



J.K. SHAH[®]
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SUGGESTED SOLUTION

IPCC May 2017 EXAM

TAXATION

Test Code - I N J 1 1 6 7

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Answer-1 (a) :

	Rs.	Rs.
Income from Salary		1,47,000
Income from House Property		75,000
Income from Business		
(a) Profit from Poultry Farming	80,000	
(b) Profit from SSI Unit	<u>1,00,000</u>	1,80,000
Income from Capital Gain		
Long-term Capital Gain	1,10,000	
Short-term Capital Loss	<u>(-) 15,000</u>	95,000
Income from Other Sources:		
Interest on securities	11,000	
Interest on Bank Deposits	<u>5,000</u>	<u>16,000</u>
Gross. Taxable Income		5,13,000
Less: Deduction u/s 80C to 80U		
(1) 80C (Rs.22,000 + 25,000)	47,000	
(2) 80D Insurance on wife	9,000	
Insurance on dependant son	<u>17,000</u>	
	<u>26,000</u>	
but limited to Rs.25,000	25,000	
Insurance on father Rs.32,000		
but limited to Rs.30,000	30,000	
Insurance on dependant brother	<u>Not allowed</u>	55,000
(3) U/s. 80DD		75,000
(4) U/S.80E		20,000
(5) U/s. 80-IB — 25% profit of SSI units	3,000	
(6) U/S.80G		
NCF 100% of Rs.3,000	3,000	
PM's Relief Fund 7,000 (100%)	7,000	
Approved Charitable Fund (25,000) and family Planning (15,000)		
Total Rs.40,000		
But Limited to 10% of Adjusted Net Gross Total Income i.e. Rs.1,96,000		
Gross Total Income — LTCG - All the deductions under the chapter except 80G (5,13,000 - 95,000 - 2,22,000 = 1,96,000)		
Therefore 15,000 -100%	15,000	
Balance 4,600 - 50%	<u>2,300</u>	17,300
Total Income		<u>2,73,700</u>
Tax on Rs.2,73,700 shall be as under:		
On LTCG of Rs.23,700 (Rs.95,000 - 71,300) @ 20%	4,740	
Other income Rs. 1,78,700 + 71,300 shifted from LTCG	<u>Nil</u>	
	4,740	
Less: Rebate u/s 87A	<u>2,000</u>	
	2,740	
Add: Education cess & SHEC @ 3%	<u>82.2</u>	
	<u>2,822.2</u>	
Tax rounded off	<u>2,820</u>	

(10 Marks)**Answer-1 (b) :**

- (a) The taxable services which are exempt from whole of the service tax leviable thereon are exempted services. Accordingly, since services provided to United Nations are exempt from service tax vide Mega Exemption Notification No. 25/2012-ST dated 20.06.2012, such services are exempted services. **(1 Mark)**
- (b) Exempted services, inter alia, means a taxable service whose part of value is exempted on the condition that no credit of **inputs AND input services**, used for providing such taxable service, shall

be taken. The condition for availing abatement in respect of services of transport of passengers by air in economy class is that CENVAT credit on **inputs and capital goods** has not been taken. However, there is no restriction on taking credit of the input services used for providing such services. Consequently, such services are not exempted services.

(2 Marks)

- (c) Exempted services, inter alia, means a taxable service whose part of value is exempted on the condition that no credit of **inputs AND input services**, used for providing such taxable service, shall be taken. The condition for availing abatement in respect of services of transport of passengers by a radio taxi is that CENVAT credit on **inputs, capital goods and input services** has not been taken. Consequently, such services are exempted services.

(2 Marks)

Answer-1 (c) :

Computation of value of taxable service and service tax payable by Rahu I & Co. for the quarter ended 30.09.20XX

Particulars	Rs.
Amount collected from clients for recruitment of Permanent staff	5,00,000
Temporary staff	3,00,000
Amounts collected from clients for pre-recruitment screening	2,50,000
Domestic helps arranged for friends & relative for free [Note-1]	Nil
Amount collected from a warehouse of agricultural produce for labour provided for loading and unloading [Note-2]	1,75,000
Advances received from prospective employers for conducting campus interviews in colleges to be held in November, 20XX [Note-3]	<u>2,00,000</u>
Value of taxable service including service tax 14,25,000	
Value of taxable service (Rs. 14,25,000 × 100/115)	12,39,130
Service tax (Rs. 12,50,000 × 15/100) [rounded off]	1,85,870

(4 Marks)

Notes:

- Free services are not liable to service tax as there is no consideration involved.
- Since labour supplied to a warehouse for loading and unloading of agricultural produce can neither be considered as supply of farm labour nor loading, unloading of agricultural produce, such service is not covered in the negative list of services and hence, is taxable [Section 66D of the Finance Act, 1994].
- Since services agreed to be provided are also chargeable to service tax, advance received will also be liable to service tax. Such advance received from prospective employers will be taxable at the time when it is received irrespective of the fact that no campus interviews were subsequently conducted and advances received were returned to employers.
- Since none of the clients of Rahul & Co. was a body corporate in the relevant quarter, reverse charge provisions will not be applicable.

(1 Mark)

Answer-2 (a) :

Total stay in India

2011-12	48 days
2012-13	215 days
2013-14	94 days
2014-15	55 days
2015-16	71 days

(2 Marks)

During previous year 2015-16 his stay in India is 71 days and in the four preceding years 48 + 215 + 94 + 55 = 412 days.

Resident in India (condition of 182 days for citizen not applicable as he has not gone for employment abroad but has been going out of India during the course of employment)

2014-15 — 55 days (Non-Resident)

2013-14 — 94 days but more than 365 days in the 4 preceding previous year. Hence, resident

2012-13 — 215 days — resident

2011-12 — 48 days non-resident

Prior to 2011-12 — resident

(4 Marks)

He satisfies the first condition of being resident in at least 2 out of 10 previous year prior to relevant previous year and the 2nd condition of being in India for 730 days or more in the 7 preceding previous years. He is "resident and ordinarily resident in India".

(2 Marks)

Answer-2 (b) :

Since Legal Metrology Act, 2009 requires declaration of retail sale price on the package of pressure cooker and pressure cookers are also notified under section 4A of Central Excise Act, 1944 (RSP based valuation provisions), excise duty will be payable on the basis of RSP less abatement.

Particulars	Rs.	Rs.
RSP of 10 pieces (10 × Rs.4,500) (Note-1)	45,000	
Less: Abatement @ 25%	<u>11,250</u>	
Assessable value (A)		33,750
RSP of 15 pieces sold in Delhi (15 × Rs.3,000) (Note-2)	45,000	
Less: Abatement @ 25%	<u>11,250</u>	
Assessable value (B)		33,750
RSP of 5 pieces sold in Haryana (5 × Rs. 2,800) (Note 2)	14,000	
Less: Abatement @ 25%	<u>3,500</u>	
Assessable value (C)		10,500
RSP of 20 pieces (20 × Rs. 4,100) (Note-3)	82,000	
Less: Abatement @ 25%	<u>20,500</u>	
Assessable value (D)		<u>61,500</u>
Total assessable value (A) +(B)+(C)+(D)		1,39,500
Excise duty @ 12.5% [12.5% of Rs. 1,39,500]		17,437.50
Total excise duty payable (rounded off)		17,438

(6 Marks)

Notes:

1. Where more than one RSP is declared on the package of excisable goods, the maximum of such price will be deemed to be the RSP.
2. If different RSPs on different packages are declared for different areas, each such RSP is deemed to be the RSP.
3. If RSP on the package is increased after removal from factory, increased RSP would be deemed to be the RSP.

All goods on which RSP has been declared will not be covered under the provisions of section 4A. Only when the declaration of RSP on the goods is mandatory under the Legal Metrology Act, 2009 or under any other law and such goods have been notified by the Central Government for the purpose of section 4A, then the goods be valued under section 4A. Thus, provisions of section 4A of Central Excise Act, 1944 would not apply if the goods had not been notified by Central Government and manufacturer voluntarily affixed RSP on the products.

(2 Marks)

Answer-3 (a) :

Computation of business income of Nathan Aviation Ltd.

Particulars	Rs. (in lacs)
Total profit derived from Units S & N (Rs. 13 lacs + Rs. 4 lacs)	17
Less: Exemption under section 10AA [See Working Note below]	<u>12</u>
	5
Less: Brought forward business loss	<u>2</u>
	3

(2 Marks)

Working Note

Computation of exemption under section 10AA in respect of Unit S located in a SEZ

Particulars	Rs. (in lacs)
Domestic turnover of Unit S	10
Export turnover of Unit S	<u>120</u>
Total turnover of Unit S	<u>130</u>
Profit derived from Unit S	13

Exemption under section 10AA

$$\text{Profit of Unit S} \times \frac{\text{Export turnover of unit S}}{\text{Total turnover of Unit S}} = 13 \times \frac{120}{130} =$$

12

(2 Marks)**Answer-3 (b) :****Computation of income from Business**

	Rs.	Rs.
Net profit as per profit and loss account		2,10,000
Add: Inadmissible Expenses/Disallowances:		
(i) Salary paid to partner section 40(h)	1,84,000	
(ii) Municipal tax paid on behalf of the partner to be borne by him	8,000	
(iii) Conveyance allowance paid to managing partner	12,000	
(iv) Donation to charitable Institution	5,000	
(v) Legal expenses in connection with litigation of partners property	2,000	
(vi) Entertainment expenses-fully allowed	=	<u>2,11,000</u>
		4,21,000
Less: Excise penalty must have been disallowed earlier, hence, refund of it not to be treated as income u/s 41 (1)	4,000	
Income-tax	8,000	
Surplus on sale of shares is capital gain	<u>15,000</u>	<u>27,000</u>
Book profit		3,94,000
Less: Remuneration to partner:		
On Rs.3,00,000 @ 90%	2,70,000	
On next Rs.94,000 @ 60%	<u>56,400</u>	
	3,26,400	
Remuneration as per deed Rs. 1,84,000		
Whichever is less		<u>1,84,000</u>
Income from business		<u>2,10,000</u>

Notes.—

- Rent paid to the partner for premises occupied by the firm is an allowable expenditure.
- Diwali Pooja expenses are treated as having been incurred wholly and exclusively for the purposes of the business and hence, they are allowable under section 37.
- Litigation expenses on behalf of a partner cannot be allowed as business expenses.
- Rs. 1,000 interest on income tax shall be taxable under the head income from other sources.

Answer-3 (c) :

Health care services provided by, inter alia, a clinical establishment in any recognized system of medicines in India is exempt from service tax vide Mega Exemption Notification No.25/2012 ST dated 20.06.2012. In light of the said provision, eligibility to exemption in respect of each service offered by Good Health Medical Centre is examined below:

- Not Exempt.** Since reiki healing is not a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, it would not be exempt under mega exemption notification and thus, service tax would be payable thereon.
- Health care service does not include inter alia cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Therefore, plastic surgeries will not be entitled to the said exemption and thus, service tax would be payable thereon. However, plastic surgery conducted to repair a cleft lip will be eligible for exemption under the said notification as it reconstructs anatomy or functions of body affected due to congenital defects (cleft lip).

- (iii) **Exempt.** Health care service includes services by way of transportation of the patient to and from a clinical establishment. Thus, air ambulance service to transport critically ill patients to Good Health Medical Centre would be eligible for exemption under the said notification.
- (iv) **Exempt.** Health care service means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India. It is immaterial whether such service is provided at the clinical establishment or at the home of the patient or at any other place.
- (v) **Exempt.** Since Yoga is a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, the same would be eligible for exemption under the said notification.

(4 Marks)

Further, services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from service tax. Therefore, services provided in relation to preservation of stem cells by the cord blood bank operated by Good Health Medical Centre will be exempt from service tax.

It is important to note that Mega Exemption Notification No. 25/2012 ST dated 20.06.2012 grants exemption to health care services provided BY a clinical establishment and not to services provided TO a clinical establishment. Only services provided by common bio-medical waste treatment facility operates to clinical establishments by way of treatment or disposal of bio medical waste or the processes incidental thereto are exempt from payment of service tax. Therefore, Good Health Medical Centre's contention that since it is a clinical establishment, all the services provided to it are also exempt from service tax is not correct in law.

(2 Marks)

Answer-4 (a) :

Computation of total income of Mr. Mahesh for the A.Y. 2017-18

Particulars	Rs.
Income from salary (as per note 3)	4,10,052
Business Income (assuming that his wife carries on the business of hiring of cars) [Income of wife from hiring of car clubbed under section 64(1)(iv)]	<u>30,000</u>
Gross Total Income	4,40,052
Less: Deduction under section 80C (as per note 5)	<u>1,10,000</u>
Total income	3,30,052
Total income (rounded off)	3,30,050

(2 Marks)

Computation of tax liability of Mr. Mahesh for the A.Y. 2017-18

Step 1	Rs.	Rs.
Add: Agricultural income and Non-agricultural income (Rs. 45,000 + Rs. 3,30,050)		
Tax on Rs. 3,75,050	12,505	
Step 2		
Add: Basic exemption limit to agricultural income (Rs. 2,50,000 + Rs. 45,000)		
Tax on Rs. 2,95,000	4,500	
Step 3		
Tax on non-agricultural income (Tax under step 1 – Tax under step 2) (Rs. 12,505 – Rs. 4,500)		8,005
Less: Rebate under section 87A		<u>5,000</u>
		3,005
Add: Education cess @2% and Secondary and higher education cess @ 1%		<u>90</u>
Total tax liability		3,095
Rounded off		3,100

(2 Marks)

Notes:

1. Valuation of rent free house

Particulars	Rs.
Basic salary	1,75,000
D.A. (not to be considered as it is not forming part of salary)	Nil

Commission on extra production	12,000
Bonus	8,000
Special allowance	18,000
Education allowance (See Note 4)	6,400
Medical allowance	<u>5,000</u>
Salary for the purpose of valuation of rent-free house	2,24,400
Value of rent-free house = 15% of Rs. 2,24,400	33,660

2. Valuation of perquisite of CD Player given for use by the employee

Taxable value of this perquisite is 10% p.a. of cost of the CD player w.e.f. 1.1.2017 (i.e. for 90 days)
 10% of Rs. 20,000 = 2,000 x 90/366 = Rs. 492
 Provision of laptop by the employer is a tax-free perquisite.

3. Income from salary

Particulars	Rs.	Rs.
Basic pay		1,75,000
Dearness allowance		1,40,000
Bonus		8,000
Commission		12,000
Special Allowance		18,000
Taxable education allowance (See Note-4 below)		6,400
Medical Allowance		<u>5,000</u>
Total		3,64,400
<i>Add</i> : Taxable perquisites :		
1. Rent free accommodation (Note 1)	33,660	
2. Electricity Bill paid by employer	11,500	
3. CD Player given by employer (Note 2)	<u>492</u>	<u>45,652</u>
Taxable salary		4,10,052

4. Education allowance exempt under section 10(14)

Education allowance of Rs. 100 per month per child for a maximum of 2 children plus hostel allowance of Rs. 300 per month per child for a maximum of 2 children is exempt.
 i.e. (Rs. 100×2×12) + (Rs. 300×2×12) = Rs. 2,400 + Rs. 7,200 = Rs. 9,600
 Therefore, taxable education allowance would be Rs. 16,000 – Rs. 9,600 = Rs. 6,400.

5. Investments/payments deductible under section 80C

Particulars	Rs.
Units of SEBI registered mutual fund	25,000
Investment in PPF	15,000
Investment in 5 year Time Deposit in Post Office	10,000
Tuition fees of children (assumed to be paid to an eligible educational institution – hence qualifies for deduction under section 80C)	<u>60,000</u>
	1,10,000

The total deduction under section 80C cannot exceed Rs. 1,50,000. This restriction is contained in section 80CCE.

Therefore, the permissible deduction under section 80C would be Rs. 1,10,000

6. Taxability of gift received from grandfather

Gift from a relative is not taxable under section 56(2)(vii). Grandfather is a relative as per the definition of "relative" given in the *Explanation* to section 56(2)(vii) and hence Rs. 25,000, being gift received from grandfather, is not taxable.

(4 Marks)

Answer-4 (b) :

Computation of invoice value of sales charged by Mr. Purohit

Particulars	PVC Cans (12.5% VAT) Rs.	PVC Pipes (Exempt) Rs.
	(75%)	(25%)

Raw materials	75000	25000
VAT paid on the same [Rs. 1,00,000 x 12.5% = Rs. 12,500]	NIL	3125
	(Refer Note 2)	(Refer Note 3)
Other materials - Local	15000	5000
VAT paid on the same [Rs. 20,000 x 12.5% = Rs. 2,500]	NIL	625
	(Refer Note 2)	(Refer Note 3)
Other materials – Inter-State purchases	30000	10000
CST paid on the same [Rs. 40,000 x 2% = Rs. 800] (Refer Note 4)	600	200
Manufacturing expenses	29400	9800
Cost of goods sold	150000	53750
Add : Profit is 20% on sales (i.e., 25% of cost)	<u>37500</u>	<u>13438</u>
Sale price	187500	67188
Add : VAT payable (rounded off to nearest rupee)	23438	NIL
Invoice value	210938	67188

(5 Marks)

Computation of Net VAT liability for PVC Cans

Particulars	Rs.
Output VAT	23438
Less : Input VAT = [(12500 × 75%)+(2500×75%)] (Refer Note 5)	<u>11250</u>
Net VAT liability	12188

(2 Marks)

Notes:-

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

(1 Mark)

Answer-5 (a) :

Previous year 2015-16

Consideration Price of share [M.V. on date of conversion]	18,00,000
Less: Indexed Cost of acquisition $\left(\text{Rs.}1,50,000 \times \frac{1081}{100} \right)$	<u>16,21,500</u>
Long-term capital gain	1,78,500
Less: Exemption under section 54F $\left(\text{Rs.}1,78,500 \times \frac{1000000}{1800000} \right)$	<u>99,167</u>
Taxable long-term capital gain	<u>79,333</u>

Business income

Sale price	20,00,000
Less : Market value	<u>18,00,000</u>
Business Income	<u>2,00,000</u>

(3 Marks)

(b) Capital gain of Y

(For the assessment year 2016-17)

Consideration price (50%)	6,00,000
Indexed cost of acquisition $\left(\text{Rs.}2,00,000 \times \frac{519}{223} \right)$	<u>4,65,471</u>
Long-term capital gain	1,34,529
Less: Exemption u/s 54F $\text{Rs.}1,34,529 \times \frac{360000}{600000}$	<u>80,717</u>

Long-term capital gain	<u>53,812</u>
	(3 Marks)
Long term capital gain	
Business income	7,00,000
Less: Market value	<u>6,00,000</u>
Business income	<u>1,00,000</u>

(c)Capital Gain of Z

In case of Z, long-term capital gain on the sale of equity shares shall be exempt as these shares are sold through a recognised stock exchange and that too on or after 1.10.2004. **(2 Mark)**

Answer-5 (b) :

Since in the given case, whole amount of the consideration for the provision of service is not ascertainable at the time when service was performed and subsequently, the use of these services by a person other than the provider gives right to any payment of consideration, both the conditions specified in rule 8 of POTR get satisfied. The point of taxation for various financial years, determined as per rule 8, is as under:

Financial Year	Point of taxation	Reason
2012-13	29.07.2013	Date of issuance of invoice [29.07.2013] falls before date of payment [16.08.2013]
2013-14	23.05.2014	Date of payment [23.05.2014] precedes date of issuance of invoice [03.06.2014]
2014-15	16.06.2015	Date of issuance of invoice [16.06.2015] as well as date of receipt of payment [16.06.2015] is same.

(4 Marks)

Answer-5 (c) :

Computation of customs duty payable

Particulars	Duty %	Rs.	Duty Rs.
Assessable value		1,00,000	
Basic customs duty	10	10,000.00	10,000.00
Sub-Total for calculating CVD		1,10,000.00	
CVD (Rs.1,10,000 x excise duty rate)	12.5	13,750.00	13,750.00
Sub-total for education cess on customs (Rs. 10,000 + Rs. 13,750)		23,750.00	
Education cess of customs	2	475.00	475.00
Secondary and Higher Education cess of customs	1	237.50	237.50
Sub-total for Special CVD (Rs. 1,00,000 + Rs. 10,000 + Rs. 13,750 + Rs. 475 + Rs. 237.50)		1,24,462.50	
Special CVD u/s 3(5)	4	4,978.50	<u>4,978.50</u>
Total customs duty			<u>29,441.00</u>
Customs duty payable			29,441

Since importer is a service provider, he can avail CENVAT credit of only CVD under section 3(1) i.e. only of Rs.13,750 and not of special CVD. Further, CENVAT credit is not available in respect of basic custom duty and Education cess and Secondary and Higher education cess as per CENVAT credit Rules, 2004.

Answer-6 (a) :

	Rs.	Rs.
Taxable Salary		5,32,000
Royalty Income		<u>5,08,000</u>
Gross total income		10,40,000
Less: Deduction		
U/s 80C	1,30,000	
U/s 80QQB	<u>3,00,000</u>	<u>4,30,000</u>
Total Income		<u>6,10,000</u>
Deduction u/s 80C		

PPF		25,000	
SPF		3,000	
Tuition fees:			
Child A	15,000		
Child B	8,000	23,000	
LIP for son		6,000	
NSC VIII issue		15,000	
Repayment of Housing Loan		8,000	
SukanyaSamriddhi Account Scheme		<u>50,000</u>	
		<u>1,30,000</u>	

(4 Marks)

Answer-6 (b) :

**Computation of Gross Total Income of R
(For the assessment year 2016-17)**

	Rs.	Rs.
1. Income from House Property:		
Rental value for 8 months (i.e. before transfer) (8 x 4,000)	32,000	
Less: Standard deduction @ 30%	<u>9,600</u>	22,400
2. Profit from Business:		
(i) Share from firm (Exempt)	Nil	
(ii) Minor Son's share in another firm (Exempt)	Nil	
(iii) Interest on minor's capital with firm (Rs.24,000 - Exemption u/s 10(32) Rs. 1,500)	<u>22,500</u>	22,500
3. Income from other Sources:		
(i) Interest @ 14% on Rs.10,000 Debentures (only one-half of Rs.2,00,000 were bought by own funds)	14,000	
(ii) Interest received by his wife @ 10% on Rs.60,000 (being transferred without any consideration)	6,000	
(iii) Interest on Rs.6,000 from his trust (Interest income utilised for the benefit of son's wife)	<u>6,000</u>	<u>26,000</u>
Gross total income		<u>70,900</u>

(2 Marks)

**Computation of Gross Total Income of Mrs. R
(For the assessment year 2016-17)**

	Rs.	Rs.
Income from House Property:		
Rental value for 4 months (i.e., after transfer) (4,000 x 4)	16,000	
Less: Standard deduction @ 30%	<u>4,800</u>	11,200
Income from business:		
Share from firm (Exempt)	Nil	
Income from Other Sources:		
(i) Interest on Rs. 1,00,000 14% Debentures	14,000	
(ii) Interest on Rs. 1,00,000 14% Debentures in husband's name but funds invested by her	14,000	
(iii) Interest on Rs. 15,000 @ 10%	<u>1,500</u>	29,500
(This interest is on accrued income of Rs.60,000, which have been transferred to her by the husband and interest on such accrued income is treated as the income of the transferee, although the income on the transferred amounts is treated as the income of the transferor as it was transferred without any consideration.)		
Gross total income		<u>40,700</u>

(2 Marks)

Answer-6 (c) :

- (i) In case of renting of motor cabs, abatement of 60% from gross amount charged is available if CENVAT credit on inputs, capital goods and input services, other than input service of renting of motorcab, is not availed. Therefore, since in the given case, Mr. Savails CENVAT credit on inputs and capital goods, it cannot pay service tax on abated value.

In case of taxable services provided by way of renting of a motor vehicle designed to carry passengers on non abated value to any person who is not engaged in the similar line of business by

any individual/HUF/partnership firm (whether registered or not) including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory; both service provider and service receiver are liable to pay service tax. 50% of tax is to be paid by service provider and 50% by service receiver.

Since in the given case, service by way of renting of motor cabs is provided by an individual (Mr. S) to another individual (Mr. T) and not to any body corporate, reverse charge provisions will not apply and entire service tax will be payable by service provider (Mr. S). Thus, service tax of Rs. 375 (15% of Rs. 2,500) is liable to be paid by Mr. S.

However, when motor cab is taken on rent by RST Ltd. (a company), reverse charge provisions will apply and 50% of tax will be paid by Mr. S (service provider) and 50% by RST Ltd. (service receiver). Thus, Mr. S will pay Rs. 187.5 and RST Ltd. will pay Rs. 187.5.

(2 Marks)

- (ii) In case of renting of motor cabs, abatement of 60% is available from gross amount charged on fulfillment of certain conditions. In other words, effective rate of service tax in case of renting of motor cabs provided on abated value is 6% [15% of 40%]. Since in the given case service tax payable is 6% of the value of taxable service [(Rs.150 / Rs. 2500) x 100 = 6%], service tax is payable on abated value.

In case of taxable services provided by way of renting of a motor vehicle designed to carry passengers on abated value to any person who is not engaged in the similar line of business by any individual/HUF/partnership firm (whether registered or not) including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory; entire service tax is liable to be paid by service receiver.

Since in the given case, renting of motor cab service is provided to a company (PQR Ltd.), reverse charge provisions will apply and entire service tax will be payable by service receiver (PQR Ltd.). Thus, service tax of Rs. 150 (6% of Rs. 2,500) is liable to be paid by PQR Ltd.

(2 Marks)

Answer-6 (d) :

Where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month/quarter, the assessee may adjust such excess amount paid by him against his service tax liability for the succeeding month/quarter. Such adjustment is subject to the condition that the excess amount paid is on account of reasons not involving interpretation of law, taxability, valuation or applicability of any exemption notification.

Since Mr. Rajesh Singla has paid the excess amount on account of a clerical error, he can adjust the excess payment of Rs. 3,15,000 against his service tax liability for the succeeding quarter.

(2 Marks)

Answer-7 (a) :

Any person who has furnished a return under section 139(1) or in pursuance of a notice issued under section 142(1) can file a revised return if he discovers any omission or any wrong statement in the return filed earlier. Accordingly,

- (i) A belated return filed under section 139(4) cannot be revised. Only a return furnished under section 139(1) or in pursuance of a notice issued under section 142(1) can be revised.
- (ii) A return revised earlier can be revised again as the first revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. within one year from the end of the relevant assessment year or before the completion of assessment, whichever is earlier.
- (iii) A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).

(3 Marks)

Answer-7 (b) :

Computation of total income of Simran for the A.Y. 2016-17

Particulars	Rs.	Rs.
Profit of business of consumer and house-hold products	50,000	
Less: Loss of business of readymade garments for the year		

adjusted under section 70(1)	<u>10,000</u>	
	40,000	
Less: Brought forward loss of catering business closed in A.Y. 2015-16 set off against business income for the current year as per section 72(1)	<u>15,000</u>	25,000
Profit of speculative transaction		<u>12,500</u>
Total Income		37,500

(3 Marks)

Notes :

- Loss of speculative transaction of A.Y. 2011-12 is not allowed to be set off against the profit of speculative transaction of the A.Y.2016-17, since, as per the provisions of section 73(4), such loss can be carried forward for set-off for a maximum period of 4 years only i.e. up to A.Y.2015-16.
- Short term capital loss of Rs. 15,000 on sale of securities and shares has to be carried forward as per section 74 since there is no income under the head Capital Gains for the A.Y.2016-17. The loss is to be carried forward for set off in future years against income chargeable under the head Capital Gains. Such loss can be carried forward for a maximum period of 8 assessment years.

(1 Mark)

Answer-7 (c) :

Section 40A(3) provides for disallowance of expenditure incurred in respect of which payment or aggregate of payments made to a person in a day exceeds Rs. 20,000, and such payment or payments are made otherwise than by account payee cheque or account payee bank draft.

(1 Mark)

However, in case of payment made to transport operators for plying, hiring or leasing goods carriages, the disallowance will be attracted only if the payments made to a person in a day exceeds Rs. 35,000. Therefore, payment or aggregate of payments up to Rs. 35,000 in a day can be made to a transport operator otherwise than by way of account payee cheque or account payee bank draft, without attracting disallowance under section 40A(3).

(1 Mark)

Under section 194C, tax had to be deducted in respect of payments made to contractors at the rate of 1% in case the payment is made to individual or Hindu Undivided Family or at the rate of 2% in any other case.

However, no deduction is required to be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor, during the course of the business of plying, hiring or leasing goods carriages, if the following conditions are fulfilled:-

- He owns ten or less goods carriages at any time during the previous year.
- He is engaged in the business of plying, hiring or leasing goods carriages;
- He has furnished a declaration to this effect along with his PAN.

(2 Marks)

Answer-7 (d) :

(i) Provisions for tax deduction at source under section 194BB @ 30% are attracted if the amount exceeds Rs. 5,000 in respect of income arising by way of winning a jackpot in horse races. Tax to be deducted = Rs. 1,00,000 x 30% = Rs. 30,000

(1 Mark)

(ii) Provisions of tax deduction at source under section 194C are attracted in respect of payment by a firm to a sub-contractor. Under section 194C, tax is deductible at the time of credit or payment, whichever is earlier @ 1% if the payment is made to an individual or HUF and 2% for others.

(1 Mark)

Assuming that sub-contractor to whom payment has been made is an individual and the aggregate amount credited during the year is Rs. 4,20,000, tax is deductible @ 1% on Rs. 4,20,000. Tax to be deducted = Rs. 4,20,000 x 1% = Rs. 4,200

(1 Mark)

(iii) As per section 194-I, tax is to be deducted @ 2% on payment of rent for plant and machinery, only if the payment exceeds Rs. 1,80,000 during the financial year. Since rent of Rs. 1,50,000 paid by a partnership firm does not exceed Rs. 1,80,000, tax is not deductible.

(1 Mark)

- (iv) Under section 194E, the person responsible for payment of any amount to a non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper shall deduct tax @ 20%. Further, since Ricky Ponting is a non-resident, education cess @ 2% and secondary and higher education cess @ 1% on TDS would also be added.
Therefore, tax to be deducted = Rs. 25,000 x 20.60% = Rs. 5,150.

(1 Mark)