use for less than 180 days, only 50% of normal depreciation @ 15% can be claimed (i.e. $2,50,000 \times 15 / 100 \times 50\% = 18,750$). On the remaining plant and machinery of Rs.8,80,000, full depreciation@15% is allowable, which amounts to Rs.1,32,000. Therefore, depreciation on plant and machinery is Rs.1,50,750 (i.e. Rs.18,750+Rs.1,32,000).

9. (i) c) Both companies and firms
 (ii) c) Rs.14,950
 (iii) b) Rs.21,000
 (iv) a) Rs.48,480
 (v) a) 20% of salary

10. Computation of capital gains of Mr.Bhuvan for A.Y. 2006-07

Particulars	Rs.
Original shares of XYZ Ltd. (Purchased in November 1997)	
Long term capital gain	
Sale consideration (10,000x300)	30,00,000
Less: Indexed cost of acquisition ($12,00,000 \times 497 / 331$)	<u>18,01,813</u>
Long term capital gain	11,98,187
Less: Exempt u/s 10(38)	<u>11,98,187</u>
Taxable long term capital gains	<u>Nil</u>
 Bonus shares: First Bonus issue (October 2000)	
Long term capital gain	
Sale consideration (10,000 x 300)	30,00,000
Less: Indexed cost of acquisition	<u>Nil</u>
Long term capital gain	30,00,000
Less: Exempt u/s 10(38)	<u>30,00,000</u>
Taxable long term capital gains	<u>Nil</u>
 Bonus shares: Second Bonus issue (June 2005)	
Short term capital gain	
Sale consideration (5,000 x 300)	15,00,000
Less: Cost of acquisition	<u>Nil</u>
Short term capital gain	<u>15,00,000</u>

Note: Computation of number of shares held by Bhuvan

Original shares acquired in November, 1997	10,000
Add: First bonus issue in October, 2000 (1:1)	10,000
	<u>20,000</u>
Add: Second bonus shares issue in June 2005 (1:4)	5,000
Total number of shares held	<u>25,000</u>

11. (i) False – Average of last 10 months salary is taken for the purpose of exemption of leave salary under section 10(10AA)
- (ii) False - Standard deduction is not allowable w.e.f. A.Y.2006-07. Sub-clause (i) of section 16 has been omitted by the Finance Act, 2005
- (iii) False – Clubbing provisions are applicable to the income of a minor married daughter, since section 64(1A) does not exclude a minor married daughter.
- (iv) False – Deduction under section 80GGB is allowable in respect of contribution made by an Indian company to any political party.

12. Computation of total income of Mr.Sridhar for the A.Y.2006-07

Particulars	Rs.	Rs.
Income from profession		2,42,000
Income from other sources		<u>20,000</u>
Gross total income		2,62,000
Less: Deductions under Chapter VI-A		
1. Medical insurance premium under section 80D (4,000 + 5,000)	9,000	
2. Expenditure for dependent mentally retarded brother – 80DD	75,000	
3. Rent paid – 80GG – least of the following is eligible for deduction		
(i) Excess of rent paid over 10% of total income		
(60,000 – 17,800) = 42,200		
(ii) 25% of total income i.e. 25% of Rs.1,78,000 = 44,500		
(iii) Ceiling limit of Rs.2,000 p.m. = 24,000	24,000	1,08,000
Total income		<u>1,54,000</u>

Note:

- (i) Medical insurance premium for by Mr. Sridhar for insuring his sister's health does not qualify for deduction u/s 80D.
 - (ii) Deduction u/s 80DD is a flat amount of Rs.75,000, irrespective of the actual expenditure incurred (for persons with severe disability).
 - (iii) Total income for the purpose of section 80GG

Gross total income	2,62,000
Less: Deduction u/s 80D & 80DD	<u>84,000</u>
Total Income	<u>1,78,000</u>
13. (i) Section 111A provides for a concessional rate of tax (i.e. 10%) on the short-term capital gains on transfer of -
- (1) an equity share in a company or
 - (2) a unit of an equity oriented fund.
- (ii) The conditions for availing the benefit of this concessional rate are –

- (1) the transaction of sale of such equity share or unit should be entered into on or after 1.10.2004, being the date on which Chapter VII of the Finance (No. 2) Act, 2004 came into force and
 - (2) such transaction should be chargeable to securities transaction tax under the said Chapter.
 - (iii) In the case of resident individuals or HUF, if the basic exemption is not fully exhausted by any other income, then the short-term capital gain will be reduced by the unexhausted basic exemption limit and only the balance would be taxed at 10%. However, the benefit of availing the basic exemption limit is not available in the case of non-residents.
 - (iv) Deductions under Chapter VI-A cannot be availed in respect of such short-term capital gains on equity shares of a company or units of an equity oriented mutual fund included in the total income of the assessee.
14. Deductions in respect of profits and gains derived by an undertaking or enterprise engaged in development of SEZ [Section 80-IAB]
- (i) Sub-section (1) provides for a deduction of 100% of profits and gains derived by an undertaking or an enterprise from any business of developing a SEZ for 10 consecutive assessment years.
 - (ii) The deduction is available to an assessee, being a Developer, whose gross total income includes any profits and gains derived by an undertaking or an enterprise from any business of developing a SEZ, notified on or after 1st April, 2005 under the SEZ Act, 2005.
 - (iii) Developer means -
 - (a) a person who, or
 - (b) a State Government whichhas been granted a letter of approval by the Central Government under section 3(10) of the SEZ Act, 2005.

A developer includes –

 - (a) an authority and
 - (b) a Co-developer.
 - (iv) Co-developer means -
 - (a) a person who, or
 - (b) a State Government whichhas been granted a letter of approval by the Central Government under section 3(12) of the SEZ Act, 2005.
 - (v) The deduction shall be allowed only if the accounts are audited by a Chartered Accountant and the audit report is furnished along with the return of income.
 - (vi) The assessee has the option of claiming the said deduction for any ten consecutive assessment years out of fifteen years beginning from the year in which a SEZ has been notified by the Central Government.
 - (vii) In a case where an undertaking, being a Developer, who develops a SEZ on or after 1.4.2005 and transfers the operation and maintenance of such SEZ to another Developer, the deduction under sub-section (1) shall be allowed to such transferee Developer for the remaining period in the ten consecutive assessment years as if the operation and maintenance were not so transferred to the transferee Developer.
 - (viii) The profits and gains from the eligible business should be computed as if such eligible business were the only source of income of the assessee during the relevant assessment year.

- (ix) Where any goods or services held for the purposes of eligible business are transferred to any other business carried on by the assessee or, where any goods held for any other business are transferred to the eligible business and, in either case, if the consideration for such transfer as recorded in the accounts of the eligible business does not correspond to the market value thereof, then the profits eligible for deduction shall be computed by adopting market value for such goods or services. In case of exceptional difficulty in this regard, the profits shall be computed by the Assessing Officer on a reasonable basis. Similarly, where due to the close connection between the assessee and the other person or for any other reason, it appears to the Assessing Officer that the profits of eligible business is increased to more than the ordinary profits, the Assessing Officer shall compute the amount of profits on a reasonable basis for allowing the deduction.
 - (x) The deduction under this section should not exceed the profits of such eligible business of the undertaking or the enterprise.
 - (xi) Further, where any amount of profits of an undertaking or enterprise is allowed as deduction under this section, no deduction under any other provision of Chapter VI-A is allowable in respect of such profits.
 - (xii) The Central Government may notify that the benefit conferred by this section shall not apply to any class of industrial undertaking or enterprise with effect from any specified date.
 - (xiii) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred before the expiry of the period of deduction to another Indian company in a scheme of amalgamation or demerger, no deduction shall be admissible to the amalgamating or demerged company for the previous year in which the amalgamation or demerger takes place and the amalgamated or the resulting company shall be entitled to the deduction as if the amalgamation or demerger had not taken place.
15. (a) Exemption of specified income arising from any international sporting event in India [Clause (39) of section 10]
- (i) This clause exempts income of the nature and to the extent, arising from any international sporting event in India, to the person or persons notified by the Central Government in the Official Gazette.
 - (ii) Such international sporting event should -
 - (1) be approved by the international body regulating the international sport relating to such event;
 - (2) have participation by more than two countries;
 - (3) be notified by the Central Government in the Official Gazette for the purposes of this clause.
- (b) The following are the exemptions available under section 10 in respect of companies engaged in the business of generation or transmission or distribution of power/subsidiaries of such companies -
- Exemption of certain grants etc. received by a subsidiary from its Indian holding company engaged in the business of generation or transmission or distribution of power [Clause (40) of section 10]
- (i) This clause exempts income of any subsidiary company by way of grant or otherwise received from an Indian company, being its holding company engaged in the business of generation or transmission or distribution of power.
 - (ii) The receipt of such income should be for settlement of dues in connection with reconstruction or revival of an existing business of power generation.
 - (iii) The exemption under this clause is available if the reconstruction or revival of any existing business of power generation is by way of transfer of such business to the Indian company notified under section 80-IA(4)(v)(a).

Exemption of any income from transfer of an asset of an undertaking engaged in the business of generation or transmission or distribution of power [Clause (41) of section 10]

- (i) This clause exempts income arising from transfer of a capital asset, being an asset of an undertaking engaged in the business of generation or transmission or distribution of power.
 - (ii) Such transfer should be effected on or before 31st March, 2006, to an Indian company notified under section 80-IA (4)(v)(a).
16.
 - (i) (a) the State in which the movement of goods has first taken place
 - (ii) (b) inter-State sale
 - (iii) (a) inter-State sale
 - (iv) (a) Nil
 - (v) (a) Nil
17.
 - (i) Export of goods
 - (ii) 12.3.2006
 - (iii) aggregate; inter-State trade or commerce
 - (iv) Twice the State sales tax rate
18.
 - (a) True. Excise duty forms part of sale price and turnover. Therefore, it is not to be excluded or deducted from sale price or turnover.
 - (b) True. As per section 7(4)(b), where the dealer ceases to exist, his certification of registration will be cancelled by the Assessing Authority.
 - (c) False. As per section 2(dd), place of business includes the place of business of an agent, where a dealer carries on business through such agent.
 - (d) True. Failure to get registered as required under section 7(1) is a punishable offence, if the dealer has made an inter-state sale. According to section 7(1), every dealer, who is liable to pay tax under the Central Sales Tax Act, is under an obligation to get himself registered under the Central Sales Tax Act. The liability to pay central sales tax arises only when the dealer makes an inter-state sale. In this case, since Shyam has made an inter-State sale, he has to get himself registered. He would be liable for penalty if he fails to do so.
19.
 - (a) Deemed exports [Section 5(3)] –The last sale of any goods preceding the sale occasioning the export of goods outside the territory of India shall also be deemed to be in the course of such export, if such last sale took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export. This sale, preceding the export sale, is called penultimate sale. However, benefit under this section would be available to the dealer only if he obtains a declaration in Form H from the exporter.
 - (b) Deemed dealers [Section 2(b)] – *Explanations 1 and 2* to section 2(b) deems the following persons or entities as dealers for the purposes of the Act -
 - (1) Every person who acts as an agent, in any State, of a dealer residing outside that State and buys, sells, supplies or distributes, goods in the State or acts on behalf of such dealer as (i) mercantile agent as defined in the Sale of Goods Act, 1930, or (ii) an agent for handling of goods or documents of title relating to goods, or (iii) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payments.
 - (2) Every local branch or office in a State of a firm registered outside that State or a company or other body corporate, the principal office or head quarters whereof is outside that State.
 - (3) A Government which, whether or not in the course of business, buys, sells, supplies or distributes, goods, directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration. However, a government will not be deemed

to be a dealer for the purposes of this Act, in relation to any sale, supply or distribution of surplus, unserviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof.

20. Computation of CST and turnover of XYZ (P) Ltd. for the year 2005-06

Particulars	Rs.
Turnover (including CST) to registered dealers	24,00,000
Less: Erection charges	3,00,000
Freight & delivery charges shown separately in the invoice	60,000
	<u>3,60,000</u>
	20,40,000
Less: CST included in turnover (20,40,000 x 4/104)	78,462
Taxable turnover (A)	<u>19,61,538</u>
Turnover (including CST) to unregistered dealers	30,00,000
Less: Transport charges charged separately in the invoice	1,00,000
Sales return within 6 months	50,000
	<u>1,50,000</u>
	28,50,000
Less: CST included in turnover (28,50,000 x 10/110)	2,59,091
Taxable turnover (B)	<u>25,90,909</u>
Total taxable turnover (A+B)	45,52,447
Total CST payable	3,37,553

Amendments to the Income-tax Act, 1961 by the Special Economic Zones Act, 2005

The Special Economic Zones Act, 2005, which received the assent of the President on 23.6.2005, provides for the establishment, development and management of the Special Economic Zones (SEZs) for the promotion of exports and for matters connected therewith or incidental thereto. Section 27 of the SEZ Act, 2005 provides for application of the provisions of the Income-tax Act, 1961 to the Developer or Entrepreneur for carrying on the authorized operations in a SEZ or unit subject to the modifications specified in the Second Schedule. These modifications are summarized hereunder –

- Exemption of interest income of non-residents / not-ordinarily residents [Section 10(15)(viii)]
 - Sub-clause (viii) has been inserted in clause (15) of section 10 to provide for exemption of interest income received by a non-resident/not-ordinarily resident in India.
 - Such interest income should be from a deposit made on or after 1.4.2005 in an Offshore Banking Unit referred to in section 2(u) of the SEZ Act, 2005 i.e. a branch of a bank located in a SEZ and which has obtained permission under section 23(1)(a) of the Banking Regulation Act, 1949.
- Sunset clause inserted in respect of units located in SEZ for availing tax holiday under section 10A
 - Section 10A provides for a tax holiday in respect of newly established undertakings in a free trade zone (FTZ) or export processing zone (EPZ) or Electronic Hardware Technology Park or Software Technology Park or SEZ, notified by the Central Government, for a period of 10 consecutive assessment years beginning with the assessment year relevant to the previous

year in which the undertaking begins to manufacture or produce such articles, or things or computer software.

- (ii) Consequent to insertion of new section 10AA providing for a tax holiday in respect of newly established Units in SEZ, sub-section (7B) has been inserted in section 10A to provide for sunset clause under section 10A in respect of such units.
 - (iii) Accordingly, any undertaking, being a Unit referred to in section 2(zc) of the SEZ Act, 2005, which has begun or begins to manufacture or produce articles or things or computer software during the previous year 2005-06 or thereafter in any SEZ is not eligible for benefit of tax holiday under section 10A.
 - (iv) As per section 2(zc) of the SEZ Act, 2005,
 - (a) "Unit" means a unit set up by an entrepreneur in a SEZ
 - (b) It includes –
 - (1) an existing Unit,
 - (2) an Offshore Banking Unit and
 - (3) a Unit in an International Financial Services Centre.
 - (c) Such unit may be established before or after the commencement of the SEZ Act, 2005.
 - (v) "Offshore Banking Unit" means a branch of a bank located in a SEZ and which has obtained the permission under section 23(1)(a) of the Banking Regulation Act, 1949.
3. Tax holiday for newly established Units in SEZs [Section 10AA]
- (i) This section applies to any undertaking, being the Unit, which has begun or begins to manufacture or produce articles or things or provide any services during the previous year relevant to the assessment year commencing on or after 1st April, 2006, in any SEZ.
 - (ii) It provides for a tax holiday in computing the total income of an assessee, being an entrepreneur, from his Unit set up in a SEZ.
 - (iii) Such assessee should be an entrepreneur referred to in section 2(j) of the SEZ Act, 2005 i.e., a person who has been granted a letter of approval by the Development Commissioner under section 15(9).
 - (iv) He should begin to manufacture or produce articles or things or provide any services during the previous year relevant to any assessment year commencing on or after 1st April, 2006.
 - (v) Sub-section (1) provides for the quantum of deduction under this section, which is -
 - (a) 100% of profits and gains derived from the export of such articles or things or from services for a period of 5 consecutive assessment years beginning with the assessment year relevant to the previous year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, and
 - (b) 50% of such profits and gains for further 5 assessment years and
 - (c) Thereafter, for the next 5 consecutive assessment years, so much of the amount not exceeding 50% of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Special Economic Zone Re-investment Reserve Account") to be created and utilised for the purposes of the business of the assessee in the manner laid down in sub-section (2).
 - (vi) The profits derived from the export of articles or things or services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on by the assessee.

- (vii) The profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.
- (viii) Sub-section (2) provides that the deduction under (v)(c) above shall be allowed only if the following conditions are fulfilled, namely:-
 - (a) the amount credited to the Special Economic Zone Re-investment Reserve Account is utilised-
 - (1) for the purposes of acquiring machinery or plant which is first put to use before the expiry of a period of three years following the previous year in which the reserve was created; and
 - (2) until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking. However, it should not be utilized for
 - (i) distribution by way of dividends or profits; or
 - (ii) for remittance outside India as profits; or
 - (iii) for the creation of any asset outside India;
 - (b) the particulars, as may be specified by the Central Board of Direct Taxes in this behalf, under section 10A(1B)(b) have been furnished by the assessee in respect of machinery or plant. Such particulars have to be furnished along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.
- (ix) Where any amount credited to the Special Economic Zone Re-investment Reserve Account -
 - (a) has been utilised for any purpose other than those referred to in sub-section (2), the amount so utilized shall be deemed to be the profits in the year in which the amount was so utilized and charged to tax accordingly; or
 - (b) has not been utilised before the expiry of the said period of 3 years, the amount not so utilised, shall be deemed to be the profits in the year immediately following the said period of three years and be charged to tax accordingly.[Sub-section (3)]
- (x) However, where, in computing the total income of the Unit for any assessment year, its profits and gains had not been included by application of the provisions of sub-section (7B) of section 10A, the undertaking, being the Unit shall be entitled to deduction under (v)[(a)/(b)] above only for the unexpired period of ten consecutive assessment years.
- (xi) Thereafter, it shall be eligible for deduction from income as provided in (v)(c) above.
- (xii) If an undertaking being the Unit, has already availed the deduction referred to in section 10A for ten consecutive assessment years before the commencement of the SEZ Act, 2005, such Unit is not eligible for deduction from income under this section.
- (xiii) Further, where a Unit initially located in any FTZ or EPZ is subsequently located in a SEZ by reason of conversion of such FTZ or EPZ into a SEZ, the period of 10 consecutive assessment years referred to above shall be reckoned from the assessment year relevant to the previous year in which the Unit began to manufacture, or produce or process such articles or things or services in such FTZ or EPZ.
- (xiv) Where a Unit initially located in any FTZ or EPZ is subsequently located in a SEZ by reason of conversion of such FTZ or EPZ into a SEZ and has completed the period of ten consecutive assessment years referred to above, it shall not be eligible for deduction from income as provided in (v)(c) with effect from 1.4.2006.
- (xv) In the event of any undertaking, being the Unit which is entitled to deduction under this section, being transferred, before the expiry of the period specified in this section, to another undertaking, being the Unit in a scheme of amalgamation or demerger, -

- (a) no deduction shall be admissible under this section to the amalgamating or the demerged Unit for the previous year in which the amalgamation or the demerger takes place; and
- (b) the provisions of this section would apply to the amalgamated or resulting Unit, as they would have applied to the amalgamating or the demerged Unit had the amalgamation or demerger had not taken place.
- (xvi) The loss referred to in section 72(1) or section 74(1)/(3), in so far as such loss relates to the business of the undertaking, being the Unit shall be allowed to be carried forward or set off.
- (xvii) In order to claim deduction under this section, the assessee should furnish report from a Chartered Accountant in the prescribed form along with the return of income certifying that the deduction is correct.
- (xviii) During the period of deduction, depreciation is deemed to have been allowed on the assets. Written down value shall accordingly be reduced.
- (xix) No deduction under section 80-IA and 80-IB shall be allowed in relation to the profits and gains of the undertaking.
- (xx) Any unabsorbed depreciation under section 32(2) or business loss under section 72(1) or loss under the head "Capital gains" under section 74 of the undertaking, being the Unit shall be allowed to be carried forward and set off in the subsequent years.
- (xxi) Where any goods or services held for the purposes of eligible business are transferred to any other business carried on by the assessee, or where any goods held for any other business are transferred to the eligible business and, in either case, if the consideration for such transfer as recorded in the accounts of the eligible business does not correspond to the market value thereof, then the profits eligible for deduction shall be computed by adopting market value of such goods or services on the date of transfer. In case of exceptional difficulty in this regard, the profits shall be computed by the Assessing Officer on a reasonable basis as he may deem fit. Similarly, where due to the close connection between the assessee and the other person or for any other reason, it appears to the Assessing Officer that the profits of eligible business is increased to more than the ordinary profits, the Assessing Officer shall compute the amount of profits of such eligible business on a reasonable basis for allowing the deduction.
- (xxii) Definitions – For the purpose of this section, the definition of certain terms and expressions shall be as follows -
 - (1) "Export turnover" means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India;
 - (2) "Export" in relation to the SEZs means taking goods or providing services out of India from a SEZ by land, sea, air, or by any other mode, whether physical or otherwise;
 - (3) "Manufacture" shall have the same meaning as assigned to it in clause (r) of section 2 of the Special Economic Zones Act, 2005 i.e. to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, cutting, polishing, blending, repair, remaking, re-engineering and includes agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining;
 - (4) "Relevant assessment year" means any assessment year falling within a period of fifteen consecutive assessment years referred to in this section.

- (5) "Special Economic Zone" and "Unit" shall have the same meanings as assigned to them under clause (za) and (zc) of section 2 of the SEZ Act, 2005 i.e. -

"Special Economic Zone" means each Special Economic Zone notified under the proviso to sub-section (4) of section 3 and sub-section (1) of section 4 (including Free Trade and Warehousing Zone) and includes an existing Special Economic Zone.

"Unit" means a Unit set up by an entrepreneur in a SEZ and includes an existing Unit, an Offshore Banking Unit and a Unit in an International Financial Services Centre, whether established before or established after the commencement of this Act.

4. Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any SEZ [Section 54GA]
- (i) Sub-section (1) of this section provides for the treatment of capital gains arising on transfer of certain capital assets used for the purposes of the business of an industrial undertaking situated in an urban area.
 - (ii) Such transfer must be effected in the course of, or in consequence of the shifting of such industrial undertaking to any SEZ, whether developed in an urban area or not.
 - (iii) The capital asset should be either machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking situated in an urban area.
 - (iv) "Urban area" means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this sub-section.
 - (v) The assessee should, within a period of one year before or three years after the date on which the transfer took place,
 - (a) purchase machinery or plant for the purposes of business of the industrial undertaking in the SEZ to which the said undertaking is shifted;
 - (b) acquire building or land or construct building for the purposes of his business in the SEZ;
 - (c) shift the original asset and transfer the establishment of such undertaking to the SEZ; and
 - (d) incur expenses for such other purposes as may be specified in a scheme framed by the Central Government for the purposes of this section.
 - (vi) If the capital gains is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) of (v) above (referred to as the new asset hereafter), then the difference is to be charged under section 45 as the income of the previous year.
 - (vii) The cost of the new asset should be taken as nil for computation of capital gains on transfer of such asset within a period of 3 years of its purchase, acquisition, construction or transfer.
 - (viii) If the amount of the capital gains is equal to, or less than, the cost of the new asset, the capital gains shall not be charged under section 45.
 - (ix) In this case, the capital gains has to be reduced from the cost of the new asset, for computation of capital gains on transfer of the new asset within a period of 3 years of its purchase, acquisition, construction or transfer.
 - (x) The amount of capital gain which is not appropriated by the assessee towards the cost and expenses for the said purposes mentioned in (v) above -
 - (a) within one year before the date on which the transfer of the original asset took place or
 - (b) before the date of furnishing the return of income u/s 139

should be deposited in an account with any specified bank or institution and utilized in accordance with the scheme notified by the Central Government.

- (xi) Such deposit should be made before furnishing the return of income under section 139 or the due date for furnishing return of income under section 139(1), whichever is earlier.
 - (xii) The return of income should be accompanied by the proof of such deposit.
 - (xiii) In such a case, the cost of the new asset for the purposes of sub-section (1) would be deemed to be the cumulative of the following -
 - (a) the amount, if any, already utilized by the assessee for all or any of the aforesaid purposes mentioned in (v) above and
 - (b) the amount so deposited as per (x) above.
 - (xiv) However, if the amount deposited as per (x) above is not utilized wholly or partly for all or any of the purposes mentioned in (v) above within the period mentioned therein, then, in such a case the amount not so utilized shall be charged under section 45 as the income of the previous year in which the period of 3 years from the date of the transfer of the original asset expires.
 - (xv) In such an event, the assessee would be entitled to withdraw such amount in accordance with the said scheme notified by the Central Government.
5. No deduction under section 80-IA in respect of any SEZ notified on or after 1.4.2005
- Sub-section (13) has been inserted to provide that the deduction under section 80-IA would not be available in respect of any SEZ notified on or after 1.4.2005 in accordance with the Industrial Park Scheme, 2002 and notified schemes for SEZs, referred to in section 80-IA(4)(c)(iii) of the Income-tax Act.
6. Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of SEZ [Section 80-IAB]
- (i) Sub-section (1) provides for a deduction of 100% of profits and gains derived by an undertaking or an enterprise from any business of developing a SEZ for 10 consecutive assessment years.
 - (ii) The deduction is available to an assessee, being a Developer, whose gross total income includes any profits and gains derived by an undertaking or an enterprise from any business of developing a SEZ, notified on or after 1st April, 2005 under the SEZ Act, 2005.
 - (iii) Developer means -
 - (a) a person who, or
 - (b) a State Government whichhas been granted a letter of approval by the Central Government under section 3(10) of the SEZ Act, 2005.

A developer includes –

 - (a) an authority and
 - (b) a Co-developer.
 - (iv) Co-developer means -
 - (a) a person who, or
 - (b) a State Government whichhas been granted a letter of approval by the Central Government under section 3(12) of the SEZ Act, 2005.
 - (v) The deduction shall be allowed only if the accounts are audited by a Chartered Accountant and the audit report is furnished along with the return of income.

- (vi) The assessee has the option of claiming the said deduction for any ten consecutive assessment years out of fifteen years beginning from the year in which a SEZ has been notified by the Central Government.
 - (vii) In a case where an undertaking, being a Developer, who develops a SEZ on or after 1.4.2005 and transfers the operation and maintenance of such SEZ to another Developer, the deduction under sub-section (1) shall be allowed to such transferee Developer for the remaining period in the ten consecutive assessment years as if the operation and maintenance were not so transferred to the transferee Developer.
 - (viii) The profits and gains from the eligible business should be computed as if such eligible business were the only source of income of the assessee during the relevant assessment year.
 - (ix) Where any goods or services held for the purposes of eligible business are transferred to any other business carried on by the assessee or, where any goods held for any other business are transferred to the eligible business and, in either case, if the consideration for such transfer as recorded in the accounts of the eligible business does not correspond to the market value thereof, then the profits eligible for deduction shall be computed by adopting market value for such goods or services. In case of exceptional difficulty in this regard, the profits shall be computed by the Assessing Officer on a reasonable basis. Similarly, where due to the close connection between the assessee and the other person or for any other reason, it appears to the Assessing Officer that the profits of eligible business is increased to more than the ordinary profits, the Assessing Officer shall compute the amount of profits on a reasonable basis for allowing the deduction.
 - (x) The deduction under this section should not exceed the profits of such eligible business of the undertaking or the enterprise.
 - (xi) Further, where any amount of profits of an undertaking or enterprise is allowed as deduction under this section, no deduction under any other provision of Chapter VI-A is allowable in respect of such profits.
 - (xii) The Central Government may notify that the benefit conferred by this section shall not apply to any class of industrial undertaking or enterprise with effect from any specified date.
 - (xiii) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred before the expiry of the period of deduction to another Indian company in a scheme of amalgamation or demerger, no deduction shall be admissible to the amalgamating or demerged company for the previous year in which the amalgamation or demerger takes place and the amalgamated or the resulting company shall be entitled to the deduction as if the amalgamation or demerger had not taken place.
7. Deduction in respect of certain incomes of Offshore Banking Units and International Financial Services Centre [Section 80LA]
- (i) The existing section 80LA has been substituted by a new section 80LA.
 - (ii) This section is applicable to the following assesseees -
 - (a) a scheduled bank having an Offshore Banking Unit in a SEZ; or
 - (b) any bank, incorporated by or under the laws of a country outside India, and having an Offshore Banking Unit in a SEZ; or
 - (c) a Unit of an International Financial Services Centre (IFSC).
 - (iii) The deduction will be allowed on account of the following income included in the gross total income of such assesseees -
 - (a) income from an Offshore Banking Unit in a SEZ; or
 - (b) income from the business referred to in section 6(1) of the Banking Regulation Act, 1949, with -

- (1) an undertaking located in a SEZ or
 - (2) any other undertaking which develops, develops and operates or develops, operates and maintains a SEZ; or
- (c) income from any Unit of the IFSC from its business for which it has been approved for setting up in such a Centre in a SEZ.
- (iv) The deduction allowable from such income is -
 - (a) 100% of such income for 5 consecutive assessment years beginning with the assessment year relevant to the previous year in which –
 - (1) the permission under section 23(1)(a) of the Banking Regulation Act, 1949 was obtained; or
 - (2) the permission or registration under the SEBI Act, 1992 was obtained; or
 - (3) the permission or registration under any other relevant law was obtained.
 - (b) Thereafter, 50% of such income for the next 5 consecutive assessment years.
- (v) The following conditions have to be fulfilled for claiming deduction under this section -
 - (a) The report of a Chartered Accountant in Form no.10CCF certifying that the deduction has been correctly claimed in accordance with the provisions of this section, should be submitted along with the return of income.
 - (b) A copy of the permission obtained under section 23(1)(a) of the Banking Regulation Act, 1949 should also be furnished along with the return of income.

Amendments to the Income-tax Act, 1961 by the Taxation Laws (Amendment) Act, 2005

The Taxation Laws (Amendment) Act, 2005, enacted by the Parliament on 28th December, 2005, is deemed to have come into force on 31st October, 2005. The following are the important amendments made in the Income-tax Act, 1961 -

- (a) Exemption of specified income arising from any international sporting event in India [Clause (39) of section 10]
 - (i) This clause exempts income of the nature and to the extent, arising from any international sporting event in India, to the person or persons notified by the Central Government.
 - (ii) Such international sporting event should -
 - (1) be approved by the international body regulating the international sport relating to such event;
 - (2) have participation by more than two countries;
 - (3) be notified by the Central Government in the Official Gazette for this purpose.
- (Effective from A.Y. 2006-07)
- (b) Exemption of certain grants etc. received by a subsidiary from its Indian holding company engaged in the business of generation or transmission or distribution of power [Clause (40) of section 10]
 - (i) This clause exempts income of any subsidiary company by way of grant or otherwise received from an Indian company, being its holding company engaged in the business of generation or transmission or distribution of power.
 - (ii) The receipt of such income should be for settlement of dues in connection with reconstruction or revival of an existing business of power generation.
 - (iii) The exemption under this clause is available if the reconstruction or revival of any existing business of power generation is by way of transfer of such business to the Indian company notified under section 80-IA(4)(v)(a).

(Effective from A.Y. 2006-07)

- (c) Exemption of any income from transfer of an asset of an undertaking engaged in the business of generation or transmission or distribution of power [Clause (41) of section 10]
 - (i) This clause exempts income arising from transfer of a capital asset, being an asset of an undertaking engaged in the business of generation or transmission or distribution of power.
 - (ii) Such transfer should be effected on or before 31st March, 2006, to an Indian company notified under section 80-IA (4)(v)(a).

(Effective from A.Y. 2006-07)
- (d) Scope of income chargeable under the head "Profits and gains of business or profession" expanded [Insertion of clauses (iiid) and (iiie) in section 28]
 - (i) Section 28 is the charging section in respect of "Profits and gains of business or profession". The scope of this section has now been expanded by insertion of new clauses (iiid) and (iiie) w.e.f. 1.4.98 and 1.4.2001 respectively.
 - (ii) Clause (iiid) has been inserted to include within the scope of section 28, any profit on the transfer of the Duty Entitlement Pass Book Scheme, being Duty Remission Scheme, under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992.
 - (iii) Clause (iiie) has been inserted to include within the scope of section 28, any profit on the transfer of Duty Free Replenishment Certificate, being Duty Remission Scheme, under the export and import policy formulated and announced under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992.
- (e) Certain undertakings, owned by an Indian company and set up for reconstruction or revival of a power generating plant, eligible for deduction under section 80-IA
 - (i) Clause (v) has been inserted in section 80-IA(4) to provide that the benefit under this section is available to an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant.
 - (ii) Such Indian company should be formed before 30.11.2005 with majority equity participation by public sector companies for the purposes of enforcing the security interest of the lenders to the company owning the power generating plant.
 - (iii) Such Indian company should have been notified before 31.12.2005 by the Central Government for the purposes of this clause.
 - (iv) Such undertaking should begin to generate or transmit or distribute power before 31.3. 2007.

(Effective from A.Y.2006-07)

Amendments by the Central Sales Tax (Amendment) Act, 2005 to the Central Sales Tax Act, 1956

1. Chairman or Member of AAR also qualified to be Chairman or Member of Central Sales Tax Appellate Authority [Section 19(2A)]
 - (1) Section 19(2) enlists the eligibility for qualifying to be a Chairman or Member of the Central Sales Tax Appellate Authority (the Authority, in short).
 - (2) Sub-section (2A) has been inserted to provide that the Chairman or a Member holding a post as such in the Authority for Advance Rulings appointed under section 245-0(2) (a) or (c) of the Income-tax Act, 1961 may, in addition to his being the Chairman or a Member of that Authority, be appointed as the Chairman or a Member, as the case may be, of the Central Sales Tax Appellate Authority. This is in spite of anything contained in section 19(2).
2. Vacancies, etc., not to invalidate proceedings [Section 19A]

Section 19A has been inserted to provide that no proceeding before the Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

3. Appeals [Section 20]
 - (1) The existing section 20 has been substituted
 - (2) Sub-section (1) of the new section 20 provides that the provisions of Chapter VI (Authority to settle disputes in course of inter-State trade or commerce) shall apply to appeals filed by any aggrieved person against any order of the highest appellate authority of a State, made under section 6A read with section 9.
 - (3) For the purposes of this section and sections 21, 22 and 25, "highest appellate authority of a State" means any authority or tribunal or court (except the High Court) established or constituted under the general sales tax law of a State, by whatever name called.
 - (4) Sub-section (2) provides the Authority shall adjudicate an appeal filed under sub-section (1). This provision has overriding effect over any provision contained in the general sales tax law of a State.
 - (5) Sub-section (3) provides that an appeal under sub-section (1) may be filed within 90 days from the date on which such order of the highest appellate authority of a State is served on any aggrieved person.
 - (6) However, the Authority may entertain any appeal after the expiry of the said period of ninety days, but not later than one hundred and fifty days from the date of such service, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
 - (7) Further, the Authority may entertain any appeal from an aggrieved person within sixty days from the commencement of the Central Sales Tax (Amendment) Act, 2005, where such aggrieved person had the right to file an appeal against the order of the highest appellate authority of the State under sub-section (1) as it stood immediately before the commencement of the said Act, but has not availed of the right to file the appeal during the period commencing on and from 3rd December 2001 and ending with 16th March, 2005.
 - (8) The application should be made in quadruplicate and be accompanied by a fee of Rs.5,000.
4. Appeal filed against an order of the highest appellate authority to be adjudicated and decided by the Central Sales Tax Appellate Authority [Section 21]
 - (1) Sub-section (2) provides that the Authority shall adjudicate and decide upon the appeal filed against the order of the assessing authority.
 - (2) This sub-section has been amended to provide that the Authority shall adjudicate and decide upon the appeal filed against the order of the highest appellate authority.
 - (3) Sub-section (3) provides that the Authority shall pass an order to allow or reject the appeal, after examining the appeal and the records called for.
 - (4) Sub-section (5) provides that a copy of every order made under sub-section (3) shall be sent to the appellant and to the assessing authority.
 - (5) This sub-section has been amended to provide that a copy of every order made under sub-section (3) shall be sent to the appellant, assessing authority, respondent and highest appellate authority of the State Government concerned.
5. Central Sales Tax Appellate Authority empowered to grant stay or make order of pre-deposit [Section 22]
 - (1) Section 22 enlists the powers of the Central Sales Tax Appellate Authority.
 - (2) Sub-section (1A) has been inserted to provide that the Authority may -
 - (i) grant stay of the operation of the order of the highest appellate authority against which the appeal is filed before it or
 - (ii) order the pre-deposit of the tax before entertaining the appeal.

- (3) While granting such stay or making such order for the pre-deposit of the tax, the Authority shall take into account the pre-deposit, if any, made by the assessee under the general sales tax law of the State concerned or pass such appropriate order as it may deem fit.
6. Transfer of pending proceedings [Section 25]
- (1) The existing section 25 has been substituted.
- (2) Sub-section (1) of the new section 25 provides that on and from the commencement of the Central Sales Tax (Amendment) Act, 2005, all appeals (except appeals against orders of the highest appellate authority of the State) pending before the Authority for Advance Rulings [notified section 24(1)] shall stand transferred together with the records thereof to the highest appellate authority of the concerned State.
- (3) Such highest appellate authority of the State (to which such appeal has been transferred) shall, on receipt of such records, proceed to deal with such appeal as far as possible in the same manner as in the case of an appeal filed before such highest appellate authority of the State according to the general sales tax law of the appropriate State, from –
- (i) the stage which was reached before such transfer or
- (ii) from any earlier stage or
- (iii) de novo
- as such highest appellate authority of the State may deem fit.
- (4) However, where the highest appellate authority finds that the appellant has not availed of the opportunity of filing first appeal before the appellate authority, such case shall be forwarded to such authority.

(All amendments by the Central Sales Tax (Amendment) Act, 2005 are effective from 1st March, 2006)

IMPORTANT NOTIFICATIONS / CIRCULARS ISSUED BETWEEN 1.5.05 to 30.4.06

- (1) Cost Inflation Index(CII) for F.Y. 2005-06.

The Central Government has, vide notification no. 189/2005 dated 12.8.2005 specified the cost inflation index for the financial year 2005-06. The CII for F.Y. 2005-06 is 497.

S. No.	Financial Year	Cost Inflation Index
1.	1981-82	100
2.	1982-83	109
3.	1983-84	116
4.	1984-85	125
5.	1985-86	133
6.	1986-87	140
7.	1987-88	150
8.	1988-89	161
9.	1989-90	172
10.	1990-91	182
11.	1991-92	199
12.	1992-93	223
13.	1993-94	244
14.	1994-95	259
15.	1995-96	281

16.	1996-97	305
17.	1997-98	331
18.	1998-99	351
19.	1999-2000	389
20.	2000-01	406
21.	2001-02	426
22.	2002-03	447
23.	2003-04	463
24.	2004-05	480
25.	2005-06	497

[Notification no.189/2005 dated 12.8.2005]

- (2) Notification of PPF, NSC etc. for the purpose of claim of deduction under section 80C from A.Y.2006-07 onwards

Notification No.	Date	In exercise of powers conferred by	Details
222 / 2005	3.11.2005	Section 80C(2)(v)	Public Provident Fund, established under the Public Provident Fund Scheme, 1968.
223 / 2005	3.11.2005	Section 80C(2)(ix)	National Savings Certificates (VIII Issue) issued under the Government Savings Certificates Act, 1959.
224 / 2005	3.11.2005	Section 80C(2)(xi)	Unit Linked Insurance Plan of the LIC Mutual Fund
225 / 2005	3.11.2005	Section 80C(2)(xii)	New Jeevan Dhara, New Jeevan Dhara-I, New Jeevan Akshay, New Jeevan Akshay-I and New Jeevan Akshay-II Plans of the LIC
227 / 2005	3.11.2005	Section 80C(2)(xiv)	UTI-Retirement Benefit Pension Fund set up by the specified company referred to in section 2(h) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 as a pension fund.

- (3) Definition of port as infrastructural facility for the purpose of section 80-IA of the Income-tax Act, 1961 [Circular no. 10/2005, dated 16.12.2005]
 - (i) Port, for the purposes of section 80-IA of the Income-tax Act, 1961, includes structures at the ports for storage, loading and unloading etc, if the following conditions are fulfilled:
 - (a) the concerned port authority has issued a certificate that the said structures form part of the port, and
 - (b) such structures have been built under the BOT or BOLT Schemes and there is an agreement that the same would be transferred to the said authority on the expiry of the time stipulated in the agreement.

This definition is applicable for assessment year 2001-02 and any earlier assessment year.
 - (ii) However, for and from A.Y. 2002-03 onwards, structures at the ports for storage, loading and unloading etc. will be included in the definition of port for the purpose of section 80-IA of the Income-tax Act, 1961, if the concerned port authority has issued a certificate that the said structures form part of the port.
- (4) Infrastructure facility under section 80-IA – Clarification regarding effluent treatment and conveyance system [Circular No.1 / 2006, dated 12.1.2006]
 - (i) For the purpose of section 80-IA, infrastructure facility means-
 - (1) a road including toll road, a bridge or a rail system;
 - (2) a highway project including housing or other activities being an integral part of the highway project;
 - (3) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system; and
 - (4) a port, airport, inland waterway or inland port.
 - (ii) Under the treatment of effluents and its conveyance system, the effluents emanating from chemical industries are to be conveyed inside the sea through onshore pipeline and before discharging effluent through pipeline, entire load of effluent is to be treated to marine standards. Therefore, it is a part of water treatment system and would accordingly, qualify as an infrastructure facility for the purposes of tax benefit under section 80-IA. However, an enterprise carrying on the business of (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining such infrastructure facility shall be eligible to the tax benefit under section 80-IA, subject to fulfillment of other conditions laid down therein.
- (5) 'Livestock and meat' included in the expression 'the produce of animal husbandry' used in Rule 6DD(f)(ii) [Circular No.4/2006 dated 29.3.2006]
 - (i) Disallowance of 20% of the expenditure under the provisions of sub-section (3) of section 40A is made in the computation of income in any case where a payment is made, otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft, for a sum exceeding twenty thousand rupees.
 - (ii) However, payment otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft does not attract the aforesaid disallowance in certain circumstances prescribed under Rule 6DD of the Income-tax Rules, 1962.
 - (iii) Such exceptions, *inter alia*, refer to payment made to the producer for the purchase of the produce of animal husbandry (including hides and skins) under sub-clause (ii) of clause (f) of rule 6DD.
 - (iv) The CBDT observed that the expression 'the produce of animal husbandry' used under rule 6DD(f)(ii) would include livestock and meat. Therefore, in a case where payment exceeding Rs.20,000 is made to a producer of the products of animal husbandry (including livestock, meat, hides and skins) otherwise than by a crossed cheque drawn on a bank or by a crossed

bank draft for the purchase of such produce, no disallowance should be attracted under section 40A(3) read with rule 6DD.

- (v) It is further clarified that exception will not be available on the payment for the purchase of livestock, meat, hides and skins from a person who is not proved to be the producer of these goods and is only a trader, broker or any other middleman by whatever name called.

RECENT AMENDMENTS IN INCOME TAX AND CENTRAL SALES TAX

Students are advised to study thoroughly the Supplementary Study Paper-2005 on Income-tax and Central Sales-tax for the PE-II Course. This contains the amendments made by the Finance Act, 2005 as well as the relevant notifications/circulars. This Supplementary Study Paper is available at the branch and regional sales counters of the Institute. It is very important to have good knowledge of the latest amendments since considerable weightage is being given to the latest amendments in the examinations.