

PAPER – 5 : TAXATION

Question No.1 is compulsory.

Attempt any **five** questions from the remaining **six** questions.

Wherever required, suitable assumptions may be made by the candidate and stated clearly in the answer. Working notes should form part of the answer.

Question 1

- (a) Mr. Vaibhav started a proprietary business on 01-04-2009 with a capital of ₹ 5,00,000. He incurred a loss of ₹ 2,00,000 during the year 2009-10. To overcome the financial position, his wife Mrs. Vaishaly, a software Engineer, gave a gift of ₹ 5,00,000 on 01-04-2010, which was immediately invested in the business by Mr. Vaibhav. He earned a profit of ₹ 4,00,000 during the year 2010-11. Compute the amount to be clubbed in the hands of Mrs. Vaishaly for the Assessment Year 2011-2012. If Mrs. Vaishaly gave the said amount as loan, what would be the amount to be clubbed? (5 Marks)
- (b) Mr. Batra furnishes the following details for year ended 31-03-2011:

Particulars	₹
Short term capital gain	1,40,000
Loss from speculative business	60,000
Long term capital gain on sale of land	30,000
Long term capital loss on sale of shares (securities transaction tax not paid)	1,00,000
Income from business of textile (after allowing current year depreciation)	50,000
Income from activity of owning and maintaining race horses	15,000
Income from salary	1,00,000
Loss from house property	40,000

Following are the brought forward losses:

- (i) Losses from activity of owning and maintaining race horses-pertaining to A.Y. 2008-09 ₹ 25,000.
- (ii) Brought forward loss from business of textile ₹ 60,000 - Loss pertains to A.Y. 2003-04.

Compute gross total income of Mr. Batra for the Assessment Year 2011-12. Also state the eligible carry forward losses for the Assessment Year 2011-12. (5 Marks)

The Suggested Answers for Paper 5: - Taxation are based on the provisions of law as amended by the Finance Act, 2010, which is relevant for November, 2011 examination. The relevant assessment year for Income-tax is A.Y.2011-12.

- (c) The gross total income of Mr. Nepal for the Assessment Year 2011-12, was ₹ 12,00,000. He has made the following investment/payments during the year 2010-11-

	Particulars	₹
1.	L.I.C. premium paid (Policy value ₹ 1,00,000)	25,000
2.	P.P.F. amount paid	25,000
3.	Repayment of housing loan to Indian Bank	50,000
4.	Payment made to L.I.C. pension fund	20,000
5.	Infrastructure Bonds of IDBI Ltd.	30,000
6.	Medical insurance premium for self, wife and dependent children.	18,000
7.	Mediclaime premium for parents (aged over 80 years)	30,000

Compute eligible deduction under Chapter VI-A for the Assessment Year 2011-12.

(5 Marks)

- (d) The following particulars are provided by Mr. Prohit of Calcutta, who has purchased raw materials for manufacturing PVC Cans and PVC Pipes from Mr. Arvind. The State VAT for raw materials and other materials was 12.5%.

		₹
1.	Cost of raw materials purchased	1,00,000
2.	VAT paid by Mr. Arvind	12,500
3.	Cost of other materials-Local	20,000
	-Interstate purchases	40,000
4.	VAT paid on local materials purchased -12.5%	2,500
5.	CST paid @ 2%	800
6.	Manufacturing expenses	39,200
7.	Profit margin (on Sale Value)	20%

Mr. Prohit utilized and manufactured 75% of production as PVC cans and 25% of production as PVC pipes. While PVC cans are subject to 12.5% VAT, PVC pipes are exempt. All materials were used in production and there was no closing stock of raw materials and other materials.

What would be the invoice value of sales charged by Mr. Prohit if all the manufactured goods were sold within the State? What would be his liability to VAT?

(5 Marks)

Answer

- (a) Section 64(1)(iv) of the Income-tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets (other than house

property) transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration or in connection with an agreement to live apart.

In this case, Mr. Vaibhav received a gift of ₹ 5,00,000 on 1.4.2010 from his wife Mrs. Vaishaly, which he invested in his business immediately. The income to be clubbed in the hands of Mrs. Vaishaly for the A.Y. 2011-12 is computed as under :

Particulars	Mr. Vaibhav's capital contribution (₹)	Capital contribution out of gift from Mrs. Vaishaly (₹)	Total (₹)
Capital as on 1.4.2010	3,00,000 (5,00,000 - 2,00,000)	5,00,000	8,00,000
Profit for F.Y.2010-11 to be apportioned on the basis of capital employed on the first day of the previous year i.e. as on 1.4.2010 (3:5)	1,50,000 $\frac{3}{8} \times 4,00,000$	2,50,000 $\frac{5}{8} \times 4,00,000$	4,00,000

Therefore, the income to be clubbed in the hands of Mrs. Vaishaly for the A.Y.2011-12 is ₹ 2,50,000.

In case Mrs. Vaishaly gave the said amount of ₹ 5,00,000 as a *bona fide* loan, then, clubbing provisions would not be attracted.

(b) **Computation of Gross Total Income of Mr. Batra for the A.Y. 2011-12**

Particulars	₹	₹
Salaries	1,00,000	
Less: Current year loss from house property	(40,000)	60,000
Profit and gains of business or profession		
Income from textile business	50,000	
Less: Loss from textile business brought forward from A.Y. 2003-04	60,000	
Balance business loss of A.Y. 2003-04 [See Note-1]	(10,000)	NIL
Income from the activity of owning and maintaining race horses	15,000	
Less: Loss from activity of owning and maintaining race horses brought forward from A.Y. 2008-09	25,000	
Loss to be carried forward to A.Y. 2012-13 [See Note-2]	(10,000)	NIL
Capital Gain		
Short term capital gain		

Long term capital gain on sale of land	30,000	1,40,000
Less: Long term capital loss on sale of shares	<u>1,00,000</u>	
Loss to be carried forward to A.Y. 2012-13 [See Note-3]	<u>(70,000)</u>	<u>NIL</u>
Gross Total Income		<u>2,00,000</u>

Losses to be carried forward to A.Y. 2012-13:

Particulars	₹
Current year loss from speculative business [See Note-4]	60,000
Current year long term capital loss on sale of shares	70,000
Loss from activity of owning and maintaining of race horse pertaining to A.Y.2008-09	10,000

Notes:-

- (1) As per section 72(3), business loss can be carried forward for a maximum of eight assessment years immediately succeeding the assessment year for which the loss was first computed. Since, the eight year period for carry forward of business loss of A.Y. 2003-04 expired with the A.Y. 2011-12, the balance unabsorbed business loss of ₹ 10,000 cannot be carried forward to A.Y. 2012-13.
- (2) As per section 74A(3), the loss incurred on maintenance of race horses cannot be set-off against income from any other source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 assessment years.
- (3) Long term capital loss on sale of shares on which securities transaction tax is not paid is not exempt under section 10(38). Therefore, it can be set-off against long-term capital gain on sale of land. The balance loss of ₹ 70,000 cannot be set-off against short term capital gain or against any other head of income. The same has to be carried forward for set-off against long-term capital gain of the subsequent assessment year. Such long-term capital loss can be carried forward for a maximum of eight assessment years.
- (4) Loss from speculation business cannot be set-off against any income other than profit and gains of another speculation business. Such loss can, however, be carried forward for a maximum of four years as per section 73(4) to be set-off against income from speculation business.

(c) Computation of eligible deduction under Chapter - VI A of Mr. Nepal for A.Y. 2011-12

Particulars	₹	₹
Deduction under Section 80C		
LIC premium paid ₹ 25,000	20,000	
[Limited to 20% of policy value (20% x 1,00,000)]		

Contribution to P.P.F.	25,000	
Repayment of housing loan to Indian Bank	<u>50,000</u>	
	95,000	
Deduction under Section 80CCC		
Payment to LIC Pension Fund	<u>20,000</u>	
	1,15,000	
Eligible deduction limited to ₹ 1,00,000 as per section 80CCE		1,00,000
Deduction under Section 80CCF		
Payment of ₹ 30,000 made for infrastructure bonds of IDBI Ltd. Deduction under section 80CCF limited to ₹ 20,000		20,000
Deduction under Section 80D		
Payment of medical insurance premium ₹ 18,000 for self, wife and dependent children. Deduction limited to ₹ 15,000.	15,000	
Medical insurance premium paid for parents ₹ 30,000 (limited to ₹ 20,000, being the limit applicable for senior citizens)	<u>20,000</u>	<u>35,000</u>
Eligible deduction under Chapter VI A		<u>1,55,000</u>

(d) Computation of invoice value of sales charged by Mr. Prohit:

Particulars	PVC Cans (12.5% VAT)	PVC Pipes (exempt)
	(₹)	(₹)
	(75%)	(25%)
Cost of raw materials purchased	75000	25000
VAT paid	NIL (refer Note 2)	3125 (refer Note 3)
Cost of other materials local	15000	5000
VAT paid	NIL (refer Note 2)	625 (refer Note 3)
Interstate purchases	30000	10000
CST paid (Refer Note 4)	600	200
Manufacturing expenses	29400	9800
Cost of goods sold	150000	53750
Add : Profit is 20% on sales (i.e., 25% of cost)	37500	13438

Sale price	187500	67188
Add : VAT payable (rounded off to nearest rupee)	23438	NIL
Invoice value	210938	67188

Computation of VAT liability for PVC Cans:

Particulars	(₹)
Output VAT	23438
Less : Input VAT = [(12500 × 75%)+(2500×75%)] refer Note 5	11250
Net VAT liability	12188

Notes:-

1. All the expenses have been apportioned in the ratio of 3:1 on *pro-rata* basis
2. Since PVC Cans are taxable goods, VAT paid on raw materials is allowed as input tax credit and thus, the same will not form part of total cost.
3. Since PVC pipes are exempt goods, VAT paid on raw materials will not be allowed as input tax credit and thus, the same will form part of total cost.
4. Input tax credit is not available on CST. Therefore it will form part of total cost.
5. Input tax credit to the extent (75%) used in the production of taxable PVC Cans is allowed.

Question 2

- (a) Ms. Rachna was gifted a land by her father in December, 2001 at the occasion of her marriage. The land was allotted to her father in November, 1991 at cost of ₹ 6 lac by DDA for commercial purpose. She set up a nursery on land, earns profit ₹ 2 lacs during the year 2010-11 from seedlings grown in nursery. She sold the nursery to her friend at ₹ 50 lacs in October, 2010. Her friend paid ₹ 20 lacs in cash and ₹ 30 lacs in the form of shares. Market value of land on date of sale was ₹ 90 lacs and shares ₹ 70 lacs. Rachna, with an intention to earn profit, invested ₹ 20 lacs in shares by purchasing shares for ₹ 15 lacs from National Stock Exchange and ₹ 5 lacs in subscription to equity shares forming part of eligible issue of capital by a public company. She spent ₹ 60,000 on purchase of computers, ₹ 20,000 on net connectivity and ₹ 2 lacs toward salary and other expenses. She paid monthly rent ₹ 2,500 for a shop which was taken in October 2010, for trading in shares. Depreciation rate on computers is 60%.

The value of shares purchased and sold during the year are as follows:

Purchases including received from friend	₹ 80,00,000
Sales	₹ 1,00,00,000

The market value of shares remains unsold as on 31-03-2011 is ₹40 lakhs. Ms. Rachna

- Made contribution of ₹20,000 to approved pension fund.
- Paid ₹25,000 to LIC for medical insurance premium of self and spouse.
- Repaid loan ₹1,00,000 and interest ₹20,000 to SBI taken in February, 2011 for her son's admission in Sri Ram College of Commerce B.Com.
- Invested ₹1,00,000 in long term infrastructure bonds.
- Contributed ₹25,000 to a research association, which has as its object undertaking of scientific research.

Rachna did not earn any short term capital gain during the year. Rachna has not celebrated her 40th birthday yet. Compute the total income of Ms. Rachna and tax thereon payable by her for the Assessment Year 2011-12. Cost inflation index for financial year 1991-92 is 199, 2001-02 is 426 and 2010-2011 is 711. (12 Marks)

- (b) Chandra Limited started providing taxable services. The services became taxable from 1-10-2010.

Chandra Limited for the month of March, 2011, received following receipts (inclusive of service tax)

S. No.	Particulars	Amount (₹)
1.	Amount received in respect of services rendered in July and August, 2010.	10,30,000
2.	Services provided to the Branch of World Health Organisation -a unit of UN.	1,03,000
3.	Services rendered to its auditors against audit fee Payable.	5,15,000
4.	Advance received for services to be rendered in May, 2011.	6,18,000
5.	Services provided to office staff and their relatives free of cost	20,000

Out of advance received, 50% was returned on 15-04-2011 to the party, as they have closed their operations from 31-03-2011.

Compute the taxable services and service tax payable for March, 2011 by Chandra Limited.

(4 Marks)

Answer

- (a) **Computation of total income of Ms. Rachna for A.Y. 2011-12:**

Particulars	₹	₹
Business Income (Refer Note -1)		17,03,250
Capital Gain on Sale of land		

Sale consideration (Refer Note- 2)	90,00,000	
Less: Indexed Cost of Acquisition ($\text{₹ } 6,00,000 \times 711/426$)	<u>10,01,408</u>	<u>79,98,592</u>
Gross Total Income		97,01,842
Less: Deduction under Chapter VI-A		
Section 80CCC		
Contribution to approved pension fund	20,000	
Section 80CCF		
Contribution to long term infrastructure bonds ₹ 1,00,000, deduction limited to ₹ 20,000	20,000	
Section 80D		
Medical insurance premium paid for self and spouse ₹ 25,000, deduction limited to ₹ 15,000	15,000	
Section 80E		
Interest paid on education loan for studies of son	<u>20,000</u>	<u>75,000</u>
Total Income		<u>96,26,842</u>
Total Income (rounded off)		96,26,840

Computation of tax liability of Ms. Rachna for the Assessment Year 2011-12:

Particulars	₹	₹
Agricultural income (Profit from nursery business)	2,00,000	
Non-agricultural income	<u>96,26,840</u>	
	<u>98,26,840</u>	
Step 1 Tax on ₹ 98,26,840 (aggregate of agricultural and non-agricultural income)		
Long term Capital Gain ($\text{₹ } 79,98,592 \times 20\%$)	15,99,718	
Tax on balance income of ₹ 18,28,248	<u>3,99,475</u>	19,99,193
Step -2 Tax on ₹ 3,90,000 (aggregate of agricultural Income and basic exemption limit of ₹ 1,90,000)		20,000
Step-3 Tax on non-agricultural income (Difference of step 1 & Step 2)		19,79,193
Add: Education Cess @ 2%		39,584
Add: Secondary and Higher Education Cess @1%		<u>19,792</u>
Total Tax Liability		<u>20,38,569</u>
Total Tax Liability (Rounded off)		20,38,570

Notes:

(1) Computation of Business Income

Trading Account for the year ended 31.03.2011

Particulars	Amount (₹)	Particulars	Amount (₹)
To Purchases (₹ 80 lacs - ₹ 30 lacs + ₹ 70 lacs)	1,20,00,000	By Sales	1,00,00,000
To Gross Profit		By Closing stock (Assuming Market value is less than cost of shares)	
	<u>20,00,000</u>		<u>40,00,000</u>
	<u>1,40,00,000</u>		<u>1,40,00,000</u>

Particulars	₹	₹
Gross Profit as per Trading Account		20,00,000
Less: Expenses on net connectivity	20,000	
Salary	2,00,000	
Rent (₹ 2500 x 6)	15,000	
Depreciation on Computers (₹ 60,000 × 60% × 50%) (Assuming used for less than 180 days in the year)	<u>18,000</u>	
		<u>2,53,000</u>
		17,47,000
Less: Contribution to Scientific Research Institution under section 35(1) (₹ 25,000 x 175%)		<u>43,750</u>
Business Income		<u>17,03,250</u>

(2) Computation of consideration on sale of land

Particulars	₹
Value of cash received	20,00,000
Market value of shares received	<u>70,00,000</u>
Total Sale consideration	<u>90,00,000</u>

- (3) Deduction under section 80C is not provided in respect of ₹ 5 lacs subscription to equity shares forming part of eligible issue of capital by a public company, assuming it has been sold in the current year.

- (4) Repayment of principal portion of education loan does not qualify for deduction under Section 80E.
- (5) Income from seedlings grown in nursery is exempt under section 10(1) as it is agricultural income. However, the same would be aggregated for rate purposes.

(b) Computation of amount of service tax collected by Chandra Limited:-

Particulars	Amount (₹)
Amount received in respect of services rendered in July and August 2010 (such amount is not taxable because service became taxable on 01/10/2010).	NIL
Services provided to branch of WHO (such services are exempt from service tax)	NIL
Services provided to its auditors against audit fee payable	5,15,000
Advance received for services to be rendered in May 2011 (advance receipt is chargeable to service tax. It is immaterial that operation has been closed from 31/03/2011 and advance was returned on 15/05/2011. As regards this month, it is chargeable to tax.	6,18,000
Services provided to office staff and their relatives free of cost (service rendered without any consideration are not liable to service tax)	NIL
Gross Amount	11,33,000
Less : Exemption available to small service providers (since, service became taxable in 2010-2011 itself, the aggregate value of taxable services in 2009-10 would be zero. Hence, Chandra Limited is eligible for small service providers' exemption in the current financial year	10,00,000
Value of taxable services (inclusive of service tax)	1,33,000
Value of taxable services (excluding service tax)	
$= ₹133000 \times \frac{100}{110.30}$	1,20,580
Service tax = $₹133000 \times \frac{10.30}{110.30}$	12 420

Notes:-

- It has been assumed that Chandra Limited has started providing services only in the month of March 2011 and it has not collected service tax on the turnover up to ₹10 lakh and has started collecting the same thereafter.

2. The solution has been worked out on the logical presumption that service tax has not been collected on the amount received in respect of services rendered before the services became taxable and amount received for the services provided to branch of WHO which are exempt from service tax.

Question 3

- (a) Mrs. Deepali (aged 40 years), working with M/s Good Company Ltd., a manufacturer of tyres based at Mumbai, has received the following payments during the financial year 2010-11 from her employer:

Basic salary ₹ 60,000 per month.

Dearness allowance 40% of basic salary.

Her employer has taken on rent her own house on a monthly rent of ₹ 15,000 and the same has been provided for residence of Mrs. Deepali. Company is recovering ₹ 2,000 per month as rent of house.

Mrs. Deepali has further furnished the following details:

- (i) Subscription to notified long term infrastructure bonds of ₹ 30,000 under section 80CCF of the Income-tax Act, 1961.
- (ii) She has paid professional tax of ₹ 6,000 during financial year 2010-11.
- (iii) She is owning only one house and payment of interest of ₹ 1,75,000 and principal of ₹ 1,00,000 was made for housing loan taken for purchase of house.
- (iv) She has also taken a loan of ₹ 2,00,000 from her employer for study of her son. SBI rate for such loan is 10%. Her employer has recovered ₹ 10,000 as interest from her salary for such loan during the year.

Compute taxable income and tax liability for assessment year 2011-12. (8 Marks)

- (b) Mr. Mithun purchased 100 shares of M/s Goodmoney Co. Ltd. on 01-04-2005 at rate of ₹ 1,000 per share, in public issue of the company.

Company allotted bonus shares in the ratio of 1:1 on 01-12-2009. He has also received dividend of ₹ 10 per share on 01-05-2010.

He has sold all the shares on 01-10-2010 at the rate of ₹ 3,000 per share through a recognized stock exchange and paid brokerage of 1% and securities transaction tax of 0.02% to celebrate his 75th birthday. The cost inflation Index are as follows:

Financial Year	Cost Inflation Index
2005-06	497
2010-11	711

Compute his total income and tax liability for Assessment Year 2011-12 assuming that he is having no income other than given above. (4 Marks)

- (c) (i) Whether service tax is payable by independent directors who are part of the Board of Directors under management consultancy service.
- (ii) S. Ltd. paid service tax of ₹ 8 lacs during the preceding financial year and utilized CENVAT credit of ₹ 3 lacs. Whether he is required to deposit service tax electronically for the financial year 2010-11. (4 Marks)

Answer

(a) Computation of taxable income of Mrs. Deepali for A.Y. 2011-12

Particulars	₹	₹
Income from Salaries		
Basic salary (₹ 60,000 x 12)		7,20,000
Dearness Allowances (40% of basic salary)		2,88,000
Perquisite value of Concessional Accommodation taken on hire. Lower of:	1,08,000	
(i) actual rent (₹ 15,000 x 12)	₹ 1,80,000	
(ii) 15% of salary (15% of ₹ 7,20,000)	₹ 1,08,000	
(assuming that dearness allowance does not form part of pay for retirement benefits)		
Less: Rent recovered (₹ 2,000 x 12)	<u>24,000</u>	84,000
Perquisite value of concessional loan [Rule 3(7)(i)] [₹ 20,000 (10% of ₹ 2,00,000) – ₹ 10,000]		<u>10,000</u>
Gross Salary		11,02,000
Less: Deduction under section 16(iii) - Professional tax paid		<u>6,000</u>
Net Salary		10,96,000
Income from house property		
Gross Annual Value (GAV) (Rental income has been taken as GAV in the absence of other information)	1,80,000	
Less: Deduction under section 24		
(a) 30% of ₹ 1,80,000	= ₹ 54,000	
(b) Interest on loan	= ₹ <u>1,75,000</u>	
	<u>2,29,000</u>	<u>(49,000)</u>
Gross Total Income		10,47,000
Less: Deductions under Chapter - VIA		
80C – Repayment of housing loan	1,00,000	
80CCF – Subscription to notified infrastructure bonds of ₹ 30,000, restricted to	<u>20,000</u>	<u>1,20,000</u>
Total Income		<u>9,27,000</u>

Computation of tax liability for A.Y. 2011-12

Tax on ₹ 9,27,000	₹
Upto ₹ 1,90,000	Nil
190,001 -5,00,000 - 10%	31,000
5,00,001 – 8,00,000 - 20%	60,000
Above 8,00,000 - 30%	<u>38,100</u>
	1,29,100
Add: Education cess @ 2%	2,582
Secondary and higher education cess @ 1%	<u>1,291</u>
Total Tax Liability	<u>1,32,973</u>
Total Tax Liability (Rounded off)	<u>1,32,970</u>

Note: Mrs. Deepali cannot claim benefit of self-occupation (i.e. taking the annual value as nil and claiming a higher loss of ₹ 1,50,000) in respect of the house property owned and occupied by her since the same has been given on rent to her employer who has allotted the same as residence for Mrs. Deepali.

(b) Computation of total income and tax liability of Mr. Mithun from A.Y. 2011-12

Particulars	₹
Short term capital gains on sale of bonus shares	
Gross sale consideration (100 x ₹ 3,000)	3,00,000
Less : Brokerage @ 1%	<u>3,000</u>
Net sale consideration	2,97,000
Less: Cost of acquisition of bonus shares	<u>NIL</u>
Total Income (Short term Capital Gains)	<u>2,97,000</u>
Tax Liability	
15% of (₹ 2,97,000-₹ 2,40,000)	8,550
Add : Education cess @ 2%	171
Secondary and higher education cess @ 1%	<u>86</u>
Tax payable	<u>8,807</u>
Tax payable (Rounded Off)	<u>8,810</u>

Notes:

- (1) Long-term capital gains on sale of original shares through a recognized stock exchange (STT paid) is exempt under section 10(38).

- (2) Since bonus shares are held for less than 12 months before sale, the gain arising there from is a short term capital gain chargeable to tax@15% as per section 111A after adjusting the unexhausted basic exemption limit. Since Mr. Mithun is over 65 years of age, he is entitled for a higher basic exemption limit of ₹ 2,40,000 for A.Y. 2011-12.
 - (3) Dividend income is exempt under section 10(34).
 - (4) Brokerage paid is allowable since it is an expenditure incurred wholly and exclusively in connection with the transfer. Hence, it qualifies for deduction under section 48(i).
 - (5) However, as per fifth proviso to section 48, securities transaction tax is not allowable as deduction.
- (c) (i) As per **Circular No. 115/09/2009 ST dated 31.07.2009** issued by the CBEC, service tax is not payable by independent directors who are part of the Board of Directors under management consultancy services as Independent Directors perform management function and not consultancy or advisory function. It is only the advisory service which is taxable under the management consultancy services and not the performance of management function.
- However, in case such directors provide any advice or consultancy to the company, for which they get compensation separately; such service would become chargeable to service tax.
- (ii) An assessee is required to deposit service tax electronically through internet banking if he has paid the total service tax of ₹ 10 lakhs or more (including the amount of service tax paid by utilization of CENVAT credit) in the preceding financial year.
- As the total service tax paid (including CENVAT credit) by S. Ltd., in the preceding financial year is ₹ 11 lakhs on the presumption that service tax of ₹ 8 lakh does not include service tax of ₹ 3 lakh paid by utilizing CENVAT credit, it will be required to deposit service tax electronically for the financial year 2010-2011.

Question 4

- (a) *Mr. X retired from the services of M/s Y Ltd. on 31-01-2011 after completing service of 30 years and one month. He had joined the company in 1980 at the age of 30 years and received the following on his retirement :*
- (i) *Gratuity ₹ 6,00,000. He was covered under the Payment of Gratuity Act, 1972.*
 - (ii) *Leave encashment of ₹ 3,30,000 for 330 days leave balance in his account. He was credited 30 days leave for each completed year of service.*
 - (iii) *As per the scheme of the company, he was offered a car which was purchased on 01.02.2008 by the company for ₹ 5,00,000. Company has recovered ₹ 2,00,000*

from him for the car. Company depreciates the vehicles at the rate of 15% on Straight Line Method.

- (iv) An amount of ₹ 3,00,000 as commutation of pension for 2/3 of his pension commutation.
- (v) Company presented him a gift voucher worth ₹ 6,000 on his retirement.
- (vi) His colleagues also gifted him a Television (LCD) worth ₹ 50,000 from their own contribution.

Following are the other particulars :

- (i) He has drawn a basic salary of ₹ 20,000 and 50% dearness allowance per month for the period from 01-04-2010 to 31-01-2011.
- (ii) Received pension of ₹ 5,000 per month for the period 01-02-2011 to 31-03-2011 after commutation of pension.

Compute his gross total income from the above for Assessment Year 2011-12. (8 Marks)

- (b) Mr. Asim, a 60 year old individual, engaged in the business of roasting and grounding of coffee, derives income of ₹ 10 lacs during the financial year 2010-11. Compute the tax payable by him assuming he has not earned any other income during the financial year 2010-11. (4 Marks)
- (c) Briefly explain the following in reference to service tax:
 - (i) Applicability of service tax liability in case of Job work.
 - (ii) Exemption available to small scale service providers.
 - (iii) Liability of service tax in case of sponsorship services.
 - (iv) Liability of service tax in case of export of services. (4 × 1 = 4 Marks)

Answer

(a) Computation of Gross Total Income of Mr. X for A.Y. 2011-12

Particulars	₹
Basic Salary = ₹ 20,000 × 10	2,00,000
Dearness Allowance = 50% of basic salary	1,00,000
Gift Voucher (See Note - 1)	6,000
Transfer of car (See Note - 2)	56,000
Gratuity (See Note - 3)	80,769
Leave encashment (See Note - 4)	1,30,000
Uncommuted pension = ₹ 5000 × 2	10,000
Commuted pension (See Note - 5)	<u>1,50,000</u>
Taxable Salary /Gross Total Income	<u>7,32,769</u>

Notes :

- (1) As per rule 3(7)(vi), the value of any gift or voucher or token in lieu of gift received by the employee or by member of his household not exceeding ₹ 5,000 in aggregate during the previous year is exempt. In this case, the amount was received on his retirement and the sum exceeds the limit of ₹ 5,000.

Therefore, the entire amount of ₹ 6,000 is liable to tax as perquisite.

Note - An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable in view of the language of Circular No.15/2001 dated 12.12.2001 that such gifts upto ₹ 5,000 in the aggregate per annum would be exempt, beyond which it would be taxed as a perquisite. As per this view, the value of perquisite would be ₹ 1,000 and gross taxable income would be ₹ 7,27,769.

- (2) **Perquisite value of transfer of car:** As per Rule 3(7)(viii), the value of benefit to the employee, arising from the transfer of an asset, being a motor car, by the employer is the actual cost of the motor car to the employer as reduced by 20% of such cost for each completed year during which such motor car was put to use by the employer on a written down value basis. Therefore, the value of perquisite on transfer of motor car, in this case, would be:

Particulars	₹
Purchase price (1.2.2008)	5,00,000
Less: Depreciation @ 20%	<u>1,00,000</u>
WDV on 31.1.2009	4,00,000
Less: Depreciation @ 20%	<u>80,000</u>
WDV on 31.1.2010	3,20,000
Less: Depreciation @ 20%	<u>64,000</u>
WDV on 31.1.2011	2,56,000
Less: Amount recovered	<u>2,00,000</u>
Value of perquisite	<u>56,000</u>

The rate of 15% as well as the straight line method adopted by the company for depreciation of vehicle is not relevant for calculation of perquisite value of car in the hands of Mr. X.

- (3) **Taxable gratuity**

Particulars	₹
Gratuity received	6,00,000
Less : Exempt under section 10(10) - Least of the following:	

(i) Notified limit =	₹ 10,00,000	
(ii) Actual gratuity =	₹ 6,00,000	
(iii) $15/26 \times 30,000 \times 30 =$	₹ 5,19,231	<u>5,19,231</u>
Taxable Gratuity		<u>80,769</u>

(4) **Taxable leave encashment**

Particulars	₹
Leave Salary received	3,30,000
Less : Exempt under section 10(10AA) - Least of the following:	
(i) Notified limit	₹ 3,00,000
(ii) Actual leave salary	₹ 3,30,000
(iii) 10 months x ₹ 20,000 (assuming that dearness allowance does not form part of pay for retirement benefit)	₹ 2,00,000
(iv) Cash equivalent of leave to his credit	₹ 2,20,000
$\frac{30}{30} \times 20,000 =$	<u>2,00,000</u>
Taxable Leave encashment	<u>1,30,000</u>

Note – It has been assumed that dearness allowance does not form part of salary for retirement benefits. In case it is assumed that dearness allowance forms part of pay for retirement benefits, then, the third limit for exemption under section 10(10AA) in respect of leave encashment would be ₹ 3,00,000 (i.e. 10 x ₹ 30,000) and the fourth limit ₹ 3,30,000, in which case, the taxable leave encashment would be ₹ 30,000 (₹ 3,30,000 - ₹ 3,00,000). In such a case, the gross total income would be ₹ 6,32,769.

(5) **Commuted Pension**

Since Mr. X is a non-government employee in receipt of gratuity, exemption under section 10(10A) would be available to the extent of 1/3rd of the amount of the pension which he would have received had he commuted the whole of the pension.

Particulars	₹
Amount received	3,00,000
Exemption under section 10(10A) = $\frac{1}{3} \times 3,00,000 =$	<u>1,50,000</u>
Taxable amount	<u>1,50,000</u>

- (6) The taxability provisions under section 56(2)(vii) are not attracted in respect of television received from colleagues, since television is not included in the definition of property therein.
- (b) If Mr. Asim is engaged only in the business of roasting and grounding of coffee (and not growing and curing of coffee), his entire income of ₹ 10 lakhs would be treated as business income and his tax liability would be ₹ 1,58,620 (₹ 1,54,000+₹ 3,080+₹ 1,540).

It may be noted that if Mr. Asim is also engaged in the business of growing and curing of coffee, in addition to roasting and grounding of coffee, the provisions of Rule 7B of the Income-tax Rules, 1962 would apply. As per Rule 7B, where income is derived from the sale of coffee grown, cured, roasted and grounded by the seller in India, 40% of such income shall be treated as business income and the balance as agricultural income.

Therefore, in such a case, the business income would be 40% of ₹ 10,00,000 = ₹ 4,00,000

Calculation of tax liability for A.Y 2011-12

Particulars	₹
Tax on ₹ 10,00,000 [being the aggregate of non-agricultural income (i.e. ₹ 4,00,000) and agricultural income (i.e. ₹ 6,00,000)]	1,54,000
Less: Tax on ₹ 7,60,000 [being aggregate of agricultural income (i.e. ₹ 6,00,000) and basic exemption limit (i.e. ₹1,60,000)]	<u>86,000</u>
	68,000
Add: Education cess @ 2%	1,360
Secondary and higher education cess @ 1%	<u>680</u>
Total tax liability	<u>70,040</u>

- (c) (i) Service tax is not payable in case of job work under the category of business auxiliary service subject to fulfillment of certain prescribed conditions. Further, job work in relation to manufacture of diamonds, gemstones and jewellery has also been exempted from payment of service tax vide **Notification No. 21/2005 ST dated 07.06.2005**.
- (ii) As per **Notification No.6/2005-ST dated 01.03.2005** issued by CBEC, if the aggregate value of taxable services provided by a service provider does not exceed ₹10 lakhs in the preceding financial year, the service provider is eligible for service tax exemption on receipts of ₹10 lakhs towards the value of taxable services in the current financial year.
- (iii) Service tax is leviable on sponsorship services. In case of sponsorship service provided to anybody corporate or firm located in India, the person liable to pay service tax is the body corporate or firm, as the case may be, who receives such sponsorship service.

- (iv) Export of services is exempt from service tax. In case of export of service, exemption has been provided to the exporter of service (subject to satisfying all the conditions set out in the Export of Service Rules, 2005) to enhance the exports of the country.

Question 5

- (a) State with reasons the allowability of the following expenses under the Income-tax Act, 1961 while computing income from business or profession for the Assessment Year 2011-12 :

- (i) Provision made on the basis of actuarial valuation for payment of gratuity ₹ 5,00,000. However, no payment on account of gratuity was made before due date of filing return.
- (ii) Purchase of oil seeds of ₹ 50,000 in cash from a farmer on a banking day.
- (iii) Tax on non-monetary perquisite provided to an employee ₹ 20,000.
- (iv) Payment of ₹ 50,000 by using credit card for fire insurance.
- (v) Salary payment of ₹ 2,00,000 outside India by a company without deduction of tax.
- (vi) Sales tax deposited in cash ₹ 50,000 with State Bank of India.
- (vii) Payment made in cash ₹ 30,000 to a transporter in a day for carriage of goods

(7 Marks)

- (b) Mr. David, a Government employee serving in the Ministry of External Affairs, left India for the first time on 31-03-2010 due to his transfer to High Commission of Canada. He did not visit India any time during the previous year 2010-11. He has received the following income for the Financial Year 2010-11:

		₹
(i)	Salary	5,00,000
(ii)	Foreign Allowance	4,00,000
(iii)	Interest on fixed deposit from bank in India	1,00,000
(iv)	Income from agriculture in Pakistan	2,00,000
(v)	Income from house property in Pakistan	2,50,000

Compute his gross total income for Assessment Year 2011-12.

(5 Marks)

- (c) Briefly explain the consumption variant of VAT and reasons for its preference over other variants.

(4 Marks)

Answer**(a) (i) Not allowable as deduction**

As per section 40A(7), no deduction is allowed in computing business income in respect of any provision made by the assessee in his books of account for the payment of gratuity to his employees except in the following two cases:

- (1) where any provision is made for the purpose of payment of sum by way of contribution towards an approved gratuity fund or;
- (2) where any provision is made for the purpose of making any payment on account of gratuity that has become payable during the previous year.

Therefore, in the present case, the provision made on the basis of actuarial valuation for payment of gratuity has to be disallowed under section 40A(7), since, no payment has been actually made on account of gratuity.

Note: It is assumed that such provision is not for the purpose of contribution towards an approved gratuity fund.

(ii) Allowable as deduction

As per Rule 6DD, in case the payment is made for purchase of agricultural produce directly to the cultivator, grower or producer of such agricultural produce, no disallowance under section 40A(3) is attracted even though the cash payment for the expense exceeds ₹ 20,000.

Therefore, in the given case, disallowance under section 40A(3) is not attracted since, cash payment for purchase of oil seeds is made directly to the farmer.

(iii) Not allowable as deduction

As per section 40(a)(v), income-tax of ₹ 20,000 paid by the employer in respect of non-monetary perquisites provided to its employees, which is exempt in the hands of the employee under section 10(10CC), is not deductible while computing business income.

(iv) Allowable as deduction

Payment for fire insurance is allowable as deduction under section 36(1). Since payment by credit card is covered under Rule 6DD, which contains the exceptions to section 40A(3), disallowance under section 40A(3) is not attracted in this case.

(v) Not allowable as deduction

Disallowance under section 40(a)(iii) is attracted in respect of salary payment of ₹ 2,00,000 outside India by a company without deduction of tax at source.

(vi) Allowable as deduction

As per Rule 6DD, if the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender, no disallowance under section 40A(3) is attracted even though the cash payment for the expense exceeds ₹ 20,000.

Therefore, in the given case, no disallowance under section 40A(3) is attracted since payment of sales tax is covered by the above mentioned exception contained in Rule 6DD.

(vii) Allowable as deduction

The limit for attracting disallowance under section 40A(3) for payment otherwise than by way of account payee cheque or account payee bank draft has been increased from ₹ 20,000 to ₹ 35,000 in case of payment made for plying, hiring or leasing goods carriage. Therefore, in the present case, disallowance under section 40A(3) is not attracted for payment of ₹ 30,000 made in cash to a transporter for carriage of goods.

- (b)** As per section 6(1), Mr. David is a non-resident for the F.Y 2010-11, since he was not present in India at any time during the previous year 2010-11.

As per section 5(2), a non-resident is chargeable to tax in India only in respect of following incomes:

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

In view of the above provisions, income from agriculture in Pakistan and income from house property in Pakistan would not be chargeable to tax in the hands of David, assuming that the same were received in Pakistan.

Income from 'Salaries' payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India as per section 9(1)(iii). Hence, such income is taxable in the hands of Mr. David, even though he is a non-resident. It has been assumed that Mr. David is a citizen of India.

However, allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt under section 10(7). Hence, foreign allowance of ₹ 4,00,000 is exempt under section 10(7).

Gross Total Income for A.Y. 2011-12

Particulars	₹
Salaries	5,00,000
Income from other sources (Interest on fixed deposit in India)	<u>1,00,000</u>
Gross Total Income	<u>6,00,000</u>

- (c) Under consumption variant of VAT, tax is levied on all sales with deduction for tax paid on all business inputs (including capital goods). Thus, gross investment is deductible in calculating value added tax.

Among the three variants of VAT, the consumption variant is widely used. The reasons for its preference over other variants are as follows:-

- (i) Consumption variant does not affect decisions regarding investment because the tax on capital goods is also set off against the VAT liability. Hence, usage of labour or capital intensive technique of production does not make any difference from taxation point of view.
- (ii) Consumption variant is convenient from administrative expediency as it simplifies tax administration by removing the need to distinguish between purchases of intermediate and capital goods on one hand and consumption goods on the other hand.
- (iii) Most of the countries include services in their tax base and hence prefer consumption variant over other variants as the business gets set off for the tax on services thereby removing the cascading effect.

Question 6

- (a) Compute the amount of tax deduction at source on the following payments made by M/s. S Ltd. during the financial year 2010-11 as per the provisions of the Income-tax Act, 1961.

Sr. No.	Date	Nature of Payment
(i)	1-10-2010	Payment of ₹ 2,00,000 to Mr. "R" a transporter who is having PAN.
(ii)	1-11-2010	Payment of fee for technical services of ₹ 25,000 and Royalty of ₹ 20,000 to Mr. Shyam who is having PAN.
(iii)	30-06-2010	Payment of ₹ 25,000 to M/s X Ltd. for repair of building.
(iv)	01-01-2011	Payment of ₹ 2,00,000 made to Mr. A for purchase of diaries made according to specifications of M/s S Ltd. However, no material was supplied for such diaries to Mr. A by M/s S Ltd.
(v)	01-01-2011	Payment made ₹ 80,000 to Mr. Bharat for compulsory acquisition of his house as per law of the State Government.
(vi)	01-02-2011	Payment of commission of ₹ 6,000 to Mr. Y.

(6 Marks)

- (b) Mr. Gupta is having a trading business and his Trading and Profit & Loss Account for the financial year 2010-11 is as under:

Particulars	Amount (₹)	Particulars	Amount (₹)
To Opening stock	1,00,000	By Sales	70,00,000
To Purchase	49,00,000	By Closing stock	50,000
To Gross profit	<u>20,50,000</u>		
Total	<u>70,50,000</u>	Total	<u>70,50,000</u>
Salary to employees (Including Contribution to PF)	5,00,000	By Gross Profit b/d	20,50,000
Donation to Prime Minister Relief Fund	1,00,000		
Provision for bad debts	50,000		
Bonus to employees	50,000		
Interest on bank loan	50,000		
Family planning expenditure incurred on employees	20,000		
Depreciation	30,000		
Income-tax	1,00,000		
To Net profit	<u>11,50,000</u>		
Total	<u>20,50,000</u>	Total	<u>20,50,000</u>

Other information:

- Depreciation allowable ₹ 40,000 as per Income-tax Rules, 1962.
- No deduction of tax at source on payment of interest on bank loan has been made.
- Payment of bonus to workers made in the month of October on the occasion of Diwali festival.
- Out of salary, ₹ 25,000 pertains to his contributions to recognized provident fund which was deposited after the due date. Further, employees contribution of ₹ 25,000 was also deposited after the due date.

Calculate gross total income of Mr. Gupta for the Assessment Year 2011-12. (6 Marks)

- (c) State the liability of service tax in respect of the following services.
- Services provided for personal use or use by the family members of a foreign diplomatic agent in a foreign diplomatic mission.

- (ii) Services provided for issuing fitness certificate of vehicles by Regional transport office.
- (iii) Services received from outside India and consumed in India.
- (iv) Services rendered to a friend free of cost. (4 × 1 = 4 Marks)

Answer

- (a) (i) No tax is required to be deducted at source under section 194C by M/s S Ltd. on payment to transporter Mr. R, provided he furnishes his PAN to M/s. S Ltd.
- (ii) As per section 194J, liability to deduct tax is attracted only in case the payment made as fees for technical services and royalty, individually, exceeds ₹ 30,000 during the financial year. In the given case, since, the individual payments for fee of technical services i.e. ₹ 25,000 and royalty ₹ 20,000 is less than ₹ 30,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for technical services and royalty were made during the year to Mr. Shyam.
- (iii) Provisions of section 194C are attracted in this case, as the payment for repair of building on 30.06.2010 to M/s. X Ltd. exceeds ₹ 20,000.

The tax to be deducted shall be: ₹ 25,000 × 2 % = ₹ 500

Note: The enhanced limit of ₹ 30,000 is applicable only with effect from 1.7.2010.

- (iv) According to section 194C, the definition of “work” does not include the manufacturing or supply of product according to the specification by customer in case the material is purchased from a person other than the customer.

Therefore, there is no liability to deduct tax at source in respect of payment of ₹ 2,00,000 to Mr. A, since the contract is a contract for ‘sale’.

- (v) As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is responsible for deduction of tax at source if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 1,00,000.

In the given case, no liability to deduct tax at source is attracted as the payment made does not exceed ₹ 1,00,000.

- (vi) As per section 194H, any person (other than an individual or HUF) who is responsible for paying commission or brokerage to a resident shall deduct tax at source if the amount of such income or the aggregate of the amounts of such income credited or paid during the financial year exceeds ₹ 5,000.

Since the commission payment made to Mr. Y exceeds ₹ 5,000, the provisions of section 194H are attracted.

The tax to be deducted at source shall be - ₹ 6,000 × 10% = ₹ 600.

(b) **Computation of Gross Total Income of Mr. Gupta for the A.Y. 2011-12.**

Particulars	₹	₹
Income from Business or profession		
Net profit as per Profit and Loss Account		11,50,000
Add : Expenses not deductible		
Donation to Prime Minister Relief Fund (Refer Note -1)	1,00,000	
Provision for bad debts (Refer Note-2)	50,000	
Family planning expenditure incurred on employees (Refer Note -3)	20,000	
Depreciation as per Profit and Loss Account	30,000	
Income-tax (Refer Note -4)	1,00,000	
Employer's contribution to recognized provident fund (Note-5)	<u>25,000</u>	<u>3,25,000</u>
		14,75,000
Less : Expense allowed		
Depreciation as per Income- tax Rules, 1962		<u>40,000</u>
		14,35,000
Add : Employee's contribution included in income as per Section 2(24)(x) (Refer Note-6)		<u>25,000</u>
Business Income / Gross Total Income		<u>14,60,000</u>

Notes:-

- (1) Donation to Prime Minister Relief Fund is not allowed as deduction from the business income. It is allowed as deduction under section 80G from the gross total income.
- (2) Provisions for bad debts is allowable as deduction under section 36(1)(vii) (subject to the limits specified therein) only in case of banks, public financial institutions, State Financial Corporation and State Industrial Investment Corporation. Therefore, it is not allowable as deduction in the case of Mr. Gupta.
- (3) Expenditure on family planning is allowed as deduction under section 36(1)(ix) only to a company assessee. Therefore, such expenditure is not allowable as deduction in the hands of Mr. Gupta.
- (4) Income-tax paid is not allowed as deduction as per the provisions of section 40(a)(ii).
- (5) It has been assumed that the due date referred to in point (iv) under "Other Information" given in the question is the due date of filing return of income. Therefore, since Mr. Gupta's contribution to recognized provident fund is deposited

after the due date of filing return of income, the same is disallowed as per provisions of section 43B.

- (6) Employee's contribution is includible in the income of the employer by virtue of Section 2(24)(x). The deduction for the same is not provided for as it was deposited after the due date. It has been assumed that it has not been already debited in the given profit and loss account.
- (7) TDS provisions under section 194A are not attracted in respect of payment of interest on bank loan. Therefore, disallowance under section 40(a)(ia) is not attracted in this case.
- (8) It is assumed that payment of bonus is made in October 2010, hence, no disallowance is attracted.

Note: If it is assumed that the payment of bonus is made in October 2011, such expenditure would be disallowed under section 43B as the payment is made after the due date of filing of return of income.

- (c) (i) Central Government vide **Notification No. 34/2007 ST dated 23.05.2007** has exempted all taxable services provided by any person, for the personal use by the family members of diplomatic agents in a foreign diplomatic mission from whole of the service tax leviable thereon.
- (ii) As per **Circular No. 96/7/2007 ST dated 23.08.2007** issued by the CBEC, the fee collected by the public authorities for performing statutory functions / duties under the provisions of a law is not liable to service tax. Since, services provided for issuing fitness certificate of vehicles by RTO is a statutory function prescribed under the relevant laws, the same is not liable to service tax.
- (iii) Since service tax is a destination based consumption tax, the location where services are consumed is relevant. Hence, services received from outside India and consumed in India are taxable. In this case, the person liable to pay service tax is the recipient of such service.
- (iv) Service tax is chargeable on the value of taxable service. Thus, if the value of service tax is zero, no service tax is payable. Hence, services rendered to a friend free of cost do not attract any service tax liability.

Question 7

Answer the following:

- (a) M/s. Dollar Ltd., a manufacturing concern, furnishes the following particulars:

		₹
(i)	Opening writing down value under Income-tax of block plant and machinery	5,00,000

(ii)	Purchase of plant and machinery (put to use before 01-10-2010)	2,00,000
(iii)	Sale proceeds of plant and machinery which became obsolete- the plant and machinery was purchased on 01-04-2008 for ₹ 5,00,000.	5,000

Further, out of purchase of plant and machinery:

- (a) Plant and machinery of ₹ 20,000 has been installed in office.
 (b) Plant and machinery of ₹ 20,000 was used previously for the purpose of business by the seller.

Compute depreciation and additional depreciation as per Income-tax Act, 1961 for the Assessment Year 2011-12.

- (b) State the service tax provisions regarding adjustment of service tax paid when service was not provided either wholly or partly.

OR

Briefly explain the important points to be kept in mind while paying service tax.

- (c) (i) State when a return of income can be treated as defective.
 (ii) An Assessing Officer finds a defect in the return of income and intimated the defect vide letter dated 09-10-2010, which was received by Mr. Ram on 14-12-2010. What is the date by which Mr. Ram has to rectify the defect, assuming that Mr. Ram has not applied for extension of time.
 (d) Discuss the taxability of agricultural income under the Income-tax Act, 1961. How will income be computed where an individual derives agricultural and non-agricultural income? (4 x 4 = 16 marks)

Answer

- (a) **Computation of written down value of Plant and Machinery of M/s. Dollar Ltd. for the A.Y. 2011-12:**

Particulars	₹
Opening written down value (as on 01.04.2010)	5,00,000
Add: Purchase of plant and machinery during the previous year	<u>2,00,000</u>
	7,00,000
Less: Sale proceeds of obsolete plant and machinery sold during the year	<u>5,000</u>
Closing Written down value (as on 31.03.2011)	<u>6,95,000</u>

Computation of Depreciation and Additional Depreciation for A.Y. 2011-12 as per Section 32 of the Income-tax Act, 1961

Particulars	₹
Normal Depreciation (₹ 6,95,000 x 15%)	1,04,250

Additional Depreciation (Refer Note 2) (₹ 2,00,000 – ₹ 20,000 - ₹ 20,000) x 20%)	32,000
Depreciation on Plant and Machinery	<u>1,36,250</u>

Notes:-

- (1) Since the new plant and machinery was purchased and put to use before 1.10.2010, it was put to use for more than 180 days in the year. Hence, full depreciation is allowable for A.Y. 2011-12.
- (2) As per section 32(1)(ia), additional depreciation is allowable in the case of any new machinery or plant acquired and installed after 31.3.2005 by an assessee engaged in the business of manufacture or production of any article or thing, at the rate of 20% of the actual cost of such machinery or plant.

However, additional depreciation shall not be allowed in respect of, inter alia, –

- (i) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person;
- (ii) any machinery or plant installed in office premises, residential accommodation or in any guest house.

In view of the above provisions, additional depreciation cannot be claimed in respect of -

- (i) Plant and machinery of ₹ 20,000 used previously for the purpose of business by the seller.
- (ii) Plant and machinery of ₹ 20,000, installed in office.

Therefore, in the given case additional depreciation has to be provided only on ₹ 1,60,000 (i.e. ₹ 2,00,000 - ₹ 40,000).

- (b) (i) Where an assessee has deposited service tax when the service was not provided by him either wholly or partially for any reason, he may adjust the excess service tax so paid by him (calculated on a pro-rata basis) against his service tax liability for the subsequent periods.

However, while adjusting the excess service tax paid, following points must be kept in mind:

- i) The assessee must refund the value of taxable service along with service tax thereon to the person from whom it was received
- ii) The details in respect of such *suo-moto* adjustments should be submitted to the department by the assessee at the time of filing of service tax returns.
- iii) In case of clerical mistake, assessee has to claim the refund of excess tax paid instead of adjusting it against subsequent periods

(ii) The important points to be kept in mind while paying service tax are as follows:

1. Service tax is payable on value of the taxable services charged by an assessee. Therefore, service tax is to be paid on the amount of income tax deducted at source also.
2. In case of payment of service tax in cash, the date of payment is the date on which cash is tendered to the designated bank.
3. In case payment of service tax by cheque, the date of presentation of cheque to the bank designated by CBEC is considered as date of payment, subject to realization of cheque.
4. Payment of service tax into non-designated banks does not amount to payment of service tax.
5. Payment of service tax should be rounded off in multiple of rupees.

(c) (i) As per *Explanation* to section 139(9), a return of income shall be regarded as defective if, *inter alia*, the annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computation of gross total income and total income have not been duly filled in.

Note:-

Explanation to Section 139(9) mentions several other instances due to which a return of income can be treated as defective.

The said *Explanation* requires that certain statements, reports, proof of taxes paid, accounts, etc should accompany the return of income, otherwise the return of income will become defective. However, no such statement or report or accounts or proof of pre-paid taxes can be attached with the new income-tax return forms. Therefore, these statements, reports, accounts should be retained by the assessee to be produced before the Assessing Officer on demand. Therefore, a return of income will not become defective on account of non-attachment of these statements, reports, accounts, proof of taxes paid, etc.

(ii) As per the provisions of section 139(9), where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of such intimation. The Assessing Officer has the discretion to extend the time period beyond 15 days, on an application made by the assessee.

In the present case, since Mr. Ram has not applied for extension of time, he has to rectify the defect in the return of income within 15 days of receipt of intimation i.e. by 29.12.2010, being 15 days from 14.12.2010.

- (d) Agricultural income is exempt from tax as per section 10(1). However, aggregation of agricultural and non-agricultural income is to be done to determine the rate at which the non-agricultural income shall be chargeable to tax. In case the agricultural income is not more than ₹ 5,000 or the tax-payer has non-agricultural income less than the basic exemption limit, then no such aggregation needs to be done. Further, such aggregation has to be done only if the tax-payer is an individual, Hindu Undivided Family, body of individual, association of persons or an artificial judicial person.

Since the second part of the question requires the manner of computation of income where an individual derives agricultural and non-agricultural income, the same can be answered on the basis of Rules 7A, 7B and 8 of the Income-tax Rules, 1962 dealing with composite income.

Rule	Particulars	Business Income	Agricultural Income
Rule 7A	Income from manufacture of rubber in India	35%	65%
Rule 7B	Income from manufacture of coffee		
	- grown and cured by the seller in India	25%	75%
	- grown, cured, roasted and grounded by the seller in India	40%	60%
Rule 8	Income from manufacture of tea	40%	60%

Thereafter, income-tax shall be computed by aggregating the agricultural income and the non-agricultural income in the manner described below:

- (1) Aggregate the agricultural income with non-agricultural income and determine tax payable on such amount.
- (2) Aggregate the agricultural income with the basic exemption limit of the assessee i.e. ₹ 1,60,000/₹ 1,90,000/₹ 2,40,000, as the case may be, and determine tax on such amount.
- (3) Compute the difference between the tax computed in Step (1) and Step (2), which shall be the tax payable in respect of non-agricultural income.
- (4) The tax payable so computed in step (3) shall be increased by education cess of 2% and secondary and higher education cess of 1%.