

PAPER – 4 : TAXATION

Question No.1 is compulsory.

Candidates are also required to answer any **five** questions from the remaining **six** questions.

Working notes shall form part of the answer.

All questions pertaining to income-tax relate to assessment year 2017-18, unless stated otherwise in the questions.

Question 1

(a) Ms. Rekha, a resident individual aged 50, provides the following information for the financial year 2016-17:

(i) She is a partner in AK & Co. and received the following amounts from the firm:

Share of profit from the firm	₹ 35,000
Interest on capital @15% p.a.	₹ 3,00,000
Salary as working partner (fully allowed in the hand of the firm)	₹ 1,00,000

(ii) She is running a rice mill as proprietor. The Net profit as per Profit & Loss account is ₹ 4,50,000. The following items are debited to Profit and Loss account:

Advance Income-tax paid ₹ 1,00,000

Personal drawings ₹ 50,000

The following items are credited to Profit and Loss Account:

• Interest on savings bank account with SBI ₹ 12,000

• Interest on savings account with post office ₹ 5,000

• Dividend from listed Indian Company (DDT paid) ₹ 80,000

(iii) She owned a house property in Mumbai which was sold in January, 2015. She received ₹ 90,000 by way of arrear rent in respect of the said property in October, 2016.

(iv) She made the following investments:

Life insurance premium on a policy in the name of her married daughter ₹ 60,000.
(The policy was taken on 1-10-2013 and the sum assured being ₹ 5,00,000).

Health insurance premium on a policy covering her mother aged 75. She is not dependant on Ms. Rekha. Premium paid by cheque ₹ 35,000.

Compute the total income and the tax liability of Ms. Rekha for the Assessment year 2017-18. (10 Marks)

The Suggested Answers for Paper 4: Taxation are based on the provisions of tax laws as amended by the Finance Act, 2016. The answers to questions on income-tax are based on the provisions of income-tax law applicable for A.Y.2017-18, which is the assessment year relevant for May, 2017 examination.

- (b) Mr. Rixon commenced rendering professional service for the first time from 01-12-2016. He furnishes you the following information for the month of December, 2016:

	Particulars	₹
(i)	Amount received for the services to be rendered in February, 2017	8,00,000
(ii)	Free service rendered to friends. (Value of similar services is ₹30,000)	
(iii)	Services rendered during the month	5,50,000
(iv)	Reimbursement of expenses received	2,25,000

Note: The amounts given above are inclusive of service tax and cesses, wherever applicable

Compute the service tax liability inclusive of cesses of Mr. Rixon for the month of December, 2016. (5 Marks)

- (c) The sales and purchase of M/s. Hindcare Ltd. for the month of January, 2017 are given hereunder:

Particulars	₹
<u>Purchase within State</u>	
Raw Materials Purchase (tax rate 12.5%)	6,00,000
Raw Material Purchase (tax rate 4%) (But the Invoice does not show the amount of tax separately)	2,50,000
High seas Purchases (Customs duty paid @ 10%)	3,25,000
<u>Sales within State</u>	
Taxable Sale (tax rate 4%)	9,00,000
Exempted Sale [Raw Material for ₹2,50,000 (tax rate 12.5%) is used for producing such exempted goods]	6,25,000
<u>Inter-State Sales</u>	
Sale in the course of inter-State Trade or Commerce (CST 2%)	2,00,000

Compute the VAT payable for the month of January, 2017 (Assume that there is no opening and closing stock). (5 Marks)

Answer

- (a) Computation of total income and tax liability of Ms. Rekha for the A.Y.2017-18

Particulars	₹	₹	₹
Income from house property			
Arrears of rent (taxable under section 25A even if Mrs. Rekha is not the owner of the house property in the P.Y.2016-17)		90,000	

Less: Deduction@30%		<u>27,000</u>	
Income chargeable under this head			63,000
Profits and gains from business or profession			
Income from firm AK & Co.			
Share of profit from AK & Co. is exempt under section 10(2A)	Nil		
Salary as a working partner (taxable as per section 28(v), since the same has been fully allowed in the hands of the firm)	1,00,000		
Interest on capital@15% p.a. ₹ 3,00,000			
Restricted to 12%, which is the maximum deduction allowable in the hands of the firm ¹	<u>2,40,000</u>		
		3,40,000	
Income from proprietary rice mill			
Net profit as per profit and loss account	4,50,000		
Less: Income credited to profit and loss account but taxable under the head 'Income from Other Sources'			
Interest on savings bank A/c with SBI	12,000		
Interest on savings A/c with Post Office	5,000		
Dividend from listed Indian company	<u>80,000</u>	<u>97,000</u>	
		3,53,000	
<u>Add: Payments not allowable as deduction</u>			
Advance income-tax paid disallowed u/s 40(a)(ii)	1,00,000		
Personal drawings disallowed u/s 37	<u>50,000</u>		
		<u>5,03,000</u>	8,43,000
Income from Other Sources			
Interest on savings bank A/c with SBI		12,000	
Interest on savings A/c with post office	5,000		
Less: Exempt under section 10(15)	<u>3,500</u>		
		1,500	

¹ As per section 40(b)(iv), assuming that interest @12% has been allowed as deduction in the hands of the firm

Dividend from listed Indian company [Exempt under section 10(34), since the company has paid dividend distribution tax]		<u>Nil</u>	<u>13,500</u>
Gross Total Income			9,19,500
Less: Deductions under Chapter VI-A			
Under section 80C			
Life insurance premium paid for married daughter ₹ 60,000, to be restricted to ₹ 50,000, being 10% of sum assured of ₹ 5 lakh, since the policy was taken after 31.3.2012		50,000	
Under section 80D			
Medical insurance premium of ₹ 35,000 on a policy taken for mother, being a senior citizen ² , is allowable upto ₹ 30,000, even though her mother is not dependent on her		30,000	
Under section 80TTA			
Interest on savings bank A/c with SBI	12,000		
Interest on savings A/c with post office	<u>1,500</u>		
	13,500		
Restricted to		<u>10,000</u>	<u>90,000</u>
Total Income			<u>8,29,500</u>

Computation of tax liability for A.Y.2017-18	₹	₹	₹
Tax on total income of ₹ 8,29,500			
On first ₹ 2,50,000	Nil		
On total income between ₹ 2,50,001 - ₹ 5,00,000 @10%	25,000		
On the balance total income of ₹ 3,29,500 @20%	<u>65,900</u>		
		90,900	
Add: Education cess @ 2%	1,818		

² It is logical to assume that she is a resident

Secondary and higher education cess @ 1%	<u>909</u>	<u>2,727</u>	
Total tax liability			93,627
Less: Advance income-tax paid			<u>(1,00,000)</u>
Net amount refundable			<u>6,373</u>
Rounded off			6,370

(b) **Computation of service tax liability of Mr. Rixon**

Sl. No.	Particulars	Amount (₹)
(i)	Amount received for services to be rendered in February, 2017 [Note-1]	8,00,000
(ii)	Free services rendered to friends [Note-2]	Nil
(iii)	Services rendered during the month	5,50,000
(iv)	Reimbursement of expenses received [Note-3]	<u>2,25,000</u>
	Total	15,75,000
	Less: Small service providers' exemption ³ [Note-4]	<u>10,00,000</u>
	Value of taxable service [inclusive of service tax]	5,75,000
	Value of taxable service [excluding service tax] = ₹ 5,75,000/115%	5,00,000
	⁴Service tax @ 15% [including SBC and KKC]	75,000

Notes:

1. Since services agreed to be provided are also chargeable to service tax in terms of section 66B of the Finance Act, 1994, advance received is liable to service tax. Further, as per Explanation to Rule 3 of the Point of Taxation Rules, 2011, the point of taxation for advance received is the day when it is received.
2. Service is an activity carried out, *inter alia*, for a consideration. Therefore, in case of free services, no service tax is payable thereon.
3. Reimbursable expenditure incurred and charged by the service provider is a part of the consideration for taxable services and hence includible in the value of taxable service.⁵ vide Explanation to section 67 of the Finance Act, 1994 read with rule 5 of

³ Notification No. 33/2012 ST dated 20.06.2012

⁴ It has been presumed that option to pay service tax on receipt basis upto a turnover of ₹ 50 lakhs under rule 6(1) of Service Tax Rules, 1994 is not available to Mr. Rixon.

⁵ Clause(a)(ii) of Explanation to section 67 of the Finance Act, 1994 read with rule 5 of the Service Tax (Determination of Value) Rules, 2006

the Service Tax (Determination of Value) Rules, 2006. It has been assumed that such expenses have been incurred by Mr. Rixon on his own account and not as a pure agent of the service recipient.

4. Since Mr. Rixon has started rendering services in December, 2016, he is eligible for small service providers' exemption

(c) **Computation of net VAT payable for the month of January, 2017⁶**

Particulars	₹
Computation of input tax credit	
VAT paid on raw materials purchased within State @ 12.5% on ₹ [6,00,000 – 2,50,000] × 12.5% (A) [Note 1]	43,750
VAT payable on sale @ 4% = ₹ 9,00,000 × 4% (B)	<u>36,000</u>
Net VAT payable (B)-(A)	Nil
Excess VAT credit available	7,750
CST payable on inter-State sale @ 2% on ₹ 2,00,000	<u>4,000</u>
Excess VAT credit carried forward to subsequent period	3,750

Notes:

- Input tax credit of VAT paid on raw material used for manufacturing exempted goods (₹ 2,50,000) is not available.
- Input tax credit is not allowed with respect to purchases where invoice does not show amount of tax separately.
- Further, input tax credit is not allowed on high seas purchases as customs duty is not VATable.

Question 2

- (a) (i) *During the last four years preceding the financial year 2016-17, Mr. Damodhar, a citizen of India, was present in India for 430 days. During the last seven previous years preceding the previous year 2016-17, he was present in India for 830 days.*

Mr. Damodhar is a member of crew of a Dubai bound Indian ship, carrying passengers in the international waters, which left Kochi port in Kerala, on 12th August, 2016.

⁶ The above answer is based on the assumption that amounts given are exclusive of tax/duty.

Following details are made available to you for the previous year 2016-17:

Particulars	Date
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Damodhar	12 th August, 2016
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Damodhar	21 st January, 2017

In May, 2016, he had gone out of India to Singapore and Malaysia on a private tour for a continuous period of 29 days.

You are required to determine the residential status of Mr. Damodhar for the previous year 2016-17.

- (ii) Discuss with brief reasons, whether rent received for letting out agricultural land for a movie shooting and amounts received from sale of seedlings in a nursery adjacent to the agricultural lands owned by an assessee can be regarded as agricultural income, as per the provisions of the Income-tax Act, 1961. (2 x 4 = 8 Marks)
- (b) State with reason, whether the following independent services are exempted services:
- (i) Services provided as a match referee directly to Sports Authority of India for ₹ 2,50,000.
- (ii) Security services provided to a Government recognized educational institution for ₹ 3,00,000.
- (iii) Performing music concert by a renowned Carnatic singer in consideration for ₹ 1,40,000.
- (iv) Collection of admission fee for music concert with fee of ₹ 1,000 per person.
- (Note:** Assume that the service provider in each case is not entitled to avail Small Service Provider exemption.) (4 Marks)
- (c) Mr. Prakash provides the following information for the financial year 2016-17:
- (i) Inter-State sales ₹ 60,00,000 (inclusive of CST)
- (ii) Freight ₹ 3,80,000 (which includes ₹ 1,00,000 not shown in the sales invoice separately.)
- (iii) Goods sold to SRC Traders for ₹ 50,000 on 15-04-2016 were returned on 20-8-2016.
- (iv) Goods for ₹ 60,000 dispatched on 23-6-2016 to Mr. Shankar got rejected and returned. These goods were received by Mr. Prakash on 25-2-2017.
- Compute the taxable turnover and CST payable by Mr. Prakash. Assume the CST rate @ 2% and all transactions were covered by valid form 'C'. (4 Marks)

Answer**(a) (i) Determination of residential status of Mr. Damodhar for the P.Y.2016-17**

As per *Explanation 1* to section 6(1), where an Indian citizen leaves India as a member of crew of an Indian ship, he will be resident in India only if he stayed in India for 182 days during the relevant previous year.

As per *Explanation 2* to section 6(1)⁷, in case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of an eligible voyage, not include the period commencing from the date entered into the Continuous Discharge Certificate in respect of joining of ship by the said individual for the eligible voyage and ending on the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage.

Eligible voyage includes a voyage undertaken by an Indian ship engaged in the carriage of passengers in international traffic, originating from any port in India and having its destination at a port outside India.

- (a) In this case, voyage is undertaken by a foreign bound Indian ship engaged in the carriage of passengers in international traffic, originating from a port in India (i.e., the Kochi port) and having its destination at a port outside India (i.e., the Dubai port). Hence, the voyage is an eligible voyage.
- (b) Therefore, the period from 12th August, 2016 and ending on 21st January, 2017 has to be excluded for computing the period of stay of Mr. Damodhar in India. Accordingly, the period of 163 days [20+30+31+30+31+21] has to be excluded for computing the period of his stay in India during the P.Y.2016-17.

Further, since Mr. Damodhar had also gone out of India to Singapore and Malaysia on a private tour for a continuous period of 29 days in May, 2016, such period has also to be excluded for computing his period of stay in India during the P.Y.2016-17.

Consequently, Mr. Damodhar's period of stay in India during the P.Y. 2016-17 would be 173 days [i.e., 365 days – 163 days – 29 days], which is less than 182 days.

Thus, Mr. Damodhar would be a **non-resident** for A.Y. 2017-18.

Since the residential status of Mr. Damodhar is "non-resident" for A.Y. 2017-18 consequent to his number of days of stay in India in P.Y. 2016-17, being less than 182 days, his period of stay in India in the earlier previous years become irrelevant.

(ii) (1) Rent received for letting out agricultural land for a movie shooting:

As per section 2(1A), "agricultural income" means, *inter alia*,

⁷ read with Rule 126 of Income-tax Rules, 1962

- any rent or revenue derived from land
- which is situated in India and is used for agricultural purposes.

In the present case, rent is being derived from letting out of agricultural land for a movie shoot, which is not an agricultural purpose and hence, it does **not** constitute agricultural income.

(2) Income from sale of seedlings in a nursery:

As per *Explanation 3* to section 2(1A), income derived from saplings or seedlings grown in a nursery is deemed to be agricultural income, whether or not the basic operations were carried out on land.

Therefore, the amount received from sale of seedlings in a nursery adjacent to the agricultural lands owned by the assessee constitutes agricultural income.

(b) As per mega exemption Notification No. 25/2012 ST dated 20.06.2012:

- (i)** Services provided to a recognised sports body by an individual as a referee are exempted.

Since, in the given case, Sports Authority of India is a recognised sports body, services provided as a match referee to it are exempted⁸.

- (ii)** Services provided to an educational institution by way of security services performed therein are exempted.

The educational institutions is defined as an institution providing services by way of:

- (i) pre-school education and education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course

Since Government recognized educational institution is covered in educational institutions so specified, security services are provided to it are exempted.

- (iii)** Performance of an artist in classical art forms of music are exempted, if the consideration charged for such performance is not more than ₹ 1,50,000.

Since the consideration charged for performing music concert by a renowned Carnatic singer is ₹ 1,40,000, such services are exempted.

- (iv)** Services by way of right to admission to a musical performance are exempted provided the consideration for such admission does not exceed ₹ 500 per person.

⁸ It has been presumed that match referee has provided the services to Sports Authority of India for participation in a sporting event organized by Sports Authority of India.

Since, in the given case, the admission fee for music concert exceeds ₹ 500 per person, such services are NOT exempted

(c) **Computation of taxable turnover and CST payable by Mr. Prakash**

Particulars	₹	₹
Total inter-State sales (inclusive of CST)		60,00,000
Less: Freight shown separately in the invoices (Note-1)	2,80,000	
Goods returned by SRC Traders (Note-2)	50,000	
Goods rejected & returned by Mr. Shankar after 6 months (Note-3)	<u>60,000</u>	
		<u>3,90,000</u>
Turnover (including CST)		<u>56,10,000</u>
Taxable turnover [₹ 56,10,000 × 100/102]		55,00,000
CST @ 2% [₹ 56,10,000 × 2/102]		1,10,000

Notes:

1. Freight shown separately in the invoices is deductible from the sales price on the presumption that total freight of ₹ 3,80,000 is included in the inter-State sales of ₹ 60,00,000.
2. Goods returned by SRC Traders is deductible as goods are returned within 6 months presuming that sales return has not been adjusted in inter-State sales.
3. Goods rejected & returned by Mr. Shankar after 6 months is deductible although returned after 6 months, as it is a case of an un-fructified sale presuming that goods rejected have not been adjusted in inter-State sales.

Question 3

- (a) *Mr. Nambi, a salaried employee, furnishes the following details for the financial year 2016-17:*

Particulars	₹
<i>Basic salary</i>	<i>6,00,000</i>
<i>Dearness allowance</i>	<i>3,20,000</i>
<i>Commission</i>	<i>50,000</i>
<i>Entertainment allowance</i>	<i>7,500</i>
<i>Medical expenses reimbursed by the employer</i>	<i>21,000</i>
<i>Profession tax (of this, 50% paid by employer)</i>	<i>7,000</i>
<i>Health insurance premium paid by employer</i>	<i>9,000</i>
<i>Gift voucher given by employer on his birthday</i>	<i>12,000</i>

Life insurance premium of Nambi paid by employer	34,000
Laptop provided for use at home. Actual cost of Laptop to employer Children of the assessee are also using the Laptop at home]	30,000
Employer company owns a Tata Nano car, which was provided to the assessee, both for official and personal use. No driver was provided. (Engine cubic capacity less than 1.6 litres).	
Annual credit card fees paid by employer [Credit card is not exclusively used for official purposes; details of usage are not available]	2,000

You are required to compute the income chargeable under the head Salaries for the assessment year 2017-18. (8 Marks)

- (b) IJK Manufacturing Co. Ltd. is a unit eligible for small scale exemption but paying duty.

Determine the amount of CENVAT credit available in respect of the following items procured by them in the month of March, 2017:

	Item	Excise Duty Paid (₹)
(i)	Raw material used in the factory	80,000
(ii)	Goods used in the guest house for the personal use of employees newly recruited during their stay,	20,000
(iii)	Capital goods used as parts and components in the manufacture of final products	30,000
(iv)	Office equipments used in an office within the factory	20,000
(v)	Light diesel oil	6,000

Note: Your answer must be supported by reasons. (5 Marks)

- (c) Rohan Limited exported some goods to Rohith Inc. of USA. It received \$ 10,000 as a consideration for the same and sold the foreign currency at ₹ 68 per US Dollar.

Compute the value of taxable services under Rule 2B of Service tax (Determination of Value) Rules, 2006 in the following cases:

- (i) RBI reference rate for US dollars at that time is ₹ 69 per US dollar.
(ii) RBI reference rate for US dollars is not available.
(iii) What would be the value of taxable service, if US dollars 10,000 are converted to 5,000 UK Pounds. RBI reference rate at that time is ₹ 67 per US dollar and ₹ 100 per UK Pound. (3 Marks)

Answer**(a) Computation of income chargeable under the head “Salaries” of Mr. Nambi for A.Y.2017-18**

Particulars	₹
Basic Salary	6,00,000
Dearness allowance	3,20,000
Commission	50,000
Entertainment allowance	7,500
Medical expenses reimbursed by the employer is an exempt perquisite to the extent of ₹ 15,000 [Clause (v) of proviso to section 17(2)]. Therefore, ₹ 6,000, being the reimbursement in excess of ₹ 15,000 is a taxable perquisite.	6,000
Professional tax paid by the employer is a taxable perquisite as per section 17(2)(iv), since it is an obligation of the employee which is paid by the employer	3,500
Health insurance premium of ₹ 9,000 paid by the employer is an exempt perquisite [Clause (iii) of proviso to section 17(2)]	Nil
Gift voucher given by employer on Mr. Nambi's birthday (entire amount is taxable since the perquisite value exceeds ₹ 5,000) as per Rule 3(7)(iv) [See Note 1 for Alternative view]	12,000
Life insurance premium of Mr. Nambi paid by employer is a taxable perquisite as per section 17(2)(v)	34,000
Laptop provided for use at home is an exempt perquisite as per Rule 3(7)(vii)	Nil
Provision of motor car (engine cubic capacity less than 1.6 litres) owned by employer to employee – Assuming that the expenses are met or reimbursed by the employer, the perquisite value would be ₹ 21,600 [₹1,800 × 12] as per Rule 3(2) [See Note 2 for Alternate assumption]	21,600
Annual credit card fees paid by employer is a taxable perquisite as per Rule 3(7)(v) since the credit card is not exclusively used for official purposes and details of usage are not available	<u>2,000</u>
Gross Salary	10,56,600
Less: Deductions under section 16	
Entertainment allowance (deduction not allowable since Mr. Nambi is not a Government employee)	Nil
Professional tax paid allowable as deduction as per section 16(iii)	<u>7,000</u>
Income chargeable under the head “Salaries”	<u>10,49,600</u>

Notes:

- (1) As per Rule 3(7)(iv), the value of any gift or voucher received by the employee or by member of his household on ceremonial occasions or otherwise from the employer shall be determined as the sum equal to the amount of such gift. However, the value of any gift or voucher received by the employee or by member of his household below ₹ 5,000 in aggregate during the previous year would be exempt as per the proviso to Rule 3(7)(iv). In this case, the gift voucher of ₹12,000 was received by Mr. Nambi from his employer on the occasion of his birthday.

Since the value of the gift voucher exceeds the limit of ₹ 5,000, the entire amount of ₹12,000 is liable to tax as perquisite. The above solution has been worked out accordingly.

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

- (2) The question does not specify whether the running and maintenance expenditure of the motor car are met or reimbursed by the employer-company or by Mr. Nambi himself. The main solution above has been worked out on the assumption that such expenses are met or reimbursed by the employer company, in which case, the perquisite value would be ₹ 21,600 [i.e., ₹1,800 ×12]. The above solution has been worked out accordingly.

Alternatively, it is possible to calculate the perquisite value assuming that the running and maintenance expenditure of the motor car are fully met by Mr. Nambi himself. In such a case, the perquisite value would be ₹ 7,200 [i.e., ₹ 600 × 12].

The figures of gross salary and net salary would, accordingly, vary depending on the view taken and assumption made by the candidate in respect of the perquisites mentioned in (1) and (2) above, respectively.

(b) Computation of CENVAT credit available with IJK Manufacturing Co. Ltd.

Particulars	₹
Raw material used in the factory	80,000
Goods used in the guest house for the personal use of employees newly recruited during their stay [Note 1]	Nil
Capital goods used as parts and components in the manufacture of final products [Note 2]	30,000
Office equipment used in an office within the factory [Note 3]	20,000
Light Diesel oil [Note 1]	Nil
Total CENVAT credit available	<u>1,30,000</u>

Notes:

1. Definition of inputs under rule 2(k) of CENVAT Credit Rules, 2004, specifically excludes the following:
 - (i) goods used in a guest house when the same are used primarily for personal use or consumption of any employee.
 - (ii) light diesel oil.
 Thus, CENVAT credit cannot be claimed in respect of the above goods.
2. As per rule 2(k) of CENVAT Credit Rules, 2004, though definition of inputs specifically excludes capital goods, capital goods used as parts or components in the manufacture of a final product are included therein. Thus, CENVAT credit is available on the same.
3. Since equipment used in an office located within the factory is eligible capital goods under rule 2(a) of CENVAT Credit Rules, 2004, credit is available on the same. Further, an assessee eligible to avail the SSI exemption is allowed to take 100% CENVAT credit of the duty paid on capital goods in the year of purchase even if it opts to pay duty under rule 4(2)(a) of CENVAT Credit Rules, 2004.

(c) Computation of value of taxable service

As per rule 2B of the Service Tax (Determination of Value) Rules, 2006:

- (i) Value of taxable service = (RBI reference rate for \$ – Selling rate for \$) × Total units of US \$

$$= ₹ (69-68) \times 10,000$$

$$= ₹ 10,000$$
- (ii) If the RBI reference rate for a currency is not available:

Value of taxable service = 1% of the gross amount of Indian Rupees provided/received

$$= 1\% \text{ of } ₹ (68 \times 10,000)$$

$$= ₹ 6,800$$
- (iii) In case neither of the currencies exchanged is Indian Rupee:

Value of taxable service = 1% of the lesser of the two amounts the person changing money would have received by converting any of the two currencies into Indian Rupee at that time at the reference rate provided by RBI.

Hence, in the given case, value of taxable service would be 1% of the **lower** of the following:

 - (a) US Dollar 10,000 × ₹ 67 = ₹ 6,70,000

(b) UK Pound 5,000 × ₹ 100 = ₹ 5,00,000

Value of taxable service = 1% of ₹ 5,00,000 = ₹ 5,000

Question 4

(a) (i) A Korean Company Damjung Ltd. entered into the following transactions during the financial year 2016-17:

(a) Received ₹ 20 lakhs from a non-resident for use of patent for a business in India.

(b) Received ₹ 15 lakhs from a non-resident Indian for use of know-how for a business in Sri Lanka and this amount was received in Japan. [Assume that the above amount is converted/stated in Indian Rupees].

(c) Received ₹ 7 lakhs from RR Co. Ltd., an Indian company for providing technical know-how in India.

(d) Received ₹ 5 lakhs from R & Co., Mumbai for conducting the feasibility study for a new project in Nepal and the payment was made in Nepal.

Explain briefly, whether the above receipts are chargeable to tax in India.

(ii) Mr. Ganesh owns a commercial building whose construction got completed in June 2015. He took a loan of ₹ 15 lakhs from his friend on 1-8-2014 and had been paying interest calculated at 15% per annum. He is eligible for pre-construction interest as deduction as per the provisions of the Income-tax Act, 1961.

Mr. Ganesh has let out the commercial building at a monthly rent of ₹ 40,000 during the financial year 2016-17. He paid municipal tax of ₹ 18,000 each for the financial year 2015-16 and 2016-17 on 1-5-2016 and 5-4-2017, respectively.

Compute income under the head 'House Property' of Mr. Ganesh for the Assessment year 2017-18. (2 x 4 = 8 Marks)

(b) Decide the point of taxation for the following cases:

Case	Date of completion of service	Date of Invoice	Date of receipt of payment
(i)	13-09-2016	01-11-2016	03-11-2016
(ii)	30-01-2017	03-12-2016	30-03-2017
(iii)	05-01-2017	01-01-2017	20-10-2016
(iv)	18-02-2017	12-02-2017	02-03-2017

(4 Marks)

(c) Shubh Nivesh (P) Ltd. imported a machinery from London for the purpose of providing a taxable service. The assessable value of imported machinery as per Custom law is ₹ 5,00,000. Basic Customs Duty is payable @ 10% and Education Cess and Secondary and Higher Education Cess of customs, are applicable. If the imported machinery is

manufactured in India, the excise duty is leviable on the machinery @ 12.5%. Special CVD is payable on said machinery @ 4%. You are required to:

- (i) Calculate the total customs duty payable.
- (ii) Examine whether Shubh Nivesh (P) Ltd. can avail any CENVAT credit of the customs duties paid? If so, how much? (4 Marks)

Answer

- (a) (i) **Taxability of certain receipts in the hands of Damjung Ltd⁹, a Korean Company, for A.Y. 2017-18**

	Taxability	Reason
(a)	Taxable	Amount of ₹ 20 lakhs received from a non-resident for use of patent for a business in India is deemed to accrue or arise in India by virtue of section 9(1)(vi)(c), and is therefore, chargeable to tax in India.
(b)	Not Taxable	Amount of ₹ 15 lakhs received in Japan from a non-resident for use of know-how for a business in Sri Lanka is not deemed to accrue or arise in India as per section 9(1)(vi)(c), since it is in respect of a business carried on outside India. Also, the amount is received outside India. Therefore, the same is not chargeable to tax in India.
(c)	Taxable	Amount of ₹ 7 lakhs received from RR Co. Ltd., an Indian Company, is deemed to accrue or arise in India by virtue of section 9(1)(vii)(b) since it is for providing technical know-how in India. Therefore, the same is chargeable to tax in India.
(d)	Not Taxable	Amount of ₹ 5 lakhs received in Nepal from R & Co., a resident, for conducting feasibility study for the new project in Nepal is not deemed to accrue or arise in India as per section 9(1)(vii)(b), since such study was done for a project outside India. The amount was also received outside India. Therefore, the same is not chargeable to tax in India.

- (ii) **Computation of income under the head “House Property” of Mr. Ganesh for A.Y. 2017-18**

Particulars	₹	₹
¹⁰ Gross Annual Value (₹ 40,000 x 12)		4,80,000

⁹ It is logical to assume that Damjung Ltd, a Korean company is non-resident for the A.Y. 2017-18

¹⁰ In the absence of information related to municipal value, fair rent and standard rent, the rent receivable has been taken as the Gross Annual Value

Less: Municipal taxes (See Working Note 1)		<u>18,000</u>
Net Annual Value (NAV)		4,62,000
Less: Deductions under section 24		
(i) 30% of NAV	1,38,600	
(ii) Interest on housing loan (See Working Note 2)	<u>2,55,000</u>	
		<u>3,93,600</u>
Income chargeable under the head "House Property"		<u>68,400</u>

Working Notes:

(1)	<p>Municipal taxes deductible from Gross Annual Value</p> <p>As per proviso to section 23(1), municipal taxes actually paid by the owner during the previous year is allowed to be deducted from Gross Annual Value. Accordingly, only ₹18,000 paid on 01.05.2016 is allowed to be deducted from Gross Annual Value, while computing income from house property of the previous year 2016-17.¹¹</p>
(2)	<p>Interest on housing loan allowable as deduction under section 24</p> <p>As per section 24(b), interest for the current year ₹ 2,25,000 (₹ 15,00,000¹² x 15%)</p> <p>Pre-construction interest</p> <p>For the period 01.08.2014 to 31.03.2015 (₹15,00,000 x 15% x 8/12) = ₹ 1,50,000</p> <p>₹ 1,50,000 allowed in 5 equal installments (₹1,50,000/5) <u>₹ 30,000</u></p> <p style="text-align: right;">₹ 2,55,000</p>

(b)

Determination of Point of Taxation

Case	Point of Taxation	Reason
	As per Rule 3 of the Point of Taxation Rules, 2011:	
(i)	13-09-2016	in case invoice has not been issued within 30 days of completion of service, point of taxation is date of completion of service or date of receipt of payment, whichever is earlier.

¹¹ The municipal tax of ₹18,000 paid on 05.4.2017 would be allowed as deduction while computing income from house property of the previous year 2017-18.

¹² It is assumed that the entire loan of ₹15 lakhs is outstanding till date.

(ii)	03-12-2016	in case invoice has been issued within 30 days of completion of service, point of taxation is date of invoice or date of receipt of payment, whichever is earlier.
(iii)	20-10-2016	in case of receipt of advance, point of taxation is the date of receipt of advances
(iv)	12-02-2017	in case invoice has been issued within 30 days of completion of service, point of taxation is date of invoice or date of receipt of payment, whichever is earlier.

(c)

(i)	Computation of customs duty payable	
	Particulars	₹
	Assessable value	5,00,000
	Add: Basic custom duty @ 10%	<u>50,000</u>
	Total	5,50,000
	Add: CVD @12.5%	68,750
	Add: EC @ 2% and SHEC @ 1% [3% of (BCD + CVD)] = 3% of (₹ 50,000 + ₹ 68,750) [rounded off]	<u>3,563</u>
	Total for Special CVD [₹ 5,50,000 + ₹ 68,750 + ₹ 3,563]	6,22,313
	Special CVD @ 4% [rounded off]	24,893
	Total customs duty payable (₹ 50,000 + ₹ 68,750 + ₹ 3,563 + ₹ 24,893)	1,47,206
(ii)	Since Shubh Nivesh (P) Ltd. is a service provider, it can avail CENVAT credit of only CVD and not of special CVD i.e. only of ₹ 68,750	

Question 5

- (a) Mr. Yuthistra bought a vacant land for ₹ 80 lakhs in May 2004. Registration and other expenses were 10% of the cost of land. He constructed a residential building on the said land for ₹ 100 lakhs during the financial year 2006-07.

He entered into an agreement for sale of the above said residential house with Mr. John (not a relative) in April 2015. The sale consideration was fixed at ₹ 700 lakhs and on 23-4-2015, Mr. Yuthistra received ₹ 20 lakhs as advance in cash by executing an agreement.

The sale deed was executed and registered on 14-1-2017 for the agreed consideration. However, the State stamp valuation authority had revised the values, hence, the value of property for stamp duty purposes was ₹ 770 lakhs. Mr. Yuthistra paid 1% as brokerage on sale consideration received.

Subsequent to sale, Mr. Yuthistra made following investments:

- (i) Acquired a residential house at Delhi for ₹ 110 lakhs.
- (ii) Acquired a residential house at London for ₹ 190 lakhs.
- (iii) Subscribed to NHAI capital gains bond (approved under section 54EC) for ₹ 45 lakhs on 29-3-2017 and for ₹ 50 lakhs on 12-5-2017.

Compute the income chargeable under the head 'Capital Gains'. The choice of exemption must be in the manner most beneficial to the assessee.

Cost Inflation Index:	F.Y. 2004-05	480	
	F.Y. 2006-07	519	
	F.Y. 2016-17	1125	(8 Marks)

- (b) (i) A manufacturer has arranged on 12th Feb. 2017, the delivery of a machinery directly at the place/premises of the job worker, to whom he regularly gives his materials for conversion on job work basis. Central excise duty has been paid on the same. He desires to know whether he can avail CENVAT credit in respect of such machinery installed at the premises of the job worker. Advise him suitably.
- (ii) Answer the following with reference to CENVAT Credit Rules, 2004:
- (a) When will the CENVAT Credit be allowed in respect of service tax paid under full and partial reverse charge?
 - (b) Is there any time limit for availing CENVAT Credit for inputs/input services?
- (4 Marks)
- (c) In the context of the provisions relating to service tax contained in the Finance Act, 1994, what is meant by the term "Consideration"? State with brief reason (not exceeding one sentence), whether or not consideration is present in the following cases:
- (i) Voluntary donations received by a charitable trust;
 - (ii) Gifts received from friends on an individual's birthday, and
 - (iii) Stipend received by an articled trainee from his employer, a Chartered Accountant.
- (4 Marks)

Answer

- (a) Computation of income chargeable under the head "Capital Gains" for A.Y.2017-18

Particulars	₹ (in lakhs)	₹ (in lakhs)
Capital Gains on sale of residential building		
Actual sale consideration ₹ 700 lakhs		

Value adopted by Stamp Valuation Authority ₹ 770 lakhs		
Gross Sale consideration		770.00
[In case the actual sale consideration declared by the assessee is less than the value adopted by the Stamp Valuation Authority for the purpose of charging stamp duty, then, the value adopted by the Stamp Valuation Authority shall be taken to be the full value of consideration as per section 50C]		
In a case where the date of agreement is different from the date of registration, stamp duty value on the date of agreement can be considered provided the whole or part of the consideration is paid by way of account payee cheque/bank draft or by way of ECS through bank account on or before the date of agreement. In this case, since advance of ₹ 20 lakh is paid by cash, stamp duty value on the date of agreement cannot be adopted as the full value of consideration. Stamp duty value on the date of registration would be the full value of consideration]		
Less: Brokerage@1% of sale consideration (1% of ₹ 700 lakhs)		<u>7.00</u>
Net Sale consideration		763.00
Less: Indexed cost of acquisition		
- Cost of vacant land, ₹ 80 lakhs, <i>plus</i> registration and other expenses i.e., ₹ 8 lakhs, being 10% of cost of land [₹ 88 lakhs × 1125/480]	206.25	
- Construction cost of residential building (₹ 100 lakhs × 1125/519)	<u>216.76</u>	<u>423.01</u>
Long-term capital gains¹³ before exemption		339.99
Less: Exemption under section 54		110.00
The capital gain arising on transfer of a long-term residential property shall not be chargeable to tax to the extent such capital gain is invested in the purchase of one residential house property in India one year before or two years after the date of transfer of original asset.		
Therefore, in the present case, the exemption would be available only in respect of the residential house acquired at		

¹³ Since the residential house property was held by Mr. Yuthistra for more than 36 months immediately preceding the date of its transfer, the resultant gain is a long-term capital gain

Delhi and not in respect of the residential house in London	
Less: Exemption under section 54EC	50.00
Amount deposited in capital gains bonds of NHAI within six months from the date of transfer (i.e., on or before 13.7.2017) would qualify for exemption, to the maximum extent of ₹50 lakhs, whether such investment is made in the current financial year or subsequent financial year. Therefore, in the present case, exemption can be availed only to the extent of ₹ 50 lakh out of ₹ 95 lakhs, even if the both the investments are made on or before 13.7.2017 (i.e., within six months from the date of transfer).	
Long term capital gains chargeable to tax	179.99

- (b) (i) As per rule 4(2) of the CENVAT Credit Rules, 2004, CENVAT credit in respect of the central excise duty paid on capital goods can be taken [upto 50% in same FY and balance 50% in subsequent FY] in the instant case, immediately on receipt of the same in job worker's premises where manufacturer has directed the goods to be sent directly to the job worker.

This is subject to the condition under rule 4(5) of CENVAT Credit Rules, 2004 that the capital goods are received back by manufacturer within 2 years of their being received by job worker; otherwise credit availed needs to be reversed and can be retaken only when capital goods are received back in the factory.

- (ii) (a) As per rule 4(7) of the CENVAT Credit Rules, 2004:
- Full Reverse Charge:** CENVAT credit of service tax is allowed after service tax is paid by the service recipient.
- Partial Reverse Charge:** CENVAT credit of the service tax payable by the service provider is allowed on/after the invoice date, while the CENVAT credit of the service tax payable by the service recipient is allowed after service tax is paid by the service recipient.
- (b) As per rule 4(1) of the CENVAT Credit Rules, 2004, the time limit for availing CENVAT credit for inputs/input services is upto one year from the date of issuance of invoice.

- (c) As per Explanation to section 67 of the Finance Act, 1994, consideration includes-
- (i) amount payable for the taxable services
 - (ii) reimbursable expenditure/cost incurred by service provider
 - (iii) amount retained by lottery distributor/selling agent from gross sale amount of lottery ticket OR discount received
- (i) Voluntary donations received by a charitable trust are not consideration, as under

voluntary donations, there is no obligation to provide something in return.

- (ii) Gifts received from friends on an individual's birthday are not consideration, as they have not been given in terms of reciprocity (i.e. not in lieu of provision of any service).
- (iii) Stipend received by an articled trainee from his employer, a Chartered Accountant is consideration, as it is the monetary payment received by the articled trainee for the services rendered; that is there is an element of reciprocity.

Question 6

- (a) (i) Mr. Shyam, a resident of Chandigarh, provides the following information for the financial year 2016-17:

Particulars	₹
Income from textile business	4,60,000
Income from speculation business	25,000
Loss from gambling	12,000
Loss on maintenance of race horse	15,000
Eligible current year depreciation of textile business not adjusted in the income given above.	5,000
Unabsorbed depreciation of assessment year 2016-17 brought forward	10,000
Speculation business loss of assessment year 2016-17	30,000

Compute the Gross Total Income of Mr. Shyam for the Assessment year 2017-18 and any other item of expense or loss eligible for carry forward.

- (ii) Mr. Rohan, a resident individual has Gross Total Income of ₹ 7,50,000 comprising of Income from Salary and income from house property for the assessment year 2017-18. He provides the following information:

Paid ₹ 70,000 towards premium on life insurance policy of his handicapped son (section 80U disability). Sum assured ₹ 4,00,000; and date of issue of policy 1-8-2015.

Deposited ₹ 90,000 in tax saver deposit in the name of his major son in State Bank of India.

Contributed ₹ 25,000 to The Clean Ganga Fund, set up by the Central Government.

Compute the Total Income and deduction under Chapter VI-A for the Assessment year 2017-18. (2 x 4 = 8 Marks)

- (b) Explain the taxability or otherwise of the following with respect to service tax:

- (i) Suit filing fee taken by court in respect of litigation.

- (ii) Amount received by an employee from employer on pre-mature termination of his contract of employment.
- (iii) Consideration received by a foreman of chit for conducting chit.
- (iv) Services provided to Reserve Bank of India. (4 Marks)
- (c) ABC Limited is a leading manufacturer of special type of shoes. Legal Metrology Act, 2009 requires declaration of Retail Sale Price on the package of the shoes and shoes are also notified u/s 4A of the Central Excise Act, 1944 (RSP based valuation provision).

Following information has been given by ABC Ltd:

Particulars	Amount
Abatement available on shoes	25% of retail Price
MRP marked on the package	₹ 3,000 per pair of shoes
Price at which ABC Ltd. sells the shoes to their wholesalers	₹ 2,200 per pair of shoes
Price at which wholesalers sell the shoes to retail shops	₹ 2,500 per pair of shoes
Price at which shoes are sold by retailers to final consumers	₹ 2,800 per pair of shoes (i.e. after ₹ 200 offered as discount on printed retail Price).
Excise duty	12.50%

- (i) Calculate the Excise duty payable on a pair of shoes.
- (ii) Calculate the Excise duty payable if the above mentioned shoes are not covered u/s 4A of the Central Excise Act, 1944. (4 Marks)

Answer

- (a) (i) **Computation of Gross Total Income of Mr. Shyam for A.Y. 2017-18**

Particulars	₹	₹
Profits and gains of business or profession		
Income from Textile business	4,60,000	
Less: Current year depreciation allowable under section 32(1)	<u>5,000</u>	
	4,55,000	
Less: Unabsorbed depreciation brought forward from A.Y.2016-17 as per section 32(2)	<u>10,000</u>	
		4,45,000

Income from speculation business		
Current year income from speculation business	25,000	
Less: Speculation business loss for A.Y. 2016-17 set-off as per the provisions of section 73(2)	<u>30,000</u>	
Speculation business loss to be carried forward	<u>(5,000)</u>	
Gross Total Income		<u>Nil</u> 4,45,000

Losses eligible for carry forward to A.Y.2018-19

	Particulars	₹
(1)	Loss from speculation business to be carried forward as per section 73 [can be set off only against income from another speculation business. Therefore, the remaining loss from speculation business has to be carried forward to A.Y.2018-19]. ¹⁴	5,000
(2)	Loss on maintenance of race horses to be carried forward as per section 74A(3) [can be set-off only against income from the activity of owning and maintaining race horses. Therefore, it has to be carried forward to A.Y.2018-19] ¹⁵	15,000
(3)	Loss from gambling can neither be set-off nor be carried forward.	

(ii) **Computation of Total Income of Mr. Rohan for A.Y. 2017-18**

Particulars	₹	₹
Gross Total Income		7,50,000
Less: Deduction under Chapter VI-A		
Under section 80C	60,000	
- Life insurance premium of ₹ 70,000 (restricted to ₹ 60,000 i.e., 15% of ₹ 4,00,000, being the sum assured, since the policy has been taken on or after 01.04.2013, in respect of his		

¹⁴The speculation business loss can be carried forward for a maximum of four assessment years immediately succeeding the assessment year for which the loss was first computed. Thus, such loss can be carried forward upto A.Y.2020-21

¹⁵ Such loss can be carried forward for a maximum of four assessment years immediately succeeding the assessment year for which the loss was first computed. Thus, such loss can be carried forward upto A.Y.2021-22

handicapped son suffering from disability u/s 80U)		
- Tax saver deposit of ₹ 90,000 in the name of his major son does not qualify for deduction under section 80C, since such deposit has to be made in the name of the assessee himself to qualify for deduction u/s 80C	<u>Nil</u>	
	60,000	
Under section 80G		
- Contribution by a resident towards the Clean Ganga Fund, set up by the Central Government would be eligible for 100% deduction without any qualifying limit.	<u>25,000</u>	<u>85,000</u>
Total Income		<u>6,65,000</u>

- (b) (i) **Not taxable.** This is so, as the same is specifically excluded from the definition of service under section 65B(44) of Finance Act, 1994.
- (ii) **Not taxable.** Such amount is treatable as amounts paid in relation to services provided by employee to employer in the course of employment, which is specifically excluded from the definition of service under clause (b) of section 65B(44) of Finance Act, 1994.
- (iii) **Taxable.** A service shall not include a transaction in money or actionable claim. Since the activity carried out by a foreman of chit for conducting or organising a chit for a consideration has been specifically excluded from the ambit of the expression "transaction in money or actionable claim under explanation 2(ii)(b) to the section 65B(44) of Finance Act, 1994, the same is taxable.
- Therefore, since the activity carried out by a foreman of chit for conducting or organising a chit for a consideration is not covered under the exclusions from the definition of service as provided in section 65B(44) of Finance Act, 1994, the same is taxable.
- (iv) **Taxable.** This is so, as only services provided by RBI are covered in the negative list of services under section 66D of Finance Act, 1994. Further, services provided to Reserve Bank of India, from outside India in relation to management of foreign exchange reserves are exempt vide *Mega Exemption Notification No. 25/2012 ST dated 20.06.2012*.

(c) **Computation of excise duty payable**

	Particulars	₹
(i)	MRP marked on the package	3,000
	Less: Abatement @ 25% of RSP [25% of ₹ 3,000]	<u>750</u>

	Value under section 4A for purpose of excise duty	2,250
	Excise duty @ 12.5% [12.5% of ₹ 2,250] (rounded off)	281
(ii)	If in the given case, goods are not covered under section 4A of Central Excise Act, 1944, excise duty will be payable on the basis of assessable value under section 4 of Central Excise Act, 1944 (transaction value). Thus, value will be ₹ 2,200 i.e., the price at which the ABC Ltd. sold shoes to their wholesalers	
	Excise duty @ 12.5% [12.5% of ₹ 2,200]	275

Question 7

Answer any **two** sub-divisions from (a) to (c) and the rest of sub-divisions:

- (a) *Pallavi Bank Ltd., has paid interest of ₹ 9,000 to Mr. A, a resident Indian, from its Chennai branch and ₹ 8,000 from Bangalore branch. If there is no core banking services in the bank, is tax required to be deducted at source from such interest payments made on 31-3-2017? Will your answer be different if there is core banking service present in the bank? Also, explain the provisions of the Income-tax Act, 1961 in this regard.*
- (b) *By whom should the return of income be signed in the case of following persons:*
- Political party;*
 - Company which is being wound up;*
 - Hindu Undivided Family, when karta is unable to sign, and*
 - Scientific research association.*
- (c) *Mr. Sachal, a resident individual aged 54, furnishes income details as under:*
- Wholesale Cloth business, whose turnover is ₹ 150 lakhs, for which accounts are audited u/s 44AB. Income from such business ₹ 8,10,000.*
 - Income from other sources ₹ 2,70,000.*
 - Tax deducted at source ₹ 25,000.*
 - Advance tax paid ₹ 1,03,000 on 14-3-2017.*

Return of income will be filed on 11-12-2017. The assessee is willing to pay the requisite self-assessment tax. Calculate the interest payable under section 234B of the income-tax Act, 1961. Assume that the return of income would be processed on the same day of filing of return.

(2 x 4 = 8 Marks)

- (d) *What are the circumstances under which the registration certificate can be revoked under service tax?*

(4 Marks)

- (e) ABC & Co., an LLP has aggregate value of taxable services of ₹ 40 lakhs in the financial year 2016-17. Is it allowed to pay service tax in the financial year 2017-18 on receipt basis? If yes, what are the due dates for payment of service tax? (4 Marks)

Answer

- (a) Tax is deductible @10% under section 194A in respect of bank interest, if the same exceeds ₹10,000.

This threshold is with reference to interest credited or paid by a branch of the bank, where the bank has not adopted core banking solutions.

On the other hand, if the bank has adopted core banking solutions, then, the threshold of ₹ 10,000 would apply in respect of the aggregate interest credited or paid by all the branches of the bank.

Therefore, if Pallavi Bank Ltd.¹⁶ has not adopted core banking solutions, it need not deduct tax on interest of ₹ 9,000 and ₹ 8,000 paid by its Chennai Branch and Bangalore Branch, respectively, to Mr. A, since the interest paid by each branch does not exceed ₹ 10,000.

However, if Pallavi Bank Ltd. has adopted core banking solutions, it has to deduct tax at source @10% on ₹ 17,000 (₹ 9,000 + ₹ 8,000) under section 194A, since the aggregate interest paid by its Chennai and Bangalore branches exceed ₹10,000.

- (b) **Verification of Return of income as per section 140**

	Person	Return of income to be verified by
(i)	Political party	Chief executive officer of such party
(ii)	Company which is being wound up	Liquidator
(iii)	HUF, when karta is unable to verify ¹⁷	Any adult member of the family
(iv)	Scientific research association	Member of the association or the principal officer thereof

- (c) **Computation of interest payable under section 234B by Mr. Sachal**

Particulars	₹
Tax on total income of ₹ 10,80,000 [Business income of ₹ 8,10,000 (See Note below) + Income from other sources of ₹ 2,70,000]	1,49,000
Add: Education cess and SHEC@3%	<u>4,470</u>
Tax on total income	1,53,470

¹⁶ Assuming that Pallavi Bank Ltd. is a banking company to which the Banking Regulation Act, 1949 applies

¹⁷ It is assumed that he is unable to verify because he is absent from India or he is mentally incapacitated from attending to his affairs

Less: Tax deducted at source	<u>25,000</u>
Assessed Tax	<u>1,28,470</u>
90% of assessed tax	1,15,623
Advance tax paid on 14-3-2017	1,03,000
Interest under section 234B is leviable since advance tax of ₹1,03,000 paid is less than ₹1,15,623, being 90% of assessed tax	
Number of months from 1 st April, 2017 to 11 th December, 2017, being the date of processing of return ¹⁸	9
Interest under section 234B@1% per month or part of a month for 9 months on ₹25,400 [i.e., difference between assessed tax of ₹1,28,470 and advance tax of ₹1,03,000 paid being ₹ 25,470 which is rounded off to ₹ 25,400 ¹⁹]	2,286
Interest under section 234B rounded off	2,290
Note: The presumptive income computed under section 44AD would be ₹ 12 lakhs, being 8% of ₹ 150 lakhs. However, since Mr. Sachal has got his books of account audited under section 44AB, he can declare lower income of ₹ 8,10,000.	

- (d) Rule 4(9) of the Service Tax Rules, 1994 read with Order No. 1/2015 ST dated 28.02.2015 provides that the registration certificate may be revoked under service tax in any of the following circumstances after giving the assessee an opportunity of being heard:
1. the premises are found to be non existent or not in possession of the assessee.
 2. no documents are received within 15 days of the date of filing the registration application.
 3. the documents are found to be incomplete or incorrect in any respect.
- (e) As per rule 6(1) of Service Tax Rules, 1994, Individuals, partnership firms and one person companies, with aggregate value of taxable services of ₹ 50 lakh or less in previous financial year are allowed to pay service tax on receipt basis in current year upto a total of ₹ 50 lakh in the current financial year. Further, partnership firm includes limited liability partnership (LLP).

¹⁸ It is assumed that the same represents the date of determination of total income under section 143(1)

¹⁹ Rounded off under Rule 119A of Income-tax Rules, 1962

In view of aforesaid provisions, LLP - ABC & Co. is allowed to pay service tax on receipt basis in financial year 2017-18 as its aggregate value of taxable services in financial year 2016-17 is less than ₹ 50 lakh.

As per rule 6(1) of Service Tax Rules, 1994, the due dates for payment of service tax by an LLP are as follows:

1. If service tax is paid electronically through internet banking – due date is 6th day of the month following the quarter in which the payment is received
2. In any other case – due date is 5th day of the month following the quarter in which the payment is received
3. In the case payment is received in the quarter ending in March – due date is 31st day of March.