

PAPER – 5 : TAXATION

Answer all questions.

Question 1

State with reasons, whether the following statements are true or false having regard to the provisions of the Income-tax Act, 1961, for the assessment year 2009-10:

- (a) As per section 49(2A) read with section 47(xa) of the Income-tax Act, 1961, no capital gains on conversion of foreign currency exchangeable bonds into shares or debentures, for facilitating the issue of FCEBs by companies.
- (b) Person not deducting tax also deemed to be an assessee in default under section 191 read with section 201 of the Income-tax Act, 1961.
- (c) The benefit of weighted deduction of 125% under section 35(2AB) of the Income-tax Act, 1961 has now been extended to contribution made to a company, for scientific research approved under section 35(1)(iia) to an assessee.
- (d) Where the payment is made in cash by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payer, in excess of Rs.20,000 in a day, no disallowance gets attracted under section 40A(3) of the Income-tax Act, 1961, read with Rule 6DD of the Income-tax Rules, 1962.
- (e) An AOP having gross receipts of Rs.50 lacs during the financial year 2007-08 is not required to deduct tax at source under section 194C of the Income - tax Act, 1961, on payment made to contractors during the financial year 2008-09. (5 X 2 = 10 Marks)

Answer

- (a) True :

As per section 47(xa) any transfer by way of conversion of bonds referred to in section 115AC into shares and debentures of any company is not regarded as transfer. Therefore, there will be no capital gains arises on conversion of foreign currency exchangeable bonds into shares or debentures.

- (b) True

Section 201 provides that a person, including an employer, who is responsible, does not deduct, or does not pay, or after deducting fails to pay, the whole or part of the tax as is required under the Act, he will be deemed to be an assessee in default. Person not deducting the tax as required under the Act, is thus covered. The explanation to section 191 also supported this proposition.

The Suggested Answers for Part I of Paper – 5: Taxation are based on the provisions applicable for A.Y.2009-10, which is the assessment year relevant for November 2009 examination.

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(c) True

The benefit of weighted deduction has now been extended to contribution made to companies for scientific research. Under section 35(1)(ia), an assessee is entitled to claim weighted deduction of 125% under section 35(2AB), who has made contribution to company for scientific research.

(d) True

As per clause (d) of the Rule 6DD, no disallowance gets attracted under section 40A(3) of the Income-tax Act, 1961, where the payment by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee, where payment in sum exceeding Rs.20,000 in a day is made otherwise than by an account payee cheque or account payee bank draft.

Alternate Answer

The question is not clear as to how the payment is effected. It is also possible that the student may take it that the payment has been made in cash. In such a case, the answer will be as under:

False

Where the payments relating to goods supplied or services rendered are made in cash and such cash payments exceed Rs.20,000 in a day, disallowance under section 40A(3) shall arise.

(e) False

The Finance Act, 2008 has now included within the scope of section 194(1), Association of persons and Body of Individuals whose total sales/gross receipts/turnover from the business or profession exceeds the monetary limits specified in section 44AB during the financial year immediately preceeding the financial year in which such sum is credited or paid to the account of the contractor. Thus, such AOPs and BOIs subject to tax audit in the immediately preceeding financial year are liable to deduct tax at source from payments to resident contractors.

Question 2

Dr. Parekh is a resident individual. His Income and Expenditure Account for the year ending 31st March, 2009 is given below:

To	Amount	By	Amount
	Rs.		Rs.
Salary to staff	3,78,000	Consultation fees	11,85,000
Cost of medicine	6,35,000	Cost of medicines recovered	7,85,000

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Rent	66,000	Stock of medicine	25,000
Administrative cost	1,98,000	Interest on PO MIS	86,400
Advance tax	2,40,000	Interest on TD with bank (Net of TDS Rs.3,000)	27,000
Membership fees	5,000	Rent received	20,000
Depreciation on apparatus	42,500	Winning from lotteries (Net of TDS Rs.3,000)	7,000
Net profit	5,70,900		
	<u>21,35,400</u>		<u>21,35,400</u>

- (i) He has deposited Rs.70,000 in PPF.
- (ii) He received salary of Rs.1,50,000 and commission of Rs.50,000 from a nursing home in which Dr. (Mrs.) Parekh also an equal partner.
- (iii) He received fees of Rs.50,000 from University of Trinidad as lecturer.
- (iv) Received pension of Rs.84,000 from LIC Jeevan Suraksha.
- (v) Paid Rs.22,500 by cheque as mediclaim insurance premium for his medical treatment.
- (vi) He paid LIC premium of Rs.80,000 for his own life.
- (vii) Cost of administration includes Rs.3,000 paid for municipal tax for the house let out to a tenant.
- (viii) Depreciation as per Income-tax Rules to be computed as follows:

WDV as on 1.4.2008	Rs 3,00,000
Rate of depreciation	@ 15%
- (ix) Cost of lottery tickets amounting to Rs.350 has not been debited to Income and Expenditure account.

You are required to compute the total income and tax payable thereon by Dr. Parekh for the assessment year 2009-10. (20 Marks)

Answer

Computation of total Income and tax payable by Dr. Parekh for the A. Y. 2009-10

	Rs.	Rs.	Rs.
1. Salary from University of Trinidad			50,000
2. Income from House Property (Note 1)			11,900
3. Profits and gains of business or profession (Note 2)			8,71,000

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4.	Income from other sources (Note 3)			2,10,400
	Gross Total income			<u>11,43,300</u>
	Less: Deductions under Chapter VIA			
(i)	Deduction under section 80C			
	Investment in PPF	70,000		
	Life insurance premium paid	80,000		
		<u>1,50,000</u>		
	Deduction restricted to		1,00,000	
(ii)	Deduction under section 80D			
	Mediclaime premium paid by cheque for himself	22,500		
		<u>22,500</u>		
	Deduction restricted to		15,000	1,15,000
	Total income			<u>10,28,300</u>
	Components of Total Income			
	Special income :			
	Winning from lotteries (chargeable at special rate @ 30% u/s 115BB)			10,000
	Normal income			10,18,300
				<u>10,28,300</u>
	Computation of Tax			
	Tax on winnings from lotteries @ 30%			3,000
	Tax on normal income (Rs.10,18,300)			
First	1,50,000	Nil	0	
Next	1,50,000	10%	15,000	
Next	2,00,000	20%	40,000	
Balance	5,18,300	30%	1,55,490	
	<u>10,18,300</u>		<u>2,10,490</u>	2,10,490
	Income tax payable			<u>2,13,490</u>
	Add: Surcharge @10%		21,349	21,349
				<u>2,34,839</u>

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Tax on Rs.	10,28,300	A	2,34,839
Tax on	10,00,000	B	2,05,000
A-B	<u>28,300</u>		<u>29,839</u>

However, difference should not exceed Rs. 28,300, which is the amount by which total income exceeds Rs. 10,00,000.

Tax on Rs. 10,00,000

First	1,50,000	Nil	0
Next	1,50,000	10%	15,000
Next	2,00,000	20%	40,000
Balance	5,00,000	30%	1,50,000
	<u>10,00,000</u>		<u>2,05,000</u>

Therefore, Tax Payable (Rs. 2,05,000 + 28,300) 2,33,000

Add: Education cess @2% 4,666

Secondary and Higher Education cess @1% 2,333

Total Tax Payable 2,40,299

Less: Tax deducted at source

from Interest	3,000	
from lottery income	3,000	6,000
		<u>2,34,299</u>

Rounded off u/s 288B 2,34,300

Less : Advance tax paid 2,40,000

Refund (-) 5,700

Working Note:

Note 1

Computation of Income from House Property

Gross Annual Value – Rent received (treated as fair rent)	20,000
Less : Municipal taxes paid	3,000
Net Annual Value	<u>17,000</u>

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Less : Statutory deduction under section 24 @ 30% NAV	5,100
Income from House Property	<u>11,900</u>

Note 2

Computation of Profits and gains of business or profession

Net Profit as per Income & Expenditure Account	5,70,900
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Add :

Depreciation charged	42,500	
Municipal Taxes paid	3,000	
Advance Tax	2,40,000	2,85,500
		<u>8,56,400</u>

Less:

Rent received	20,000	
Interest PO MIS	86,400	
Interest on TD with bank (Net of TDS)	27,000	
Winning from lotteries (Net of TDS)	7,000	
Depreciation as per Income Tax Act.	45,000	1,85,400
		<u>6,71,000</u>

Salary from Nursing Home as partner	1,50,000	
Commission from Nursing home as partner	50,000	2,00,000
Income from business		<u>8,71,000</u>

Note 3

Computation of Income from Other Sources

Interest PO MIS	86,400	
Interest on TD with Bank ((Gross)	30,000	
Winning from lotteries (Gross)	10,000	
Pension from LIC Jeevan Suraksha	84,000	
Income from Other Sources		<u>2,10,400</u>

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Note 4

Advance Tax is not allowable as deduction.

Note 5

Depreciation of Apparatus :

WDV as on 1.4.2008	3,00,000
Depreciation @15%	45,000
WDV as on 31.3.2009	<u>2,55,000</u>

Note 6

Any salary, bonus, commission or remuneration by whatever name called due to or received by a partner of a firm from the firm shall not be treated as salary for the purposes of section 15 but it shall be treated as income from business or profession for the purposes of section 28.

Note 7

As per section 58(4), no expenditure can be allowed against winnings from lotteries. Therefore, amount spent on lottery tickets being Rs.350, cannot be allowed as deduction from income from winnings of lotteries.

Note 8

Pension from LIC Jeevan Suraksha is taxable as Income from other sources.

Note 9

Surcharge at the rate of 10% on income-tax is payable where the taxable income exceeds Rs. 10,00,000. In such cases, surcharge is payable on the whole amount of income tax subject of marginal relief provided in the Finance Act.

Question 3

- (a) Mrs. Indu, a resident individual, owns a house in U.S.A. She receives rent @ \$ 2,000 per month. She paid municipal taxes of \$ 1,500 during the financial year 2008-09. She also owns a two storied house in Mumbai, ground floor is used for her residence and first floor is let out at a monthly rent of Rs.10,000. Standard rent for each floor is Rs.11,000 per month. Municipal taxes paid for the house amounts to Rs.7,500. Mrs. Indu had constructed the house by taking a loan from a nationalised bank on 20.6.2006. She repaid the loan of Rs.54,000 including interest of Rs.24,000. The value of one dollar is to be taken as Rs.45.

Compute total income from house property of Mrs. Indu.

(7 Marks)

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- (b) Mrs. Indira, a landlord, derived income from rent from letting a house property to M/s Vaibhav Corporation Ltd. of Rs.1,00,000 per month. She charged the service tax @ 10.3% on lease rent charges. Calculate the deduction of tax at source (TDS) to be made by M/s Vaibhavi Corporation Ltd. on payment made to Mrs. Indira and narrate related formalities in relation to TDS. What are the consequences of failure to deduct or pay TDS? (8 Marks)

Answer

- (a) Computation of Income from House Property of Mrs. Indu for the Assessment Year 2009-10

	Rs.	
GAV of the house in USA – Rent received (treated as fair rent (\$2000 p.m. x Rs.45 per USD x 12 months))	10,80,000	
Less : Municipal taxes paid (\$1500 x Rs.45 per USD)	67,500	
Net Annual Value (NAV)	10,12,500	
Less : Statutory deduction under section 24 @ 30% NAV	3,03,750	
Income from House property		7,08,750
GAV of house at Mumbai (let out portion)- Ist Floor		
Standard Rent (Rs.11,000 x 12)	1,32,000	
Rent received {treated as fair rent (Rs.10,000 x 12)}	1,20,000	
Annual Letting Value (ALV)	1,20,000	
Less : Municipal taxes paid (1/2 of Rs.7,500)	3,750	
Net Annual Value (NAV)	1,16,250	
Less : Statutory deduction under section 24@ 30% NAV	34,875	
Interest on Housing loan (1/2 of Rs.24,000)	12,000	46,875
Income from House property		69,375
GAV of house at Mumbai (self occupied portion) – Ground Floor	Nil	
Less: Municipal taxes	Nil	
Net Annual Value (NAV)	Nil	
Less : Statutory deduction under section 24 @ 30% NAV	Nil	
Interest on Housing Loan (1/2 of Rs.24,000)	12,000	
Income from House property		(-) 12,000
Income from House property		7,66,125

- (b) (1) As per Circular No. 4/2008 dated 28th April, 2008 by the CBDT, the service tax paid by the tenant does not partake the nature of income of the landlord. The landlord only acts as a collecting agency for collection of Service tax. Therefore, tax deducted at source under section 194-I would be required to be made on the amount of rent i.e. on Rs.12,00,000 only excluding the amount of service tax.

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- (2) TDS shall be applicable @ 15% plus 3% education cess and secondary and higher education cess as the payee is an individual.
- (3) Hence, in the given case, TDS under section 194-I @ 15.45% on Rs.12,00,000 comes to Rs.1,85,400 i.e. Rs.15,450 will be deducted every month and cheque for net amount of Rs.84,550 will be issued by M/s. Vaibhavi Corporation Ltd. to Mrs. Indira.
- (4) Tax deducted will be deposited within one week from the last day of the month in which deduction is made.
- (5) Form No. 16-A has to be issued by M/s. Vaibhavi Corporation Ltd. to Mr. Abhijit within one month from the end of the period during which payment is made.

Consequences of failure to deduct or pay tax (Section 201)

- (1) The following persons shall be deemed to be an assessee in default if they do not deduct the whole or any part of the tax or after deducting fails to pay the tax -
 - (i) any person including the principal officer of a company, who is required to deduct any sum in accordance with the provisions of the Act; and
 - (ii) an employer paying tax on non-monetary perquisites under section 192(1A).
- (2) However, no penalty shall be charged under section 221 from such person, principal officer or company unless the Assessing Officer is satisfied that such person or principal officer or company, as the case may be, has failed to deduct and pay the tax without good and sufficient reasons.
- (3) Such person, principal officer or company shall also be liable to pay simple interest at 12% p.a. (for interest chargeable up to 31.3.2008) and 1% for every month or part of a month in respect of interest chargeable or payable for the period commencing from 1.4.2008. Such interest is chargeable on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid.
- (4) Such interest should be paid before furnishing the quarterly statements for each quarter in accordance with section 200(3).
- (5) Where the tax has not been paid after it is deducted, the amount of the tax together with the amount of simple interest thereon shall be a charge upon all the assets of the person or the company, as the case may be.

Question 4

- (a) Determine the taxability of income of US based company Heli Ltd., in India on entering following transactions during the financial year 2008-09:
 - (i) Rs. 5 lacs received from an Indian domestic company for providing technical know how in India.
 - (ii) Rs. 6 lacs from an Indian firm for conducting the feasibility study for the new project in Finland
 - (iii) Rs. 4 lacs from a non-resident for use of patent for a business in India.

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- (iv) Rs. 8 lacs from a non-resident Indian for use of know how for a business in Singapore.
- (v) Rs. 10 lacs for supply of manuals and designs for the business to be established in Singapore.

Explain the rate of tax applicable on taxable income for US based company, Heli Ltd., in India. (7 Marks)

- (b) Mr. Pranav, a resident individual had purchased a plot of land at a cost of Rs.75,000 in June, 1998. He constructed a house for his residence on that land at a cost of Rs.1,25,000 in August, 2000. He sold that house in May, 2008 at Rs.15,00,000 and purchased another residential house in June, 2008 for Rs.8,00,000. He furnishes other income and investment as follows:

	Rs.
Net of interest on fixed deposit with a Bank	44,850
TDS made by bank	5,150
Investment in NSC VIII issue	20,000

Cost inflation index for financial year 1998-99, 2000-01 and 2008-09 are 351, 406 and 582 respectively

You are required to compute taxable income and tax payable by Mr. Pranav for the assessment year 2009-10. (7 Marks)

Answer

- (a) A non resident is chargeable to tax in India in respect of following incomes:

- (i) Income received or deemed to be received in India.
- (ii) Income accruing or arising or deemed to accrue or arise in India.

In view of the above provisions, taxability of income is determined in following manner:

S. No.	Transaction details	Amount (Rs.)
1.	Amount received from an Indian domestic company for providing technical know how in India is from Business Connection in India, therefore taxable in India	5 lacs
2.	Conducting the feasibility study for the new project in Finland for the Indian firm is not taxable in India as done for the business outside India.	Nil
3.	The income from business set up in India is taxable in India. Therefore, money received from a non resident for use of patent for a business in India is taxable in India	4 Lacs

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4.	Money received from a non resident Indian for use of know-how for a business in Singapore is for the business outside India, therefore non taxable in India.	Nil
5.	Payment made for supply of manuals and designs for the business to be established in Singapore is not taxable in India.	Nil
Total Income in India		9 lacs

In respect of foreign companies, certain specified income such as Royalty and fees for technical service is taxable @ 10%. The rates are also depends on DTAA, if any, entered into between India and the respective country of the foreign company, whichever is more beneficial to the assessee.

The basic normal rate applicable for the US based company who is a foreign company, therefore, taxable @ 40% basic rate of tax in India. In case the taxable income is more than 1 crore in the previous year, the surcharge @ 2.5% is applicable. The education cess, Secondary and Higher education cess is payable @ 3%. The effective rate of tax in case of foreign companies in India is 42.23%.

(b) Computation of Taxable Income and tax payable by Mr. Pranav for the A.Y. 2009 -10

	Rs.	Rs.
1. Income from Capital Gains		
Full value of consideration		15,00,000
Less : Indexed cost of acquisition land		
Rs. <u>75,000 x 582</u>		1,24,359
351		13,75,641
Less : Indexed cost of improvement house		
Rs. <u>1,25,000 x 582</u>		1,79,187
406		11,96,454
Less : Deduction under section 54		
Cost of new residential house		8,00,000
Long term capital gains		3,96,454

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2.	Income from other sources		
	Interest on Bank deposit	44,850	
	Add:		
	Tax deducted at source	5,150	50,000
	Gross total income		<u>4,46,454</u>
	Less: Deduction under Chapter VIA :		
	Deduction under section 80C		
	Investment in NSC		20,000
	Taxable income		<u>4,26,454</u>
	Taxable income (rounded off)		4,26,450
	Components of Total income		
	Special income		
	Long-term Capital gains	3,96,450	
	Normal Income	30,000	
		<u>4,26,450</u>	
	Tax on normal income of Rs.30,000		Nil
	Tax on LTCG		
	LTCG-(Maximum amount not chargeable to tax - Normal Income) @ 20% u/s.112 = {Rs. 3,96,450 – (1,50,000 – 30,000)} x 20%		55,290
			<u>55,290</u>
	Add : Education cess @ 2%		1,106
	Secondary and Higher education cess @ 1%		553
	Tax payable		<u>56,949</u>
	Tax payable (rounded off)		56,950

Question 5

Answer the following:

- (a) Are there any restrictions on deduction allowable to the partnership firm in respect of salary and interest to its partners under section 40(b) of the Income-tax Act, 1961?

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- (b) Interest is chargeable under section 234A for delay or default in furnishing return of income. Discuss briefly.
- (c) Explain the difference between tax deduction at source and tax collection at source.
- (d) Describe average rate of tax and maximum marginal rate under section 2(10) and 2(29C) of the Income-tax Act, 1961. (4 x 4 =16 Marks)

Answer

- (a) Restrictions on deduction allowable to the Partnership Firm in respect of salary and interest to its partners under section 40(b) of the Income tax Act, 1961.

In the case of a partnership firm, there are following restrictions:

- (i) The remuneration payable to its working partners and interest payable to partners should be authorized by and in accordance with the partnership deed and should fall after the date of execution of the deed.
 - (ii) The payment of interest to partners is allowable up to 12% simple interest if it is authorized in the partnership deed and must fall after the date of the deed.
 - (iii) In the case of a professional firm, the remuneration should not exceed the following limits:
 - (a) On the first Rs.1 lakh of book profit or in the case of loss Rs.50,000 or 90% of book profits whichever is more
 - (b) On the next Rs.1 lakh of book profit @ 60%
 - (c) On the balance of the book profit @ 40%
 - (iv) In the case of any other firm the remuneration should not exceed the following limits:
 - (a) On the first Rs.75,000 of book profit or in the case of loss Rs.50,000 or 90% of book profits which ever is more
 - (b) On the next Rs.75,000 of book profit @ 60%
 - (c) On the balance of the book profit @ 40%
- (b) Interest for default in furnishing return of Income (Section 234A)

Where a return of income under section 139(I) or section 139(4) or in response to notice under section 142 (I), is furnished after the 'due date' as specified in the explanation to section 139(I), or is not furnished, the assessee shall be liable to pay mandatory simple interest at the rate of 1% for every month or part of a month from the date immediately following the due date:.

 - (i) where the return is furnished after due date, to the date of furnishing the return of income; or
 - (ii) where no return has been furnished, to the date on which assessment is completed under section 144

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- (c) Tax deduction of source means any tax which has been deducted while paying sum to someone. Persons responsible for making payment of income covered by the scheme of tax deduction are required to be deducting tax at source at the prescribed rates. Tax so deducted should be deposited within the prescribed time. Tax is always deducted on expense and not supply of goods.

Tax collection at source arises on the part of the seller. Certain specified goods when sold must be subjected to tax collection at source and taxes collected thereon must be remitted into government's accounts as done in the case of TDS. Tax is collected on income and is collected from others.

- (d) "Average rate of Tax" means the rate arrived at by dividing the amount of tax calculated on the total income, by such total income. This becomes relevant in the context of giving rebate under section 110 in the assessment of members of an AOP.

Section 2(29C) defines "maximum marginal rate" to mean the rate of income tax (including surcharge on the income-tax, if any) applicable in relation to the highest slab of income in the case of an individual, AOP or BOI, as the case may be, as specified in Finance Act of the relevant year.

Question 6

Ms. Priyanka, a proprietress of Royal Security Agency received Rs.1,00,000 by an account payee cheque as advance while signing a contract for providing taxable service. She received Rs.5,00,000 by credit card while providing the service and another Rs.5,00,000 by a pay order after completion of service on January 31, 2009. All three transactions took place during financial year 2008-09. She seek your advice about her liability towards value of taxable service and the service tax payable by her. (5 Marks)

Answer

Computation of taxable service of Ms. Priyanka for financial year 2008-09

Particulars	Rs.
Advance received by an account payee cheque	1,00,000
Amount received while providing service through credit card	5,00,000
Amount received on completion of service by a pay order	5,00,000
Value of taxable service	<u>11,00,000</u>

Calculation of service tax liability

Particulars	Rs.
Service tax @12% on Rs.11,00,000 (Note – 1)	1,32,000
Add: (i) Education cess @ 2% on service tax	2,640
Add: (ii) Higher education cess @ 1% on service tax	<u>1,320</u>
Total service tax payable	<u>1,35,960</u>

Notes:

1. The rate of service has been reduced to 10.30% from 12.36% vide Notification No.

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8/2009 dated 24.02.2009. However, as in the given case, services were rendered prior to 24th Feb, 2009, service tax shall be computed at the rate of 12.36%

2. Money includes any cheque, pay order, currency, promissory note, letter of credit, draft, traveller's cheque, money order, postal remittance and other similar instruments but does not include currency that is held for its numismatic value.
3. Gross amount charged includes payment by credit card, cheque, deduction from account and any form of payment by issue of credit notes/debit notes and book adjustment.

Question 7

Mr. Goenka is a trader selling raw materials to a manufacturer of finished products. He imports his stock in trade as well as purchases the same from the local markets. Following transaction took place during financial year 2008-09:-

Calculate the VAT and invoice value charged by him to a manufacturer. Assume the rate of VAT @ 12.50%:

	Rs.
(1) Cost of imported materials (from other State) excluding tax	1,00,000
(2) Cost of local materials including VAT	2,25,000
(3) Other expenditure including storage, transport, interest and loading and unloading and profit earned by him	87,500
	(5 Marks)

Answer

Sales Price of goods:-

Particulars	Rs.
Imported material cost	1,00,000
Add: VAT levy in other States (assumed @12.50%)	12,500
[Since, this is not a VAT levied inside the State, it will form part of cost of input]	
Add: Cost of local materials	2,25,000
Less: VAT @12.5%	<u>25,000</u>
	2,00,000
[Since, credit of Rs. 25,000 would be available, it will not be included in cost of input]	
Add: Other expenses and profit	<u>87,500</u>
Sales Price of goods	4,00,000
Add: VAT on the above @12.5%	<u>50,000</u>
Invoice value charged by Mr. Goenka to a manufacturer	<u>4,50,000</u>
VAT charged by Mr. Goenka is Rs. 50,000.	

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Question 8

Answer the following:

- (a) Ms. Amrapali, a registered service provider did not render any services during the financial year 2008-09. Whether she is required to file service tax return?
- (b) VAT would increase the working capital requirements and the interest burden. Discuss.
- (c) Mr. Bharat is a registered service provider. He transfers his business to Mr. Rakesh on 31st July, 2008. Explain the requirement to be complied with by Mr. Bharat and Mr. Rakesh on such transfer under the provisions of service tax.
- (d) Write the provisions regarding liability for payment of service tax on services provided abroad.
- (e) Which Act and Rule govern the levy of service tax in India? (5 x 3 =15 Marks)

Answer

- (a) Every assessee shall file a half yearly return in Form ST-3. Even if there is no service provided during a half year, a Nil return has to be filed. Therefore, Ms. Amrapali is required to file a service tax return.
- (b) One of the demerits of VAT is that it increases the working capital requirements and the interest burden. The tax is imposed or paid at various stages and not on last stage only. It increases the requirement of working capital and also the interest element as compared to single stage-last point taxation system.
- (c) When a registered assessee transfers his business to another person, the transferee (Mr. Rakesh) should obtain a fresh certificate of registration within 30 days.

When a registered assessee ceases to carry on the taxable service for which he is registered, he should surrender his registration certificate to the Central Excise authorities. Thus, Mr. Bharat should surrender his registration certificate.

- (d) The services rendered abroad will not attract service tax as the provisions of service tax extend to whole of India except Jammu & Kashmir and, India includes territorial waters.
- (e) Service tax provisions are governed by:-
 - (i) Finance Act, 1994
 - (ii) Service Tax Rules, 1994.
 - (iii) Service Tax (Advance Rulings) Rules, 2003
 - (iv) CENVAT Credit Rules, 2004
 - (v) Export of Service Rules, 2005
 - (vi) Service Tax (Registration of Special Category of Persons) Rules, 2005
 - (vii) Service Tax (Determination of Value) Rules, 2006
 - (viii) Taxation of Services (Provided from Outside India and Received in India) Rules, 2006.