SOLUTIONS TO INCOME TAX PAPER CA-IPCC (NOVEMBER 2014)

Note : The solutions given hereunder may vary from the solutions of ICAI due to difference in assumptions

CA SANDEEP SAHRAWAT (TAX PAL)

"Best faculty for TAXATION"

Q1

Part (a)

Computation of total income of Mr. Devansh for A.Y. 2014-15

Details	***Rs.***	***Rs.***	***Rs.***
1. Income from HOUSE PROPERTY :			
GAV of let out portion (i.e. 50%)	(3,30,000 × 50%)	1,65,000	
Less: Municipal Taxes (i.e. 50%)	(36,000 × 50%)	18,000	
NAV		1,47,000	
Less : Standard deduction (i.e. 30% of NAV)		44,100	
Income from House Property		**1,02,900**	**1,02,900**
2. Income from BUSINESS :			
Net profit		1,32,200	
Add: disallowed items :			
(i) Fire insurance *(i.e. relating to LO and SO portion)*	(10,000 × 75%)	+ 7,500	
(ii) Income tax/wealth tax		+ 27,000	
(iii) Personal expenses (household expenses)		+ 42,500	
(iii) Municipal taxes *(i.e. relating to LO and SO portion)*	(36,000 × 75%)	+27,000	
Total		*2,36,000*	
Less : Incomes taxable under other heads /deduction not claimed but allowed:			
(i) Weighted deduction for donations *(i.e. additional 75%)*	(1,00,000 × 75%)	-75,000	
(ii) Cash gifts to taxable under Other Source head		-1,20,000	
(iii) Interest on debentures taxable under I.O.S. head		-3,600	
Income from under the head PGBP		***37,600***	***37,600***

3. Income under the head CAPITAL GAINS : Sale of bonus shares :			
FVC		2,20,000	
Less : COA		Nil	
Long Term Capital Gain (holding period > 12 months)		2,20,000	***2,20,000***
4. Income from OTHER SOURCES :			
Cash Gifts (*Exempt, as they are received on marriage*)		-	
Gross interest on debentures	$\frac{3,600}{90} \times 100 = 4,000$	4,000	
Purchase of immovable property at a price less than S.V.	(*i.e.* 2,80,000-1,05,000)	1,75,000	
Interest on post office saving bank (*Exempt, upto Rs. 3,500 for a single account*)		-	
Income from other sources		1,79,000	***1,79,000***
Gross Total Income			***5,39,500***
Less : Deductions of Chapter VI-A :			
(i) Section 80C : Life insurance premium (allowed upto 15% of sum assured in case of disabled)	(3,00,000 × 15%)		45,000
Total Income			***4,94,500***

Computation of tax on total income

Total Income		***4,94,500***
(i) Tax on LTCG	(2,20,000 × 20%)	44,000
(ii)Tax on balance income of Rs. 2,74,500	(2,74,500 @ slabs)	7,450
		51,450
Less : Rebate under section 87A		**2,000**
		49,450
Add : EC + SHEC		**1,483.50**
Total Tax		**50,933.50**
Less : TDS deducted on debentures		**400**
Balance Tax Payable (rounded off)		**50,530**

Part (b)

Computation of service tax liability of Mr. Saksham

(i) Under normal scheme	***Rs.***	***Rs.***
Value of service *i.e.* Commission	*12,00,000*	
Service Tax @ 12%	*1,44,000*	
EC @ 2%	2,880	
SHEC@ 1%	1,440	
Total service tax liability under this scheme	1,48,320	**1,48,320**

(ii) Under composition scheme referred to in Rule 6	***Rs.***	***Rs.***
Composition value :		
(*a*) Domestic booking @ 0.6%	*45,00,000 × 0.6% = 27,000*	
(*b*) International booking @ 1.2%	*90,00,000 × 1.2% = 1,08,000*	
Total	1,35,000	
EC @ 2%	2,700	
SHEC@ 1%	1,350	
Total service tax liability under composition scheme	1,39,050	**1,39,050**

As the liability under composition scheme is lower, therefore he should opt for 'composition scheme'.

Part (c)

1. Computation of customs duty payable :

Particulars	***Total (Rs.)***	***Duty (Rs.)***
Assessable Value [A]	4,00,000	
Basic Customs Duty @ 10% of 'A' [B]	40,000	40,000
CVD under section 3(1) @ 16% of 'A' + 'B' [C]	70,400	70,400
E.C. + S.H.E.C @ 3% of 'B' + 'C' [D]	3,312	3,312
Special CVD under section 3(5) @ 4% of 'A' + 'B' + 'C' + 'D' [E]	20,548	20,548
Total duties payable		**1,34,260**

2. CENVAT Credit available (if he is manufacturer) :

Particulars	***CENVAT Credit allowed or not***	***Amount of CENVAT credit (Rs.)***
Basic Customs Duty	Not allowed	-
CVD under section 3(1)	Available	70,400
E.C. + S.H.E.C @ 3% of 'B' + 'C' [D]	Not allowed	-
Special CVD under section 3(5)	Available	20,548
Total CENVAT Credit available		**90,948**

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Part (a)

1. Residential status :

(*i*) Mrs. Geetha = Non-resident (*As she comes India for one month every year, whereas 'Basic Condition' for being 'resident' requires ♦ 182 days or more during the P.Y. or ♦ 60 days or more during P.Y. plus 365 days or more during 4 years immediately preceding the P.Y.*)

(*i*) Mrs. Leena = Resident (*As she always resides in India*)

2. Computation of total income of Mrs. Geetha and Mrs. Leena

Clause	Particulars	Mrs. Geetha (Rs.)	Mrs. Leena (Rs.)
(i)	Income from profession in Malaysia (set up in India) received there [*Since this income is NOT 'received in India; NOT 'accrued in India'; NOT deemed to have been received in India; NOT deemed to have been accrued in India, therefore, is NOT taxable in India]*	-	-
(ii)	Profit from business in Delhi, but managed directly from Malaysia [*Assumed that profits are directly received in India*]	40,000	-
(iii)	Rent from property in Malaysia deposited in a Bank at Malaysia, and later on remitted to India through approved banking channels [*Same basis as is given for (i) above*]	-	-
(iv)	Dividend from PQR Ltd, an Indian company [*Income deemed to have been accrued in India under section 9 but such income is exempt under section 10(34)*]	-	-
(v)	Dividend from a Malaysian company received in Malaysia ♦ Mrs. Geetha [*Same basis as is given for (i) above*] ♦ Mrs. Leena [*Taxable*]	 - 	 8,000
(vi)	Cash gift received from her friend on her birthday [*Taxable as the amount > Rs. 50,000*]	-	51,000
(vii)	Agricultural income from land in Maharashtra [*Income deemed to have been accrued in India under section 9 but such income is exempt under section 10(1)*]	-	-
(viii)	Past foreign untaxed income brought to India during the previous year [*Not taxable as does not relate to the P.Y.*]	-	-
(ix)	Fees for technical services rendered in India, but received in Malaysia [*Income accrued in India*]	25,000	-
(x)	Income from a business in Pune : ♦ Mrs. Geetha [*Income accrued in India, therefore fully taxable*] ♦ Mrs. Leena [*Income accrued in India, therefore fully taxable*]	 12,000 	 15,000
(xi)	Interest on debentures in an Indian company [*Income accrued in India, therefore fully taxable*]	18,500	14,000
(xii)	Short term capital gain on sale of shares of an Indian company [*Income accrued in India, therefore fully taxable*]	15,000	25,500
(xiii)	Interest on savings account with SBI [*Income accrued in India, therefore fully taxable*]	12,000	8,000
	Gross Total Income	**1,22,500**	**1,21,500**
Less : Deductions of Chapter VI-A :			
♦ *Section 80C :* Life insurance premium		-	30,000
♦ *Section 80TTA :* Interest on saving bank (Limit is Rs. 10,000)		10,000	8,000
	Taxable Income	**1,12,500**	**83,500**

Part (b)

Computation of service tax payable by ABC Pvt. Ltd.

Particulars	*Rs.*	*Rs.*
Total invoicing during January 2014		*18,00,000*
Less : Services falling in 'Negative List' (*i.e.* Betting)		(1,00,000)
Less : Services provided in Non-taxable Territory (*i.e.* in J & K)		(1,50,000)
Value for Taxable Services (inclusive of Service Tax)		**15,50,000**
Service Tax	$\frac{15,50,000}{112.36} \times 12$	1,65,539.34
E.C. + S.H.E.C.@ 3% of Service Tax		4,966.18
Total Service Tax liability (rounded off to nearest multiple of rupee one)		**1,70,506**

Part (c)

Determination of taxable turnover of Mr. Mani

Particulars	*Rs.*	*Rs.*
Interstate sales during F.Y. 2013-14		*45,00,000*
Less : Freight separately shown in invoice	*2,30,000—80,000 = 1,50,000*	(1,50,000)
Less : Goods returned within 6 months		(45,000)
Less : Goods rejected (*Note* : period of 6 months does not apply in case of rejected sale)		(30,000)
Turnover (inclusive of CST)		**42,75,000**
CST payable	$\frac{42,75,000}{102} \times 2$	**83,823.53**
Rounded off (nearest multiple of rupee one)		**83,823**

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Part (a) (i)

Computation of deduction allowable under section 36(1)(*vii*) for the A.Y. 2014-15

Particulars	*Rs. in lakhs*	*Rs. in lakhs*
Bad debts written off (for the first time) in the books of accounts (in respect of urban advances only) during P.Y. 2013-14		*210*
Less : Credit balance in the 'provision for bad and doubtful debts under section 36(1)(*viia*) as on 31.3.2014 :		
♦ Provision for bad and doubtful upto A.Y. 2013-14	100	
♦ Provision for bad and doubtful debts for current year [7.5% of 800 + 10% of 300]	90	190
Deduction allowable under section 36(1)(*vii*) for A.Y. 2014-15		**20**

Part (a) (ii)

Determination of taxable income of the Trust for A.Y. 2014-15

Particulars	***Rs.***	***Rs.***
Voluntary contributions for corpus of the trust [Exempt under section 11(1)(*d*)]		*Exempt*
Voluntary contributions without such direction		19,20,000
Income from trust property		8,16,000
Total income		**27,36,000**
Less : Exemptions		
(*i*) *Ad-hoc* exemption of 15% of Rs. 27,36,000	4,10,400	
(*ii*) Amount spent for charitable purpose during the year	8,50,000	
(*iii*) Donations given to public charitable trust	84,560	
(*iv*) Amount accumulated for construction of a charitable hospital [*within 5 years*]	14,00,000	
Total	27,44,960	
Total income or eligible exemptions, whichever is LOWER		27,36,000
Net income		**Nil**

Part (b)

Computation of CENVAT credit admissible to Mr. Shiven [It is assumed that he is not eligible for SSI-exemption]—

Name of item	Eligibility	Basis of eligibility	CENVAT credit (Rs)
Dumpers	Capital goods	As per Rule 2(a) of CCR, 2004, dumpers are 'capital goods'. CENVAT Credit on capital goods is allowed upto 50% of duty during the first year and balance in next year. Therefore, CENVAT Credit admissible = 50% of Rs.1,06,000	53,000
Electric transformer	Capital goods	As per Rule 2(a), goods falling in Chapter 85 of CETA, 1985 are 'capital goods'. Therefore, CENVAT Credit admissible = 50% of Rs.40,000	20,000
Refrigerator fitted in office	Not eligible	Specifically excluded from capital goods [Rule 2(a)].	Nil
Diesel for use in dumper	Not eligible	Specifically excluded from 'input' [Rule 2(k)].	Nil
Car used for transportation of employees	Not eligible	Rule 2(a) specifically excludes motor vehicles designed for carrying passengers from the definition of capital goods.	Nil
Truck falling in sub-heading 8704 used for transportation of material	Not eligible	Rule 2(a) specifically excludes motor vehicles falling under sub-heading 8704 from the definition of capital goods.	Nil
		Total CENVAT credit	**73,000**

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Part (a)

Computation of salary income of Mr. Anand for A.Y. 2014-15

Particulars	***Rs.***	***Rs.***
Basic Salary		7,20,000
Bonus		36,000
H.R.A. *Less* : Exempt under section 10(13A) [*see* Working Note -1]	1,35,000 18,000	 1,17,000
Employer's contribution towards R.P.F *Less* : 12% of salary (*i.e.* 7,20,000 × 12%)	1,10,000 86,400	 23,600
Gratuity *Less* : Exempt under section 10(10) [*see* Working Note -2]	20,51,640 10,00,000	 10,51,640
Uncommuted pension (*i.e.* regular pension) [8,000 + 2,000 + 2,000]		12,000
Commuted pension *Less* : Exempt under section 10(10A) *i.e.* $\frac{4{,}50{,}000}{75} \times 100 \times \frac{1}{3}$	4,50,000 2,00,000	 2,50,000
Gross Salary		**22,10,240**
Less : Professional tax paid by Mr. Anand [*i.e.* Deduction under section 16(*iii*)]		2,000
Net Salary		**22,08,240**

Working Notes :

1. Exemption of H.R.A. : Lower of the following will be exempt—

(a) Amount of H.R.A. received [*i.e.* 15,000 × 9] Rs. 1,35,000

(b) Rent paid *minus* 10% of salary [*i.e.* (10,000 × 9) — (7,20,000 × 10%)] Rs. 18,000

(c) 50% of salary [*i.e.* 7,20,000 × 50%] Rs. 3,60,000

Therefore, LOWER is Rs. 18,000

2. Exemption of Gratuity : Lower of the following will be exempt—

(a) Amount of gratuity received Rs. 20,51,640

(b) Maximum limit Rs. 10,00,000

(c) 15 days salary for every completed year of service *i.e.* $\frac{15}{26} \times 34 \times Rs. 80{,}000$ Rs. 15,69,231

Therefore, LOWER is Rs. 10,00,000.

Part (b)

1. Point of Taxation : Normal Case

Amount	***POT***
(*i*) For advance of Rs.1,00,000	05.04.2013

	Rule 3(*b*) of POT Rules 2011 : For advance payments POT will be the date of advance.
(*ii*) For Balance of Rs.1,50,000	10.04.2013 **Rule 3(*a*) of POT Rules 2011 :** POT will be EARLIER of the following dates— • Date of invoice *i.e.* 16.05.2013, or • Date of completion *i.e.* 10.04.2013 Thus, 10.04.2013 is POT.

2. Point of Taxation : If the above service becomes taxable for the first time on 1.6.2013

Amount	***POT/Taxability***
(*i*) For advance of Rs.1,00,000	No service tax will be payable. If a service is performed before charge of service tax for the first time, there can't be levy of service tax under section 66B. Rule 5 of POT Rules 2011 will not apply here in this case.
(*ii*) For balance of Rs.1,50,000	No service tax will be payable. Same reasoning as is given in above case.

Part (c)

Determination of VAT liability of Vivitha & Co.

Particulars	***Value (Rs. in lakhs)***	***VAT (Rs. in lakhs)***
Sale	40.00	4 (*i.e.* 40 × 10%)
Add : CST payable on inter-state sale	Nil	Nil
Total sum payable (*i.e.* VAT & CST) [A]		**4.00**
Opening balance of VAT credit		0.20
Add : VAT credit on purchases :		
(*i*) From same state from Registered dealer	26.00	1 *i.e.* $\frac{26}{104} \times 4$
(*ii*) From Composition dealer [VAT credit is NOT allowed on purchases made from Composition dealers]	5.20	Nil
(*iii*) Purchase from other state [VAT credit is NOT allowed on inter-state purchases]	10.20	Nil
Total VAT credit available for utilisation [B]		**1.20**
VAT payable [A—B]		**2.80**

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Part (a) (i)

Computation of depreciation to be claimed by Mr. Gopi and Gopi Pipes (P) Ltd. for A.Y. 2014-15

[5th Proviso to section 32(1)]

Asset	*Depreciation for the whole year (Rs.)*	*Depreciation to be allowed to Mr. Gopi (Rs.)*	*Depreciation to be allowed to Gopi Pipes (P) Ltd. (Rs.)*
Block-I : Plant & Machinery (Old)	12,00,000 @ 15% = 1,80,000	$\frac{1,80,000}{365} \times 91 = 44,877$	$\frac{1,80,000}{365} \times 274 = 1,35,123$
Block-I : Plant & machinery (New)	10,00,000 @ 7.5% = 75,000	Nil	75,000
Block-II : Building (Old)	25,00,000 @ 10% = 2,50,000	$\frac{2,50,000}{365} \times 91 = 62,329$	$\frac{2,50,000}{365} \times 274 = 1,87,671$
Total	**= 5,05,000**	**= 1,07,206**	**= 3,97,794**

Days put to use of assets is as under :

- No. of days in the hands of Mr. Gopi = 1.4.2013 to 30.6.2013 = 91 days
- No. of days in the hands of Gopi Pipes (P) Ltd. = 1.7.2013 to 30.4.2014 = 274 days

Part (a) (ii)

Section 35AD allows deduction of 100% or 150% of expenditure of capital nature incurred on businesses specified under this section. Four of these specified businesses are as under :

Nature of business	**Date of commencement**	**Deduction allowed under section 35AD**
1. Setting up and operating a cold chain facility	on or after 1.4.2009	150%
2. Setting up and operating a warehousing facility	on or after 1.4.2009	150%
3. Laying and operating a cross country pipeline	on or after 1.4.2009	100%
4. Building and operating a new hospital of at least 100 bed capacity anywhere in India.	on or after 1.4.2010	150%

This section grants deduction in respect of all capital nature expenditures except the expenditure on acquisition of land or goodwill or financial instruments. Further, as per section 73A, any loss of such specified business can be carried forward for infinite numbers of years.

Part (b) (i)

As per section 65B, definition of 'service' *inter-alia* excludes provision of services by employee to the employer :

- in the course of, or
- in relation to his employment.

Thus, if services provided by employee to his employer are **otherwise than** *in the course of or in relation to his employment,* such service will fall in the definition of 'service'.

Part (b) (ii)

Service liable to tax or not :

(1) Service provide on contract basis : Yes. Service provided on contract basis *i.e.* on principal to principal basis will NOT be treated as service provided by an employee to his employer. Thus, it will be liable to service tax.

(2) Service provide by casual workers receiving wages on daily basis : Yes. These are services provided by the worker in course of his employment.

Part (c)

Correctness of statements relating to CST Act :

(i) **Cost of freight separately charged :** Statement is correct. It shall be deducted from sale price.

(ii) **Subsidy given by Govt. :** Statement is incorrect. It shall NOT form part of sale price.

(iii) **Charity or Dharmada Charges :** Statement is incorrect. They shall form part of sale price.

(iv) **Free of cost material supplied by the customers :** Statement is incorrect. The material supplied by the customer is NOT included in sale price.

Q6

Part (a) (i)

Payment	Deduction allowed
(1) Subscription to Notified Infrastructure Bonds	**No deduction allowed** Deduction for Subscription to Notified Infrastructure Bonds was available under section 80CCF till A.Y. 2012-13. Hence no such deduction is allowed now.
(1) Life insurance premium of Rs. 70,000	**Deduction of Rs. 70,000 is allowed under section 80C.** In respect of policies taken during F.Y. 2010-11, the ceiling on insurance premium was 20% of sum assured.
(2) Employers contribution towards Notified Pension Scheme	**Deduction of Rs. 30,000 is allowed under section 80CCD(2).** *Deduction* : Amount of contribution made by employer (*i.e.* Rs. 40,000) or 10% of salary of employee (*i.e.* 3,00,000 × 10% = Rs.30,000), whichever is LOWER. This contribution will first be added to the salary of employee as 'profit in lieu of salary' and then deduction will be allowed under this section.

Part (a) (ii)

Amount to be clubbed in the hands of Mr. Mittal

Incomes of children	Rs.	Amount to be clubbed (Rs.)
First Minor Daughter :		
Total income	10,000	
Less : Exemption under section 10(16) for scholarship	(5,000)	
Less : Exemption under section 10(32)	(1,500)	3,500
Second Minor Daughter :		
Total income	8,500	
Less : Exemption under section 10(32)	(1,500)	7,000
Third Minor Daughter :		
Her income will not be clubbed in the hands of Mr. Mittal as she is suffering from disability.		Nil
Minor Son :		
Total income (including Rs. 20,000)	40,000	
Less : Exemption under section 10(32)	(1,500)	38,500
Total		**49,000**

Part (b)

Determination of person liable to pay service tax

Different situations	Taxability / Person liable to pay service tax
1. Services provided by Gupta Associates (firm) to Mr. Das (an architect)	**Exempt Service.** Entry No. 6 of Mega Exemption Notification No. 25/2012, provides exemption to those legal services which are provided by any individual advocates or advocates firm to : ♦ an advocate or partnership firm of advocates ♦ any person other than business entity ♦ a business entity with a turnover upto Rs. 10 lakh Hence no service tax thereon. **Note :** Turnover of Mr. Das is of no relevance.
2. Services provided by Gupta Associates (firm) to Surya Ltd.	**Taxable Service—Person liable to pay service tax will be Surya Ltd. under reverse charge mechanism.** The said Entry *i.e.* Entry No. 6, provides exemption to those legal services which are provided by any individual advocates or advocates firm to *a business entity with a turnover upto Rs. 10 lakh.* Since Surya Ltd. is not eligible for SSP exemption, it implies that its turnover might have exceeded Rs. 10 mark. Therefore, such service will not be exempt.

	As per Rule 2(1)(d) of STR, 1994, the person liable to pay service tax will be the recipient of such service *i.e.* Surya Ltd.
3. Services provided Mr. Dev (a Lawyer) to Mr. Das	Answer will be same as is given under situation 1 above
4. Services provided Mr. Dev (a Lawyer) to Surya Ltd.	Answer will be same as is given under situation 2 above

Part (c)

Levy of excise duty (*i.e.* Taxable Event) : As per section 3 of Central Excise Act, 1944, excise duty *is levied* at the time of manufacture or production of excisable goods in India.

Collection of duty : As per section 3 of Central Excise Act, 1944, excise duty *is collected* in such manner as may be prescribed. Thus, collection of duty has to be made according to the rules made in this behalf.

Rule 4 and 5 of Central Excise Rules, deals with the provisions relating to—

- Person liable to pay duty
- Relevant date for determining rate of duty and tariff valuation.

As per rule 5 of *said rules*, the rate of duty for levy of excise duty shall be the one which is prevailing on the date of removal of goods from the place of removal (*i.e.* factory, warehouse etc.)

In the given case, since the goods were *non-excisable at the time of manufacture thereof*, therefore, *levy* of excise duty is NOT fixed. Thus, no duty will be paid by Mittal Brothers in respect of these goods even if they are excisable at the time of their removal.

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Part (a) (i)

Applicability of TDS provisions :

Case	TDS provisions
(1) Payment of Rs. 27,000 to Jacques Kallis	TDS will be deducted under section 194E at the rate of 22.66%. Therefore, TDS amount = Rs.27,000 × 20.60% = Rs. 5,562
(2) Rent of Rs. 1,70,000 by a firm	NO TDS is to be made as the payment does NOT exceed the statutory limit of Rs. 1,80,000 provided by section 194-I.
(3) Winning from horse race Rs. 1,50,000	TDS will be deducted under section 194BB at the rate of 30%. Therefore, TDS amount = Rs.1,50,000 × 30% = Rs. 45,000
(4) Compensation of Rs. 2,00,000	NO TDS is to be made as the payment does NOT exceed the statutory limit of Rs. 2,00,000 provided by section 194-LA.

Part (a) (ii)

This statement is partially correct. Filing of ITR within due date is must for carry forward of losses under section 72 (*i.e.* losses of normal business), 73 (*i.e.* losses of speculative business), 74 (*i.e.* losses of capital gains head), 74A (*i.e.* losses of business of owning and maintaining race horses).

However, filing of ITR within due date is NOT necessary for carry forward of losses under section 71B (*i.e.* losses of house property head), 73A (*i.e.* losses of specified business of section 35AD) and 32(2) (*i.e.* unabsorbed depreciation).

Part (a) (iii)

Please refer page No. 243 of Taxation Book by CA SANDEEP SAHRAWAT

Part (b)

Calculation of interest payable by PQR Ltd. and Mr. Manik

Particulars	***PQR Ltd.***	***Mr. Manik***
Applicable interest rate as per section 75 of Finance Act, 1994	15% p.a. [*Since the turnover during the preceding F.Y. was not exceeding Rs.60,00,000.*]	18% p.a. [*Since the turnover during the preceding F.Y. was exceeding Rs.60,00,000.*]
Interest	$1{,}23{,}600 \times 15\% \times \frac{20}{365} = Rs.1{,}016$	$2{,}16{,}000 \times 18\% \times \frac{25}{365} = Rs.2{,}663$

Part (c)

Free samples are also liable to duty : For levy of excise duty, actual sale is not necessary. Even free samples and goods cleared as gift are also liable to duty.

Marketability means, capability of being bought and sold : As per Explanation to section 2(d) of Central Excise Act, 1944, if a product is capable of being bought and sold, that product will be deemed as marketable. Free samples are therefore, marketable.

View point :

(1) Free samples are also liable to duty.

(2) As per rule 4 of Central Excise Valuation Rules, 2000, valuation for free samples will be the price of like goods sold nearest to the time of removal of free samples. Thus, the MRP *i.e.* the transaction value of like goods *i.e.* Rs. 202 will be treated as 'value' for free samples.