

Test Series : February, 2012

MOCK TEST PAPER – 1

IPCC: GROUP – I

PAPER – 4 : TAXATION

Question 1 is compulsory.

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

Time Allowed – 3 Hours

Maximum Marks – 100

- 1 (a) Compute the taxable income of Dr. Sandeep from the following information for the year ended 31.03.2012:

Income and Expenditure Account for the year ended 31st March 2012

Particulars	₹	Particulars	₹
To Staff salary	1,95,000	By Rent	27,000
To Medicines consumed	1,97,000	By Fee Receipts	8,47,500
To Hospital consumables	67,500	By Dividend from Indian companies	9,000
To Administrative expenses	1,18,000		
To Rent paid	60,000		
To Net income	<u>2,46,000</u>		
	<u>8,83,500</u>		<u>8,83,500</u>

- (i) Hospital equipments (eligible for depreciation @ 15%)
01.04.2011 Opening WDV ₹ 5,00,000
07.12.2011 Acquired (Cost) ₹ 2,00,000
- (ii) Rent paid is in respect of a building situated in Delhi, half portion of which is used by Dr. Sandeep for residential purpose.
- (iii) Medicines consumed include medicines (cost) ₹ 10,000 used for Dr. Sandeep's family.
- (iv) Rent received relates to a property situated at Madurai (Gross Annual Value). The municipal tax of ₹ 2,000 paid in March, 2012 has been included in the "administrative expenses".
- (v) He received ₹ 5,000 per month as salary from Life Care Hospital which is not included in the above income and expenditure account.

- (vi) He has sold a land in December, 2011 for ₹ 5,00,000. It was inherited by him from his father in August, 1997. The site was acquired by his father in February, 1993 for ₹ 1,50,000.

(Cost inflation index 1992-93 = 223; 1997-98 = 331 and 2011-12 = 785)

(10 Marks)

- (b) Adlaps Pvt. Ltd. has agreed to render services to Mr. Mukesh. The following are the chronological events:

Particulars	₹
Contract for services entered into on 25.9.2011 for ₹ 2,50,000	
Advance received in October, 2011 towards all services	60,000
Bill for the entire contract price raised in January, 2012	
Above includes non-taxable services of	50,000
Balance amount is received in March, 2012	

When does the liability to pay service tax arise and for what amount? Contract contains clear details of services; consideration and service tax are charged separately, as mutually agreed upon.

(5 Marks)

- (c) Mr. Shanky, a trader sells 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 2011-12:-

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

		₹
(1)	Cost of local materials including VAT	1,50,000
(2)	Cost of imported materials (from other State) excluding tax	50,000
(3)	Other expenditure including storage, transport, interest and loading and unloading and profit earned by him	96,500

(5 Marks)

2. (a) Mrs. Akanksha aged about 69 years is employed in Arihant Pvt. Ltd. as an Executive Officer. From the following details given by her for the year ended 31.03.2012, find out the tax liability for the assessment year 2012-13 :

- Basic Salary (₹ 50,000 x 12) = ₹ 6,00,000
- Dearness Allowance (₹ 20,000 x 12) = ₹ 2,40,000 (forms part of pay for retirement benefits)
- Bonus – 2 months basic pay.

- (iv) Commission – 0.2% of the turnover of the company. The turnover for the F.Y. 2011-12 was ₹ 7.50 crores.
- (v) Entertainment Allowance – ₹ 30,000.
- (vi) Hostel allowance for three children – ₹ 5,000 each.
- (vii) Contribution of the employer and employee to the recognized provident fund account ₹ 3,00,000 each.
- (viii) Interest credited to recognized provident fund account at 9.5% - ₹ 60,000.
- (ix) Rent free unfurnished accommodation provided by the company for which the company pays a rent of ₹ 70,000 per annum.

She makes the following payments and investments:

- (i) Premium paid to insure the life of her major son – ₹ 15,000.
- (ii) LIC Pension Fund – ₹ 12,000.
- (iii) Medical Insurance premium for self – ₹ 6,000 ; Spouse – ₹ 6,000.
- (iv) Donation to a public charitable institution registered under 80G ₹ 2,00,000.

(8 Marks)

- (b) Mr. Raman, a self employed professionally qualified engineer provided service to its client Mehta Enterprises in relation to hardware engineering. Mr. Raman did not charge service tax on the bill raised for service rendered as he was of the view that he cannot be considered as a consulting engineer and his service is not liable to service tax. Explain the correctness of statement as per service tax provisions.

(4 Marks)

- (c) "Every registered dealer is eligible for the composition scheme". Explain the validity of the statement.

(4 Marks)

- 3. (a) Mrs. Neha, a citizen of the UK, is a resident and ordinarily resident in India during the financial year 2011-12. She owns a house property at London, UK, which is used as her residence. The annual value of the house is £10,000. The value of one pound (£) may be taken as ₹ 90.

She took ownership and possession of a flat in Jaipur on 1.7.2011, 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 31.3.2012. The municipal valuation is ₹ 32,000 p.m. and the fair rent is ₹ 4,20,000 p.a. She paid the following to Corporation of Jaipur :

Property Tax	₹ 16,200
Sewerage Tax	₹ 1,800

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

	₹
Period prior to 1.4.2011	49,200
1.4.2011 to 30.6.2011	50,800
1.7.2011 to 31.3.2012	1,31,300

She had a house property in Mumbai, which was sold in March, 2009. In respect of this house, she received arrears of rent of ₹ 60,000 in March, 2012. This amount has not been charged to tax earlier.

Compute the income chargeable from house property of Mrs. Neha for the assessment year 2012-13, exercising the most beneficial option available. (8 Marks)

(b) Answer the following:

(a) Ms. Priyanshi Jain, a registered service provider did not render any services during the financial year 2011-12. Whether she is required to file service tax return?

(b) "Once filed, service tax return cannot be revised further." Critically examine the statement. (4 Marks)

(c) "VAT helps in checking tax evasion and in achieving neutrality". Elaborate the statement. (4 Marks)

4. (a) State with reasons, for the following sub-divisions, whether the following statements are true or false having regard to the provisions of the Income-tax Act, 1961:

(i) Where a person follows mercantile system of accounting, an expenditure of ₹ 25,000 has been allowed on accrual basis and in a later year, in respect of the said expenditure, assessee makes the payment of ₹ 25,000 through a crossed cheque, the taxability provision under section 40A(3A) are attracted in respect of such amount.

(ii) For a dealer in shares and securities, securities transaction tax paid in a recognized stock exchange is permissible business expenditure.

(iii) It is mandatory for an assessee to claim depreciation under section 32 of the Income-tax Act, 1961.

(iv) An existing assessee engaged in trading activities, can claim additional depreciation under Section 32(1)(ia) in respect of new plant acquired and installed in the trading concern, where the increase in value of such plant as compared to the approved base year is more than 10%.

(iv) The mediclaim premium paid to GIC by Mr. Ritesh for his employees, by a draft, on 29.10.2011 is a deductible expenditure under section 36.

- (v) Under section 35DDA, amortization of expenditure incurred under eligible Voluntary Retirement Scheme at the time of retirement alone, can be done. (8 Marks)
- (b) Honey Limited took a contract for rendering service for ₹ 15,00,000. It sub-contracted a part of the work to Moon Limited for a sum of ₹ 6,00,000. Honey Limited paid service tax on the amounts realized and advised the sub-contractor Moon Limited not to raise bill inclusive of service tax since it had paid service tax on the total amount of contract.
- Examine the correctness of advice given by Honey Limited to Moon Limited as per service tax provisions. (4 Marks)
- (c) Explain the importance of VAT invoice in administering VAT. (4 Marks)
5. (a) Mr. Yogesh purchased a residential house on January, 1994 for ₹ 5,00,000. He sold the said house to Mr. Tiwari on 7th September, 2011 for a consideration of ₹ 31,00,000. The stamp valuation authority fixed the value of the said house for stamp duty purpose at ₹ 35,00,000. He deposited ₹ 5,00,000 in eligible bonds issued by National Highways Authority of India (NHAI) on 14th February, 2012. He acquired a residential house at Delhi for ₹ 12,00,000 on 7th August, 2012. He gives other particulars as follows:
- During the year, he has received interest of ₹ ₹ 32,000 on Bank deposits. He has invested ₹ 75,000 in public provident fund during the year ended 31.03.2012.
- Compute the total income and tax liability of Mr. Yogesh for the A.Y. 2012-13.
- Cost inflation index for F.Y.1993-94 and 2011-12 are 244 and 785, respectively.
- (8 Marks)
- (b) A particular service has been brought into the service tax net with effect from 1.9.2011. Mr. Palkit has provided this service on 25.8.2011 and issued the invoice on 2.09.2011, the payment for the same was received on 10.9.2011. Is service tax payable on the same? (4 Marks)
- (c) Under what circumstances registration can be cancelled under VAT. (4 Marks)
6. (a) Compute the taxable income of Mr. Amit and his tax liability for the assessment year 2012-13 from the following information for the year ended 31.03.2012.
- | | |
|--|----------|
| (i) Income from plying of vehicles (computed as per books)
(He owned 5 heavy goods vehicle throughout the year) | 2,10,400 |
| (ii) Income from retail trade of garments
(Computed as per books) (Sales turnover ₹ 21,70,000) | 75,000 |
| (iii) He has brought forward depreciation relating to A.Y. 2011-12 | 1,00,000 |
| (iv) He deposited ₹ 70,000 into his PPF account on 9.2.2012 and
₹ 30,000 in 5 year bank fixed deposit | |

(8 Marks)

- (b) Explain the conditions to be fulfilled for availing the exemption from service tax to packaged canned software under “information technology software services”.
(4 Marks)
- (c) “There is no need to maintain any record under VAT system.” Critically examine the statement.
(4 Marks)
7. (a) State whether the following assesseees have to file return of income and if so, the due date for the Assessment Year 2012-13:
- (i) A public charitable trust registered under the Act is running an educational institution with aggregate annual receipt of ₹ 65,00,000 and total income of ₹ 3,20,000. Is the accounts of the trust liable for audit under section 44AB of the Act?
 - (ii) A registered trade union having income from let out property of ₹ 1,00,000.
 - (iii) A public trust hospital having an aggregate annual receipt of ₹ 200 lacs and availing exemption under section 10(23C)(via) with total income of ₹ 1,10,000.
 - (iv) Mr. Vimal, an individual, aged 54 years, whose gross total income (i.e. salary income) before deduction under section 80C is ₹ 2,60,000 and total income after deduction under section 80C is ₹ 1,05,000.
(4 Marks)
- (b) Mrs. Priyanka, a landlord, derived income from rent from letting a house property to M/s SSG Infrastructure Limited of ₹ 1,00,000 per month. She charged service tax @ 10.3% on lease rent charges. Calculate the deduction of tax at source (TDS) to be made by M/s SSG Infrastructure Limited on payment made to Mrs. Priyanka and narrate related formalities in relation to TDS.
(4 Marks)
- (c) M/S Sharda & Co., a CA Firm raised a bill of ₹ 4,69,450 (including service tax) on his client for auditing services rendered by him in November, 2011. A partial payment of ₹ 2,26,640 was received by M/S Sharda & Co. in March, 2012. Compute the service tax amount payable by M/S Sharda & Co. and the due date by which service tax can be deposited.
(4 Marks)
- (d) What are the major deficiencies of VAT system in India
(4 Marks)

MOCK TEST PAPER – 1

IPCC: GROUP – I

PAPER – 4 : TAXATION

SUGGESTED ANSWERS / HINTS

1. (a) Computation of taxable income of Dr. Sandeep for the previous year ended 31.03.2012

Particulars	₹	₹
Income from Salaries		
Salary received @ ₹ 5,000 per month		60,000
Income from house property		
Gross annual value	27,000	
Less: Municipal tax	<u>2,000</u>	
Net annual value	25,000	
Less: Deduction under section 24 @ 30%	<u>7,500</u>	17,500
Income from business or profession		
Net income as per income & expenditure account	2,46,000	
Add: Rent paid for residence at Delhi	30,000	
Medicines consumed – personal use	10,000	
Municipal tax relating to let out property included in administrative expenses – disallowed	<u>2,000</u>	
	2,88,000	
Less: Depreciation (See working note 2)	90,000	
Rent credited to income & expenditure account	27,000	
Dividend from Indian companies [Exempt under section 10(34)]	<u>9,000</u>	1,62,000
Capital Gains (Long term capital gains)		
Sale consideration	5,00,000	
Less: Indexed cost acquisition (1,50,000 x 785/331)	<u>3,55,740</u>	<u>1,44,260</u>
Gross Total income		3,83,760
Less: Deduction under chapter VIA – section 80GG (See Note 1)		
Under section 80GG, rent paid would be allowable as a deduction to the extent of the least of the following :-		
(i) 25% of total income = 25% of ₹ 2,39,500	59,875	
(ii) Excess of rent paid over 10% of total income (₹ 30,000 - ₹ 23,950)	6,050	
(iii) ₹ 2,000 per month	24,000	
Least of the above		<u>6,050</u>
Total Income		<u>3,77,710</u>

Note :

1. Deduction under section 80GG is to be made from Gross total income. Gross total income as defined under section 80B(5) means the total income computed in accordance with the provisions of this Act, before making any deduction under Chapter VI-A. Under section 112(2), Long term capital gains have to be reduced from Gross total income and Chapter VI-A deductions should be allowed as if the Gross total income so reduced were the Gross total income of the assessee. Therefore, in this case, for the purpose of allowing deduction u/s 80GG, Total Income = ₹ 3,83,760 – ₹ 1,44,260 = ₹ 2,39,500.

2. Depreciation on plant & machinery

	₹
On opening WDV of ₹ 5,00,000 @ 15%	75,000
On equipment acquired ₹ 2,00,000 @ 15% (50% thereon, since acquired in December i.e. held for less than 180 days)	<u>15,000</u>
	<u>90,000</u>

3. Since the property was acquired by Dr. Sandeep through inheritance, the cost of acquisition to him will be the cost to the previous owner. However, indexation will be from the year in which the assessee (i.e., Dr. Sandeep in this case) first held the asset i.e. F.Y. 1997-98.

- (b) As per Rule 3 of Point of Taxation Rules, 2011,

The point of taxation shall be -

- (a) the time when the invoice for the service provided/to be provided is issued.

However, in case the invoice is not issued within 14 days of the completion of the provision of the service, the point of taxation shall be date of such completion.

- (b) in a case, where the person providing the service, receives a payment before the time specified in clause (a), the time, when he receives such payment, to the extent of such payment.

For the purpose of this rule, wherever any advance by whatever name known, is received by the service provider towards the provision of taxable service, the point of taxation shall be the date of receipt of each such advance.

Advance portion

Particulars	₹
Advance received towards all services in October, 2011	= 60,000

Amount billed for taxable services	= 2,50,000 – 50,000 = 2,00,000
Advance received towards taxable services	$= \frac{60,000}{2,50,000} \times 2,00,000$ = 48,000
Service tax @ 10% (since, service tax is charged separately)	= 48,000 x 10% = 4,800
Education cess @ 2%	= 96
Secondary and higher education cess @ 1%	= 48
Total service tax liability	= 4,944

In this case, the due date for payment of service tax will be 5th November, 2011.

Balance portion

Particulars	₹
Amount billed for taxable services	= ₹ 2,00,000
Advance received towards taxable services	= 48,000
Amount billed but not received towards taxable services	= ₹ (2,00,000 - 48,000) = 1,52,000
Service tax @ 10%	= 1,52,000 x 10% = 15,200
Education cess @ 2%	= 304
Secondary and higher education cess @ 1%	= 152
Total service tax liability	= 15,656

In this case, the due date for payment of service tax will be 5th February, 2012.

(c) Computation of VAT and invoice value:-

Particulars	₹
Imported material cost	50,000
[Since, this is not a VAT levied inside the State, it will form part of cost of input]	6,250
Add: Cost of local materials	1,50,000
Less: VAT @ 12.5%	<u>18,750</u>
[Since, credit of ₹ 18,750 would be available, it will not be included in cost of input]	1,31,250
Add: Other expenses and profit	<u>96,500</u>

Sales Price of goods	2,84,000
Add: VAT on the above @12.5%	<u>35,500</u>
Invoice value charged by Mr. Shanky to the manufacturer	3,19,500

VAT charged by Mr. Shanky is ₹ 35,500.

2. (a) **Computation of Total Income of Mrs. Akanksha for A.Y. 2012-13**

Particulars	₹	₹
Income from salary		
Basic salary		6,00,000
Dearness allowance		2,40,000
Bonus		1,00,000
Commission (calculated as percentage of turnover)		1,50,000
Entertainment allowance		30,000
Children's hostel allowance	15,000	
Less : Exemption (300 x 12 x 2)	<u>7,200</u>	7,800
Excess contribution to recognized provident fund by employer (Refer working Note 1)		1,81,200
Interest credited to recognized provident fund account (exempt)		-
Rent free unfurnished accommodation (Refer working Note 2)		70,000
Gross salary		13,79,000
Less : Deduction u/s.80C		
Life insurance premium paid for insurance of life of her major son.	15,000	
Employee's contribution to recognized provident fund	3,00,000	
Deduction u/s.80CCC in respect of LIC pension fund	<u>12,000</u>	
	3,27,000	
Deduction limited to ₹ 1,00,000 as per section 80CCE		1,00,000
Deduction u/s 80D		<u>12,000</u>
Total income before deduction u/s.80G		12,67,000
Deduction u/s.80G :		
Actual Donation to public charitable institution = ₹ 2,00,000		

Restricted to the maximum of 50% of 10% of total income before allowing deduction under section 80G i.e. 50% of ₹ 1,26,700 (10% total income)		<u>63,350</u>
Total income		<u>12,03,650</u>
Tax on total income		2,06,095
Add : Education cess @ 2%		4,122
Add : Secondary and higher education cess @ 1%		<u>2,061</u>
Total tax liability		<u>2,12,278</u>
Rounded off		<u>2,12,280</u>

Working Notes:

(1) Employer's contribution to R.P.F. in excess of 12% of salary

Employer's contribution	3,00,000
Less : 12% of basic salary, dearness allowance & commission i.e. 12% of ₹ 9,90,000	<u>1,18,800</u>
	<u>1,81,200</u>

(2) Value of rent free unfurnished accommodation

Basic salary	6,00,000
Dearness allowance	2,40,000
Bonus	1,00,000
Commission @ 0.2% of turnover	1,50,000
Entertainment allowance	30,000
Children's hostel allowance	<u>7,800</u>
Gross Salary	<u>11,27,800</u>
15% of salary	1,69,170
Actual rent paid by the company	70,000
The least of the above is chargeable perquisite i.e. ₹ 70,000	

- (b) The contention of Mr. Raman is not tenable in law. **Circular No. 96/7/2007 ST dated 23.08.2007** clarifies that Consulting engineers include self-employed professionally qualified engineer, whether or not employing others for assistance.

Services provided by such self-employed professionally qualified engineer to a client in relation to one or more discipline of engineering is liable to service tax

under consulting engineer service [section 65(105)(g)]. Hence Mr. Raman is liable to pay service tax.

(c) The said statement is not valid as a registered dealer is eligible for the composition scheme provided his turnover does not exceed ₹ 50 lakhs in the last financial year. However, the following are not eligible for the composition scheme:

- (i) a manufacturer or a dealer who sells goods in the course of inter-state trade or commerce; or
- (ii) a dealer who sells goods in the course of import into or export out of the territory of India.
- (iii) a dealer transferring goods outside the State otherwise than by way of sale or for execution of works contract.

3. (a) 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 London as well as at Jaipur. 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 London house is ₹ 9,00,000 and the Jaipur flat is ₹ 3,15,000. Since the annual value of London house is more, it will be beneficial for her to opt for choosing the same as self-occupied. The Jaipur house will, therefore, be treated as "deemed let out property".

As regards the Mumbai 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. Neha will be calculated as under:

	Particulars	₹	₹
1.	Self-occupied house at London.		
	Annual value	Nil	
	Less: Deduction under section 24	Nil	
	Income from house property	Nil	
2.	Deemed let out house property at Jaipur		
	Annual value (Higher of municipal value and fair rent) [4,20,000 x 9/12]		3,15,000
	Less: Municipal Taxes (Property tax+Sewerage tax)		<u>18,000</u>

	Net Annual Value (NAV)		2,97,000
	Less: Deductions under section 24		
	30% of NAV	89,100	
	Interest on borrowed capital (See Note below)	<u>1,91,940</u>	<u>2,81,040</u>
			15,960
3.	Arrears in respect of Mumbai property		
	Arrears of rent received	60,000	
	Less: Deduction @ 30%	<u>18,000</u>	<u>42,000</u>
	Income chargeable under the head "Income from house property"		<u>57,960</u>

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

- (b) (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. Priyanshi Jain is required to file a service tax return.
- (b) The said statement is not tenable in law. An assessee can submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of 90 days from the date of submission of the original return. Hence "Once filed, service tax return can be revised further."
- (c) It is said that VAT is a logical beauty. Under VAT, credit of duty paid is allowed against the liability on the final product manufactured or sold. Therefore, unless proper records are kept in respect of various inputs, it is not possible to claim credit. Hence, suppression of purchases or production will be difficult because it will lead to loss of revenue. A perfect system of VAT will be a perfect chain where tax evasion is difficult.

Further, the greatest advantage of the system is that it does not interfere in the choice of decision for purchases. This is because the system has anti-cascading effect. How much value is added and at what stage it is added in the system of production/distribution is of no consequence. The system is neutral with regard to choice of production technique, as well as business organisation. All other things remaining the same, the issue of tax liability does not vary the decision about the source of purchase. VAT facilitates precise identification and rebate of the tax on - purchases and thus ensures that there is no cascading effect of tax. In short, the

allocation of resources is left to be decided by the free play of market forces and competition. Hence, it can be concluded that VAT helps in checking tax evasion and in achieving neutrality.

4. (a) (i) **True** : As per section 40A(3A), 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 ₹ 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.
- (ii) **True** : Section 36(1)(xv) allows a deduction of the amount of securities transaction tax paid by the assessee in respect of taxable securities 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.
- (iii) **True** : According to the Explanation 5 to section 32(1), allowance of depreciation is mandatory. Therefore, depreciation has to be provided mandatorily while calculating income from business / profession whether or not the assessee has claimed the same while computing his total income.
- (iv) **False** : Additional depreciation can be claimed only in respect of eligible plant and machinery acquired and installed by an assessee engaged in the business of manufacture or production of any article or thing. In this case, the assessee is engaged in trading activities and the new plant has been acquired and installed in a trading concern. Hence, the assessee will not be entitled to claim additional depreciation under section 32(1)(iia).
- (v) **True** : Section 36(1)(ib) provides deduction in respect of premium paid by an employer to keep in force an insurance on the health of his employees under a scheme framed in this behalf by GIC or any other insurer. The medical insurance premium can be paid by any mode other than cash, to be eligible for deduction under section 36(1)(ib).
- (vi) **False** : Expenditure incurred in making payment to the employee in connection with his voluntary retirement either in the year of retirement or in any subsequent year, will be entitled to deduction in 5 equal annual installments beginning from the year in which payment there of is made to the employee.
- (b) The advice given by Honey Limited to sub-contractor Moon Ltd. is not tenable in law.

A sub-contractor is also a taxable service provider. The services provided by sub-contractor which are used by main contractor does not in any way alter the fact of provision of taxable service by the sub-contractor.

Service tax paid by the contractor to sub-contractor will be eligible for input credit to the main contractor.

A given taxable service which is intended for use as an input service by another service provider would not alter the taxability of the service provided.

- (c) Invoices are crucial documents for administering VAT. In the absence of invoices VAT paid by the dealer earlier cannot be claimed as set off.

A VAT invoice:

- (i) helps in determining the input tax credit;
- (ii) prevents cascading effect of taxes;
- (iii) facilitates multi-point taxation on the value addition;
- (iv) promotes assurance of invoices;
- (v) assists in performing audit and investigation activities effectively;
- (vi) checks evasion of tax.

5. (a) **Computation of total income and tax liability of Mr. Yogesh for the A.Y.2012-13**

Particulars	₹	₹
Capital Gains:		
Sale price of the residential house	31,00,000	
Valuation as per Stamp Valuation authority (Value to be taken is the higher of actual sale price or valuation adopted for stamp duty purpose as per section 50C)	35,00,000	
Therefore, Consideration for the purpose of Capital Gains	35,00,000	
Less: Indexed Cost of Acquisition = $5,00,000 \times 785/244$	<u>16,08,607</u>	
	18,91,393	
Less: Exemption under section 54 ₹ 12,00,000		
Exemption under section 54EC ₹ 5,00,000	<u>17,00,000</u>	
Long-term Capital Gain		1,91,393
Income from other sources:		
Interest on bank deposits		<u>32,000</u>
Gross Total Income		2,23,393
Less: Deduction under Chapter VI-A		
Section 80C – Investment in PPF (restricted to ₹ 32,000) (See Note 1)		<u>32,000</u>
Total Income		1,91,393
Total Income (Rounded off)		1,91,390

Tax liability		
Tax@20% on ₹ 11,390, being (₹ 1,91,390– ₹ 1,80,000) (See Note 2)		2,278
Add: Education Cess @ 2%		46
Secondary and Higher Education Cess @ 1%		<u>23</u>
Total tax liability		<u>2,347</u>

Note:

- (1) Deduction under section 80C should be restricted to gross total income excluding long term capital gain.
 - (2) The basic exemption limit can be adjusted against long term capital gains, since the entire income comprises of only long term capital gains. The balance long term capital gains of ₹ 11,390 is taxable @ 20% plus education cess @ 2% and secondary and higher education cess @ 1%.
- (b)** Payment of tax in cases of new services [Rule 5 of Point of Taxation Rules 2011] - Where a service, not being a service covered by rule 6, is taxed for the first time, then, –
- (a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
 - (b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within the period referred to in rule 4A of the Service Tax Rules, 1994.
- The facts given in the question does not fall under any of the above two clauses. Hence service tax is payable on the same.
- (c)** VAT registration can be cancelled on:
- (i) discontinuance of business; or
 - (ii) disposal of business; or
 - (iii) transfer of business to new location; or
 - (iv) annual turnover falling below the specified limit.

6. (a) Computation of total income of Mr. Amit for the A.Y. 2012-13.

Particulars	₹
Income from retail trade – as per books (See Note 1 below)	75,000
Income from plying of vehicles – as per books (See Note 2 below)	<u>2,10,400</u>
	2,85,400
Less: Set off of brought forward depreciation relating to A.Y. 2011-12	<u>1,00,000</u>

Gross total income	1,85,400
Less: Deduction u/s.80C – Contribution to PPF and bank fixed deposit	<u>1,00,000</u>
Taxable income	<u>85,400</u>
Tax liability	Nil

Note :

- (1) **Income from retail trade:** Presumptive business income under section 44AD is ₹ 1,73,600 i.e. 8% of turnover of ₹ 21,70,000. However, the income computed as per books is ₹ 75,000 which is to be further reduced by the amount of unabsorbed depreciation. Since the income computed as per books is lower than the income deemed under section 44AD, the assessee can adopt the income as per books.

The requirement to maintain books of accounts under section 44AA and to get them audited under section 44AB in case the assessee claims the profit and gains of business to be lower than the presumptive income determined under section 44AD, would arise only if the total income exceeds the basic exemption limit. In this case, since the total income does not exceeds the basic exemption limit, this mandatory requirement does not arise.

The total unabsorbed depreciation is ₹ 1,00,000. Out of this, ₹ 75,000 can be set-off against income from retail trade. The balance of ₹ 25,000 remains to be set-off from income from plying of vehicles.

- (2) **Income from plying of vehicles :** Income calculated under section 44AE(1) would be ₹ 5,000 x 12 x 5 which is equal to ₹ 3,00,000. However, the income from plying of vehicles is ₹ 2,10,400 less ₹ 25,000, being the balance unabsorbed depreciation remaining to be set-off under section 32(2). Therefore, the taxable income from plying of vehicles is ₹ 1,85,400, which is lower than the presumptive income of ₹ 3,00,000 calculated as per section 44AE(1). Hence, the assessee can consider the taxable income i.e. ₹ 1,85,400, provided he maintains books of account as per section 44AA and gets his accounts audited and furnishes an audit report as required under section 44AB.

It is to be further noted that in both the above cases, had presumptive income provisions been opted, all deductions under sections 30 to 38, including depreciation would have been deemed to have been given full effect to and no further deduction under those sections would be allowable.

If the assessee opted for income to be assessed on presumptive basis, his total income would be as under:

Particulars	₹
Income from retail trade u/s 44AD [₹ 21,70,000 @ 8%]	1,73,600
Income from plying of vehicles u/s 44AE [₹ 5,000 x 12 x 5]	<u>3,00,000</u>
	4,73,600
Less: Set off of brought forward depreciation – not possible and it is deemed that it has been allowed and set off.	<u>Nil</u>
Gross total income	4,73,600
Less: Deduction u/s.80C - Contribution to PPF and bank fixed deposit	<u>1,00,000</u>
Taxable income	<u>3,73,600</u>
Tax thereon	19,360
Add: Education cess @ 2% and Secondary and higher education cess @ 1%	<u>581</u>
Total tax liability	<u>19,941</u>

Note: If the assessee has not maintained books of account as required under section 44AA for the business of plying of vehicles, then, he has to offer income only on presumptive basis given above.

- (b) **Notification No. 53/2010-S.T. dated 21.12.2010** has been issued to exempt the service of providing the right to use the packaged or canned software under 'information technology software services' from the whole of service tax on fulfillment of following conditions:-
- (i) the value of the packaged or canned software domestically produced/imported, for the purposes of excise duty or countervailing duty (if imported) has been determined on the basis of MRP valuation (i.e. under section 4A of the Central Excise Act, 1944) and
 - (ii) (a) In case of domestic production-the appropriate duties of excise on such value have been paid by the manufacturer, duplicator or the person holding the copyright to such software, as the case may be, in respect of software manufactured in India; or
 (b) In case of import-the appropriate duties of customs including the additional duty of customs on such value, have been paid by the importer in respect of software which has been imported into India.
 - (iii) a declaration made by the service provider on the invoice relating to such service that no amount in excess of the retail sale price declared on the said goods has been recovered from the customer.

(c) The said statement is not valid in law as the following records should be maintained under VAT system:

- (i) Purchase records
- (ii) sales records
- (iii) VAT account
- (iv) separate record of any exempt sale

Further, the following records should also be kept and produced to an officer:

- (i) copies of all invoices issued, in serial number;
- (ii) copies of all credit and debit notes issued, in chronological order;
- (iii) all purchase invoices, copies of customs entries, receipts for payment of customs duty or tax, and credit and debit notes received to be filed chronologically either by date of receipt or under each supplier's name;
- (iv) details of the amount of tax charged on each sale or purchase;
- (v) total of the output tax and the input tax in each period and a net total of the tax payable or the excess carried forward, as the case may be, at the end of each month;
- (vi) details of goods manufactured and delivered from the factory of the taxable person;
- (vii) details of each supply of goods from the business premises, unless such details are available at the time of supply in invoices issued at, or before, that time;

Failure to keep these records may attract penalty. All such records should be preserved for the period specified in respective State provisions.

7. (a) (i) Since the total income of ₹ 3,20,000 exceeds the basic exemption limit of ₹ 1,80,000, the mandatory requirement of filing return under section 139(4C) will apply.

The accounts of the charitable trust running an educational institution with an aggregate annual receipt of less than ₹ 100 lacs is eligible for exemption under section 10(23C)(iiiad) and therefore, the accounts of such trust need not be audited under section 44AB.

Therefore, the due date of filing of return of income of the public charitable trust running an educational institution eligible for exemption under section 10(23C)(iiiad) is 31st July 2012.

- (ii) A registered trade union is having income from property, which is exempt under section 10(24).

Section 139(4C) mandates filing of return only when the total income exceeds the maximum amount which is not chargeable to tax without giving effect to the provisions of section 10. Even without giving effect to section 10(24), the total income is below basic exemption limit and therefore, there is no mandatory requirement to file the return of income.

- (iii) Since the total income of the public trust hospital, without giving effect to the exemption under section 10(23C)(via), is less than the basic exemption limit of ₹ 1,80,000, the trust need not file its return of income.
 - (iv) The fourth proviso to section 139(1) requires every person, whose total income without giving effect to the provisions of, *inter alia*, Chapter VIA exceeds the maximum amount not chargeable to tax, to compulsorily furnish the return of income for the relevant assessment year on or before the due date. The gross total income of Mr. Vimal before deduction under section 80C exceeds the basic exemption limit of ₹ 1,80,000 and therefore, Mr. Vimal has to furnish his return of income for the assessment year 2012-13. The due date for filling return of income is 31st July, 2012.
- (b) (1) As per *Circular No. 4/2008 dated 28th April, 2008* issued 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 paid or payable excluding the amount of service tax, i.e. tax has to be deducted under section 194-I on ₹ 12 lakh.
- (2) Tax is deductible @ 10% under section 194-I.
 - (3) Hence, in the given case, TDS under section 194-I would amount to ₹ 10,000, to be deducted every month.
 - (4) Tax deducted should be deposited within prescribed time i.e. on or before seven days from the end of the month in which the deduction is made and upto 30th April for the month of March.
- (c) Rule 7 of Point of Taxation Rules 2011, *inter alia* provides that in case of Individuals or proprietary firms or partnership firms providing any of the following taxable services:-
- (a) Architect's Services
 - (b) Interior Decorator's Services
 - (c) Practicing Chartered Accountant's Services
 - (d) Practicing Cost Accountant's Services
 - (e) Practicing Company Secretary's Services
 - (f) Scientific or Technical Consultancy Services
 - (g) Legal Consultancy Services

(h) Consulting Engineer's Services (inserted vide *Notification No. 41/2011 ST dated 27.06.2011*)

the date of receipt or payment of consideration would be the point of taxation

In the given case, amount of service tax liable to be paid by Mr. Y

$$= \frac{\text{Gross Amount} \times \text{Rate of tax}}{(100 + \text{Rate of tax})} = \frac{2,26,640 \times 10.30}{110.30} = 21,164$$

M/S Sharda & Co. is required to deposit service tax of ₹ 21,164 on or before 31.03.2012.

(d) The major deficiencies of VAT system in India are as under:

- (1) There is lack of uniformity in the rates of VAT in different States. Distortion occurs on account of different rates of VAT, composition Scheme, exemptions, difference in classification of goods, etc.
- (2) Central Sales Tax is not integrated with the State VAT. Therefore, it is difficult to put the purchases from other States at par with the purchases within the State. Consequently, the advantage of neutrality is confined only for purchases within the State.
- (3) For complying with the VAT provisions, the accounting cost has increased which may not be commensurate with the benefit to traders and small firms.
- (4) VAT is paid at various stages and not at last stage. This has increased the requirement of working capital and the interest burden on the same.
- (5) VAT, being a consumption tax, tends to be regressive since the proportion of income spent on consumption is large for the poor than the rich.
- (6) As a result of introduction of VAT, the administrative cost to the States has increased on account of number of dealers going up significantly.

Note: Any four points may be mentioned.

Test Series: March, 2012

MOCK TEST PAPER – 2

IPCC: GROUP – I

PAPER – 4 : TAXATION

Question 1 is compulsory.

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

Time Allowed – 3 Hours

Maximum Marks – 100

1. (a) Sita and Geeta are sisters, born and brought up at Delhi. Sita got married in 1981 and settled in Australia since 1981. Geeta got married and settled at Delhi. Both of them are below 60 years. The following are the details of their income for the previous year ended 31.3.2012:

S.No.	Particulars	Sita (₹)	Geeta (₹)
1.	Pension received from State Government	-	10,000
2.	Pension received from Australian Government	20,000	--
3.	Long-term capital gain on sale of land at Delhi	1,00,000	50,000
4.	Short-term capital gain on sale of shares of Indian listed companies in respect of which STT was paid	20,000	2,00,000
5.	LIC premium paid for own life	--	10,000
6.	Premium paid to Australian Life Insurance Corporation at Australia	10,000	--
7.	Mediclin insurance premium paid by cheque for her dependent mother	--	5,000
8.	Tax saving bond purchased in March, 2012	30,000	20,000
9.	Rent received in respect of house property at Delhi	60,000	30,000

You are required to compute the taxable income of Mrs. Sita and Mrs. Geeta for the Assessment Year 2012-13 and tax thereon. (10 Marks)

- (b) Mr. Abhi, a consulting engineer provides the following particulars in respect of various services rendered by him during the quarter ending December 2011:

S. No.	Particulars	₹
(i)	Professional advice to one of his friend	8,000
(ii)	Consultancy services in computer hardware engineering	20,000
(iii)	Technical assistance in computer software engineering	15,000

(iv)	Advice in relation to mechanical engineering	7,000
(v)	Professional advice to his friend free of charge	

₹5,000 has been paid by him at the time of service as cess payable under section 3 of the Research and Development Cess Act, 1986 in respect of the above-mentioned services. Compute the service tax payable by Mr. Abhi for the quarter ending December, 2011. Service tax has been charged separately by Mr. Abhi and is not included in any of the receipts mentioned above. Mr. Abhi is not entitled to the benefit of small service provider available under *Notification No. 6/2005 ST dated 01.03.2005*.

Will your answer be different if the above services are rendered by SA Ltd., a consulting engineering company? (5 Marks)

- (c) The particulars regarding sale, purchase etc. of Shiv Corporations for the fourth quarter of the year 2011 -12 are as under:

Particulars	₹
Purchases of raw material within the State (tax rate 12.5%)	60,00,000
Purchases of raw material within the State (VAT paid @ 4%, however, invoice does not show the amount of tax separately)	10,00,000
High seas purchases (import duty paid @ 10%)	25,00,000
Taxable sale within the State (tax rate 4%)	1,00,00,000
Exempted sale within the State (raw material worth ₹20,00,000 is used for producing such goods, VAT paid on such inputs @ 12.5%)	10,00,000
Sale in the course of Inter-State trade or commerce (tax rate 2%)	10,00,000

Compute the amount of Value Added Tax (VAT) payable by M/s Shiv Corporations for the relevant quarter. There is no opening and closing stock of goods. How can he utilize the balance of input tax credit available, if any? (5 Marks)

2. (a) Mr. Vivek is the General Manager of ABC Ltd, New Delhi. From the following particulars for the year ended 31.03.2012, compute the relief available to him under section 89 of the Income-tax Act, 1961, in terms of tax payable for assessment year 2012-13:

Particulars	₹
i. Salary income for the year	5,60,000
ii. Amount deposited in Public Provident Fund during the year	35,000
iii. Salary for Financial Year 2005-06 received during the year	40,000
iv. Assessed Income for the Financial Year 2005-06	1,40,000

The rates of Income-tax for the assessment year 2006-07 are:

Particulars	Tax Rate (%)
On first ₹ 1,00,000	Nil
On ₹1,00,000 – ₹ 1,50,000	10
On ₹1,50,000 – ₹ 2,50,000	20
Above ₹ 2,50,000	30
Education cess	2

(8 Marks)

- (b) State briefly whether the services provided by a person having a place of business in the State of Jammu and Kashmir providing services in any other place in India are taxable under the Finance Act, 1994 as amended? (4 Marks)
- (c) Enumerate the tax rates under VAT. (4 Marks)
3. (a) Manoj owns a residential house in Jaipur whose municipal valuation is ₹ 2,40,000 p.a. The fair rent is ₹ 3,00,000 and the standard rent is ₹ 3,60,000. During the previous year 2011-12, 2/3rd portion of the house was self-occupied and 1/3rd portion was let out for residential purposes at a rent of ₹ 7,500 p.m. He paid municipal taxes @ 12.5% of municipal value during the year. He had paid interest of ₹ 1,20,000 for loan of ₹ 32,00,000 which was borrowed by him during the year 2006 for acquiring the property. Compute the income from house property chargeable in the hands of Manoj for the A.Y. 2012-13. (8 Marks)
- (b) C.J. Professionals, a partnership firm, gives the following particulars relating to the services provided to various clients by them for the half-year ended as on 30.09.11:
- Total bills raised for ₹ 7,65,000 out of which bill for ₹ 65,000 was raised on an approved International Organisation and payments of bills for ₹ 1,00,000 were not received till 30.09.11.
 - Amount of ₹ 1,50,000 was received as an advance from XYZ Ltd. on 25.09.11 to whom the services were to be provided in October, 11.
- You are required to work out the:
- taxable value of services
 - amount of service tax payable.
- Note: The aforesaid amounts are exclusive of service tax. (4 Marks)
- (c) Discuss exercising of option for composition scheme under VAT. (4 Marks)
4. (a) M/s Sanjivani & Co., a sole proprietary concern engaged in the manufacturing of pharmaceutical products, commenced its business on 1.4.2011. The following expenses were incurred in respect of activities connected with scientific research:

Year ended	Item	Amount (₹)
31.03.2009	Land	7,50,000
(Incurred after 1.4.2008)	Building	22,80,000
31.03.2010	Plant and machinery	5,00,000
31.03.2010	Raw materials	2,50,000
31.03.2011	Raw materials	1,90,000
31.03.2012	Raw materials and salaries	1,80,000

Since the result of the research was unsuccessful, the company sold its plant and machinery on 1.03.2012 for ₹ 8,00,000.

You are required to discuss the implications of the above for the assessment year 2012-13 along with brief computation of admissible deduction under section 35 assuming that necessary conditions have been fulfilled. (8 Marks)

- (b) Does a service provider have an option to pay service tax at a rate different from the general rate applicable on gross value of taxable services, in the case of purchase or sale of foreign currency? (4 Marks)
- (c) Consumption variant is convenient from the point of administrative expediency. Is the proposition true? If yes, briefly explain any other benefits that consumption variant might accrue. (4 Marks)
5. (a) Compute the taxable capital gain of Mr. Pankaj from the following data furnished by him for the previous year ending 31.3.2012.
- (a) Unlisted Equity Shares of XYZ Ltd., 20,000 in number were sold on 28.7.2011, at ₹ 175 for each share.
- (b) The above shares of 20,000 were acquired by Pankaj in the following manner:
- (i) Received as gift from his father on 5.4.1979 (10,000 shares) the market price on 1.4.81 ₹ 25 per share.
- (ii) Bonus shares received from XYZ Ltd. on 17.3.1986 (5,000 shares).
- (iii) Purchased on 31.12.1993 at the price of ₹ 75 per share (5,000 shares).
- (c) Purchased one residential house at ₹ 25 lakhs, on 5.6.2012 from the sale proceeds of shares.
- (d) Pankaj is already owning a residential house, even before the purchase of above house.
- (Cost Inflation Index – F.Y. 1993-94: 244; F.Y. 2011-2012 : 785) (8 Marks)

- (b) Lucky Associates Private Limited provided scientific and technical consultancy services of the value of ₹100 lakh in the financial year 2010-11 and of ₹ 50 lakh in financial year 2009-10. For the month of April, 2011, their value of taxable services is ₹ 2,00,000. What is the due date for payment of service tax? (4 Marks)
- (c) Compute the total value of purchases eligible for input tax credit from the following particulars:-

Particulars	₹
Inputs purchased from a registered dealer who opts for composition scheme under the provisions of the VAT Act	25,000
Inputs purchased for being used in the execution of a works contract	1,00,000
Raw material purchased from unregistered dealers	60,000
High seas purchases of inputs	1,50,000
Goods purchased for sale to other parts of India in the course of inter-State trade or commerce	50,000

(4 Marks)

6. (a) Smt. Jaya started a proprietary business as on 1.4.2010 with her capital of ₹ 2,50,000. Her husband gifted ₹ 2,00,000 on 04.5.2010, which was invested by Smt. Jaya on the same date. Smt. Jaya earned following profits from her proprietary business :

₹

Financial year 2010-2011 2,00,000

Financial year 2011-2012 3,90,000.

You are required to compute the income, to be clubbed in the hands of Jaya's husband for the A.Y. 2012-2013 with reasons. (8 Marks)

- (b) An assessee who has collected service tax from a client is unable to perform the service. Briefly explain the situations in which and the conditions subject to which he can adjust the service tax relating to above, against his forthcoming service tax liability. (4 Marks)
- (c) Explain briefly, how a VAT system brings certainty and ensures transparency. (4 Marks)
7. (a) Examine the applicability of tax deduction at source in the following cases for the assessment year 2012-13 :
- (i) Interest amounting to ₹ 55,000 paid to Corporation Bank by XYZ Ltd.

- (ii) Paint limited paid a sum of ₹ 18,000 to Flyking parcel service and ₹ 15,00,000 to Indian Railways towards freight charges.
- (iii) A company operating a television channel makes payment of ₹ 2.5 lacs to a former cricketer for making running commentary of a one-day cricket match.
- (iv) A State Government pays ₹ 20,000 as commission to one of its agent on sale of lottery tickets. (8 Marks)
- (b) Durga Consultants Ltd. paid service tax of ₹9.6 lakh in cash in the financial year 2010-11. For the half year ended September 30, 2011, it did not file its return electronically. You are required to examine whether, in the instant case, Durga Consultants Ltd. is required to file its return electronically. (4 Marks)
- (c) Distinguish between compulsory registration and voluntary registration. (4 Marks)

MOCK TEST PAPER – 2

IPCC: GROUP – I

PAPER – 4 : TAXATION

SUGGESTED ANSWERS / HINTS

1. (a) Computation of taxable income of Mrs. Sita and Mrs. Geeta for the A.Y.2012-13

S. No.	Particulars	Mrs. Sita	Mrs. Geeta
		₹	₹
(I)	Salaries Pension received from State Government Pension received from Australian Government is not taxable in the case of a non-resident since it is earned and received outside India	Nil	10,000
		<u>Nil</u>	<u>10,000</u>
(II)	Income from house property Rent received from house property at Delhi (assumed to be the annual value in the absence of other information i.e. municipal value, fair rent and standard rent) Less: Deduction under section 24(a)@30%	60,000 <u>18,000</u> <u>42,000</u>	30,000 <u>9,000</u> <u>21,000</u>
(III)	Capital gains Long-term capital gain on sale of land at Delhi Short term capital gain on sale of shares of Indian listed companies in respect of which STT was paid	1,00,000 <u>20,000</u> <u>1,20,000</u>	50,000 <u>2,00,000</u> <u>2,50,000</u>
(A)	Gross Total Income [(I)+(II)+(III)] Less: Deductions under Chapter VIA	1,62,000	2,81,000
1.	Deduction under section 80C		
	1. LIC Premium paid	-	10,000
	2. Premium paid to Australian Life Insurance Corporation	10,000	
	3. Tax Saving Bond (assuming that they are notified infrastructure bonds)		

	eligible for deduction under section 80C)	<u>30,000</u>	<u>20,000</u>
		40,000	30,000
2.	Deduction under section 80D – Medici claim premium paid (assuming that the same is paid by cheque)	<u>Nil</u>	<u>5,000</u>
		40,000	35,000
(B)	Total deduction under Chapter VIA is restricted to income other than capital gains taxable under sections 111A & 112	<u>40,000</u>	<u>31,000</u>
(C)	Total income (A-B)	<u>1,22,000</u>	<u>2,50,000</u>
	Tax liability of Mrs. Sita for A.Y. 2012-13		
	Tax on long-term capital gains @ 20%	20,000	
	Tax on short-term capital gains @ 15%	<u>3,000</u>	
		23,000	
	Tax liability of Mrs. Geeta for A.Y.2012-13		
	Tax on short-term capital gains @ 15% of ₹60,000 [i.e. ₹ 2,00,000 less ₹ 1,40,000, being the unexhausted basic exemption limit as per proviso to section 111A]		9,000
	Education cess @ 2% & SHEC@ 1%	<u>690</u>	<u>270</u>
	Total tax payable	<u>23,690</u>	<u>9,270</u>

Note :

- (1) Long-term capital gains is chargeable to tax @ 20% as per section 112.
- (2) Short-term capital gains on transfer of equity shares in respect of which securities transaction tax is paid is subject to tax @ 15% as per section 111A.
- (3) In case of resident individuals, if the basic exemption limit is not fully exhausted against other income, then the long-term capital gains/short-term capital gains will be reduced by the unexhausted basic exemption limit and only the balance will be taxed at 20%/10% respectively. However, this benefit is not available to non-residents. Therefore, while Mrs. Geeta can set-off unexhausted basic exemption limit against long-term capital gains and short-term capital gains taxable under section 111A, Mrs. Sita cannot do so.
- (4) Since long-term capital gains is taxable at the rate of 20% and short-term capital gains is taxable at the rate of 15%, it is more beneficial for Mrs. Geeta to first exhaust her basic exemption limit of ₹ 1,90,000 against long-term

capital gains of ₹ 50,000 and the balance limit of ₹ 1,40,000 (i.e., ₹ 1,90,000 – ₹ 50,000) against short-term capital gains.

(b)

Particulars	₹
Professional advice to one of his friend	8,000
Consultancy services in computer hardware engineering	20,000
Technical assistance in computer software engineering	15,000
Advice in relation to mechanical engineering	<u>7,000</u>
Value of taxable services	<u>50,000</u>

Service tax @10%	5,000
Add: Education cess @ 2%	100
Add: Secondary and higher education cess @ 1%	<u>50</u>
Service tax liability	5,150
Less: Cess paid under section 3 of the Research and Development Cess Act, 1986	<u>5,000</u>
Service tax payable	<u>150</u>

Notes:

1. Advice to friend is taxable as service rendered to any person is taxable.
2. Consultancy and technical assistance in relation to both computer hardware and software engineering are taxable
3. Advice in relation to any branch of engineering is taxable
4. Services rendered free of charge are not liable to service tax
5. Service tax equivalent to amount of the cess payable under section 3 of the Research and Development Cess Act, 1986 is exempt **[Notification No.18/2002 ST dated 16.12.2002]**.
6. Since cess has been paid at the time of service. Hence condition to claim exemption for cess is satisfied. **[Notification No. 46/2011 ST dated 19.09.2011]**

Answer will not be different as consulting engineer *inter alia* means any body corporate as well.

(c) Computation of VAT payable for the quarter ending 31st March, 2012:-

Particulars	₹	₹
Output tax payable = ₹ 1,00,00,000 × 4%		4,00,000
Less: Input tax credit		
On raw material purchased @ 12.5%		
(₹ 60,00,000 × 12.5%)	7,50,000	
Less: Inputs used in the manufacture of exempted goods sold (₹ 20,00,000 × 12.5%) [Note – 1]	<u>2,50,000</u>	<u>5,00,000</u>
Net VAT payable		(1,00,000)
CST payable on inter state sale adjusted (₹ 10,00,000 × 2%)		20,000
Balance of input tax credit carried forward to next quarter (₹ 20,000-₹ 1,00,000)		80,000

Note:

1. If the goods manufactured from raw material are exempt from tax, no input tax credit is available on such raw material.
2. Import duty paid on high seas purchases is not eligible for input tax credit.
3. Purchases of raw material within the State on which VAT has been paid @ 4% are not eligible for input tax credit because invoice for the said purchases does not show the amount of tax separately.

2. (a) Computation of Relief under section 89 for the Assessment Year 2012-13

Particulars	₹	₹
Salary Income for the year excluding the arrears		5,60,000
Add: Arrears relating to Financial Year 2005-06		<u>40,000</u>
Gross Total Income		6,00,000
Less: Deduction under chapter VI-A		
Contribution to Public Provident Fund		<u>35,000</u>
Total Income		<u>5,65,000</u>
Assessment year 2012-13		
Tax on ₹ 5,65,000		
First ₹ 1,80,000	Nil	NIL
Next ₹ 3,20,000	10%	32,000
Balance ₹ <u>65,000</u>	20%	<u>13,000</u>
<u>5,65,000</u>		45,000
Add: Education cess @ 2%		900

Secondary and higher education cess @1%	450	
Tax on total income (including arrears) (A)	<u>46,350</u>	
Total Income excluding arrears		5,25,000
Tax on ₹ 5,25,000		
First ₹ 1,80,000 Nil	NIL	
Next ₹ 3,20,000 10%	32,000	
Balance ₹ <u>25,000</u> 20%	<u>5,000</u>	
<u>5,25,000</u>	<u>37,000</u>	
Add : Education cess @ 2%	740	
Secondary and higher education cess @ 1%	<u>370</u>	
Tax on total income (excluding arrears) (B)	<u>38,110</u>	
Difference between A & B I		8,240
Assessment Year 2006-07		
Total Income assessed		1,40,000
Add: Arrears relating to Financial year 2005-06		<u>40,000</u>
Total income (including arrears)		1,80,000
Tax on ₹ 1,80,000	11,000	
Add: Education Cess @ 2%	<u>220</u>	
Tax on total income (including arrears) (C)	<u>11,220</u>	
Total Income excluding arrears		1,40,000
Tax on ₹ 1,40,000	4,000	
Add: Education Cess @ 2%	<u>80</u>	
Tax on total income (excluding arrears) (D)	<u>4,080</u>	
Difference between C & D II		7,140
Relief under section 89 (I – II)		1,100
Tax payable for A.Y. 2012-13 (₹ 46,350 – ₹ 1,100)		45,250

- (b) As per section 64(1) of the Finance Act, 1994 as amended, service tax provisions do not extend to the State of Jammu and Kashmir. Therefore, service tax will not be payable if service is provided in Jammu & Kashmir. However, since service tax is a destination based consumption tax, if a person from Jammu & Kashmir provides the taxable service outside Jammu & Kashmir in any other part of India, the service will be liable to service tax, as the location where service is provided is relevant. Hence, the services provided by a person having a place of business in the State of Jammu and Kashmir providing services in any other place in India are taxable under the Finance Act, 1994 as amended.

(c) **Tax rates under VAT:**

1. **Exempted category:-** There are about 50 commodities which are legally barred from taxation and items which have social implications.
 2. **4% VAT category:-** Under 4% VAT rate category, there are largest number of goods comprising of items of basic necessities, all agricultural and industrial inputs, capital goods and declared goods.
 3. **12.5% category:-**The remaining commodities, common for all the States, fall under the general VAT rate of 12.5%.
 4. **1% Category:-**The special rate of 1% is meant for precious stones, bullion, gold and silver ornaments etc.
 5. **Non-VAT goods:-** Petrol, diesel, ATF, other motor spirit, liquor and lottery tickets are kept outside VAT. The States may or may not bring these commodities under VAT laws.
3. (a) There are two units of the house. Unit I with 2/3rd area is used by Manoj for self-occupation throughout the year and no benefit is derived from that unit, hence it will be treated as self-occupied and its annual value will be nil. Unit 2 with 1/3rd area is let-out through out the previous year and its annual value has to be determined as per section 23(1).

Computation of Income from house property of Mr. Manoj for A.Y. 2012-13

Particulars	Amount in rupees	
Unit I (2/3rd area – self-occupied)		
Annual Value		Nil
Less: Deduction u/s 24(b) 2/3 rd of ₹ 1,20,000		80,000
Income from Unit I (self-occupied)		-80,000
Unit II (1/3rd area – let out)		
Computation of Gross Annual Value		
Step I – Compute Annual Value		
Annual Value = Higher of municipal value and fair rent, restricted to standard rent. However, in this case, standard rent of ₹ 1,20,000 (1/3 rd of ₹ 3,60,000) is more than the higher of municipal value of ₹ 80,000 (1/3 rd of ₹ 2,40,000) and fair rent of ₹ 1,00,000 (1/3 rd of ₹ 3,00,000). Hence the higher of municipal value and fair rent is the Annual Value. In this case, it is the fair rent.	1,00,000	

Step 2 – Compute actual rent received/ receivable ₹ 7,500 × 12 = ₹ 90,000	90,000	
Step3 –Gross Annual Value is the higher of Annual Value and actual rent received/receivable i.e. higher of ₹ 1,00,000 and ₹ 90,000	1,00,000	
Gross Annual Value (GAV)		1,00,000
Less: Municipal taxes paid by the owner during the previous year relating to let-out portion 1/3 rd of (12.5% of ₹ 2,40,000) = ₹ 30000/3 = ₹ 10,000		10,000
Net Annual Value (NAV) = (₹ 1,00,000 - ₹ 10,000)		90,000
Less: Deductions under section 24		
(a) 30% of NAV = 30% of ₹ 90,000	27,000	
(b) Interest paid on borrowed capital (relating to let out portion) 1/3 rd of ₹ 1,20,000	40,000	67,000
Income from Unit II (let-out)		23,000
Loss under the head “Income from house property” = -₹ 80,000 + ₹ 23,000		-57,000

- (b) Computation of taxable value of services provided by the C.J. Professionals for the half year ending on 30.09.2011:

Particulars	₹
Total bills raised(Note 1)	7,65,000
Less: Bill raised on an approved International Organisation (Note 2)	<u>65,000</u>
	7,00,000
Add: Advance received for the services to be provided in October '11 (Note 3)	<u>1,50,000</u>
Taxable value of services	<u>8,50,000</u>
Computation of service tax payable	
Taxable value of services	8,50,000
Service tax @ 10%	85,000
Add: Education cess @ 2%	1,700
Add: Secondary and higher education cess @ 1%	<u>850</u>
Total service tax payable	87,550

Notes:

- Point of taxation is date of issue of invoice or receipt of payment whichever is earlier [Rule 3 of Point of Taxation Rules, 2011]

2. Services provided to an International Organisation are exempt from the service tax *vide Notification No. 16/2002 ST dated 02.08.2002*.
 3. Any advance received for providing any taxable services forms part of the value of taxable service [Section 67 of the Finance Act, 1994]. Further in case of advance, point of taxation is the date of receipt of advance.[Rule 3 of Point of Taxation Rules, 2011].
- (c) It is generally optional for a dealer to opt for this composition scheme. A dealer who intends to avail such composition scheme shall exercise the option in writing for a year or a part of the year in which he gets himself registered. For this the dealer has to intimate to the Commissioner.

If a dealer avails this scheme, he need not maintain any statutory records as prescribed under the Act. Only the records for purchase, sales, inventory should be maintained. However, if a dealer does not avail the scheme, he has to maintain the prescribed statutory records as per the respective State VAT Acts.

The dealer should not have any stock of goods which were brought from outside the State on the day he exercises his option to pay tax by way of composition and shall not use any goods brought from outside the State after such date. The dealer should also not claim input tax credit on the inventory available on the date on which he opts for composition scheme.

4. (a) 1. As per section 35(2AB), where a **company** engaged in, inter alia, the business of biotechnology incurs any expenditure on scientific research during the current year, it is eligible for claiming weighted deduction of a sum equal to 200% of the eligible expenditure. However this weighted deduction is not available to any assessee other than company.

The eligible expenditure and quantum of deduction will be:

Any expenditure incurred during earlier 3 years immediately preceding the date of commencement of business on payment of salary or purchase of materials, or capital expenditure incurred other than expenditure on acquisition of land [actual expenditure qualifies for deduction under section 35(1)].

The deduction available under section 35 for scientific research will, therefore, be:

	Particulars	₹
(a)	Land	Nil
(b)	Building	22,80,000
(c)	Revenue expenses of last 3 years	4,40,000
(d)	Capital expenditure of last 3 years: Plant and machinery	5,00,000

(e) Current year revenue expenditure	1,80,000
Total deduction under section 35	34,00,000

2. Section 41(3) provides that where a capital asset used for scientific research is sold, without having been used for other purposes, the lower of sale proceeds or the total amount of deduction earlier allowed under section 35 will be considered as income from business of the previous year in which the sale took place.

Therefore, the income chargeable to tax under section 41(3) should be lower of the following:

- (1) Sale proceeds i.e. ₹ 8,00,000
- (2) Total amount of deduction earlier allowed under section 35 i.e. ₹ 5,00,000 will be deemed to be the income chargeable to tax under section 41(3).
3. The difference between sale proceeds and business income under section 41(3) will be treated as short-term capital gain.

₹

Sale proceeds of plant and machinery	8,00,000
Less: Business Income as per section 41(3)	<u>5,00,000</u>
Short-term capital gain	<u>3,00,000</u>

- (b) Yes, the person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing, provided by a foreign exchange broker, including an authorised dealer in foreign exchange or an authorized money changer, referred to in section 65(105)(zm) and section 65(105)(zzk) as amended has the option to pay an amount at the following rates instead of paying service tax @ 10%:-

S.No.	For an amount	Service tax shall be calculated at the rate of
1.	Upto ₹ 100,000	0.1 % of the gross amount of currency exchanged or ₹ 25 whichever is higher
2.	Exceeding ₹ 1,00,000 and upto ₹ 10,00,000	₹ 100 + 0.05 % of the gross amount of currency exchanged
3.	Exceeding ₹ 10,00,000	₹ 550 + 0.01 % of the gross amount of currency exchanged or ₹ 5,000 whichever is lower

However, the person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year

- (c) Yes, the given proposition is true. The consumption variant is convenient from the point of administrative expediency as it simplifies tax administration by obviating the need to distinguish between purchases of intermediate and capital goods on the one hand and consumption goods on the other hand.

Besides, it does not affect decisions regarding investment because the tax on capital goods is also set-off against the VAT liability. Hence, the system is tax neutral in respect of techniques of production (labour or capital-intensive).

In practice, therefore, most countries use the consumption variant.

5. (a) **Computation of taxable capital gain of Mr. Pankaj for A.Y. 2012-13**

Particulars	₹	₹
Sale consideration received on sale of 20,000 shares @ ₹ 175 each		35,00,000
Less: Indexed cost of acquisition		
(a) 10,000 shares received as gift from father on 5.4.1981		
Indexed cost $10000 \times ₹ 25 \times 785/100$	19,62,500	
(b) 5,000 bonus shares received from XYZ Ltd	Nil	
Bonus shares are acquired on 17.3.1986 (i.e after the year 1979-80 when the original shares were purchased). Hence, the cost is Nil.		
(c) 5000 shares purchased on 31.12.1993 @ ₹ 75 per share. The indexed cost is $5000 \times ₹ 75 \times 785/244$	<u>12,06,455</u>	<u>31,68,955</u>
Long term capital gain		3,31,045
Less : Exemption under section 54F (See Note below)		
₹ 3,31,045 x ₹ 25,00,000 / ₹ 35,00,000		<u>2,36,461</u>
Taxable long term capital gain		<u>94,584</u>

Note:

Exemption under section 54F can be availed by the assessee subject to fulfillment of the following conditions :

- The assessee should not own more than one residential house on the date of transfer of the long-term capital asset;
- The assessee should purchase a residential house within a period of 1 year before or 2 years after the date of transfer or construct a residential house

within a period of 3 years from the date of transfer of the long-term capital asset.

In this case, the assessee has fulfilled the two conditions mentioned above. Therefore, he is entitled to exemption under section 54F.

- (b) Service tax paid by Lucky Associates Private Limited in the financial year 2010-11 is ₹ 10,30,000 (10.30% of ₹ 1,00,00,000). Proviso to rule 6(2) of the Service Tax Rule, 1994 has been amended to provide that an assessee shall deposit the service tax electronically through internet banking if he has paid the total service tax of ₹ 10 lakh or more (including the amount of service tax paid by utilisation of CENVAT credit) in the preceding financial year. Therefore, Lucky Associates Private Limited is required to make the e-payment of service tax in the financial year 2011-12.

The due date for payment of service tax by a company is the 6th day of the month, if the duty is deposited electronically through internet banking immediately following the calendar month in which the payments are received, towards the value of taxable services. Hence, in the given case, Lucky Associates Private Limited is required to make the e-payment of the service tax by 6th May, 2011.

- (c) **Computation of purchases eligible for input tax credit:-**

Particulars	Rupees
Inputs purchased for being used in the execution of a works contract	1,00,000
Goods purchased for sale to other parts of India in the course of inter-State trade or commerce	<u>50,000</u>
Purchases eligible for input tax credit	<u>1,50,000</u>

Note: For the purpose of computation of value of purchases eligible for input tax credit, following have not been included:-

- (1) Inputs purchased from a registered dealer who opts for composition scheme under the provisions of the Act of worth ₹ 25,000.
 - (2) Raw material purchased from unregistered dealers of worth ₹ 60,000.
 - (3) The inputs imported from outside the territory of India commonly known as high seas purchases of worth ₹ 1,50,000.
6. (a) Section 64(1) 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 transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration. In this case Smt. Jaya received a gift of ₹ 2,00,000 from her husband which she invested in her business. The income to be clubbed in the hands of Smt. Jaya's husband for A.Y.2012-13 is computed as under :

Particulars	Smt.Jaya's Capital Contribution	Capital Contribution Out of gift from husband	Total
	₹	₹	₹
Capital as at 1.4.2010	2,50,000	--	2,50,000
Investment on 04.05.2010 out of gift received from her husband		2,00,000	2,00,000
	2,50,000	2,00,000	4,50,000
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. on 1.4.2010	2,00,000		2,00,000
Capital employed as at 1.4.2011	4,50,000	2,00,000	6,50,000
Profit for F.Y.2011-12 to be apportioned on the basis of capital employed as at 1.4.2011 (i.e. 45 : 20)	2,70,000	1,20,000	3,90,000

Therefore, the income to be clubbed in the hands of Smt.Jaya's husband for A.Y.2012-13 is ₹ 1,20,000.

- (b) Where an assessee has issued an invoice, or received any payment, against a service to be provided which is not so provided by him either wholly or partially for any reason or where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract, the assessee may take the credit of such excess service tax paid by him, if the assessee:
- has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; or
 - has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued.
- (c) The VAT is a system based simply on transactions. Thus there is no need to go through complicated definitions like sales, sales price, turnover of purchases and turnover of sales. The tax is also broad-based and applicable to all sales in business leaving little room for different interpretations. Thus, this system brings certainty to a great extent.

Also, under a VAT system, the buyer knows, out of the total consideration paid for purchase of material, what is tax component. Thus, the system ensures

transparency also. This transparency enables the State Governments to know as to what is the exact amount of tax coming at each stage. Thus, it is a great aid to the Government while taking decisions with regard to rate of tax etc.

7. (a) (i) The liability to deduct tax at source under section 194A is not attracted in respect of interest paid to a banking company. Therefore, XYZ Ltd. is not liable to deduct tax at source on interest payment to the corporation bank.
- (ii) Freight Payment to Flyking not subject to TDS as the value of contract does not exceed ₹ 30,000. Again, payment to Railways is exempt from TDS;
- (iii) Provisions for deduction of tax at source under section 194J are attracted in respect of payment of fees for professional services, if the amount of such fees exceeds ₹ 30,000 in the relevant financial year. The service rendered by a commentator in relation to sports activities has been notified by the CBDT as professional service for the purpose of section 194J vide its *Notification No. 88 dated 21st August, 2008*. Therefore, tax is required to be deducted@10% from the fee of ₹ 2.5 lacs payable to the former cricketer.
- (iv) Under section 194G, the person responsible for paying to any person stocking, distributing, purchasing or selling lottery tickets shall at the time of credit of the commission or payment thereof, whichever is earlier, amounting to more than ₹ 1,000, deduct income-tax at 10%.

Therefore, the State Government shall deduct tax on payment of commission made to the agent on sale of lottery tickets.

- (b) Yes, in the instant case, Durga Consultants Ltd. is required to file its return electronically. Service Tax Rules, 1994 have been amended to provide that with effect from 01.10.2011, every assessee will have to submit half-yearly service tax return electronically, irrespective of the amount of service tax paid by him in the preceding financial year. Hence, now all assesses are required to file service tax returns electronically. Therefore, for the half year ended September 30, 2011, Durga Consultants Ltd. shall file its return electronically.

- (c) Difference between compulsory registration and voluntary registration:-

Compulsory registration: If an assessee fails to obtain registration under the VAT Act, he may be registered compulsorily by the Commissioner. The Commissioner may assess the tax due from such person on the basis of evidence available with him. In this event the assessee shall have to forthwith pay such amount of tax. Further, failure to get registered shall result in attracting default penalty and forfeiture of eligibility to set off all input tax credit related to the period prior to the compulsory registration.

Voluntary registration: A dealer otherwise not eligible for registration may also obtain registration if the Commissioner is satisfied that the business of the applicant requires registration. The Commissioner may also impose any terms or conditions that he thinks fit.