

The Suggested Answers for Paper – 5: Income Tax and Central Sales Tax are based on the provisions applicable for A.Y.2009-10, which is the assessment year relevant for June 2009 examination.

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

Answer all questions

Question 1

- (a) Mr. Janak, working as Finance Manager in Thilagam Realty Ltd., Jaipur, retired from the company on 31.10.2008 at the age of 60. The following amounts were received from the employer from 1st April, 2008 to 31st October, 2008:

Basic Salary	Rs.30,000 p.m.
Dearness Allowance	Rs.20,000 p.m. (40% reckoned for superannuation benefits)
Ex-gratia (lump sum)	Rs.15,000

In addition to the above –

- (i) The company had taken on lease a residential house at Jaipur, paying a lease rent of Rs.9,000 p.m. Mr. Janak, who was paying to the company Rs.6,000 p.m. towards aforesaid rent, vacated the said premises on 31.10.2008.
- (ii) The company had also provided to Mr. Janak a cooking range and micro-wave oven owned by it. The original cost of these assets was Rs.40,000 and the written down value as on 1.4.2008 was Rs.22,000.
- (iii) Mr. Janak has two sons. His second son was studying in a school run by the employer-company throughout the financial year 2008-09. The cost of such education in a similar school is Rs.1,800 p.m.
- (iv) The employer-company was contributing Rs.7,000 p.m. to Central Government Pension Scheme.
- (v) Professional tax paid by the employer Rs.3,000.
- (vi) Subsequent to his retirement, Mr. Janak started his own business on 15-11-2008. The results of the said business from 15.11.2008 to 31.3.2009 were:
 - (i) Business loss (excluding current depreciation) Rs.90,000
 - (ii) Current year's depreciation Rs.60,000
- (vii) Mr. Janak won a prize in a TV game show. He received a sum of Rs.41,460 after deduction of tax at source to the tune of Rs.18,540.
- (viii) Mr. Janak furnishes the under-mentioned data relating to savings, investments and out-goings :
 - A. Life insurance premium, with a private insurance company Rs.30,000 for his son and Rs.20,000 for his married daughter.

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- B. Medical insurance premium of Rs.12,000 for himself and Rs.16,000 for his father (aged 82), paid by credit card. His father is however not dependent on him.

You are required to compute the total income of Mr. Janak (showing clearly the computation under various heads of income) and tax payable by him for the assessment year 2009-10. (20 marks)

- (b) Mrs. Rohini Ravi, a citizen of the U.S.A., is a resident and ordinarily resident in India during the financial year 2008-09. She owns a house property at Los Angeles, U.S.A., which is used as her residence. The annual value of the house is \$ 20,000. The value of one USD (\$) may be taken as Rs.45.

She took ownership and possession of a flat in Chennai on 1.7.2008, which is used for self-occupation, while she is in India. The flat was used by her for 7 months only during the year ended 31.3.2009. Whilst the municipal valuation is Rs.32,000 p.m., the fair rent is Rs.4,20,000 p.a. She paid the following to Corporation of Chennai:

Property Tax	Rs.16,200
Sewerage Tax	Rs.1,800

She had taken a loan from Standard Chartered Bank for purchasing this flat. Interest on loan was as under:

	Rs.
Period prior to 1.4.2008	49,200
1.4.2008 to 30.6.2008	50,800
1.7.2008 to 31.3.2009	1,31,300

She had a house property in Bangalore, which was sold in March, 2007. In respect of this house, she received arrears of rent of Rs.60,000 in March, 2009. This amount has not been charged to tax earlier.

Compute the income chargeable from house property of Mrs. Rohini Ravi for the assessment year 2009-10, exercising the most beneficial option available. (10 marks)

Answer

- (a) Computation of total income of Mr. Janak for A.Y. 2009-10

Particulars	Rs.	Rs.
Basic salary = Rs.30,000 x 7	2,10,000	
Dearness Allowance = Rs.20,000 x 7	1,40,000	
Ex-gratia	15,000	
Employers' contribution to Central Government Pension Scheme = Rs.7,000 x 7	49,000	
Professional tax paid by employer	3,000	

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Concessional accommodation (See Notes 1 & 2)	150	
Value of furniture (See Note 3)	2,333	
Value of concessional educational facility = (1,800 x 7) (See Note 4)	12,600	
Gross salary	4,32,083	
Less : Deduction under section 16(iii)		
Professional tax	3,000	
Net salary		4,29,083
Income from other sources		
Winnings from TV Game Show (Rs.41,460 + Rs.18,540)		60,000
Gross Total Income		4,89,083
Less : Deductions under Chapter VI-A		
80C Life insurance premium (30,000 + 20,000)	50,000	
80CCD (See Notes 5 & 6)		
Employee's contribution to pension scheme (to be restricted to 10% of salary)	26,600	
Employer's contribution to pension scheme (to be restricted to 10% of salary)	26,600	
Salary = (30,000 + 8,000) × 7 = Rs.2,66,000		
Total deduction under section 80C & 80CCD	1,03,200	
Deduction to be restricted to Rs.1,00,000 as per section 80CCE	1,00,000	
80D (Rs.12,000 + 16,000) (See Note 7)	28,000	1,28,000
Total Income		3,61,083
Total income (rounded off)		3,61,080

Computation of tax liability of Mr. Janak for the A.Y. 2009-10.

Particulars	Rs.	Rs.
Tax @ 30% on winnings of Rs.60,000 from game show (See Note 8)		18,000
Tax on balance income of Rs.3,01,080		15,216
		33,216
Add : Education cess @ 2%	664	
Secondary and higher education cess @ 1%	332	996
		34,212
Less : TDS		18,540
Tax liability		15,672

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Notes:

- (1) For computation of perquisite value of concessional accommodation, 40% of dearness allowance (i.e. Rs.8,000) should be taken into consideration as forming part of salary, since the question clearly mentions that only 40% is to be reckoned for superannuation benefits. Therefore, salary for the purpose of perquisite valuation would be Rs.2,81,000 [i.e., (Rs.30,000 + Rs.8,000) x 7 + 15,000].
- (2) In a case where the accommodation is taken on lease or rent by the employer and provided to the employee, the value of perquisite would be lower of the actual amount of lease rental paid or payable by the employer [i.e. Rs.63,000, being 9,000 x 7] and 15% of salary [i.e., Rs.42,150, being 15% of Rs.2,81,000]. This value (i.e. Rs.42,150) would be reduced by the rent paid by the employee (i.e., Rs.42,000, being 6,000 x 7).
The value of concessional accommodation is Rs.150 [i.e. Rs.42,150 – Rs.42,000].
- (3) The value of furniture owned by employer and provided to the employee is 10% p.a. of actual cost which amounts to Rs.2,333 [i.e. 10% of 40,000 x 7/12].
- (4) In determining the value of perquisite resulting from the provision of free or concessional educational facilities, from a plain reading of the proviso to Rule 3(5), it is possible to take a view that if the cost of education per child exceeds Rs.1,000 per month, the entire cost will be taken as the value of the perquisite. Accordingly, the full amount of Rs.1,800 per month is taxable as perquisite. It has been assumed that the education is provided free-of-cost to Mr.Janak's son since the question is silent regarding the same. In such a case, the value of the perquisite would be Rs.12,600 (i.e. Rs.1,800 x 7).
- (5) The entire employer's contribution to Central Government Pension scheme should be included in salary and deduction under section 80CCD should be restricted to 10% of salary.
- (6) Employee's contribution to Central Government Pension Scheme is not given in the question. However, since the employer is contributing Rs.7,000 per month to the pension account and generally, the employer makes a matching contribution, therefore, the problem has been solved assuming that the employee has made a contribution of Rs.7,000 per month. Even if it is assumed that the employee has contributed only 10% of salary, the same would not affect the answer, since deduction under section 80CCD is to be restricted to 10% of salary.
- (7) The deduction for medical insurance premium of Rs.16,000 paid for father is allowable in full under section 80D, as the maximum limit is Rs.20,000, since his father is a senior citizen. Therefore, the total deduction under section 80D would be Rs.12,000 (for self) + Rs.16,000 (for father) = Rs.28,000.
- (8) Winnings from TV game show is chargeable at a flat rate of 30% under section 115BB. No loss can be set-off against such income. Therefore, business loss cannot be set-off against such income.

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- (9) As per section 71(2A), business loss cannot be set-off against salary income. Section 71(2A) provides that where the net result of the computation under the head "Profits and gains of business or profession" is a loss and the assessee has income chargeable under the head "Salaries", the assessee shall not be entitled to have such loss set-off against such income. From a plain reading of the provisions of section 71(2A), it is possible to take a view that even depreciation cannot be set-off against salary income. Therefore, both business loss and current depreciation cannot be set-off against salary income.
- (b) Since the assessee is a resident and ordinarily resident in India, her global income would form part of her total income i.e., income earned in India as well as outside India will form part of her total income.

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

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

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

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

Particulars	Rs.	Rs.
1. Self-occupied house at Los Angeles.		
Annual value	Nil	
Less: Deductions under section 24	Nil	
Chargeable income from this house property	Nil	
2. Deemed let out house property at Chennai		
Gross Annual Value (Higher of municipal value and fair rent) [35,000 x 9]		3,15,000
Less: Municipal Taxes (Property tax + Sewerage tax)		18,000
Net Annual Value (NAV)		2,97,000
Less: Deductions under section 24		
30% of NAV	89,100	
Interest on borrowed capital (See Note below)	1,91,940	
		2,81,040
		15,960

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3. Arrears in respect of Bangalore property	
Arrears of rent received	60,000
Less: 30% deduction	18,000
	42,000
Income chargeable under the head "Income from house property"	57,960

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

Question 2 (First Alternative)

- (a) Miss Vivitha, a resident and ordinarily resident in India, has derived the following income from various operations (relating to plantations and estates owned by her) during the year ended 31-3-2009:

	Rs.
(i) Income from sale of centrifuged latex processed from rubber plants grown in Darjeeling.	3,00,000
(ii) Income from sale of coffee grown and cured in Yercaud, Tamil Nadu.	1,00,000
(iii) Income from sale of coffee grown, cured, roasted and grounded, in Colombo. Sale consideration was received at Chennai.	2,50,000
(iv) Income from sale of tea grown and manufactured in Simla.	4,00,000
(v) Income from sapling and seedling grown in a nursery at Cochin. Basic operations were not carried out by her on land.	80,000

You are required to compute the business income and agricultural income of Miss Vivitha for the assessment year 2009-10. (6 Marks)

- (b) Discuss the tax implications of income arising from revocable transfer of assets. When will the clubbing provisions not apply at present, even where there is revocable transfer of assets? (6 Marks)

Answer

- (a) Computation of business income and agricultural income of Ms.Vivitha for the A.Y.2009-10

Sl. No.	Source of income	Gross (Rs.)	Business income %	Amount (Rs.)	Agricultural income Amount (Rs.)
(i)	Sale of centrifuged latex from rubber plants grown in India.	3,00,000	35%	1,05,000	1,95,000

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(ii)	Sale of coffee grown and cured in India.	1,00,000	25%	25,000	75,000
(iii)	Sale of coffee grown, cured, roasted and grounded outside India. (See Note 1 below)	2,50,000	100%	2,50,000	-
(iv)	Sale of tea grown and manufactured in India	4,00,000	40%	1,60,000	2,40,000
(v)	Saplings and seedlings grown in nursery in India (See Note 2 below)	80,000		-	80,000
	Total			5,40,000	5,90,000

Note:

- Where income is derived from sale of coffee grown, cured, roasted and grounded by the seller in India, 40% of such income is taken as business income and the balance as agricultural income. However, in this question, these operations are done in Colombo, Sri Lanka. Hence, there is no question of such apportionment and the whole income is business income. Receipt of sale proceeds in India does not make this agricultural income. In the case of an assessee, being a resident and ordinarily resident, the income arising outside India is also chargeable to tax.
- Explanation 3 to section 2(1A) provides that the income derived from saplings or seedlings grown in a nursery would be deemed to be agricultural income whether or not the basic operations were carried out on land.

(b) Income arising from revocable transfer of assets [Sections 61 & 63]

- All income arising to any person by virtue of a revocable transfer of assets is to be included in the total income of the transferor.
- A transfer is deemed to be revocable if -
 - it contains any provision for the re-transfer, directly or indirectly, of the whole or any part of the income or assets to the transferor, or
 - it gives, in any way, the transferor, a right to re-assume power, directly or indirectly, over the whole or any part of the income or the assets.

Transfer not revocable during the life time of the beneficiary or the transferee [Section 62]

If there is a transfer of asset which is not revocable during the life time of the beneficiary or transferee, the income from the transferred asset is not includible in the total income of the transferor provided the transferor derives no direct or indirect benefit from such income.

If the transferor receives direct or indirect benefit from such income, such income is to be included in his total income even though the transfer may not be revocable during the life time of the beneficiary or transferee.

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Question 2 (Second Alternative)

- (a) Discuss the provisions relating to determination of residential status of Hindu undivided family, partnership firm and company. (6 Marks)
- (b) Briefly enumerate the conditions to be satisfied by an undertaking engaged in export of articles/things for claiming exemption under section 10A of the Income-tax Act, 1961. (6 Marks)

Answer

- (a) Residential status of a HUF:

A HUF would be resident in India if the control and management of its affairs is situated wholly or partly in India during the relevant previous year. If the control and management of its affairs is situated wholly outside India during the relevant previous year, it would be considered as a non-resident.

If the HUF is resident, then the status of its Karta determines whether it is resident and ordinarily resident or resident but not ordinarily resident.

Residential status of a firm:

A Firm would be resident in India if the control and management of its affairs is situated wholly or partly in India during the relevant previous year. Where the control and management of the affairs is situated wholly outside India during the relevant previous year, the firm would be considered as a non-resident.

Residential status of a company:

A company is said to be resident in India in any previous year if –

- (a) it is an Indian company as defined under section 2(26), or
- (b) its control and management is situated wholly in India during that year.

Thus, every Indian company is resident in India irrespective of the fact whether the control and management of its affairs is exercised from India or outside. However, a company other than an Indian company, would become resident in India only if the entire control and management of its affairs is in India during the relevant previous year.

- (b) Conditions to be satisfied by the undertaking engaged in export of articles/things for claiming exemption under section 10A of Income-tax Act, 1961 -
 - (1) It should have begun manufacture or production of articles, things, or computer software during the previous year relevant to the -
 - A.Y. 1981-82 or thereafter in any free trade zone; or
 - A.Y. 1994-95 or thereafter in any electronic hardware technology park or software technology park.
 - (2) It should not be formed by splitting up, or reconstruction, of a business already in existence. However, this condition does not apply to an undertaking which is

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formed as a result of re-establishment, reconstruction, or revival of the business of any undertaking falling under section 33B.

- (3) It should also not be formed by the transfer of machinery or plant, previously used for any purpose, to a new business.

However, any machinery or plant used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled:

- (a) Such machinery or plant was not, at any time prior to the date of installation by the assessee, used in India;
 - (b) Such machinery or plant should be imported into India from any country outside India;
 - (c) No deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Act in computing the total income of any person prior to the date of installation of the machinery or plant by the assessee.
 - (d) The total value of the second hand machinery or plant transferred to the new undertaking should not exceed 20% of the total value of the machinery and plant used in the industrial unit.
- (4) The sale proceeds of articles, things or computer software exported out of India must be brought into India in convertible foreign exchange within six months from the end of the previous year or such further period as the competent authority may allow. For this purpose, "competent authority" means the RBI or such other authority as is authorized for regulating payments and dealings in foreign exchange.
- Further, where the sale proceeds are credited to a separate account maintained by the assessee for this purpose with any bank outside India with the approval of RBI, such sale proceeds shall be deemed to have been received in India.
- (5) In order to claim deduction under this section, the assessee should furnish an audit report from a chartered accountant in the prescribed form, along with the return of income, certifying that the deduction has been correctly claimed. However, no deduction under section 10A shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under section 139(1).

Note: Any 3 of the 5 conditions briefed above may be given in the answer.

Question 3

- (a) State with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961 (Answers without reasoning will not deserve any credit):
- (i) Exemption is available to a Sikkimese individual, only in respect of income from any source in the State of Sikkim.

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- (ii) Alienation of a residential house in a transaction of reverse mortgage under a scheme made and notified by the Central Government is treated as "transfer" for the purpose of capital gains.
 - (iii) For a dealer in shares and securities, securities transaction tax paid in a recognized stock exchange is a permissible business expenditure.
 - (iv) Aggregate period of stay granted by the Income-tax Appellate Tribunal can exceed 365 days, where the delay is not attributable to the assessee.
 - (v) Where a person follows mercantile system of accounting, an expenditure of Rs.25,000 has been allowed on accrual basis and in a later year, in respect of the said expenditure, assessee makes the payment of Rs.25,000 through a cheque crossed "& Co.", disallowance of Rs.25,000 under section 40A(3A) can be made in the year of payment. (5 × 2 = 10 Marks)
- (b) Reproduce the following sentences after filling up the blanks, having regard to the provisions of the Income-tax Act, 1961 :
- (i) Notice under section 143(2) should be issued by the Income-tax Department within a period of from the end of the in which the return is furnished.
 - (ii) For new two, three and four star hotels started in the specified districts on or after 1.4.2008, tax holiday of years is available under section 80-ID.
 - (iii) Where the total income of an artificial juridical person is Rs.3,10,000, the income-tax payable is Rs. and surcharge payable is Rs.
 - (iv) Where an employer, at his option, has paid income-tax on non-monetary perquisites of any employee, the income-tax so paid by the employer is in the hands of the employee.
 - (v) Where an employer has incurred a capital expenditure of Rs.1,00,000 towards promoting family planning amongst employees, Rs. will be allowed as deduction in the current year and the balance in succeeding years. (5 × 1 = 5 Marks)

Answer

(a) FALSE.

Exemption under section 10(26AAA) is available to a Sikkimese individual not only in respect of the said income, but also in respect of income by way of dividend or interest on securities.

(b) FALSE.

As per clause (xvi) inserted by the Finance Act, 2008 in section 47, such alienation in a transaction of reverse mortgage under a scheme made and notified by the Central Government is not regarded as "transfer" for the purpose of capital gains.

(c) TRUE.

The Finance Act, 2008 has inserted clause (xv) in section 36(1) to allow the amount of securities transaction tax paid by the assessee in respect of taxable securities

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transactions entered into in the course of business during the previous year as deduction from the business income of a dealer in shares and securities.

(d) FALSE.

A third proviso has been inserted in section 254(2A) to provide that the aggregate period of stay (originally allowed and the period or periods subsequently extended by the Tribunal) shall not exceed a period of 365 days, even if the delay in disposing of the appeal is not attributable to the assessee.

(e) TRUE.

In the case of an assessee following mercantile system of accounting, if an expenditure has been allowed as deduction in any previous year on due basis, and payment exceeding Rs.20,000 has been made in the subsequent year otherwise than by account payee cheque or account payee bank draft, then the payment so made shall be deemed to be the income of the subsequent year in which such payment has been made, as per section 40A(3A).

- (b) (i) Notice under section 143(2) should be issued within a period of 6 months from the end of the financial year in which the return is furnished.
- (ii) For new two, three and four star hotels started in the specified districts on or after 1-4-2008, tax holiday of five years is available under section 80-ID.
- (ii) Where the total income of an artificial juridical person is Rs.3,10,000, the income-tax payable is Rs.17,000 and surcharge payable is Rs.1,700.
- (iv) Where an employer, at his option, has paid income-tax on non-monetary perquisites of any employee, the income-tax so paid by the employer is exempt in the hands of the employee.
- (v) Where an employer has incurred a capital expenditure of Rs.1,00,000 towards promoting family planning amongst employees, Rs.20,000 will be allowed as deduction in the current year and the balance in four succeeding years.

Note - Deduction under section 36(1)(ix) in respect of family planning expenditure incurred is allowable only where the employer is a company. It has been assumed that in this case, the employer is a company.

Question 4

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

- (a) Infrastructure capital company [Section 2(26A)];
- (b) Revisionary powers of Commissioner [Section 263];
- (c) Special provisions for computing the profits and gains of retail trade business [Section 44AF];
- (d) Transactions for which the quoting of Permanent Account Number (PAN) is mandatory.

(3 × 6 =18 Marks)

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Answer

(a) Infrastructure Capital Company [Section 2(26A)]

Infrastructure Capital Company means any such company which makes investments by way of acquiring shares or providing long-term finance to –

- (i) any enterprise or undertaking wholly engaged -
 - (a) in the business referred to in section 80-IA(4) i.e, business of
 - (1) developing / operating and maintaining / developing, operating and maintaining any infrastructure facility fulfilling the specified conditions.
 - (2) providing telecom services, whether basic or cellular.
 - (3) developing / operating and developing / operating and maintaining an industrial park or special economic zone notified by the Central Government.
 - (4) generating, transmitting or distributing power or undertaking substantial renovation and modernization of the existing network of transmission or distribution lines.
 - (b) in the business referred to in section 80-IAB (1) i.e, any business of developing a SEZ.
- (ii) an undertaking developing and building a housing project referred to in section 80-IB(10) i.e, approved before 31.3.2007 by a local authority and commences or commenced development and construction on or after 1.10.1998 and completes or completed development and construction within the time specified.
- (iii) a project for constructing a hotel of not less than three-star category as classified by the Central Government.
- (iv) a project for constructing a hospital with at least 100 beds for patients.

(b) Revisionary powers of Commissioner under section 263

The Commissioner may call for and examine the record of any proceeding under the Act. If he considers that any order passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interest of the revenue, he may pass an order after giving the assessee a reasonable opportunity of being heard and after making such enquiries as may be necessary. He can enhance, modify, cancel the assessment or direct a fresh assessment to be made. Where any such order passed by the Assessing Officer had been the subject-matter of any appeal, the powers of the Commissioner shall extend and shall be deemed to have extended to such matters as had not been considered and decided in such appeal.

The term "record" shall include and shall be deemed always to have included all records relating to any proceeding under the Act available at the time of examination by the Commissioner.

The time limit of 2 years for the purpose of making a revisionary order under section 263

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will be reckoned from the end of the financial year in which the order sought to be revised was passed. This time limit will, however, not apply in a case where the Commissioner has to give effect to a finding or direction by the Tribunal, High Court or Supreme Court.

(c) Special provisions for computing the profits and gains of retail trade business [Section 44AF]

- (1) This provision applies notwithstanding anything to the contrary contained in sections 28 to 43C.

In the case of an assessee engaged in retail trade in any goods or merchandise, 5% of the total turnover in the previous year on account of such business will be deemed to be the "Profits and gains of business or profession". However, the assessee can declare a sum higher than the sum arrived at by applying the presumptive rate of 5%.

- (2) This section will not be applicable to an assessee whose total turnover exceeds Rs.40 lakh in the previous year.
- (3) Any deduction allowable under the provisions of sections 30 to 38 shall be deemed to have been already given full effect to and no further deduction under these sections shall be allowed.
- (4) Where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed above, subject to the conditions and limits specified in section 40(b).
- (5) The written down value of any asset used for the purposes of such business shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.
- (6) The provisions of sections 44AA and 44AB will not apply in respect of such business and in computing the monetary limits under those sections, the total turnover or, as the case may be, the income from the said business shall be excluded.
- (7) An assessee may claim lower profits and gains than the deemed profits and gains specified in (1) above, subject to the condition that the books of accounts and other documents are kept and maintained as required under sub-section (2) of section 44AA and the assessee gets his accounts audited and furnishes a report of such audit as required under section 44AB.

(d) As per section 139A(5), quoting of PAN is mandatory in all -

- (1) in all returns to, or correspondence with, any income-tax authority;
- (2) in all challans for the payment of any sum due under the Act;
- (3) in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of the revenue.

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In this connection, CBDT has notified the following transactions, namely:

- (i) sale or purchase of any immovable property valued at Rs.5 lakh or more;
- (ii) sale or purchase of motor vehicle (other than two wheeled motor vehicle) which requires registration under the Motor Vehicles Act, 1988;
- (iii) a time deposit exceeding Rs.50,000 with a banking company / banking institution;
- (iv) a deposit exceeding Rs.50,000 in any account with Post Office Savings Bank;
- (v) a contract for sale or purchase of securities exceeding value of Rs.1 lakh;
- (vi) opening a bank account;

However, in case the person making the application is a minor who does not have any income chargeable to tax, he is required to quote the PAN of his father or mother or guardian, as the case may be.

- (vii) application for installation of telephone connection (including cellular telephone connection);
- (viii) bill payments to hotels and restaurants exceeding Rs.25,000 at any one time;
- (ix) Payment in cash for purchase of bank drafts/pay orders/banker's cheque from a banking company for an amount aggregating Rs.50,000 or more during any one day;
- (x) Cash deposit aggregating Rs.50,000 or more with a banking company during any one day;
- (xi) Cash payment exceeding Rs.25,000 in connection with travel to any foreign country at any one time. Such payment includes cash payment made towards fare, or to a travel agent or a tour operator, or for the purchase of foreign currency. However, travel to any foreign country does not include travel to the neighboring countries or to such places of pilgrimage as may be specified by the CBDT under Explanation 3 to section 139(1);
- (xii) Making an application to any bank or banking institution or banking company or any other company or institution for issue of a credit card;
- (xiii) Making an application for the following purposes involving payment of an amount of Rs.50,000 or more -
 - (a) for purchase of units of a mutual fund;
 - (b) for acquiring shares of a company through public issue;
 - (c) for acquiring debentures or bonds of a company or institution;
 - (d) for acquiring bonds of Reserve Bank of India.

(Any 8 of the above 13 transactions notified by the CBDT may be given in the answer).

PROFESSIONAL EDUCATION (EXAMINATION — II) : JUNE, 2009

Question 5

- (a) Fill in the blanks, having regard to the provisions of the Central Sales Tax Act, 1956 :
- (i) An application for compulsory registration under section 7(1) should be made withindays from the date
 - (ii) Transfer of goods on payment of hire charges without transfer of propertyconstitute sale.
 - (iii) Under section 8(2), the applicable rate of tax for Inter-State sale of goods not falling under section 8(1) is (2%, 3%, the local State sales tax or VAT rate).
 - (iv) In case of continuing offence, the penalty leviable under section 10 may extend to Rs.....for every day during which the offence continues.
 - (v) A branch outside the State be considered as a dealer. (1 × 5 = 5 Marks)
- (b) Write short notes on the following, with regard to the provisions of the Central Sales Tax Act, 1956:
- (i) Amendment of registration certificate; (3 Marks)
 - (ii) Powers of the Central Sales Tax Appellate Authority under section 22. (7 Marks)

Answer

- (a) (i) 30; on which the first inter-state sale was effected / on which the dealer becomes liable to pay CST.
- (ii) will/shall
- (iii) the local State sales-tax or VAT rate.
- (iv) 50
- (v) will/shall
- (b) (i) Amendment of registration certificate
- The certificate of registration, once issued, may be amended by the authority granting it either –
- (i) on an application by the dealer to whom it has been granted; or
 - (ii) suo moto by the authority, after due notice to the dealer.
- The certificate of registration may be amended in the following circumstances:
- (i) if the registered dealer has changed the name, place or nature of his business; or
 - (ii) if he has changed the class or classes of goods in which he carries on his business; or
 - (iii) for any other reason.

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

- (ii) Powers of the Central Sales Tax Appellate Authority under section 22
- (1) The Authority shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:-
 - (a) enforcing the attendance of any person, examining him on oath or affirmation;
 - (b) compelling the production of accounts and documents;
 - (c) issuing commission for the examination of witnesses;
 - (d) the reception of evidence on affidavits;
 - (e) any other matter which may be prescribed.
 - (2) 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 of tax, 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 it.

Question 6

Mrs. Vasudha, a registered dealer in Chennai, furnishes the following information relating to Inter-State sales made by her during the year ended 31.3.2009:

	Rs.
Sales turnover as per books	36,72,000
Above includes	
(a) Excise duty	3,20,000
(b) Freight (of this Rs.30,000 alone is shown separately in sales invoices)	1,10,000
(c) Deposit for returnable containers	2,40,000
(d) Transfer to branch (covered by Form F)	12,15,000
(e) Packing charges	35,000

Further, in ascertaining the sales turnover above which includes CST also, the dealer has deducted the following:

1. Turnover relating to goods worth Rs.10,000 (exclusive of tax) covered by invoice dated 2.4.2008, which were returned on 1.10.2008.
2. Goods worth Rs.12,400 (including tax) covered by invoice dated 13.4.2008 were rejected by the customer and the dealer received back the goods on 14.10.2008.

PROFESSIONAL EDUCATION (EXAMINATION — II) : JUNE, 2009

Vasudha deals only in one type of commodity which is chargeable to VAT at 2% in Tamil Nadu.

You are required to compute the total turnover, CST and taxable turnover for the financial year 2008-09. Treatment of each item above should be shown distinctly. (10 Marks)

Answer

Computation of total turnover, CST and taxable turnover of Mrs. Vasudha
for the F.Y.2008-09

Particulars	Rs.	Rs.
Sales turnover (including CST)		36,72,000
Less :		
(a) Excise duty Rs.3,20,000 (forms part of turnover; hence not deductible)	-	
(b) Freight of Rs. 30,000 shown separately in invoice is deductible (Amount of Rs.80,000 not shown separately is not deductible)	30,000	
(c) Deposit for returnable containers does not form part of turnover. Hence, it should be deducted from sales.	2,40,000	
(d) Branch Transfer covered by Form F is not a sale. Hence, it should not form part of turnover.	12,15,000	
(e) Packing charges realized by the dealer form an integral part of turnover. Hence, it is not deductible.	-	
(f) Sales return within 6 months has been correctly deducted	-	
(g) Goods rejected by customer. Time limit of 6 months does not apply to rejected goods. Hence, this has also been correctly deducted.	-	14,85,000
Total turnover (including CST)		21,87,000
Less: CST (as per working note below)		42,882
Taxable Turnover (excluding CST)		21,44,118

Working Note:

$$\begin{aligned}\text{CST} &= \frac{\text{Total turnover including CST} \times \text{Rate of CST}}{100 + \text{Rate of CST}} \\ &= 21,87,000 \times \frac{2}{102} = 42,882\end{aligned}$$