

The Suggested Answers for Paper – 5: Income-tax and Central Sales Tax are based on the provisions applicable for A.Y.2006-07, which is the assessment year relevant for May 2006 examinations.

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

Answer all questions

Question 1

(a) Mr. Ram, who does not maintain books of accounts for the year ended 31.3.2006, requests you to compute his total income and the tax payable thereon for the assessment year 2006-2007 from the following:

- (i) Basic Salary - 20,000 p.m.
CCA - 1,000 p.m.
HRA - 5,000 p.m.
- (ii) Ram resides in Chennai, paying a rent of Rs.6,000 per month.
- (iii) Ram is paid an education allowance of Rs.500 per month per child for all the three of his children. Actual expenses (tuition fees only) amounts to Rs.15,000, Rs.10,000 and Rs.5,000 respectively.
- (iv) Employer's contribution to Staff Group Insurance Scheme Rs.5,440.
- (v) He bought a heavy goods vehicle on 7.6.2005 and has been letting it on hire from the same date. He declares an income of Rs.34,900 from the same.
- (vi) Interest from company deposits is Rs.15,000 and bank interest is Rs.5,000.
- (vii) Interest is payable on bank loans availed for buying the truck and making company deposits as follows:-

Purpose	Date of loan	Amount	Interest rate
Truck purchase	1.4.2005	5 lakhs	10% p.a.
Company deposit	1.10.2005	1 lakh	9 % p.a.

- (viii) Loss carried forward arising from speculating in shares during the preceding previous year and eligible for set-off is Rs.1,00,000.
- (ix) Ram has invested Rs.12,000 in notified equity linked saving scheme of UTI, Rs.52,000 in notified infrastructure sector bonds, Rs.9,000 as life insurance premium on his own life (sum assured Rs.40,000) and Rs.15,000 towards pension fund of LIC. (15 Marks)
- (b) Mr. A who transfers land and building on 2.1.2006, furnishes the following information:
 - (i) Net consideration received Rs.10 lakhs.
 - (ii) Value adopted by stamp valuation authority, which was not contested by Mr.A Rs.12 lakhs.

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- (iii) Value ascertained by Valuation Officer on reference by the Assessing Officer Rs.13 lakhs.
- (iv) This land was distributed to Mr. A on the partial partition of his HUF on 1.4.1981. Fair market value of the land as on 1.4.81 was Rs.1,10,000.
- (v) A residential building was constructed on the above land by Mr. A at a cost of Rs.3,20,000 (construction completed on 1.12.2002) during the financial year 2002-2003.
- (vi) Short-term capital loss incurred on sale of shares during the financial year 2002-2003 Rs.2,05,000.

Mr. A seeks your advice as to the amount to be invested in NABARD bonds so as to be exempt from clutches of capital gain tax. Cost inflation indices for the financial years 1981-82, 2002-03 & 2005-06 are 100, 447 and 497 respectively. (8 Marks)

- (c) Following is the Profit and Loss account of Mr. A for the year ended 31.3.2006:

	Rs.		Rs.
To Repairs on building	1,30,000	By Gross profit	6,01,000
To Advertisement	51,000	By I.T Refund	4,500
To Amount paid to Scientific Research Association approved u/s 35	1,00,000	By Interest from company deposits	6,400
To Interest	1,10,000	By Dividends	3,600
To Traveling	1,30,000		
To Banking cash transaction tax	550		
To Net Profit	93,950		
	<u>6,15,500</u>		<u>6,15,500</u>

Following additional information is furnished:

- (1) Repairs on building includes Rs.95,000 being cost of raising a compound wall for the own business premises.
- (2) Interest payments include interest of Rs.12,000 payable outside India to a resident Indian on which tax has not been deducted and penalty of Rs.24,000 for contravention of Central Sales Tax Act.

Compute the income chargeable under the head 'Profits and gains of business or profession' of Mr. A for the year ended 31.3.2006 ignoring depreciation. (7 Marks)

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Answer

(a) Computation of total income of Mr. Ram for the Assessment Year 2006-07

	Rs.	Rs.
Income from Salary		
Basic Salary (Rs.20,000 × 12)		2,40,000
CCA (Rs.1,000 × 12)		12,000
HRA (Rs.5,000 × 12)	60,000	
Less: Exempt u/s 10(13A) [See Note 1 below]	48,000	12,000
Education Allowance (500×12×3)	18,000	
Less: Exempt u/s 10(14) (100×12×2)	2,400	15,600
Income from Salary		2,79,600
Profits and gains from business or profession		
Income from the business of letting on hire, a heavy vehicle u/s 44AE (3500×10) [See Note 3 below]		35,000
Income from Other Sources		
Interest from company deposits	15,000	
Bank interest	5,000	
	20,000	
Less: Deduction under section 57		
$9 \times 6 \times 1,00,000$	4,500	15,500
100×12		
Gross Total Income		3,30,100
Less: Deduction under Chapter VI-A		
Under section 80C [See Note 5 below]	97,000	
Under section 80CCC	10,000	
	1,07,000	
restricted to		1,00,000
Total Income		2,30,100

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Computation of tax payable for the A.Y.2006-07

Tax on Rs.2,30,100	21,020
Add: Surcharge	NIL
Education cess 2%	420
Tax Payable	<u>21,440</u>

Notes -

- (1) HRA is exempt to the extent of the least of the following under section 10(13A)
 - (1) 50% of salary (as the city is Chennai) i.e. 50% of Rs.2,40,000 = Rs.1,20,000
 - (2) Excess of rent paid over 10% of salary = Rs.72,000 – Rs.24,000 = Rs.48,000
 - (3) Actual amount received = 5,000 × 12 = Rs.60,000

Least of the above i.e. Rs.48,000 is exempt under section 10(13A)

- (2) Employer's contribution to staff group insurance scheme is not a taxable perquisite in the hands of the employee. It is presumed that the scheme is framed by the General Insurance Corporation of India and approved by the Central Government for the purposes of section 36(1)(ib).
- (3) In the case of a person owning not more than 10 vehicles at any time during the previous year, estimated income from each heavy vehicle will be deemed to be Rs.3,500/- for every month or part of the month during which the heavy vehicle is owned by the assessee during the previous year [Section 44AE].

Presumptive income = Rs.3,500 × 10 = 35,000

If, however, the assessee declares a higher amount, such amount will be considered as income. In the instant case, since the assessee declares a lower amount, it cannot be considered, since no books of account are maintained. Also, interest is not deductible, since under section 44AE, all deductions under sections 30 to 38 are deemed to have been allowed.

- (4) Brought forward loss from speculation business can be set off only against income from speculation business and not against other business income.

- (5) Deduction under section 80C

Investment in notified equity linked saving scheme of UTI	12,000
Investment in notified infrastructure sector bonds	52,000
Life insurance premium on own life restricted to 20% of sum assured	8,000
Tuition fees paid for two of his children (Most favourable to Ram)	25,000
	<u>97,000</u>

(b) Computation of Capital Gains of Mr. A for the Assessment Year 2006-07.

Particulars	Rs.	Rs.
Full value of consideration		12,00,000
(Indexation benefit is available since land and building are long-term capital assets).		
Less: Indexed cost of land $(1,10,000 \times 497/100)$	5,46,700	
Indexed cost of building $(3,20,000 \times 497/447)$	3,55,794	9,02,494
Long-term capital gain		2,97,506
Less: Brought forward short-term capital loss set off		2,05,000
Amount to be invested in NABARD bonds		92,506

Notes -

- (i) Where the consideration received or accruing as a result of transfer of a capital asset, being land or building or both, is less than the value adopted or assessed by any authority of a State Government (Stamp Valuation Authority) for the purpose of payment of stamp duty in respect of such asset and the same is not contested by the assessee, such value adopted or assessed shall be deemed to be the full value of the consideration received or accruing as a result of such transfer. [Section 50C(1)]. Accordingly full value of consideration will be Rs.12 lakhs in this case.
- (ii) It is further provided in section 50C(3) that where the valuation is referred by the Assessing Officer to Valuation Officer and the value ascertained by such valuation officer exceeds the value adopted or assessed by the stamp valuation authority, the value adopted or assessed by the stamp valuation authority shall be taken as the full value of the consideration received or accruing as a result of the transfer. Hence, since the value ascertained by the valuation officer (i.e. Rs.13 lakhs) is higher than the value adopted by the stamp valuation authority (i.e. Rs.12 lakhs), the full value of consideration in this case is Rs.12 lakhs.
- (iii) Cost of land which is acquired on partition of HUF is the cost to the previous owner. Since date and cost of acquisition to the previous owner are not given, fair market value as on 1.4.1981 is taken as the cost and indexed.
- (iv) Brought forward unabsorbed short term capital loss can be set off against any capital gains, short term or long term, for 8 assessment years immediately succeeding the assessment year for which the loss was first computed. It is assumed that the short-term capital loss relating to the financial year 2002-03 is unabsorbed.
- (v) As per section 54EC, an assessee can avail exemption in respect of long-term capital gains, if such capital gains are invested in the bonds issued by the NABARD/NHAI/RECL/NHB/SIDBI, redeemable after 3 years. Such investment is required to be made within a period of 6 months from the date of transfer of the

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asset. The exemption shall be the amount of capital gain or the amount of such investment made, whichever is less.

(c) Profits and gains of business or profession of Mr. A for the year ended 31.3.2006

Particulars	Rs.	Rs.
Net profit as per Profit and Loss Account		93,950
Add: Expenses not allowable		
(i) Expenses on raising a compound wall, as it is a capital expenditure	95,000	
(ii) Interest payable outside India to a resident, as tax has not been deducted on the same [Section 40(a)]	12,000	
(iii) Penalty for contravention of CST Act [Penalty paid for violation or infringement of any law is not allowable as deduction under section 37(1)]	24,000	
(iv) Contribution for scientific research (to be treated separately)	1,00,000	2,31,000
		3,24,950
Less: Income not forming part of business income		
Interest from company deposits	6,400	
Dividend	3,600	
I.T. refund	4,500	14,500
		3,10,450
Less: Deduction under section 35 for scientific research [See Note 2 below]		1,25,000
Profit and gains of business or profession		1,85,450

Note:

- (1) Banking cash transaction tax is allowable as deduction under section 36(1)(xiii) from business income.
- (2) Contribution to approved scientific research association qualifies for deduction @ 1¼ times under section 35(1)(ii).

Question 2 (First Alternative)

(a) The total income of Mrs. Z computed for the assessment year 2006-07 is Rs.2,00,000, which includes the following:

	Rs.
Long-term capital gains	30,000
Winnings from lotteries	20,000
Short-term capital gains covered by Sec. 111A	10,000

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Agricultural income earned by her was Rs.50,000. Compute the tax payable by Mrs.Z.

(6 Marks)

(b) What is Slump sale? How is capital gain computed in case of a slump sale? (6 Marks)

Answer

(a) Computation of tax payable by Mrs.Z for the A.Y.2006-07

	Step 1	Rs.	Rs.
Add	Agricultural income and Non-agricultural income (Rs.50,000 + Rs.2,00,000)		2,50,000
	Tax on the above income		
(i)	Tax on long-term capital gain of Rs.30,000 @ 20%	6,000	
(ii)	Tax on lottery income of Rs.20,000 @ 30%	6,000	
(iii)	Tax on short-term capital gain covered u/s 111A @ 10% of Rs.10,000	1,000	
(iv)	Tax on balance income of Rs.1,90,000	<u>9,500</u>	
	Total tax on Rs.2,50,000		22,500
	Step 2		
Add	Basic exemption limit to agricultural income (Rs.1,35,000 + Rs.50,000)		1,85,000
	Tax on Rs.1,85,000		8,500
	Step 3		
	Tax on non-agricultural income (Tax under step 1 – Tax under step 2) (Rs.22,500 – Rs.8,500)		14,000
	Add: Education cess @ 2%		<u>280</u>
	Tax payable by Mrs. Z		<u>14,280</u>

(b) As per section 2(42C), slump sale means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales. The determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities.

Section 50B provides that any profits and gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains and shall be deemed to be the income of the previous year in which the transfer took place. Where an undertaking is owned and held by the transferor for more than 36 months, the gain shall be a long-term capital gain. Otherwise, it will be a short term capital gain.

For the purpose of computation of capital gain, the "net worth" of the undertaking or the division, as the case may be, is deemed to be the cost of acquisition and the cost of improvement. Indexation benefit is not available. The assessee is also required to file a report of a chartered accountant indicating the computation of the net worth of the undertaking or division and certifying that the net worth has been arrived at correctly.

"Net worth" for this purpose means, the aggregate value of total assets of the undertaking or division as reduced by the value of liabilities of such undertaking or division, as appearing in its books of account. Any change in the value of assets on account of revaluation of assets shall be ignored for the purposes of computing the net worth.

Aggregate value of total assets shall be:

- (i) in case of depreciable assets, the written down value of the block of assets.
- (ii) in case of other assets, the book value of such assets.

Question 2 (Second Alternative)

- (a) *X is in possession of agricultural land situated within urban limits, which is used for agricultural purposes during the preceeding 3 years by his father. On 4.4.2005, this land is compulsorily acquired by the Government of India on a compensation fixed and paid by it for Rs.10 lakhs. Advise X as to the tax consequences, assuming that the entire amount is invested in purchase of shares.* (4 Marks)
- (b) *Elaborate on what are to be taxed as profits in lieu of salary.* (4 Marks)
- (c) *Mr.A, a citizen of India, left for USA for the purposes of employment on 1.5.2005. He has not visited India thereafter. Mr. A borrows money from his friend Mr. B, who left India one week before Mr. A's departure, to the extent of Rs.10 lakhs and buys shares in X Ltd., an Indian company. Discuss the taxability of the interest charged @10% in B's hands where the same has been received in New York.* (4 Marks)

Answer

- (a) Section 10(37) exempts the capital gains arising to an individual or a Hindu Undivided Family from transfer of agricultural land by way of compulsory acquisition, or a transfer, the consideration for which is determined or approved by the RBI or the Central Government.

Such exemption is available where the compensation or the enhanced compensation or consideration, as the case may be, is received on or after 1st April, 2004 and the land has been used for agricultural purposes during the preceding two years by such individual or a parent of his or by such Hindu undivided family.

Since all the above conditions are fulfilled in this case, X is entitled to exemption under section 10(37) of the entire capital gains arising on sale of agricultural land.

- (b) Section 17(3) defines “Profits in lieu of salary” to include:
- (i) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment.
 - (ii) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the modification of the terms and conditions of his employment.
 - (iii) any payment due to or received by an assessee from his employer or former employer or from provident fund or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions.

However, the following receipts, will not be termed as “profits in lieu of salary” to the extent they are exempt under section 10 –

- (1) Death-cum-retirement gratuity [Sub-section (10)];
 - (2) Commuted value of pension [Sub-section (10A)];
 - (3) Retrenchment compensation [Sub-section (10B)];
 - (4) Payment received from statutory provident fund [Sub-section (11)];
 - (5) Payment received from recognized provident fund [Sub-section (12)];
 - (6) Payment from an approved superannuation fund [Sub-section (13)];
 - (7) House rent allowance [Sub-section (13A)]
- (iv) any sum received under a Keyman Insurance Policy including the sum allocated by way of bonus on such policy.
- (v) any amount due to or received, whether in lump sum or otherwise, by any assessee from any person –
- (A) before his joining any employment with that person; or
 - (B) after cessation of his employment with that person.
- (c) An individual is said to be resident in India in any previous year, if he
- (i) has been in India during that year for a total period of 182 days or more, or
 - (ii) has been in India during the four years immediately preceding that year for a total period of 365 days or more and has been in India for at least 60 days in that year.

In this case, A has been in India only from 1.4.2005 to 30.04.2005 i.e. for 30 days. Therefore, he does not satisfy either of the conditions in (i) or (ii) and is, hence, a non-resident. B, who left India one week before A's departure, is also a non-resident for the same reasons.

Section 9(1)(v) provides that income by way of interest payable by a non-resident in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in India shall be deemed to accrue or arise in India.

Therefore, interest payable by a non-resident in respect of any debt incurred, or moneys borrowed and used, for the purpose of making or earning any income from any source other than a business or profession carried on by him in India, shall not be deemed to accrue or arise in India. Therefore, interest payable by A on money borrowed from B to invest in shares of an Indian company shall not be deemed to accrue or arise in India and hence, is not taxable in India in the hands of B.

Question 3

(a) *Fill up the blanks (Provisions relate to Income-tax assessment year 2006-07).*

- (i) *For availing exemption under section 10A, return of income should be filed by a corporate assessee on or before -----.*
- (ii) *In case of an eligible assessee, in respect of imported second hand machinery never put to use by any person in India before, additional or accelerated depreciation is allowable at the rate of ----- on the actual cost of machinery.*
- (iii) *Fringe benefit tax ----- an allowable item of business expenditure.*
- (iv) *Where an individual has repaid in the second year, Rs.20,000 towards principal and Rs.60,000 towards eligible education loan from an approved bank, the deduction available under section 80E is Rs. -----.*
- (v) *A person who incurs an expenditure Rs. or more on electricity bill during the previous year is obliged to file the return of income based on economic indicators. (5 ×1=5 Marks)*

(b) *State True or False, with reasons (All sub-divisions relate to Income-tax assessment year 2006-07):*

- (i) *Under section 35DDA, amortization of expenditure incurred under eligible Voluntary Retirement Scheme at the time of retirement alone, can be done.*
- (ii) *Value of fringe benefit chargeable to tax under Chapter XII-H in the hands of the employer, is not to be treated as a perquisite under section 17(2), in the hands of the employee.*
- (iii) *Zero coupon bonds of eligible corporation, held for more than 12 months, will be long-term capital assets.*
- (iv) *In the case of a dealer in shares, income by way of dividend is taxable under the head "Profits and gains of business or profession".*
- (v) *Mr. Y, who is a physically handicapped minor (suffering from a disability of the nature specified in section 80U), earns bank interest of Rs.50,000 and Rs.60,000*

from marking bags manually by himself. The total income of Mr.Y shall be computed in his hands separately. (5×2=10 Marks)

Answer

- (a) (i) 31.10.2006
(ii) NIL / 0%
(iii) is not
(iv) Rs.60,000 [It is presumed that Rs.60,000 is paid towards interest on eligible education loan]
(v) Rs.50,000
- (b) (i) 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 each part payment is made to the employee.
- (ii) True
Section 17(2)(vi) provides that the fringe benefits chargeable to tax under newly inserted Chapter XII-H in the hands of the employer, will be excluded from the value of such fringe benefits includible in the employee's salary as perquisite.
- (iii) True
Section 2(42A) defines the term 'short-term capital asset'. Under the proviso to section 2(42A), zero coupon bond held for not more than 12 months will be treated as a short-term capital asset. Consequently, such bond held for more than 12 months will be a long-term capital asset.
- (iv) False
In the case of all assesses, dividend income is taxable under the head "Income from other sources", in view of the provisions of section 56(2)(i).
- (v) True
The clubbing provisions of section 64(1A) are not applicable in a case where the minor child is suffering from any disability of the nature specified in section 80U. The income of such minor child will not be clubbed in the hands of either of the parents. Consequently, the total income of Mr. Y will be assessed in his hands.

Question 4

Write short notes on any three, with regard to the provisions of the Income-tax Act, 1961:

- (a) *Procedure for registration of charitable trusts under section 12AA.*
- (b) *Tax treatment of recovery of unrealized rent allowed as deduction in earlier year, under section 25A.*

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- (c) *Special provisions under section 44DA for computing income by way of royalty, fee for technical services, etc. in case of non-residents.*
- (d) *Power of Income-tax authority to collect information during survey, under section 133B.*

(6×3=18 Marks)

Answer

- (a) Procedure for registration of charitable trusts under section 12AA – An application for registration has to be submitted to the Commissioner. The Commissioner, on receipt of an application for registration of a trust or institution made under section 12A(a) shall proceed as follows:
- (i) He will call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such enquiries as he may deem necessary in this behalf.
 - (ii) After satisfying himself about the objects of the trust or institution and the genuineness of its activities, he shall pass an order in writing registering the trust or institution.
 - (iii) If he is not satisfied, he shall pass an order in writing refusing to register the trust or institution.
 - (iv) A copy of such an order issued under (ii) or (iii) shall be sent to the applicant. However, an order under (iii) shall not be passed unless the applicant has been given a reasonable opportunity of being heard.
 - (v) Every order granting or refusing registration shall be passed within six months from the end of the month in which the application for registration of trust or institution is received by the Commissioner.
 - (vi) If the Commissioner of income-tax is satisfied that the activities of any trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, he can pass an order in writing canceling the registration granted under the said section. However, the trust or institution should be given a reasonable opportunity of being heard.
- (b) Tax treatment of recovery of unrealised rent allowed as deduction in earlier year, under section 25A

Where unrealised rent has been wholly deducted under section 24, as it stood prior to its substitution by Finance Act, 2001, and subsequently there is any recovery in respect of such rent, the amount so realized is fully taxable under the head "Income from house property" as the income of that previous year, irrespective of the fact whether the assessee is the owner of that property in that year or not. No deduction is to be allowed either under section 23 or section 24 from such recovered amount. For example, in a case where unrealized rent of Rs.15,000 relating to the assessment year 1998-99 has been wholly deducted in the subsequent years and during the previous year relevant to

the assessment year 2006-2007, there is a recovery of Rs.7,000 in respect of such rent, then such recovered amount of Rs.7,000 is fully taxable under section 25A in the assessment year 2006-2007, under the head "Income from house property".

Where unrealized rent has been partially deducted under the erstwhile section 24 and subsequently there is any recovery in respect of such rent, then, the excess of the amount recovered over the unrealized rent not allowed to be deducted is taxable as income of that previous year under section 25A under the head "Income from house property". Continuing the above example, if unrealised rent has been deducted to the extent of Rs.12,000, the recovery of Rs.7,000 is chargeable only to the extent of Rs.4,000 [Rs.7,000 - amount not allowed earlier Rs.3,000].

- (c) Special provision under section 44DA for computing income by way of royalty, fee for technical services, etc. in case of non-residents

The provisions of section 44DA are as follows -

- (i) The income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by a non-corporate non-resident or a foreign company (which carries on business in India) with Government or the Indian concern after 31st March, 2003, shall be computed on the basis of books of accounts required to be maintained under the Act.
 - (ii) Such business should be carried on through a permanent establishment, or the assessee should perform professional services from a fixed place of profession in India.
 - (iii) They should keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA.
 - (iv) They should get their accounts audited by a chartered accountant and furnish along with the return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.
 - (v) No deduction will be allowed while computing income of such non-resident, of the expenditure which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India and also of any amount paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or any of its other offices.
- (d) Power of income-tax authority to collect information during survey, under section 133B
- (i) Under section 133B, an income-tax authority may enter any building or place (at which a business or profession is carried on) which is -
 - (1) within its jurisdiction or
 - (2) occupied by any person in respect of whom the said authority exercises jurisdiction,

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for the purpose of collecting any information which may be useful for, or relevant to the purposes of the Act.

- (ii) It is not necessary that such a place should be the principal place of the business or profession.
- (iii) The authority may require any proprietor, employee or any other person who may at the time and place be attending in any manner to, or helping in, the carrying on of such business or profession to furnish such information as may be prescribed.
- (iv) An Income-tax authority may enter any place of business or profession referred to above only during the hours at which such place is open for the conduct of business or profession.
- (v) Such authority shall, on no account, remove or cause to be removed from the building or place wherein he has entered, any books of account or other documents or any cash, stock or other valuable article or thing.
- (vi) In this section, Income-tax authority means a Joint Commissioner, an Assistant Director or Deputy Director or an Assessing Officer, and includes an Inspector of Income-tax who has been authorised by the Assessing Officer to exercise the powers conferred under this section in relation to the area in respect of which the Assessing Officer exercises jurisdiction or part thereof.

Question 5

- (a) *Choose the most appropriate and correct answer with regard to the provisions of the Central Sales-tax Act:*
 - (i) *Which of the following is not declared goods?*
 - (a) *Imported cotton*
 - (b) *Cotton yarn waste*
 - (c) *Raw unginned cotton*
 - (d) *Ginned cotton.*
 - (ii) *The term sale includes:*
 - (a) *mortgage*
 - (b) *pledge*
 - (c) *hypothecation*
 - (d) *None of the above.*
 - (iii) *The following acts are punishable under the Act:*
 - (a) *False representation by a dealer that he is registered.*
 - (b) *Collection of taxes by an unregistered dealer in contravention of Sec. 9A.*
 - (c) *Failure by a person to get himself registered as required u/s 7 of the Act.*

- (d) *All of the above.*
- (iv) *A penultimate sale is considered to be in the course of export, only if the dealer selling the goods furnishes a declaration in*
- (a) *Form C*
 - (b) *Form D*
 - (c) *Form F*
 - (d) *Form H.*
- (v) *Place of business does not include*
- (a) *a warehouse*
 - (b) *a godown*
 - (c) *any other place where the dealer stores his goods*
 - (d) *dealer's residence.* (1×5 = 5 Marks)
- (b) *Fill in the blanks in the light of the provisions of the CST Act:*
- (i) *The dealer's turnover is thereceived and receivable by him in respect of sale of any goods in the course of inter-State trade.*
 - (ii) *Sales or purchases of ascertained goods shall be deemed to be a State, if the goods were within that State at the time theof sale was made.*
 - (iii) *Sales, subsequent to the first one, made to the registered dealer or Governmentshall not be liable to tax.*
 - (iv) *The rate of CST applicable to goods exempt from State Sales Tax is*
 - (v) *The State from which commences shall be theState empowered to assess, collect and enforce payment of CST.* (1×5 = 5 Marks)
- (c) *State with reasons whether the following statements are True or False:*
- (i) *The Government of Andhra Pradesh, selling outmoded model of its computer to the Government of Tamil Nadu, is a dealer.*
 - (ii) *Charcoal is treated as declared goods.*
 - (iii) *Sales tax is leviable on sale of stocks, shares and securities traded by a dealer in shares.*
 - (iv) *A new certificate of registration has to be obtained, if the dealer changes the nature of his business.*
 - (v) *Relief to special economic zone is available in respect of any class/classes of goods.* (1×5 = 5 Marks)

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Answer

- (a) (i) (b) Cotton yarn waste
- (ii) (d) None of the above
- (iii) (d) All of the above
- (iv) (d) Form H
- (v) (d) dealer's residence
- (b) (i) aggregate of the sale prices.
- (ii) inside, contract.
- (iii) during the same movement and effected by transfer of documents of title to such goods.
- (iv) Nil / 0%
- (v) the movement of goods, Appropriate
- (c) (i) False - By virtue of *Explanation 2* to section 2(b), 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, commission, remuneration or other valuable consideration is deemed to be a dealer. However, a Government will not be deemed to be a dealer in relation to sale of any obsolete or discarded machinery. Therefore, the above statement is false.
- (ii) False - Section 14 enlisting declared goods specifies "Coal, including coke in all its forms but excluding charcoal" as declared. Therefore, the above statement is false, as charcoal is specifically excluded.
- (iii) False - Section 2(d) defining goods, specifically excludes stocks, shares & securities from the purview of goods. Therefore, central sales tax will not be leviable on sale of stocks, shares and securities.
- (iv) False - Section 7(4)(a) provides that a certificate of registration may be amended if the dealer changes the nature of his business. Therefore, the existing certificate may be amended. There is no need for obtaining a new certificate of registration.
- (v) False - Section 8(7) provides that goods should be of such class/classes of goods as specified in the certificate of registration of the registered dealer. Therefore, classes of goods not specified in the certificate of registration of the registered dealer will not be eligible for relief.

Question 6

- (a) *Y of Mumbai purchases declared goods from a registered dealer in Nagpur paying sales tax at 3%. Subsequently, the commodity was sold to a dealer in Chennai. Y collected CST on the Inter-state sale; he wants refund of tax paid on sale within State (i.e. on purchases effected from Nagpur). Is he entitled to the same? (3 Marks)*

- (b) *An order of penalty has been imposed on Rahim, a registered dealer. Rahim is in a difficult financial position. He wishes to file an appeal before the Appellate Authority. He wants to know whether he can obtain stay against the order of penalty. Advise Rahim*

(3 Marks).

- (c) *L gave notice of appointment as liquidator of Dissolve Ltd. to the concerned Sales Tax Officer. The officer sent an order to L intimating the amount due from Dissolve Ltd. and instructed L that such amount should have priority over all other debts. Advise L.*

(4 Marks)

Answer

- (a) Section 15(b) of the Central Sales-tax Act provides that where,

- (i) tax is levied on the sale or purchase of any declared goods inside a state; and
- (ii) such goods are subsequently sold in the course of inter-State sale, and
- (iii) is subjected to tax on such inter-State sale,

the local sales tax realised previously has to be refunded.

So, in the given situation, Y can claim refund of the local State sales-tax, if he has actually paid the CST on such declared goods.

- (b) Section 22 of the Central Sales-tax Act empowers the appellate authority to grant stay of the operation of the order of the assessing authority against which the appeal is filed before it or order the pre-deposit of the tax before entertaining the appeal.

Therefore, in this case, the appellate authority may either grant stay or order the pre-deposit of the tax before entertaining the appeal. While passing such order, the Authority shall take into consideration the pre-deposit, if any, made by Rahim, under the general sales-tax law of the concerned State.

Rahim can, therefore, file an appeal before the appellate authority and can also post a prayer for grant of stay of operation of the order imposing penalty.

- (c) Where L has served notice of appointment as liquidator, the concerned sales-tax officer shall, within three months of the receipt of such notice, intimate to L, the amount, which in his opinion, will be sufficient to meet the tax liability of Dissolve Ltd. L shall not part with any of the assets of the company or the properties in his hands until he has been notified by the Appropriate Authority. Upon receipt of intimation from the sales-tax officer, it will be obligatory on the part of L to make provision of such amount.

However, the demand of the sales-tax officer is not justified. The CST liability of Dissolve Ltd. can have priority, subject to:

- (a) payments to secured creditors having priority of payment over Government dues;
- (b) reasonable costs of winding up of Dissolve Ltd.