Gurukripa's Guideline Answers to Nov 2015 Exam Questions
CA Inter (IPC) – Taxation

Question No.1 is compulsory **(4 × 5 = 20 Marks).**
Answer **any five** questions from the **remaining six** questions **(16 × 5 = 80 Marks).** [Internal Choice in **Q.No.7(a)**]
Working Notes should form part of the answer.
Wherever necessary, suitable assumptions should be made and stated clearly by way of a Note.

All questions pertaining to Income Tax relate to **Assessment Year 2016–2017**, unless stated otherwise in the Question.

Note: Numbers for Page References are given as under –

Book Title	Referred as
Padhuka's Students **Handbook** on Taxation	Handbook
Padhuka's Practical Guide to Taxation	Prac. Guide

Question 1(a): Income Tax – Computation of Total Income and Tax Payable **10 Marks**

Mrs. Ann provides the following information for the Financial Year ending 31–03–2016. Compute her Total Income and Tax Payable thereon for AY 2016–2017 as per Income Tax Act 1961.

Income / Receipts:

(1) **Salary from M/s Prominent Technologies, – ₹ 60,000 per month (joined from 1st March 2015).**
(2) **She is in receipt of HRA, ₹ 15,000 per month and also Educational Allowance of ₹ 1,500 per month for all the three of her children.**
(3) **She bought a truck on 01–08–2015 and has been letting it on hire. She does not maintain books of account for this business. But she declares for income–tax purpose, that she is earning Net Income of ₹ 11,000 per month from this business.**
(4) **She received ₹ 8,500 as Interest on Post Office Savings Bank Account.**
(5) **She received ₹ 25,000 as Interest from Company Deposits.**
(6) **Amounts withdrawn from National Savings Scheme (Principal ₹ 10,000 & Interest ₹ 25,000)**

Expenses / Payments:

(1) **Interest payable to Bank ₹ 1,000 per month on loan for the purchase of truck.**
(2) **Total Interest paid to Bank for Loan borrowed for investing in Company Deposits is ₹ 5,000.**
(3) **Rent Paid for Residence is ₹ 18,000 per month.**
(4) **Tuition Fees paid for the year 2015–2016 for her three children is ₹ 50,000, ₹ 30,000 and ₹ 20,000 respectively, to Educational Institutions situated in India.**
(5) **Medical Insurance Premium for her and for her husband is ₹ 30,000 (paid by cheque) and ₹ 25,000 (paid by cash) respectively.**
(6) **She has deposited during the year, in 5 year Post Office Recurring Deposit Scheme ₹ 20,000.**

Solution: **Refer Provisions in Chapter 1, 4, 6, 8, 11 & Illustrations in Chapter 14 of Handbook**

Assessee: Mrs. Ann **Previous Year: 2015–2016** **Assessment Year: 2016–2017**

Computation of Total Income and Tax Payable of Mrs. Ann

Particulars		₹	₹	₹
Salaries				
Basic Salary	(₹ 60,000 × 12)		7,20,000	
HRA	**(Note 1)**		36,000	
Children Education Allowance (Assumed ₹ 1,500 is for all 3 children)	(1,500 × 12)	18,000		
Less: Exempt u/s 10(14)	(₹ 100 p.m.× 12 months × 2 children)	(2,400)	15,600	**7,71,600**
Profits and Gains of Business or Profession				
Presumptive Income u/s 44AE = ₹ 11,000 p.m. × 8 Months	**(Note 2)**			**88,000**

	Particulars		₹	₹	₹
Income from Other Sources					
	Interest received from Company Deposits		25,000		
Less:	Deduction u/s 57 (Interest to Bank for Loan Borrowed)		(5,000)	20,000	
	Interest received from Post Office Savings Bank A/c		8,500		
Less:	Exempt u/s 10(15)		(3,500)	5,000	
	Withdrawal from NSS	(₹ 10,000 + ₹ 25,000)		35,000	**60,000**
	Gross Total Income				**9,19,600**
Less:	**Deductions under Chapter VI–A**				
	Deduction u/s 80C				
	Tuition Fees (Allowable for Maximum 2 Children)	(₹ 50,000 + ₹ 30,000)		80,000	
	80 D Mediclaim – (Maximum Amount Eligible: ₹ 25,000)	**(Note 5)**		25,000	
	80TTA – Interest on Savings Bank A/c (₹ 10,000 or ₹ 5,000 whichever is lower)			5,000	1,10,000
	Total Income				**8,09,600**
	Tax on above [₹ 25,000 + (₹ 8,09,600 – ₹ 5,00,000) × 20%]			86,920	
Add:	Education Cess @ 2%			1,738	
	Secondary and Higher Education Cess @ 1%			869	89,527
	Total Tax Payable (Rounded Off)				**89,530**

Working Notes:

1. **Computation of Taxable HRA –**

	Particulars	₹	₹
	Amount Received during the financial year towards HRA (15,000 × 12)		1,80,000
Less:	**Exemption u/s 10(13A)** is the **least of the following –**		
	(a) Actual amount of HRA received	1,80,000	
	(b) 40% of the Salary = 40% × 7,20,000	2,88,000	
	(c) Rent Paid **Less** 10% of Salary [(18,000 × 12) – 72,000]	1,44,000	(1,44,000)
	Taxable Amount of HRA		**36,000**

2. Since Assessee **has not maintained books of accounts u/s 44AA,** she has to compulsorily offer Income only under presumptive basis u/s 44AE, i.e. ₹ **7,500** for every month or part thereof, during which the Goods Carriage is owned by Assessee in the Previous Year. However, if a higher sum is declared by the Assessee as Income, such higher amount shall be considered.
3. Interest payable to Bank ₹ 1,000 per month on loan for the purchase of truck is not allowable as deduction.
4. Deposits in 5–Year Time Deposit in an account under **Post Office Time Deposit** Rules, 1981 is allowable as a Deduction u/s 80C. However, Deposits in 5–Year Recurring Deposit is not allowable.
5. Since Medical Insurance Premium is paid by Cash for her husband, it is not allowable u/s 80D.

Question 1(b): Service Tax – Lottery Ticket Agent – ST Liability **6 Marks**

Compute Service Tax Liability of Mr. Dominic, a Selling Agent of Lottery for the month of July 2015, using the following details.

(i) Lucky Star–a Jackpot organized for Kerala Government where Guaranteed Prize Payout is > 80%. The Aggregate Face Value of Lottery Tickets sold is ₹ 37,00,000.

(ii) Magic Winner – Another Jackpot organized for Kerala Government above Guaranteed Prize Payout is < 80%. The Aggregate Face Value of Lottery Tickets sold is ₹ 55,00,000.

(iii) Commission received from the sale of above Tickets, was 10% of Aggregate Face Value of Lottery Tickets sold.

Will there be any difference in the Service Tax Liability of Mr. Dominic, if he opts for special provision of Service Tax, as provided under Rule 6 of Service Tax Rules, 1994 instead of paying Service Tax at normal rates?

Solution: **Refer Page 25.27, Para 25.3.4 of Handbook**

Option 1: Normal Rates: ST at 14% on Commission = 14% ST on [10% × (37 Lakhs + 55 Lakhs)] = ₹ **1,28,800**

Option 2: Composition Scheme

Particulars	Computation	₹
(a) Luck–Star Jackpot (b) Magic Winner Jackpot	8,200 × 4 12,800 × 6	32,800 76,800
Total		**1,09,600**

Conclusion: Since the ST Liability is lower (₹ 1,09,600) under **Option 2**, Mr. Dominic may opt for the same by complying with the conditions u/r 6 of the ST Rules, 1994.

Note: Swachh Bharat Cess applicable only **w.e.f. 15.11.2015**. Hence, not considered in this case.

Question 1(c): CST – Taxable Turnover and Tax Liability **4 Marks**

The total CST Sales of X Ltd for the Financial Year 2015–2016 are ₹ 75 Lakhs. The Company provides the following additional information:

(i) Goods sold to Mr. A for ₹ 1,00,000 on 16–04–2015, were returned by him on 10–07–2015.

(ii) A buyer Mr. B, to whom goods worth ₹ 50,000 were despatched on 12–05–2015 rejected such goods. The said goods were received back on 15–11–2015.

(iii) Goods sold to Mr. C for ₹ 5,00,000 on 16–06–2015 were returned by him on 12–03–2016.

(iv) The Total Turnover of the year includes Dharmada ₹ 30,000.

(v) All the amounts mentioned are inclusive of tax.

Determine the amount of Taxable Turnover and Tax Liability of X Ltd under the CST Act, assuming all transactions were covered by valid C Forms and VAT Rate within the State is 5%.

Solution: **Refer Page 27.8, Point I of Handbook**

Computation of Taxable Turnover and CST Payable

Particulars	₹	Reason
1. Total CST Sales	75,00,000	
2. Less:		
(a) Goods sold to Mr. A on 16.04.2015, returned on 10.07.2015	(1,00,000)	Sales Returns within 6 months can be reduced from Sale Price u/s 2(h)
(b) Goods sold to Mr. B on 12.05.2015, returned on 15.11.2015	(50,000)	For goods **rejected**, time limit of 6 months is not applicable.
(c) Goods sold to Mr. C on 16.06.2015, returned on 12.03.2016	Nil	Returns after 6 months not deductible.
(d) Dharmada	Nil	Dharmada (Charity) forms part of Sale Price u/s 2(h), and hence not deductible
3. Total Taxable Turnover	**73,50,000**	
4. CST Payable at 2% = $[73,50,000 \times \frac{2}{102}]$	**1,44,117**	Since all transactions are covered by C Forms, the Tax Rate shall be 2% or Local VAT Rate (5%) whichever is lower.

Question 2(a): Income Tax – Residential Status of Individual & Scope of Total Income **8 Marks**

Mr. Soham, an Indian Citizen left India on 20–04–2013 for the first time to setup a Software Firm in Singapore. On 10–04–2015, he entered into an agreement with LK Limited, an Indian Company for the transfer of technical documents and designs to setup an automobile factory in Faridabad. He reached India along with his team to render the requisite services on 15–05–2015 and was able to complete his assignment on 20–08–2015. He left for Singapore on 21–08–2015. He charged ₹ 50 Lakhs for his Services from LK Limited.

Determine the Residential Status of Mr. Soham for the Assessment Year 2016–2017 and explain as to the taxability of the Fees charged from LK Limited as per the Income Tax Act, 1961.

Solution: **Refer Principles in Page 2.4, Para 2.1.1 and Page 2.15, Para 2.7.3 of Handbook**

1. **Residential Status:**
   (a) During the Previous Year 2015–2016, Mr. Soham has stayed in India for 99 days (i.e. 17+30+31+21 days). Therefore, he is a **Non–Resident.**
   (b) Since he is an Indian Citizen engaged in Profession outside India and visiting India during the relevant Previous Year, the condition as to stay of **60 days or more** during RPY **and 365 days or more** during **four** preceding PY **shall not apply**.

2. **Taxability of Fees for Technical Service in India: [Sec. 9(1)(vii)]**

Payer	Purpose of Payment	Is the Payment deemed to accrue or arise in India?	Taxability in the hands of Receiver
Resident	For carrying on Business or profession outside India or earning Income outside India	No	NR – Not Taxable [For NOR or NR – assumed first receipt not in India]
Resident	For any other purpose	Yes	All Assessees

Conclusion: Since the Fee for Technical Services was received by Mr.Soham for the services rendered in India, it is deemed to accrue or arise in India, and hence the entire receipt of ₹ 50 Lakhs is taxable in his hands.

Question 2(b): Service Tax – Sale of Advertisement Space –ST Liability **5 Marks**

D & Company is engaged in the sales of spaces for advertisements in different media. It furnishes the following information for the quarter ending 31st March 2016.

(i)	**Sale of Space for Advertisement in Zee TV**	**₹ 25,00,000**
(ii)	**Sale of Space for Advertisement in various Websites**	**₹ 12,00,000**
(iii)	**Sale of Space for Advertisement in DNA Newspaper**	**₹ 5,50,000**
(iv)	**Sale of Space for Advertisement in various Multiplexes**	**₹ 32,00,000**

D & Company also assist its Clients in the preparation of Advertisement for which it earned ₹ 8,50,000 during the said quarter.

Invoices were issued within 30 days of completion of service and the payment was received in the month of April 2016.

Compute the Service Tax Liability for the quarter ending 31st March assuming the above mentioned amounts are exclusive of Service Tax.

Solution: **Refer Principles in Page 23.11, Para 23.4.4 of Handbook**

Principle: Selling of Space or Time for Advertisements other than **Print Media** is taxable**.**

Computation of Taxable Value of Service and Service Tax Payable for the quarter ending 31st March 2016

	Particulars	₹	Reason
1.	Sale of Space for Advertisement in Zee TV	25,00,000	Refer Principles above
2.	Sale of Space for Advertisement in Various Websites	12,00,000	Refer Principles above
3.	Sale of Space for Advertisement in Newspapers	Nil	Sale of Space for advertisement in **Print Media** is exempt u/s 66D(g)
4.	Sale of Space for Advertisement in various Multiplexes	32,00,000	Refer Principles above
5.	Charges for Design / Preparation of Advertisement	8,50,000	Designing of Advertisement is not covered u/s 66D(g) and hence taxable.
6.	Total Taxable Value of Services	77,50,000	
7.	Service Tax @ 14% on (6)	**10,85,000**	
8.	Swachh Bharat Cess at 0.5% on (6) [w.e.f.15/11/2015]	38,750	
9.	Total Service Tax Payable	**11,23,750**	

Note:

1. It is assumed that Small Service Provider Exemption under Notification 33/2012 ST dated 20.6.2012, is not available, since Turnover data regarding the preceding Financial Year is not given.
2. It is assumed that all Invoices for the above services have been raised during the Quarter ended 31st March 2016.

Question 2(c): VAT – Input Tax Credit at Net VAT Payable **3 Marks**

Mr. Mahesh of Kolkata purchased goods from Mr. Suresh of Assam amounting to ₹ 8,55,000 including VAT @ 12.50% in the month of January 2016. He incurred ₹ 2,50,000 as Manufacturing & Other Expenses and added @ 25% Profit on Cost.

Mr. Mahesh sold 80% of the goods to Mr. Nayan of Kolkata and charged VAT @ 12.50% on 02–02–2016. Remaining 20% of the goods were transferred to his Branch in Manipur on 05–02–2016.

Compute the Net VAT Payable and Input Tax Credit, If any for the month of February 2016.

Solution: **Refer Principles in Chapter 27B of Handbook and Illustrations**

Assessee: Mr. Mahesh **Place: Kolkata (West Bengal)** **Month: February 2016**

1. Computation of Eligible Input Tax Credit

	Particulars	₹	Reason / Computation
(a)	ITC on Purchase used for Taxable Sales	76,000	₹ 8,55,000 × $\frac{12.5}{112.5}$ × 80%
(b)	ITC on Purchase used for Branch Transfer, in excess of 2%	15,960	₹ 8,55,000 × $\frac{12.5}{112.5}$ × 20% × $\frac{10.5}{12.5}$
(c)	Total ITC Eligible	91,960	

2. Computation of Sale Price, Output VAT Due, and VAT Payable

	Particulars	₹	Reason / Computation
(a)	Total Purchases (including VAT)	8,55,000	
	Less: VAT on above to the extent of eligible ITC	(91,960)	**Refer WN 1 above**
	Net Purchases	7,63,040	
(b)	Manufacturing & Other Expenses	2,50,000	
(c)	Cost Price	10,13,040	
(d)	**Add:** Profit at 25% on Cost Price	2,53,260	
(e)	Sale Price	12,66,300	
(f)	Non Taxable Goods – Interstate Branch Transfer	2,53,260	₹ 12,66,300 × 20%
(g)	Taxable Sales – Sold to Mr. Nayan (Local Sales)	10,13,040	₹ 12,66,300 × 80%
(h)	Output VAT Due @ 12.5% on (g)	1,26,630	₹ 10,13,040 × 12.5%
(i)	Net VAT Payable after setting off ITC	**₹ 34,670**	₹1,26,630 – ₹ 91,960

Question 3(a): Income Tax – Capital Gains **8 Marks**

Mr. Martin sold his Residential House Property on 08–06–2015 for ₹ 70 Lakhs which was purchased by him for ₹ 20 Lakhs on 05–05–2005. He paid ₹ 1 Lakh as Brokerage for the sale of said property. The Stamp Duty Valuation assessed by the Sub–Registrar was ₹ 83 Lakhs.

He bought another House Property on 25–12–2015 for ₹ 15 Lakhs.

He deposited ₹ 10 Lakhs on 10–11–2015 in the Capital Gain Bond of National Highway Authority of India (NHAI).

He deposited another ₹ 10 Lakhs on 10–07–2016 in the Capital Gain Deposit Scheme with SBI, for construction of additional floor of House Property.

Compute Income under the head "Capital Gains" for AY 2016–2017 as per Income Tax Act 1961 and also Income Tax Payable on the assumption that he has no other income chargeable to tax.

Cost Inflation Index for Financial Year 2005–06 = 497 and 2015–2016 = 1081.

Solution: **Refer Principles in Chapter 7 of Handbook, along with various Illustrations**

Assessee: Mr. Martin **Previous Year: 2015–2016** **Asst. Year: 2016–2017**

Computation of Capital Gains, Total Income and Tax Payable

	Particulars	₹	₹
	Sale Consideration **(Note 1)**		83,00,000
Less:	Expenses on Transfer		(1,00,000)
	Net Consideration		82,00,000
Less:	Indexed Cost of Acqn = COA × $\frac{\text{CII for Year of Transfer}}{\text{CII for Year of Acquisition}}$ = ₹ 20,00,000 × $\frac{1081}{497}$		(43,50,100)
	Long Term Capital Gain		**38,49,900**
Less:	**Exemption u/s 54** –		
	Purchase of New House **(Note 2)**	(15,00,000)	
	Deposit in Capital Gain Account Scheme [Eligible, made before time limit u/s 139(1)]	(10,00,000)	(25,00,000)
Less:	**Exemption u/s 54EC** –		
	Investment in REC Bond [Eligible, made within 6 months from date of transfer]		(10,00,000)

	Particulars	₹	₹
	Gross Total Income (only LTCG, since there is no other Income)		**3,49,900**
Less:	Deduction under Chapter VI–A		NIL
	Total Income (Rounded off)		**3,49,900**
	Tax on Total Income = (3,49,900 – 2,50,000) × 20% **(Note 3)**	19,980	
Less:	**Rebate u/s 87A** **(Note 4)**	(2,000)	17,980
Add:	Education Cess @ 2%		360
	Secondary and Higher Education Cess @ 1%		180
	Net Tax Payable (Rounded Off)		**18,520**

Note:

1. As per Sec.50C, when Land or Building or both is transferred at less than the Stamp Duty Value, the value shall be determined by Stamp Duty Authority shall be deemed to be Fair Market Value.
2. Acquiring a New House and providing Deposit for Construction of Additional Floor on the same House is eligible for exemption u/s 54.
3. Since, Total Income excluding Long Term Capital Gain is less than the basic exemption, Tax on LTCG = 20% of (Total Income including LTCG – Basic Exemption).
4. When Total Income of Resident Individual does not exceed ₹5 Lakhs, **Rebate u/s 87A** = 100% of Tax Payable or ₹ 2,000 whichever is **less**.

Question 3(b): Excise Law – CENVAT Credit Reversal on sale of Machine — 4 Marks

Seethe Granites Ltd purchased a Machine for ₹ 20,00,000 on 01–09–2014. The Excise Duty Rate charged on the said Machine was 16% plus Education Cess 2% plus Secondary and Higher Education Cess 1%. It was sold on 30–09–2015 for ₹ 10,00,000, as second–hand machine at 12.5% Rate of Excise Duty.

Calculate the amount of CENVAT to be reversed at the time of disposal of the Machinery in the year 2015–2016 towards 100% CENVAT Credit utilized and exhausted by the month of April 2015.

Solution: **Similar to Page No.26.16, Illustration on CENVAT Credit Reversal.**

Note: The CENVAT Credit for FY 2015–2016 is assumed to be availed on 1st April 2015 and exhausted in April 2015.

1. Computation of Credit Available on Machinery

Particulars	₹
Basic @ 16% [20,00,000 × 16%]	3,20,000
Excise Duty @ 2%	6,400
SHEC @ 1%	3,200
Total of above	**3,29,600**
Maximum CENVAT Credit available in FY 2014 – 2015 (50%) in year of receipt)	1,64,800
Maximum CENVAT Credit available in FY 2015 – 2016 (50% in next year)	1,64,800

2. Computation of CENVAT to be reversed

Particulars	I Availment	II Availment
1. Date of Availment (assumed)	01.09.2014	01.04.2015
2. Date of Sale / Removal	30.09.2015	30.09.2015
3. No. of Quarters between Date of Availment and Date of Removal	I Year – 4 II Year – 1	I Year – 2
4. Total % to be deducted [2.5% x (3)]	12.5%	5%
5. Total Amount availed	1,64,800	1,64,800
6. **Less:** Deduction as per the CENVAT Credit Rules, 2004 {(4) × (5)]	(20,600)	(8,240)
7. **Net CENVAT to be reversed in FY 2015–2016**	**1,44,200**	**1,56,560**
8. Total CENVAT to be reversed in FY 2015–2016	**3,00,760**	
9. Duty Calculated on Transaction Values [₹ 10,00,000 × 12.5%]	**1,25,000**	
10. CENVAT to be reversed = **Higher** of (8) & (9)	**3,00,760**	

Question 3(c): Excise Law – Valuation and ED Payable **4 Marks**

Mr. Arnab Ghosh, a Manufacturer, furnished the following particulars: (amounts in ₹)

Price of Machine excluding Tax and Duties	**2,00,000**
Transit Insurance shown separately	**10,000**
Packing Charges	**10,000**
Extra Charges for designing the Machine	**25,000**
Outward Freight beyond the place of removal	**15,000**
Cash Discount allowed to Customer for full payment made in advance	**2%**
VAT	**5%**
Excise Duty	**12.5%**

Calculate the Excise Duty payable at 12.5% by Mr. Arnab Ghosh, stating the reason for inclusion or exclusion for duty.

Solution: **Refer Illustrations in Handbook on Valuation under Excise Law**

	Particulars	**₹**	**Reason / Computation**
1.	Price of Machinery excl. Duties and Taxes	2,00,000	
2.	Add:		
	(a) Transit Insurance shown separately	Nil	Assumed that Transit Insurance is for outward transit **beyond** the Place of Removal. Hence **not** includible in Transaction Value u/s 4.
	(b) Packing Charges	10,000	Packing Charges are includible u/s 4 since it is incurred in connection with sale. Assumed these are charged extra.
	(c) Extra Charges for Designing	25,000	Includible in Transaction Value, paid by Buyer.
	(d) Outward Freight	Nil	Outward Freight incurred **beyond** the Place of Removal not includible in Transaction Value u/s 4 .
3.	Less: Cash Discount at 2%	(4,000)	Assumed Cash Discount is allowed in accordance with the normal practice of trade and passed on to Buyer, and not be refundable on any account. (2% on 2,00,000)
4.	Transaction Value	**2,31,000**	
5.	ED at 12.5%	**28,875**	(2,31,000 × 12.5%)

Note:

1. It is assumed that Basic Sale Price does not include the other items given in the question.
2. Transaction Value u/s 4 excludes VAT, hence the same is not considered.

Question 4(a): Income Tax – Gross Total Income, Losses set–off, etc. **8 Marks**

Mr. Venus provides the following details for the previous year ending 31–03–2016

(i)	**Salary from HNL Ltd.**	**₹ 50,000 per month**
(ii)	**Interest on FD with SBI for the Financial Year 2015–2016**	**₹ 72,000 (Net of TDS)**
(iii)	**Determined Long Term Capital Loss of AY 2014–2015 (to be carried forward)**	**₹ 96,000**
(iv)	**Long Term Capital Gain**	**₹ 75,000**
(v)	**Loss of Minor Son ₹ 90,000 computed in accordance with the provisions of Income Tax Act. Mr. Venus transferred his own house to his Minor Son without adequate consideration few years back and Minor Son let it out and suffered loss.**	
(vi)	**Loss of his Wife's business**	**₹ (2,00,000)**

You are required to compute Taxable Income of Mr. Venus for the AY 2016–2017.

Solution: **Refer Principles in Chapter 10 of Handbook & Illustrations therein**

Assessee: Mr. Venus **Previous Year: 2015–2016** **Asst. Year: 2016–2017**

Computation of Total Income

Particulars		**₹**	**₹**
1. Salaries: Salary	(₹ 50,000 × 12)		6,00,000
2. Income from House Property: Net Income / (Loss)	**[W.N. 1 & 5]**		(90,000)
3. Profits & Gains of Business or Profession – Loss of his Wife's business	**[W.N. 2 & 3]**		(80,000)

Particulars	₹	₹
3. Capital Gain – Long–Term Capital Gain	75,000	
Less: Brought forward Long Term Capital Loss (Restricted to ₹ 75,000) **[W.N. 4]**	(75,000)	Nil
4. Income From Other Sources – Interest on FD (Including TDS) (₹ 72,000 ÷ 90%)		80,000
Gross Total Income		**5,10,000**
Less: Deductions under Chapter VI–A		**Nil**
Total Income		**5,10,000**

Working Notes:

1. In case of property transferred to minor son without adequate consideration, the Assessee Mr. Venus is the Deemed Owner of the property u/s 27.
2. Profit / Loss to the extent of Gifted Amount to the Total Capital on the first day of the PY must be clubbed in the hand of the Assessee. **[Mohini Thapar vs CIT** and **R.Ganesan vs CIT]** Since, the whole funds are gifted by Mr. Venus, whole income has to be clubbed. Income for the purpose of Sec.64 includes Losses also.
3. Business Loss cannot be set off against Salaries. Hence, Business Loss is adjusted to the extent of Income from Other Sources ₹ 80,000 and the balance of ₹ 1,20,000 is carried forward to the next Assessment Year.
4. Unabsorbed Long Term Capital Loss of ₹ 21,000 shall be carried forward to the next Assessment Year.
5. Loss from House Property can be set off against Income under the head "Salaries".

Question 4(b): Service Tax – POT and Due Date for ST Payment **4 Marks**

Mr. Atmaram who was the Recipient of Services, provides the following data. He requests you to explain the (i) Point of Taxation, and (ii) Due Date of Payment of Service Tax as per the Service Tax Law and Procedures.

	Dates of Invoice	Dates of Payment
(i)	15–10–2015	10–11–2015
(ii)	20–10–2015	15–02–2016

Solution: **Refer Page 25.13, Para 25.2.3 for POT, Page 25.7, Para 25.2.1 for Due Date**

1. **Point of Taxation:–Rule 7 is applicable** since Assessee being recipient of services. [Reverse Charge Basis]. As per **Rule 7 POT =**Date of Payment by Service Receiver to Service Provider, or first day after 3 months from Date of Invoice, whichever is **earlier.**
2. **Due Date for Payment** is as under –

Person	Due Date for payment
(a) Individuals / Proprietary Firm / Partnership Firm / LLP	• **General:** $5^{th}/6^{th}$ of the month following the **quarter in which service is deemed to be provided,** i.e. on or before $5^{th}/6^{th}$ of July, October and January. • **Quarter ending in March:** Tax should be paid on or before 31^{st} March itself.
(b) Other Persons	• **General:** $5^{th}/6^{th}$ of the month following the **month in which service is deemed to be provided.** • **March:** Tax should be paid on or before 31^{st} March itself.

3. **Analysis & Conclusion:** [Assuming Mr. Atrnaram in an Individual].

Date of Invoice	Date of Payment	POT	Due Date for ST Payment
15.10.2015	10.11.2015 (within 3 months of DOI)	10.11.2015	06.01.2015
20.10.2016	15.02.2016 (beyond 3 months of DOI)	21.01.2016	31.03.2016

Question 4(c): Excise Law – Scope of Levy, Dates for Payment, Returns **4 Marks**

M/s. Packard Industries (not an SSI Unit) are in the production of corrugated paper cartons. It provides the following details for the month of June.

It sold waste and scrap generated in the course of manufacture. Besides it also manufactured prohibited goods and sold. On such information:

(a) Whether Excise Duty payable on the following items?

(i)	Waste	₹ 1,50,000
(ii)	Scrap Sale	₹ 11,50,000
(iii)	Manufacture of Prohibited Goods	₹ 2,50,000

(b) When and how?
(i) Payment of Excise Duty to be made.
(ii) Return of Excise Duty to be filed.

Solution:

	Issue	Hint Answer	Page Ref.
(i)	**Dutiability if Waste & Scrap**	• ED leviable, if Waste / Scrap arises in the course of manufacture. • No ED, if Waste / Scrap arises without any process.	**Page 19.7, Para 19.5.5**
(ii)	**Prohibited Goods – Duty Levy**	Even Prohibited Goods Liable for Excise Duty **[Refer Medley Pharmaceuticals Ltd case]**	**Page 19.9, Para 19.6.1, Point 3**
(iii)	**Payment of ED**	• Payment is made by Debit to CENVAT Credit A/c or PLA. • e–Payment mandatory on monthly basis before 6th of next month (for non–SSI Assessee). [5th in case of other modes of payment if permitted by AC/DC]	**Page 20.26, Para 20.9.2**
(iv)	**Returns**	• Electronic Filing should be done before 10th of next month	**Page 20.26, Para 20.9.4, Point (h)**

Question 5(a): Income Tax – Allowability of Expenses **8 Marks**

State with reasons, the allowability of the following expenses incurred by MN Limited, a Wholesale Dealer of Commodities, under the Income Tax Act, while computing Profit & Gains from Business or Profession for the Assessment Year 2016–2017.

Solution:

Particulars	Allowability	Reason	Page Ref.
(a) Construction of School Building in compliance with CSR Activities amounting to ₹ 5,60,000.	Not Allowed u/s 37	Expenses relating to Corporate Social Responsibility (CSR) referred u/s 135 of the Companies Act, 2013 shall **not** be allowed u/s 37.	**Page 6.51, Para 6.3.13, Point (h)**
(b) Purchase of Building for setting up a Warehousing Facility for Storage of Foodgrains amounting to ₹ 4,50,000.	Allowed u/s 35AD	(a) 150% of the Capital Expenditure is available as deduction for Specified Business of Warehousing Facility for Storage of Agricultural Produce, for business commencing on or after 01.04.2009. (b) Deduction u/s 35AD = 150% of ₹ 4.5 Lakhs = ₹ 6.75 Lakhs.	**Page 6.40, Para 6.3.8**
(c) Interest on Loan paid to Mr. X (a Resident) ₹ 50,000 on which Tax has not been deducted.	70% Allowed u/s 40a(ia)	(a) Any Payment made to a Resident, on which Tax is deductible, but tax has not been deducted, **30%** of the Expense will not be allowed u/s 40(a)(ia). So, allowable portion 70% = ₹ 35,000. (b) Amount disallowed = ₹ 15,000 (being 30% of ₹ 50,000). This will be allowed in the year of TDS Payment.	**Page 6.60, Para 6.4.1**
(d) Commodity Transaction Tax paid ₹ 20,000 on Sale of Bullion.	Allowed u/s 36(i)(xvi)	Allowed as deduction since the Assessee is a Commodity Dealer.	**Page 6.48, Para 6.3.12A, Point 7**

Question 5(b): Service Tax – (Discuss whether the following services are chargeable to Service Tax or not?) **4 Marks**

Solution:

	Issue	Hint Answer	Page Ref.
(i)	**Paddy milled into Rice on job–work basis.**	**Not Taxable.** Job Work in relation to Agriculture, Textile and Processing, shall **not** attract Service Tax, even if they are not liable for Excise Duty.	**Page 23.10, Para 23.4.3, Point 5(a)**
(ii)	**A Hockey Player gets fees from Indian Hockey Federation for participating in an International event.**	**Not Taxable.** Covered under Negative List. Assumed that the Sports Event is organized by a Recognized Sports Body.	**Page 23.12, Para 23.4.5, Point 1**

	Issue	Hint Answer	Page Ref.
(iii)	**Sonakshi Sinha, a Brand Ambassador of Colgate Palmolive Ltd gets ₹ 15,00,000 for advertising its products**	**Taxable.** Brand Ambassador is specifically excluded from Negative List and is fully Taxable.	**Page 23.27, Para 23.4.12, Point I.10**
(iv)	**Testing of newly developed drugs by an approved Clinic Research Organization.**	**Taxable.** Services by way of testing of newly developed drugs on human participants is taxable w.e.f. 11.7.2015.	**Page 23.12, Para 23.4.7**

Question 5(c): VAT – Justify the following statements with reference to the provisions of VAT. **4 Marks**

Solution:

	Statement	Answer	Page Reference
(i)	**Sub–Lease can be taxed.**	Sub–letting does not result in transfer of control over goods, and hence is not liable for VAT. [See **Note**]	**Page 27.30, Para 27B.1.3**
(ii)	**Central Sales Tax is not vatable.**	CST Purchase does not qualify for Input Tax Credit. But the Input Tax Credit on VAT Purchase are eligible to setoff with CST Liability.	**Page 27.39, Para 27B.4.1, Point 6(b)**
(iii)	**Sale of Food in Hotel is a Deemed Sales liable to VAT.**	Supply of Food for Human Consumption is deemed to be a Sale under Article 366(29A) of the Constitution of India. Hence the same is liable for VAT.	**Page 22.6, Para 22.3.6, Point 2**
(iv)	**Refund can be claimed for goods returned under Hire Purchase Transactions.**	Goods sold on Hire Purchase basis is also "Deemed Sale" under Article 366(29A) of the Constitution. If goods are returned for any reason, the same can be reduced from the Sale Price, subject to conditions as may be prescribed. There are no provisions as such in the White Paper on VAT for goods returned under HP Transactions.	**Page 22.6, Para 22.3.6, Point 2**

Note: Article 366(29A) of the Constitution specifies "transfer of right to use any goods" as a "Deemed Sale" and hence subject to Sales Tax. There are decided case law for and against levy of Tax on Sub–Lease.

Question 6(a): Income Tax – Income from House Property **8 Marks**

Mr. Raphael constructed a Shopping Complex. He had taken a loan of ₹ 25 Lakhs for construction of the said property on 01–08–2013 from SBI at 10% for 5 years. The construction was completed on 30–06–2014. Rental Income received from Shopping Complex ₹ 30,000 per month–let out for the whole year. Municipal Taxes paid for Shopping Complex ₹ 8,000.

Arrears of Rent received from Shopping Complex ₹ 1,20,000.

Interest paid on Loan taken from SBI for purchase of House for use as own residence for the period 2015–2016, ₹ 3 Lakhs.

You are required to compute Income from House Property of Mr. Raphael for AY 2016–2017 as per Income Tax Act, 1961.

Solution: **Refer Principles in Chapter 5 of Handbook & Various Illustrations therein.**

Assessee: Mr. Raphael **Previous Year: 2015–2016** **Asst. Year: 2016–2017**

Computation of Income from House Property

Particulars	₹	₹
(a) Rental Income from Shopping Complex:		
Annual Value = Rent Received ₹ 30,000 × 12	3,60,000	
Less: Municipal Taxes Paid	(8,000)	
Net Annual Value	3,52,000	
Less: Deduction u/s 24: 30% Net Annual Value	(1,05,600)	
Prior Period Interest (II Year) **(WN 1)**	(33,333)	2,13,067
(b) Arrears of Rent Received u/s 25B	1,20,000	
Less: Deduction u/s 25B = 30% of ₹ 1,20,000	(36,000)	84,000
(c) Self Occupied Property: Annual Value u/s 23(2)	Nil	
Less: Deduction u/s 24 = Interest on Borrowed Capital **(WN 2)**	(2,00,000)	(2,00,000)
Net Income from House Property		**97,067**

Working Notes: 1. Computation of Interest u/s 24

Particulars		₹
(a) Prior Period:	01.08.2013 to 31.03.2014 = 8 months	
(b) Prior Period Interest Calculation:	₹ 25,00,000 × 10% × 8/12	1,66,667
(c) 1/5th of Prior Period Interest allowable u/s 24:	(1/5th the of 1,66,667)	**33,333**
(d) Allowable from AY 2015–2016 onwards for 5 years.		

2. Interest on Borrowed Capital for Self–Occupied Property is **maximum** of ₹ 2,00,000 assuming all the prescribed conditions are satisfied.

Question 6(b): Customs Law – Total Customs Duty Payable **4 Marks**

Mariam Importers, imports a carton of goods from Japan on 10–11–2015 containing 5,000 pieces valued ₹ 1,00,000. On the said product, Customs Duty at 10% and Excise Duty at 12% ad valorem is leviable.

Similar products in India are assessable u/s 4A of Central Excise Act 1944, after allowing an abatement of 30%. MRP printed on package at the time of import is ₹ 30.

Special CVD u/s 3(5) of Customs Tariff Act, 1975 is also applicable to the product.

Determine the Total Duties Payable under Customs Act.

Solution: Similar to Page 21.11, Illustration on Customs Duty Computation

Computation of Total Customs Duty Payable by Mariam Importer

Particulars	₹
1. Transaction Value u/s 14(1)	1,00,000
2. Basic Customs Duty (BCD) at 10%	10,000
3. ACD u/s 3(1) **[See WN below]**	12,600
4. Total Customs Duty [(2) + (3)]	22,600
5. Education Cess on Customs Duty = 2% on 22,600	452
6. SHEC on Customs Duty = 1% on 22,600	226
7. Special CVD u/s 3(5) @ 4% (assumed 4%) [1,00,000 + 10,000+ 12,600 + 452 +226]×4% = [1,23,278×4%]	4,931
8. Total Customs Duty Payable [(4) + (5) + (6) + (7)]	**28,209**

Working Notes: Computation of ACD u/s 3(1)

Particulars	₹
Assessable Value u/s 4A (70% of ₹ 30 × 5,000)	1,05,000
Additional Duty of Customs (12% × 1,05,000)	12,600

Question 6(c): CST – Briefly explain whether CST will be applicable– **4 Marks**

Solution:

	Transaction	Answer	Page Reference
(i)	**When Goods are sent by Dealer outside the State to his other place of business.**	Transfer of Goods made otherwise than by way of sale is not taxable if movement of such goods from one State to another is occasioned by way of – (a) Branch Transfer, or (b) Transfer to his Agent or Principal.	**Page 27.17, Para 27A.3.7**
(ii)	**If at the time of Stock Transfer outside the State, the Dealer has an order for such purchase in hand.**	Taxable under Sec.6A of CST Act, since goods movement is in pursuance of the order, and not merely on Branch Transfer.	**Page 27.17, Para 27A.3.7**

Note: The Dealer who sent the goods (i.e. Principal / Head Office) is required to obtain a declaration from the Agent / Branch in the **Form F**, along with the particulars to avail exemption.

Note: Answer any Two of the following three sub–divisions in Q.No.7(a) (i), (ii) and (iii) [2 X 4 Marks = 8 Marks]

Question 7(a)(i): Income Tax – Advance Tax on Capital Gains and Casual Income **4 Marks**

Explain briefly the provisions of Advance Tax on Capital Gains and Casual Income.

Solution: Refer Page 12.14, Question No.3 M 13 Qn, Page 12.13, Para 12B.2.3, Point 3 of Handbook

Casual Income	Capital Gains
Normal Provisions are applicable. Where the Assessee fails to pay any instalment of Advance Tax, or pays less amount than prescribed, he shall be liable to pay interest u/s 234C.	Interest u/s 234C is **not** leviable, if – (a) Shortfall in payment of tax due on the Returned Income is on account of under–estimation or failure to estimate Capital Gains (AND) (b) The Assessee has paid the amount of tax payable in respect of such income as part of the remaining instalments of Advance Tax which are due or where no such instalments are due, by the 31st March of FY.

Question 7(a)(ii): Income Tax – Effect of Failure to deduct / pay TDS **4 Marks**

What are the consequences of failure to deduct or pay the tax under Sec.201 of the Income Tax Act, 1961?

Solution: Refer Principles in Page 18.31, Para 18.5.2 of Handbook

Hint Answer: Consequences relate to 1. Interest, 2. Late Fees, 3. Penalty, 4. Prosecution, 5. Disallowed Expenses.

Question 7(a)(iii):Income Tax – Verification of IT Return **4 Marks**

Who are the persons authorized to verify Return of Income in the case of Individual u/s 139 of the Income Tax Act, 1961?

Solution: Refer Principles in Page 17.9, Para 17.2.1 of Handbook

Assessee	Signatory/Verified by
Individual	• **Present in India:** Assessee himself. • **Absent from India:** Individual himself or person authorized by him (Power of Attorney Holder). • **Mentally Incapacitated:** Person competent to act on his behalf or legal guardian. • **Other Reason:** Person duly authorized by him (Power of Attorney Holder).

Question 7(b): Service Tax – Computation of ST Payable **4 Marks**

Ms. Madhavi, a practicing Chartered Accountant in Jammu & Kashmir, provides the following information for the half year ended 30th September 2015.

	Particulars	₹
(i)	Audit Fees received from Jammu and Kashmir Bank, Jammu	5,50,000
(ii)	Audit Fees received from Punjab National Bank, Delhi	8,50,000
(iii)	Audit Fees received from other Clients in Jammu & Kashmir	2,00,000
(iv)	Consultancy Charges for services rendered outside Jammu & Kashmir	2,90,000
(v)	Fees received as Part Time Lecturer in a local College	1,30,000

Compute the amount of Service Tax Payable @ 14% by Ms. Madhavi for the half year ended 30th September 2015. Assume Ms. Madhavi is not eligible for Small Service Provider. All the above amounts are exclusive of Service Tax.

Solution: Refer Page 22.9, Para 22.4.1 and Illustration in Page 22.10 of Handbook.

1. **Principle:** The levy of Service Tax extends to the whole of India except Jammu & Kashmir. The following are the observations in this regard –
   (a) Services rendered in Jammu and Kashmir will **not** be liable to Service Tax.
   (b) Service rendered by a person established in Jammu and Kashmir, but rendered outside the State is liable to Service Tax. Location where service is provided is more important for its taxability.

2. **Analysis and Conclusion:**

Particulars	Reason	₹
Audit Fees received from Jammu & Kashmir Bank	Jammu & Kashmir is excluded from definition "Taxable Territory". Hence, not taxable.	Nil

Particulars	Reason	₹
Audit Fees received from PNB Delhi.	No specific exemption, fully taxable	8,50,000
Audit fees from other Clients in Jammu & Kashmir	Jammu & Kashmir is excluded from definition "Taxable Territory". Hence, not taxable.	Nil
Consultancy Charges for services rendered outside Jammu & Kashmir	No specific exemption, fully Taxable.	2,90,000
Fees received as Part Time Lecturer in a Local College.	J & K is excluded from definition of "Taxable Territory". Hence not taxable.	Nil
Taxable Value of Services		**11,40,000**
Service Tax Payable	11,40,000 × 14%	**1,59,600**

Question 7(c): Excise Law – CENVAT Returns Procedures **4 Marks**

Explain the provisions with regard to filling of CENVAT Credit Returns as explained in Sub–Rule (7) to (11) of CENVAT Rules.

Solution: **Refer Page 26.28, Para 26.5**

STUDENTS' NOTES

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