

PAPER – 4: TAXATION

PART – I: NOTIFICATIONS

Significant Notifications in income-tax issued between 1st May 2013 and 31st October, 2013

1. Notification No. 39/2013 dated 31.05.2013

Time and mode of, payment of tax deducted at source under section 194-IA to the credit of Central Government, furnishing challan-cum-statement and TDS Certificate [Rules 30, 31A & 31]

New section 194-IA has been inserted by the Finance Act, 2013, requiring every transferee responsible for paying any sum as consideration for transfer of immovable property (land, other than agricultural land, or building or part of building) to deduct tax, at the rate 1% of such sum, at the time of credit of such sum to the account of the resident transferor or at the time of payment of such sum to a resident transferor, whichever is earlier.

Accordingly, the time and mode of, payment of tax deducted at source under section 194-IA, furnishing challan-cum-statement and TDS Certificate have been provided, by amending Rules 30, 31A & 31, respectively -

- (i) Such sum deducted under section 194-IA shall be paid to the credit of the Central Government within a period of seven days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No.26QB [Rule 30].
- (ii) The amount so deducted has to be deposited to the credit of the Central Government by electronic remittance within the above mentioned time limit, into RBI, SBI or any authorized bank [Rule 30].
- (iii) Every person responsible for deduction of tax under section 194-IA shall furnish to the DGIT (Systems) or any person authorized by him, a challan-cum-statement in Form No.26QB electronically within seven days from the end of the month in which the deduction is made [Rule 31A].
- (iv) Every person responsible for deduction of tax under section 194-IA shall furnish the TDS certificate in Form No.16B to the payee within 15 days from the due date for furnishing the challan-cum-statement in Form No.26QB under Rule 31A, after generating and downloading the same from the web portal specified by the DGIT (Systems) or the person authorized by him [Rule 31].

2. Notification No. 40/2013 dated 6.06.2013

Notification of Cost Inflation Index for F.Y.2013-14

Clause (v) of *Explanation* to section 48 defines "Cost Inflation Index", in relation to a previous year, to mean such Index as the Central Government may, by notification in the

Official Gazette, specify in this behalf, having regard to 75% of average rise in the Consumer Price Index for urban non-manual employees.

Accordingly, the Central Government has, in exercise of the powers conferred by clause (v) of *Explanation* to section 48, specified the Cost Inflation Index for the financial year 2013-14 as 939.

S. No.	Financial Year	Cost Inflation Index	S. No.	Financial Year	Cost Inflation Index
1.	1981-82	100	18.	1998-99	351
2.	1982-83	109	19.	1999-2000	389
3.	1983-84	116	20.	2000-01	406
4.	1984-85	125	21.	2001-02	426
5.	1985-86	133	22.	2002-03	447
6.	1986-87	140	23.	2003-04	463
7.	1987-88	150	24.	2004-05	480
8.	1988-89	161	25.	2005-06	497
9.	1989-90	172	26.	2006-07	519
10.	1990-91	182	27.	2007-08	551
11.	1991-92	199	28.	2008-09	582
12.	1992-93	223	29.	2009-10	632
13.	1993-94	244	30.	2010-11	711
14.	1994-95	259	31.	2011-12	785
15.	1995-96	281	32.	2012-13	852
16.	1996-97	305	33.	2013-14	939
17.	1997-98	331			

3. Notification No. 64/2013, dated 19.08.2013

Notification of foreign company for claiming exemption under section 10(48)

Income received by a foreign company in India in Indian currency from sale of crude oil, any other goods or rendering of services, as may be notified by the Central Government in this behalf, to any person in India is exempt under section 10(48). For this purpose, the foreign company, as well as the arrangement or agreement, should be notified by the Central Government having regard to the national interest. The foreign company should not be engaged in any other activity in India, except receipt of income under such arrangement or agreement.

Accordingly, vide this notification, the Central Government, having regard to the national interest, has notified for the purposes of the said clause, the National Iranian Oil Company, as the foreign company and the Memorandum of Understanding entered into between the Government of India in the Ministry of Petroleum and Natural Gas and the Central Bank of

Iran on 20th January, 2013, as the agreement subject to the condition that the said foreign company shall not engage in any activity in India, other than the receipt of income under the agreement aforesaid.

The Notification is deemed to be effective from 20th January, 2013.

4. Notification No.79/2013 dated 07.10.2013

Reverse Mortgage Scheme amended to include within its scope, disbursement to an annuity sourcing institution for periodic payments by way of annuity to the Reverse Mortgagor

The Central Government had notified the Reverse Mortgage Scheme, 2008 in exercise of the powers conferred by clause (xvi) of section 47 of the Income-tax Act, 1961. Reverse Mortgage means mortgage of a capital asset by an eligible person against a loan obtained by him from an approved lending institution. Such kind of a transaction is not regarded as transfer under section 47(xvi) and amounts received by the Reverse Mortgagor as loan, either in lump-sum or in installment, are exempt under section 10(43).

The Central Government has, vide this notification, amended the Reverse Mortgage Scheme, 2008, to include within its scope, disbursement of loan by an approved lending institution, in part or in full, to the annuity sourcing institution, for the purposes of periodic payments by way of annuity to the reverse mortgagor. This would be an additional mode of disbursement, i.e., in addition to direct disbursements by the approved lending institution to the Reverse Mortgagor by way of periodic payments or lump sum payment in one or more tranches.

An annuity sourcing institution has been defined to mean Life Insurance Corporation of India or any other insurer registered with the Insurance Regulatory and Development Authority.

Maximum Period of Reverse Mortgage Loan

	Mode of disbursement	Maximum period of loan
(a)	Where the loan is disbursed directly to the Reverse Mortgagor	20 years from the date of signing the agreement by the reverse mortgagor and the approved lending institution.
(b)	Where the loan is disbursed, in part or in full, to the annuity sourcing institution for the purposes of periodic payments by way of annuity to the Reverse Mortgagor	The residual life time of the borrower.

PART – II: QUESTIONS AND ANSWERS

QUESTIONS

Residential Status and Scope of total income

1. Mr. Hansraj, an Indian citizen, is a Government employee serving in the Ministry of External Affairs. He left India for the first time on 22.02.2013 due to his transfer to Indian Embassy in Germany. He did not visit India any time during the previous year 2013-14. He has received the following income during the Financial Year 2013-14:

S. No.	Particulars	₹
(i)	Salary for the year	6,50,000
(ii)	Foreign Allowance	3,50,000
(iii)	Income from house property in Nepal	2,50,000
(iv)	Income from agriculture in Bhutan	2,00,000
(v)	Interest on fixed deposit with State Bank of India	80,000

Compute his gross total income for Assessment Year 2014-15.

Income which do not form part of total income

2. Examine the following, with reference to the provisions of the Income-tax Act, 1961:
- Paras Ltd. had taken a Keyman Insurance policy on the life of its Chief Executive Officer, Mr. Dayal. Subsequently, during the term of the policy, it assigned the policy to Mr. Dayal. The proceeds of ₹ 25 lakhs on matured policy were received by Mr. Dayal on 31st January 2014. Mr. Dayal claimed exemption under section 10(10D) in respect of the said sum of ₹ 25 lakhs. Is his claim tenable in law?
 - A charitable trust, registered under section 12AA, whose main object is "advancement of any other object of general public utility" receives ₹ 27 lakhs in aggregate during the P.Y. 2013-14 from commercial activities. The trust wants to claim benefit of exemption in respect of its income for the P.Y.2013-14 on the basis of its registration as a charitable trust under section 12AA. Can it do so?
 - A foreign company received ₹ 10 lakhs from an Indian company on account of sale of crude oil. Can the foreign company avail exemption of the said sum under the Income-tax Act, 1961?
Would your answer be different if the said sum was received not on account of sale of crude oil but on account of provision of services to the Indian company?
 - Mr. Sumeet held 100 unlisted shares of A Ltd., a domestic company. On 31.08.2013, he received ₹ 25,000 from A Ltd. for buy back of the unlisted shares held by him. Is the amount chargeable to tax in the hands of Mr. Sumeet?

Salaries

3. Mr. Madhav is the Finance Head of Gamma Ltd. at Ahmedabad. From the following details, compute his total income for the Assessment Year 2014-15:

Basic salary	₹ 22,500 per month
Dearness allowance	1/4 th of basic salary
Transport allowance (for commuting between place of residence and office)	₹ 2,000 per month
Cost of laptop facility provided for both official and personal use	₹ 40,000
Conveyance allowance (out of the said amount ₹ 10,000 was incurred on conveyance for his official duties)	₹ 12,000
Expenditure on accommodation in hotels while touring on official duties met by the employer	₹ 45,000
Lunch provided by the employer during office hours. Cost to the employer	₹ 13,500
Gamma Ltd. had taken a house on lease for which it paid a rent of ₹ 3,500 p.m. The said accommodation was provided to Mr. Madhav, who pays rent @ ₹ 1,000 p.m to the company. Gamma Ltd. also hired furniture @ ₹ 500 p.m and provided the same to Mr. Madhav free of cost. In addition, the company provided a television owned by it (Cost ₹ 20,000) to Mr. Madhav, free of cost.	
Mr. Madhav made the following payments:	
Medical insurance premium : Paid in cash	₹ 1,500
Paid by cheque	₹ 4,500
Contribution to Public Provident Fund (PPF)	₹ 1,00,000

Income from house property

4. Mrs. Dholakia owns a house property whose Municipal Value, Fair Rent and Standard Rent are ₹ 1,02,000 p.a., ₹ 1,32,000 p.a. and 1,14,000 p.a., respectively.

During the Financial Year 2013-14, one-third of the portion of the house was let out for residential purpose at a monthly rent of ₹ 7,000. The remaining two-third portion was self-occupied by her. Municipal tax @ 15% of municipal value was paid by her during the year.

The construction of the house began in May, 2007 and was completed on 31-8-2010. Mrs. Dholakia took a loan of ₹ 1,00,000 on 1-5-2007 for the construction of house. She paid interest on loan @ 12% per annum and such interest was paid every month.

Compute income from house property of Mrs. Dholakia for the Assessment Year 2014-15.

Profits and gains of business or profession

5. State with reasons, the deductibility or otherwise of the following expenses/payments under the Income-tax Act, 1961, while computing income under the head "Profits and gains of business or profession" for the Assessment Year 2014-15:
- (i) ₹ 120 crore invested in new plant & machinery by ABC Ltd., a manufacturing company, during P.Y. 2013-14.
 - (ii) Bad debts written off by a scheduled bank for the first time in P.Y. 2013-14 amounted to ₹ 85 lakhs. Provision for bad and doubtful debts allowed as deduction under section 36(1)(viii) upto P.Y. 2012-13 is ₹ 70 lakhs and for the current year is ₹ 10 lakhs. The bank claims deduction of the entire bad debts of ₹ 85 lakhs under section 36(1)(vii) for A.Y. 2014-15 on the reasoning that such bad debts relate to urban advances, whereas the provision for bad and doubtful debts allowed as deduction under section 36(1)(viii) was in relation to rural advances.
 - (iii) Murugan paid ₹ 75,000 as commodity transaction tax in respect of sale of commodity derivatives during the previous year 2013-14.
 - (iv) Deenu & Co. has set up a warehousing facility for storage of food grains. It commenced operations on 01.04.2013. For this purpose, Deenu & Co. incurred capital expenditure of ₹ 50 lakhs on purchase of building in March 2013.
 - (v) Clean (P) Ltd. incurred an amount of ₹ 2,50,000 on a notified project to enhance skill development of its employees.

Capital Gains

6. (i) Mohanlal purchased a house property on 14th April, 1980 for ₹ 1,50,000. He entered into an agreement with Madhav for the sale of house on 27th October, 1985 and received an advance of ₹ 35,000. However, since Madhav did not remit the balance amount, Mohanlal forfeited the advance.

Later on, he gifted the house property to his friend Natwarlal on 30th July, 1990.

Following renovations were carried out by Mohanlal and Natwarlal to the house property:

	₹
By Mohanlal during F.Y. 1980-81	15,000
By Mohanlal during F.Y. 1983-84	65,000
By Natwarlal during F.Y. 2001-02	2,65,000

The fair market value of the property as on 1.4.1981 is ₹ 2,00,000.

Natwarlal entered into an agreement with Chirag for sale of the house on 31st December, 2001 and received an advance of ₹ 1,00,000. The said amount was forfeited by Natwarlal, since Chirag could not fulfil the terms of the agreement.

Finally, the house was sold by Natwarlal to Narang on 22nd February, 2014 for a consideration of ₹ 20,00,000.

Compute the capital gains chargeable to tax in the hands of Natwarlal for the assessment year 2014-15. Cost inflation indices are as under:

Financial Year	Cost inflation index
1981-82	100
1983-84	116
1985-86	133
1990-91	182
2001-02	426
2013-14	939

- (ii) Pinto possesses agricultural land situated within urban limits, which is used for agricultural purposes during the preceding 3 years by his father. On 5.5.2013, this land is compulsorily acquired by the Central Government of India for a compensation of ₹ 15 lakhs, fixed and paid by it. Advise Pinto as to the tax consequences, assuming that the entire amount is invested in purchase of shares.

Income from Other Sources

7. Shri. Laxman reports the following transactions to you:
- Received cash gifts on the occasion of his marriage on 15-6-2013 of ₹ 1,08,000. It includes gift of ₹ 28,000 received from non-relatives.
 - On 15-8-2013, being his birthday, he received a gift by means of cheque from his mother's maternal aunt for an amount of ₹ 49,000.
 - On 25-12-2013 he acquired a vacant site from his friend for ₹ 1,50,000. The State stamp valuation authority fixed the value of site at ₹ 2,25,000 for stamp duty purpose.
 - He bought 200 equity shares of a listed company from another friend for ₹ 75,000. The value of shares in the stock exchange on the date of purchase was ₹ 1,75,000.
 - A cell phone worth ₹ 21,000 is gifted by his friend on 16.8.2013

Determine the amount chargeable to tax in the hands of Shri Laxman for the Assessment Year 2014-15.

Your answer should be supported with reasons.

Profits and gains of business or profession, Capital Gains & Income from Other Sources

8. Mr. Sunil sold his house property in Hyderabad as well as his rural agricultural land for a consideration of ₹ 70 lakh and ₹ 20 lakh, respectively, to his friend Mr. Ravi on 1.10.2013. He has purchased the house property and the land in the year 2011 for ₹ 45 lakh and ₹ 12 lakh, respectively. The stamp duty value on the date of transfer, i.e.,

1.10.2013, is ₹ 78 lakh and ₹ 22 lakh for the house property and rural agricultural land, respectively. Determine the tax implications in the hands of Mr. Sunil and Mr. Ravi and the TDS implications, if any, in the hands of Mr. Ravi, assuming that both Mr. Sunil and Mr. Ravi are resident Indians.

Income of Other Persons included in the Assessee's Total Income

9. Mr. Avinash, entered into the following transactions during the previous year 2013-14:
- Mr. Avinash had a fixed deposit of ₹ 8,00,000 with State Bank of India. He instructed the bank to credit the interest on the deposit @ 9% from 1-4-2013 to 31-3-2014 to the savings bank account of Ms. Sheetal, his niece, to help her in her higher education.
 - Mr. Avinash holds 51% share in a partnership firm. Mrs. Alka (wife of Mr. Avinash) received a remuneration of ₹ 45,000 from the firm for writing its books of accounts. Mrs. Alka, being a fashion designer, does not possess any qualification or training in the accountancy field.
 - Mr. Avinash gifted a flat to Mrs. Alka on April 1, 2013. During the previous year 2013-14, she received rent of ₹ 8,500 p.m. from letting out of the flat.
 - Mr. Avinash gifted ₹ 4,00,000 to his minor son who invested the same in a business and he derived income of ₹ 40,000 from the investment.
 - Mr. Avinash's minor daughter derived an income of ₹ 25,000 from participation in music shows.

During the year, Mr. Avinash got a monthly pension of ₹ 18,000. He had no other income. Mrs. Alka received salary of ₹ 25,000 per month from a part time job as a fashion designer.

Discuss the tax implications of each transaction and compute the total income of Mr. Avinash and Mrs. Alka.

Set off and Carry Forward of Losses

10. Mr. Prakash, a resident individual, furnishes the following particulars of his income and other details for the previous year 2013-14:

Sl. No.	Particulars	₹
(i)	Income from salary	25,000
(ii)	Net Annual Value of house property	85,000
(iii)	Income from business	1,80,000
(iv)	Income from speculative business	12,500
(v)	Long term capital gain on sale of land	17,500
(vi)	Loss on maintenance of race horse	12,000
(vii)	Loss on gambling	10,500

Depreciation allowable under the Income-tax Act, 1961, comes to ₹ 20,000, for which no treatment is given above.

The other details of unabsorbed depreciation and brought forward losses (pertaining to A.Y. 2013-14) are:

Sl.No.	Particulars	₹
(i)	Unabsorbed depreciation	15,000
(ii)	Loss from speculative business	15,000
(iii)	Short term capital loss on sale of shares	19,500

Compute the gross total income of Mr. Prakash the Assessment year 2014-15, and the amount of loss that can or cannot be carried forward.

Deductions from Gross Total Income

11. (i) Compute the eligible deduction under section 80C for A.Y.2014-15 in respect of life insurance premium paid by Mr. Himesh during the P.Y.2013-14, the details of which are given hereunder –

	Date of issue of policy	Person insured	Actual capital sum assured (₹)	Insurance premium paid during 2013-14 (₹)
(i)	1/6/2011	Mr. Himesh	3,00,000	75,000
(ii)	1/5/2012	Mrs. Himani, his wife	1,00,000	25,000
(iii)	1/7/2013	Ms. Shweta, his handicapped daughter (section 80U disability)	2,00,000	60,000
(iv)	1/7/2013	Mr. Siddhartha, his son	1,00,000	<u>25,000</u>
Total Premium paid				<u>1,85,000</u>

- (ii) Mr. Aayush purchased a residential house property for self-occupation at a cost of ₹ 28 lakh on 1.5.2013, in respect of which he took a housing loan of ₹ 20 lakh from the State Bank of India (SBI) @12% p.a. on the same date. The SBI had sanctioned housing loan of ₹ 22 lakhs on 29th April, 2013. Compute the eligible deduction in respect of interest on housing loan for A.Y.2014-15 under the provisions of the Income-tax Act, 1961, assuming that the entire loan was outstanding as on 31.3.2014 and he does not own any other house property.

Computation of Total Income of an individual

12. Mr. Rahul, aged 55 years, a resident individual and practicing Chartered Accountant, furnishes you the receipts and payments account for the financial year 2013-14.

Receipts and Payments Account

Receipts	₹	Payments	₹
Opening balance 1.4.2013)	16,500	Staff salary, bonus and stipend to articled clerks	1,77,000
Cash on hand and at bank		Other administrative expenses	51,500
Fee from professional services	8,51,500	Office rent	48,000
Rent	72,000	Housing loan repaid to SBI (includes interest of ₹ 65,000)	1,00,000
Motor car loan from Vyasa Bank (@ 11% p.a.)	3,00,000	Life insurance premium	30,000
		Motor car (acquired in Dec. 2013)	4,00,000
		Medical insurance premium (for self and wife)	15,000
		Books purchased (annual publications)	18,500
		Laptop acquired on 1.12.2013 (for professional use)	40,000
		Domestic drawings	2,82,000
		Public provident fund subscription	45,000
		Motor car maintenance	12,500
		Closing balance (31.3.2014)	
		Cash on hand and at bank	20,500
	<u>12,40,000</u>		<u>12,40,000</u>

Following further information is given to you:

- (1) He occupies the first floor of the building for own residence and has let out ground floor for residential use at a monthly rent of ₹ 6,000. Both the floors have the same area. The building was constructed during the year 1997-98.
- (2) Motor car was put to use both for official and personal purpose. One-fourth of the motor car use is for personal purpose. No car loan interest was paid during the year.
- (3) The written down value of assets as on 1-4-2013 are given below:

Furniture & Fittings	₹ 75,000
Plant & Machinery (Air-conditioners, Photocopiers, etc.)	₹ 90,000
Computers	₹ 60,000

Compute the total income of Mr. Rahul for the assessment year 2014-15, assuming that he follows cash system of accounting regularly.

Provisions concerning deduction of tax at source

13. State, in brief, the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the financial year 2013-14:
- (i) Mr. Jack sold his house property in Chennai for a consideration of ₹ 75 lakh to Mr. David on 31.01.2014.
 - (ii) ₹ 2,50,000 paid to Mr. Bansi on 05.05.2013 by State Government on compulsory acquisition of his urban land.
 - (iii) Madona, a non-resident, received ₹ 40 lakh for her stage shows in India from Optimistic Ltd., an event management company in India, on 26.12.2013.
 - (iv) A Ltd. paid retainership fees of ₹ 25,000 to its director, Mr. Ram Sharma, on 30.01.2014.

Provisions for filing of Return of Income

14. (i) During the P.Y. 2013-14, Mrs. Lal, a resident and ordinarily resident in India, aged 45 years, holds 18% of equity shares in a company registered in London. She also owns a house in London. She contends that since her total income computed as per the Income-tax Act, 1961, before allowing deduction under Chapter VIA, is less than the basic exemption limit of Rs.2 lakh, she is not required to file return of income for A.Y. 2014-15. Discuss the correctness of her contention.
- (ii) State with reasons whether you agree or disagree with the following statements:
- (a) The return of income of a Limited Liability Partnership (LLP) can be signed by any partner.
 - (b) Time limit for filing return under section 139(1) in the case of a firm having total turnover of ₹ 80 lakhs for the year ended 31.03.2014, whether or not opting to offer presumptive income under section 44AD, is 30th September 2014.

Negative list of services

15. Examine the chargeability of service tax in each of the following independent cases:-
- (i) Mr. Raju, an employee provides his service on contract basis to an associate company of Vikram Enterprises, the employer.
 - (ii) Shubhika enjoys an amusement ride set up in a mall. There is no other amusement ride in the mall.
 - (iii) AVB Institute is engaged in providing private tuitions to the students of Graduation Level.

All the above activities are being carried out in lieu of specific monetary consideration.

Point of taxation

16. Sam Limestone Ltd. is the owner of a limestone-mine in Jaisalmer. It obtained a patent from the concerned competent authorities in relation to the limestone mine in January, 2011. Further, the company entered into an agreement with LMN Ltd in May, 2011 for allowing the latter party to extract limestone for the next three years. The consideration payable by LMN Ltd. for using the limestone mine has been fixed @ ₹ 2000 per tonne of the limestone extracted. The quantum of limestone extracted by LMN Ltd and other relevant details are given in the following table:

Relevant Year	Relevant output [in tonnes]	Consideration for using the coal-mine @ ₹ 2000/- per tonne	Date of issuance of invoice	Date of receipt of payment
2011-12	1,000	20,00,000	08.08.2012	23.09.2012
2012-13	2,000	40,00,000	15.05.2013	05.05.2013
2013-14	3,000	60,00,000	13.02.2014	28.03.2014

You are required to determine the point of taxation in the above case.

Valuation of taxable service

17. Mr. Ramvilas Mehta, a Chartered Accountant, rendered professional advice to its client MN Ltd. on the matters relating to tax optimization. As a consideration for the said services, MN Ltd. gave a souvenir to Mr. Ramvilas Mehta. The said souvenir was an artifact especially designed and made by the craftsmen as per the specifications suggested by MN Ltd.

Mr. Ramvilas Mehta contends that he need not pay service tax on the services provided by him as value of thereof could not be ascertained. Is Mr. Ramvilas Mehta's contention correct? Critically examine the case.

Assume that Mr. Ramvilas Mehta is not entitled to the exemption available to small service providers.

Interest on delayed payment of service tax

18. Compute the interest payable by the service providers in the following cases on account of delay in payment of service tax:

Name of the service provider	MNO Ltd.	Mr. Rohan
Service tax liability	₹ 1,25,800	₹ 2,46,000
Delay in payment of service tax	15 days	30 days

The aggregate value of taxable services rendered in the previous financial year 2012-13 by MNO Ltd. and Mr. Rohan is ₹ 48 lakh and ₹ 65 lakh respectively.

Assume that the service tax liability and the delay given above relates to a period in the financial year 2013-14.

Service tax liability of sub-contractor

19. Star Ltd. entered into a contract for rendering taxable services for ₹ 45,00,000. It sub-contracted a part of the work to Galaxy Ltd. for a sum of ₹ 18,00,000. Star Ltd. paid service tax on the amounts realized and advised the sub-contractor Galaxy Ltd. not to raise bill inclusive of service tax since it had paid service tax on the total amount of contract. Examine the correctness of advice given by Star Ltd. to Galaxy Ltd.

Filing of returns

20. (i) Mr. Lavi, a taxable service provider submitted the return for the half year April – September, 2013 on 5th October, 2013. However, he desires to submit a revised return on 20th January, 2014 to correct a mistake. Examine whether he can do so.
- (ii) Mr. Abhi, a service provider has filed a half-yearly service tax return where he has furnished consolidated details – lump sum amount pertaining to the half year - relating to value of taxable service, gross amount charged and service tax payable. Comment on the validity of the return.

Liability under VAT

21. The following particulars are provided by Mr. Maanu of Jaipur who is engaged in the manufacture of ABS pipes and PVC Pipes. He has purchased raw materials for manufacturing the same from Mr. Anki. The State VAT rate for raw materials and other materials was 12.5%.

	Particulars	₹
1.	Cost of raw materials purchased	2,00,000
2.	VAT paid by Mr. Anki	25,000
3.	Cost of other materials:	
	Local	40,000
	Interstate purchases	80,000
4.	VAT paid on local materials purchased - 12.5%	5,000
5.	CST paid @ 2%	1,600
6.	Manufacturing expenses	38,400
7.	Profit margin (on sale value)	20%

Mr. Maanu utilized the raw materials and manufactured 75% of production as ABS pipes and 25% of production as PVC pipes. While ABS pipes are subject to 12.5% VAT, PVC pipes are exempt from VAT. All materials were used in the production and there was no closing stock of raw materials and other materials.

What would be the invoice value of sales charged by Mr. Maanu if all the manufactured goods were sold within the State? What would be his VAT liability?

Input tax credit

22. Tarun Enterprises, a dealer in Rajasthan dealing in consumer goods, submits the following information pertaining to the month of December, 2013:

- (i) Exempt goods 'X' purchased for ₹ 1,75,000 and sold for ₹ 3,50,000.
- (ii) Goods 'Y' purchased for ₹ 2,25,000 (including VAT) and sold at a margin of 20% profit on purchases (VAT rate for purchases and sales is 12.5%)
- (iii) Goods 'Z' purchased for ₹ 2,00,000 (excluding VAT) and sold for ₹ 2,50,000 (VAT rate for purchases and sales is 4%);
- (iv) His unutilized balance of input VAT credit on 1.12.2013 was ₹ 3,000.

Compute the turnover, Input VAT, Output VAT and Net VAT payable by Tarun Enterprises.

Registration under VAT

23. M/s Swabhiman Enterprises, a paper merchant, was a registered VAT dealer. However, due to financial problems, he discontinued his business. Can his registration be cancelled? If yes, enumerate other circumstances under which VAT registration can be cancelled as per the White Paper on VAT?

Stock transfer under VAT

24. Dinar Enterprises, a dealer in Hyderabad, purchased raw material worth ₹ 90,00,000 (excluding VAT) and manufactured finished goods worth ₹ 1,60,00,000 from such raw material in the month of December, 2013. It received an order for the said finished goods from its Bangalore branch in January, 2014. Hence, it transferred these finished goods to Bangalore in the same month.

Compute the amount of input tax credit available and net VAT payable under the State VAT Law by Dinar Enterprises for the month of January, 2014 and the balance input tax credit carried forward to next month, if any. Input VAT rate is 12.5% and output VAT rate is 4%.

Audit provisions under VAT

25. Explain the manner in which an independent auditor can ensure that the tax payer has discharged his tax liability properly while filing the returns.

Input tax credit on capital goods

26. Examine whether the dealers are entitled to set off on capital goods like any other purchases. If yes, explain the procedural requirements for claiming the set off of input tax on capital goods.

SUGGESTED ANSWERS/HINTS

1. Computation of Gross Total Income of Mr. Hansraj for A.Y. 2014-15

Particulars	₹
Salaries [See Note 2]	6,50,000
Foreign Allowance [See Note 3]	Nil
Income from other sources (Interest on fixed deposit in India)	<u>80,000</u>
Gross Total Income	<u>7,30,000</u>

Notes:

- (1) As per section 6(1), Mr. Hansraj is a non-resident for the F.Y. 2013-14, since he was not present in India at any time during the previous year 2013-14.

As per section 5(2), a non-resident is chargeable to tax in India only in respect of following incomes:

- (i) Income received or deemed to be received in India; and
- (ii) Income accruing or arising or deemed to accrue or arise in India.

In view of the above provisions, income from agriculture in Bhutan and income from house property in Nepal would not be chargeable to tax in the hands of Hansraj, assuming that the same were received in Bhutan and Nepal, respectively.

- (2) Income from 'Salaries' payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India as per section 9(1)(iii). Hence, such income is taxable in the hands of Mr. Hansraj, even though he is a non-resident.
- (3) Allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India are exempt under section 10(7). Hence, foreign allowance of ₹ 3,50,000 is exempt under section 10(7).
2. (i) Under section 10(10D), any sum received under a life insurance policy is exempt, except, *inter alia*, any sum received under a Keyman Insurance Policy.

The scope of the term "Keyman Insurance Policy" has been amplified to include a Keyman Insurance Policy which has been assigned by the person who had taken the policy (Paras Ltd., in this case), to any employee during its term. Such policies shall continue to be treated as Keyman Insurance Policy even after the same is assigned to a keyman. Therefore, Mr. Dayal will not be entitled to exemption under section 10(10D), in respect of the proceeds of ₹ 25,00,000 received by him under Keyman Insurance Policy.

- (ii) A charitable trust having "advancement of any other object of general public utility" as its main object, will lose its status as a charitable trust for the previous year in

which its receipts from commercial activities exceed ₹ 25 lakhs and therefore, would not be entitled to get benefit of exemption in respect of its income for that previous year, whether or not its registration is cancelled. When the receipts from commercial activities exceed ₹ 25 lakhs in any previous year, the denial of exemption for that year is compulsory by operation of law and is not dependent on cancellation of registration.

- (iii) As per the provisions of section 10(48), any income received in India in Indian currency by a foreign company on account of sale of crude oil to any person in India is exempt. However, one of the conditions necessary for claiming such an exemption is that the foreign company as well as the agreement should be notified by the Central Government having regard to the national interest. Therefore, ₹ 10 lakh received by the foreign company on account of sale of crude oil would be exempt under section 10(48), only if the said foreign company as well as the agreement under which it is entitled to receive the income are notified by the Central Government. Further, the foreign company should not be engaged in any other activity, other than the receipt of such income, in India.

If the said sum of ₹ 10 lakh was received by the foreign company on account of provision of services, then, the exemption under section 10(48) would be available only if the services in respect of which the payment is made, is notified by the Central Government. In this case also, the foreign company as well as the agreement should be notified by the Central Government. Further, the foreign company should not be engaged in any other activity, other than the receipt of such income, in India.

- (iv) The buyback of unlisted shares would attract additional income-tax under section 115QA in the hands of the domestic company, i.e., A Ltd. in this case. Consequently, the income arising to Mr. Sumeet in respect of such buyback of unlisted shares by A Ltd. would be exempt under section 10(34A).

3. **Computation of total income of Mr. Madhav for the A.Y. 2014-15**

Particulars	₹	₹
Basic salary (₹ 22,500 x 12)		2,70,000
Dearness allowance (1/4 th of basic salary)		67,500
Transport allowance (₹ 2,000 x 12)	24,000	
Less: Exemption under section 10(14) read with Rule 2BB ₹ 800 p.m.	9,600	14,400
Facility for use of laptop [See Note 1]		Nil
Conveyance Allowance [See Note 2]		2,000
Expenditure on accommodation while on official duty not a perquisite and hence, not chargeable to tax		Nil
Value of lunch provided during working hours [See Note 3]		Nil

Value of concessional accommodation [See Note 4]		38,000
Gross Total Income		3,91,900
<i>Less</i> : Deduction under Chapter VI-A		
Under section 80C		
Contribution to PPF	1,00,000	
Under section 80D		
Medical insurance premium paid by cheque	4,500	
Premium paid in cash not eligible for deduction	Nil	1,04,500
Total income		2,87,400

Notes:

- (1) As per Rule 3(7)(vii), facility for use of laptop is not a taxable perquisite, even if it is used for personal purposes.
- (2) As per section 10(14), conveyance allowance granted to meet expenditure incurred on conveyance for official duties of an employee is exempt. Hence, ₹ 10,000 would be exempt under section 10(14) in the hands of Mr. Madhav and the balance of ₹ 2,000 would be taxable.
- (3) As per Rule 3(7)(iii), free food provided by the employer during working hours will not be treated as perquisite provided the value thereof does not exceed fifty rupees per meal. In this case, assuming that the value per meal does not exceed ₹ 50, the cost to employer would not be chargeable to tax.
- (4) **Perquisite Value of Furnished Accommodation provided at concessional rent:**

Particulars	₹	₹
Basic Salary		2,70,000
Transport Allowance (the portion which is chargeable to tax)		14,400
Conveyance Allowance		<u>2,000</u>
"Salary" for the purpose of perquisite value of accommodation		<u>2,86,400</u>
15% of salary (A)	42,960	
Rent paid by the company for the accommodation @ ₹ 3,500 p.m. (B)	42,000	
Lower of (A) and (B) would be taken as the perquisite value of accommodation i.e.		42,000
<i>Less</i> : Rent paid by Madhav (₹ 1,000 × 12)		<u>12,000</u>
		30,000
Add : Value of furniture provided by employer:		
Rent for furniture (₹ 500 × 12)	6,000	
Television (₹ 20,000 × 10% p.a.)	<u>2,000</u>	<u>8,000</u>
Value of furnished accommodation given at concessional rent		38,000

Note - It is assumed that dearness allowance does not form part of retirement benefits and therefore, the same has not been considered for computation of value of furnished accommodation.

4. Computation of income from house property of Mrs. Dholakia for the A.Y. 2014-15

Particulars	₹	₹
Income from house property		
I. Self-occupied portion (Two third)		
Net Annual value		Nil
Less: Deduction under section 24(b)		
Interest on loan (See Note below) (₹ 19,000 x 2/3)		<u>12,667</u>
Loss from self occupied property		<u>(12,667)</u>
II. Let-out portion (One third)		
Gross Annual Value		
(a) Actual rent received (₹ 7,000 x 12) = ₹ 84,000		
(b) Annual Letting Value (ALV) [Higher of municipal valuation (i.e. ₹ 1,02,000) and fair rent (i.e. ₹ 1,32,000) but restricted to standard rent (i.e. ₹ 1,14,000)] = ₹ 1,14,000 x 1/3 = ₹ 38,000		
Higher of (a) or (b)	84,000	
Less: Municipal taxes (₹ 1,02,000 x 15% x 1/3)	<u>5,100</u>	
Net Annual Value	78,900	
Less: Deductions under section 24		
(a) 30% of NAV	23,670	
(b) Interest on loan (See Note below) (₹ 19,000 x 1/3)	<u>6,333</u>	<u>48,897</u>
Income from house property		<u>36,230</u>

Note: Interest on loan taken for construction of building

Interest for the year (1.4.2013 to 31.3.2014) = 12% of ₹ 1,00,000 = ₹ 12,000

Pre-construction period interest = 12% of ₹ 1,00,000 for 35 months (from 1.05.2007 to 31.3.2010) = ₹ 35,000

Pre-construction period interest to be allowed in 5 equal annual installments of ₹ 7,000 from the year of completion of construction i.e. from F.Y. 2010-11 to F.Y. 2014-15.

Therefore, total interest deduction under section 24 = ₹ 12,000 + ₹ 7,000 = ₹ 19,000.

5. (i) ₹ 120 crores invested in new plant and machinery is a capital expenditure, in respect of which investment allowance and depreciation are allowable under the provisions of the Income-tax Act, 1961.

As per section 32AC, manufacturing companies would be entitled to deduction @ 15% of aggregate amount of actual cost of new plant and machinery acquired and

installed during the F.Y. 2013-14 and F.Y. 2014-15, if the same exceeds ₹ 100 crore.

In this case, ABC Ltd. is entitled to a deduction of ₹ 18 crore under section 32AC (i.e. 15% of ₹ 120 crore) for the A.Y.2014-15, assuming that the new plant and machinery does not include any plant or machinery which is previously used at any time within or outside India or which is installed in any office premises or residential accommodation or guest house or any office appliance or any vehicle, ship or aircraft.

The deduction under section 32AC would be in addition to the deduction under section 32 in respect of depreciation and additional depreciation.

Particulars		₹ (in crores)
Depreciation	15% of ₹ 120 crore	18
Additional Depreciation	20% of ₹ 120 crore	<u>24</u>
Total deduction under section 32		<u>42</u>

It has been assumed that the new plant and machinery was put to use for more than 180 days during the P.Y. 2013-14.

- (ii) *Explanation 2* to section 36(1)(vii) clarifies that in the case of an assessee to which section 36(1)(vii) applies (a scheduled bank, as in this case), the amount of deduction in respect of the bad debts actually written off under section 36(1)(vii) shall be limited to the amount by which such bad debts exceeds the credit balance in the provision for bad and doubtful debts made under section 36(1)(vii) without any distinction between rural advances and other advances.

Therefore, the bank can claim deduction of only ₹ 5 lakhs under section 36(1)(vii) for A.Y. 2014-15 [i.e., the excess of bad debts of ₹ 85 lakhs written off in the books of accounts over ₹ 80 lakhs (i.e., ₹ 70 lakhs + ₹ 10 lakhs), being the provision for bad and doubtful debts allowed as deduction under section 36(1)(vii)].

- (iii) An amount equal to commodity transaction tax paid by the assessee shall be allowable as deduction, under new section 36(1)(xvi), if the income arising from taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession". In the given case, Murugan, is entitled to claim deduction in respect of commodity transaction tax of ₹ 75000 paid by him, on sale of commodity derivatives, if the income arising from taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".
- (iv) As per section 35AD, investment linked tax deduction is available in respect of any of the specified businesses defined thereunder. Further, as per section 35AD(1A), a weighted deduction of 150% of the capital expenditure (including expenditure incurred before commencement of operations) is available in respect of certain

specified businesses which include *inter alia* business of warehousing facility for storage of agricultural produce. Therefore, in this case, Deenu and Co. would be eligible for deduction of ₹ 75,00,000 (150% of ₹ 50 lakhs), in the year in which it commenced operations i.e., P.Y. 2013-14, provided it has capitalised the amount in its books of accounts on 1.4.2013, being the date of commencement of operations. No other deduction is allowable in respect of the said sum under any other provision of the Income-tax Act, 1961.

- (v) Clean (P) Ltd. is entitled to a weighted deduction of a sum equal to 150% of the expenditure incurred by it on notified skill development project, under section 35CCD. Therefore, it can claim ₹ 3,75,000 (i.e., 150% of ₹ 2,50,000) as deduction under section 35CCD for the P.Y.2013-14.
6. (i) **Computation of capital gains chargeable to tax in the hands of Mr. Natwarlal for the A.Y. 2014-15**

Particulars	₹
Sale consideration	20,00,000
<i>Less: Indexed cost of acquisition (See Note 1 below)</i>	<u>5,15,934</u>
	14,84,066
<i>Less: Indexed cost of improvement (See Note 2 below)</i>	<u>11,10,284</u>
Long term capital gain	<u>3,73,782</u>

Note 1:

Indexed cost of acquisition is determined as under:	
Cost to the previous owner i.e. Mohanlal is ₹ 1,50,000	
Fair Market Value on 1 st April, 1981 is ₹ 2,00,000	
Cost to the previous owner or FMV on 1 st April, 1981, whichever is more, is to be taken as cost of acquisition of Natwarlal	₹ 2,00,000
<i>Less: Advance money forfeited by Natwarlal (as per section 51)¹</i>	<u>₹ 1,00,000</u>
Cost of acquisition	<u>₹ 1,00,000</u>

Indexed cost of acquisition (₹ 1,00,000 × 939/182) ₹ 5,15,934

[182 is the Cost Inflation Index for F.Y. 1990-91, being the first year in which property is held by Natwarlal and 939 is the Cost Inflation Index for F.Y. 2013-14, being the year in which the property is sold.]

¹ Advance forfeited by Mohanlal, the previous owner, should, however, not be deducted

Alternative view: In the case of CIT v. Manjula J. Shah 204 Taxman 691, the Bombay High Court held that the indexed cost of acquisition in case of gifted asset can be computed with reference to the year in which the previous owner first held the asset. As per this view, the indexation cost of acquisition of house would be ₹ 9,39,000 taking Cost Inflation Index of 100 for the F.Y. 1981-82 since F.M.V. as on 1st April, 1981 is taken as cost of acquisition of Natwarlal.

Note 2	₹
Indexed cost of improvement is determined as under:	
Expenditure incurred before 1 st April, 1981 should not be considered	NIL
Expenditure incurred on or after 1 st April, 1981	
- During 1983-84 Indexed cost of Improvement [₹ 65,000 × 939/116]	5,26,164
- During 2001-02 Indexed cost of Improvement [₹ 2,65,000 × 939/426]	<u>5,84,120</u>
Total Indexed cost of improvement	<u>11,10,284</u>

- (ii) Section 10(37) exempts the capital gains arising to an individual or a Hindu Undivided Family from transfer of urban agricultural land by way of compulsory acquisition, or a transfer, the consideration for which is determined or approved by the RBI or the Central Government.

Such exemption is available where the compensation or the enhanced compensation or consideration, as the case may be, is received on or after 1st April, 2004 and the land has been used for agricultural purposes during the preceding two years by such individual or a parent of his or by such Hindu undivided family.

Since all the above conditions are fulfilled in this case, Pinto is entitled to exemption under section 10(37) in respect of the entire capital gains arising on sale of urban agricultural land, without any further condition of re-investment of capital gains or net sale consideration.

7. Computation of amount chargeable to tax in hands of Shri. Laxman for A.Y. 2014-15

	Particulars	₹
(i)	Cash gift of ₹ 1,08,000 received on the occasion of his marriage is not taxable since gifts received by an individual on the occasion of marriage are excluded under section 56(2)(vii), even if the same are from non-relatives.	Nil
(ii)	Even though mother's maternal aunt does not fall within the definition of "relative" under section 56(2)(vii), gift of ₹ 49,000 received from her by cheque is not chargeable to tax since the aggregate sum of money received by Shri. Laxman without consideration from non-relatives (other than on the occasion of marriage) during the previous year 2013-14 does not exceed ₹ 50,000.	Nil

(iii)	Purchase of land for inadequate consideration on 25.12.2013 would attract the provisions of section 56(2)(vii). Where any immovable property is received for a consideration which is less than the stamp duty value of the property by an amount exceeding ₹ 50,000, the difference between the stamp duty value and consideration is chargeable to tax in the hands of the individual. Therefore, in the given case ₹ 75,000 is taxable in the hands of Shri. Laxman.	75,000
(iv)	Since shares are included in the definition of "property" and difference between the purchase price and fair market value of shares is ₹ 1,00,000 (₹ 1,75,000 - ₹ 75,000) i.e. it exceeds ₹ 50,000, the difference would be taxable under section 56(2)(vii).	1,00,000
(v)	Cell phone is not included in the definition of "property" as per <i>Explanation</i> to section 56(2)(vii). Hence, it is not taxable.	Nil
Amount chargeable to tax		1,75,000

8. Tax implications on sale of house property and rural agricultural land at a price lower than the stamp duty value

(i)	<u>Tax implications in the hands of Mr. Sunil</u>
	As per section 50C, the stamp duty value of house property (i.e. ₹ 78 lakh) would be deemed to be the full value of consideration arising on transfer of property. Therefore, ₹ 33 lakh (i.e. ₹ 78 lakh – ₹ 45 lakh, being the purchase price) would be taxable as short-term capital gains in the A.Y. 2014-15. Since rural agricultural land is not a capital asset, the gains arising on sale of such land is not taxable in the hands of Mr. Sunil.
(ii)	<u>Tax implications in the hands of Mr. Ravi</u>
	In case immovable property is received for inadequate consideration, the difference between the stamp value and actual consideration would be taxable under section 56(2)(vii), if such difference exceeds ₹ 50,000. Therefore, in this case ₹ 8 lakh (₹ 78 lakh – ₹ 70 lakh) would be taxable in the hands of Mr. Ravi under section 56(2)(vii). Since rural agricultural land is not a capital asset, the provisions of section 56(2)(vii) are not attracted in respect of receipt of rural agricultural land for inadequate consideration, since the definition of "property" under section 56(2)(vii) includes only the capital assets specified thereunder.
(iii)	<u>TDS implications in the hands of Mr. Ravi</u>
	Since the sale consideration of house property exceeds ₹ 50 lakh, Mr. Ravi is required to deduct tax at source under section 194-IA. The tax to be deducted under section 194-IA would be ₹ 70,000, being 1% of ₹ 70 lakh. TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.

9. Computation of Total Income of Mr. Avinash and Mrs. Alka for the A.Y. 2014-15

Particulars	Mr. Avinash (₹)	Mrs. Alka (₹)
Salary income (of Mrs. Alka)	-	3,00,000
Pension income (of Mr. Avinash) (₹ 18,000×12)	2,16,000	
Income from House Property [See Note (3)]	71,400	-
Income from other sources		
Interest on Mr. Avinash's fixed deposit with Bank of India (₹ 8,00,000×9%) [See Note (1)]	72,000	
Remuneration received by Mrs. Alka from a partnership firm, in which Mr. Avinash has substantial interest [See Note (2)]	45,000	1,17,000
Income before including income of minor child under section 64(1A)	4,04,400	3,00,000
Income of the minor son from the investment made in the business out of the amount gifted by Mr. Avinash [See Note (4)]	38,500	-
Income of the minor daughter from music shows, being an activity involving application of her skill and talent [See Note (5)]	-	-
Total Income	4,42,900	3,00,000

Notes:

- (1) As per section 60, in case there is a transfer of income without transfer of asset from which such income is derived, such income shall be treated as income of the transferor. Therefore, the fixed deposit interest of ₹ 72,000 transferred by Mr. Avinash to Ms. Sheetal shall be included in the total income of Mr. Avinash.
- (2) As per section 64(1)(ii), in case the spouse of the individual receives any amount by way of income from any concern in which the individual has substantial interest (i.e. holding shares carrying at least 20% voting power or entitled to at least 20% of the profits of the concern), then, such income shall be included in the total income of the individual. The only exception is in a case where the spouse possesses any technical or professional qualifications and the income earned is solely attributable to the application of her technical or professional knowledge and experience, in which case, the clubbing provisions would not apply.

In this case, the remuneration of ₹ 45,000 received by Mrs. Alka from the partnership firm, for writing its books of account, has to be included in the total income of Mr. Avinash, as Mrs. Alka is a fashion designer and does not possess any qualification

or training in the accountancy filed for earning such remuneration and Mr. Avinash has substantial interest in the partnership firm as he holds 51% share in the firm.

- (3) According to section 27(i), an individual who transfers any house property to his or her spouse otherwise than for adequate consideration or in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred. Hence, Mr. Avinash shall be deemed to be the owner of the flat gifted to Mrs. Alka and hence, the income arising from the same shall be computed in the hands of Mr. Avinash.

Rent received (i.e. ₹ 1,02,000) is taken as Gross Annual Value in the absence of other information. Deduction @ 30% of Net Annual Value is allowed u/s 24. The net income from house property would be ₹ 71,400 (i.e. ₹ 1,02,000- ₹ 30,600 being 30% of NAV).

Note: The provisions of section 56(2)(vii) would not be attracted in the hands of Mrs. Alka, since she has received immovable property without consideration from a relative i.e., her husband.

- (4) As per section 64(1A), the income of the minor child is to be included in the total income of the parent whose total income (excluding the income of minor child to be so clubbed) is greater. Further, as per section 10(32), income of a minor child which is includible in the income of the parent shall be exempt to the extent of ₹ 1,500 per child.

Therefore, the income of ₹ 40,000 received by minor son from the investment made out of the sum gifted by Mr. Avinash shall, after providing for exemption of ₹ 1,500 under section 10(32), be included in the income of Mr. Avinash, since Mr. Avinash's income of ₹ 4,04,400 (before including the income of the minor child) is greater than Mrs. Alka's income of ₹ 3,00,000. Therefore, ₹ 38,500 (i.e., ₹ 40,000 – ₹ 1,500) shall be included in Mr. Avinash's income. It is assumed that this is the first year in which clubbing provisions are attracted.

- (5) In case the income earned by the minor child is on account of any activity involving application of any skill or talent, then, such income of the minor child shall not be included in the income of the parent, but shall be taxable in the hands of the minor child.

Therefore, the income of ₹ 25,000 derived by Mr. Avinash's minor daughter from music shows, which involve application of her skill and talent shall not be clubbed in the hands of either parent. Such income shall be taxable in the hands of the minor daughter.

10. Computation of Gross Total Income of Mr. Prakash for the A.Y. 2014-15

	Particulars	₹	₹
(i)	Salaries		25,000
(ii)	Income from house property		
	Net annual value	85,000	
	Less : Deduction under section 24 (30% of ₹ 85,000)	<u>25,500</u>	59,500

(iii)	Profits and gains of business or profession		
	(a) Income from business	1,80,000	
	Less: Current year depreciation	<u>20,000</u>	
		1,60,000	
	Less: Unabsorbed depreciation	<u>15,000</u>	1,45,000
	(b) Income from speculative business	12,500	
	Less: Brought forward loss from speculative business	<u>12,500</u>	Nil
	(Balance loss of ₹ 2,500 (i.e. ₹ 15,000 – ₹ 12,500) can be carried forward to the next year)		
(iv)	Capital gains		
	Long term capital gain on sale of land	17,500	
	Less : Brought forward short term capital loss		
	(Balance loss of ₹ 2,000 (i.e., ₹ 19,500 - ₹ 17,500) can be carried forward to the next year)	<u>17,500</u>	<u>Nil</u>
	Gross total income		<u>2,29,500</u>

Amount of loss to be carried forward to the next year

Particulars	₹
Loss from speculative business [to be carried forward as per section 73]	2,500
Short term capital loss [to be carried forward as per section 74(1)]	2,000
Loss on maintenance of race horses [to be carried forward as per section 74A]	12,000

Notes:

- (i) Loss on gambling can neither be set-off nor be carried forward.
- (ii) As per section 74A(3), the loss incurred on maintenance of race horses cannot be set-off against income from any other source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 assessment years.
- (iii) Brought forward speculative business loss can set off only against income from speculative business of the current year and the balance loss can be carried forward to A.Y. 2015-16. It may be noted that speculative business loss can be carried forward for a maximum of four years as per section 73(4).
- (iv) Short- term capital loss can be set off against both short term capital gains and long term capital gains. Therefore, brought forward short term capital loss of ₹ 19,500 can be set off against long term capital gains of ₹ 17,500. The remaining short term capital loss of ₹ 2,000 can be carried forward to the next assessment year for set-off against capital gains arising in that year.

11. (i) Computation of eligible deduction under section 80C for A.Y. 2014-15
(in respect of life insurance premium paid by Mr. Himesh)

	Date of issue of policy	Person insured	Actual capital sum assured	Insurance premium paid during 2013-14	Restricted to % of sum assured)	Deduction u/s 80C for A.Y.2014-15
(i)	1/6/2011	Mr. Himesh	3,00,000	75,000	20%	60,000
(ii)	1/5/2012	Mrs. Himani	1,00,000	25,000	10%	10,000
(iii)	1/7/2013	Handicapped daughter	2,00,000	60,000	15%	30,000
(iv)	1/7/2013	Son	1,00,000	25,000	10%	10,000
Total						1,10,000
Maximum deduction u/s 80C restricted to						1,00,000

Note:

In respect of policies issued	Maximum deduction u/s 80C (% of actual capital sum assured)
between 01-04-2003 and 31-03-2012	20%
between 01-04-2012 and 31-03-2013	10%
on or after 01-04-2013	
- Insurance on life of person with disability u/s 80U	15%
- Others	10%

- (ii) Computation of eligible deduction in respect of interest on housing loan for A.Y. 2014-15

Particulars	₹
Deduction under section 24(b) [See Note 1] ₹ 2,20,000 [₹ 20,00,000 × 12% × 11/12]	
Restricted to	1,50,000
Deduction under section 80EE (₹ 2,20,000 – ₹1,50,000) [See Note 2]	70,000

Note:

- (1) Mr. Aayush is entitled to deduction under section 24(b) in respect of interest on loan taken for purchase of self-occupied property, subject to a maximum of ₹ 1,50,000.

(2) Mr. Aayush is also entitled to deduction under section 80EE under Chapter VIA (i.e. deductions from gross total income), in addition to deduction under section 24(b) since –

- (1) the loan is sanctioned by State Bank of India, being a financial institution, during the period between 1.4.2013 and 31.3.2014;
- (2) the loan amount sanctioned is less than ₹ 25 lakh;
- (3) the value of the house property is less than ₹ 40 lakh;
- (4) he does not own any other residential house property.

Note: The maximum deduction under section 80EE is ₹ 1,00,000. Since Mr. Aayush has availed only ₹ 70,000 in the P.Y. 2013-14, he can avail the balance ₹ 30,000 as deduction under section 80EE in the P.Y.2014-15 (A.Y. 2015-16) in addition to deduction of ₹ 1,50,000 under section 24 for that year.

12. Computation of total income of Mr. Rahul for the assessment year 2014-15

Particulars	₹	₹	₹
Income from house property			
Self-occupied			
Annual value	Nil		
<i>Less:</i> Deduction under section 24(b)			
Interest on housing loan			
50% of ₹ 65,000 = 32,500 but limited to	<u>30,000</u>		
Loss from self occupied property		(30,000)	
Let out property			
Annual value (Rent receivable has been taken as the annual value in the absence of other information)	72,000		
<i>Less:</i> Deductions under section 24			
(a) 30% of Net Annual Value	21,600		
(b) Interest on housing loan			
(50% of ₹ 65,000)	<u>32,500</u>	<u>17,900</u>	
Loss from house property			(12,100)
Profits and gains of business or profession			
Fees from professional services		8,51,500	
<i>Less:</i> Expenses allowable as deduction			
Staff salary, bonus and stipend	1,77,000		
Other administrative expenses	51,500		
Office rent	48,000		
Motor car maintenance (12,500 x 3/4)	9,375		

Car loan interest – not allowable (since the same has not been paid and the assessee follows cash system of accounting)	<u>Nil</u>	<u>2,85,875</u>	
		5,65,625	
Less: Depreciation			
Furniture and fittings @ 10% of ₹ 75,000	7,500		
Plant & Machinery			
Opening W.D.V @ 15% of ₹ 90,000	13,500		
<i>Add:</i> Additions during the year			
Motor Car @ 15% × ½ × 4,00,000 × ¾	<u>22,500</u>	36,000	
Computer			
Opening W.D.V @ 60% of ₹ 60,000	36,000		
<i>Add:</i> Additions during the year			
Laptop @ 60% of ₹ 40,000 for ½ year	<u>12,000</u>	48,000	
Books being annual publications @ 100%	<u>18,500</u>	<u>1,10,000</u>	<u>4,55,625</u>
Gross Total income			4,43,525
Less: Deductions under Chapter VI-A			
Deduction under section 80C			
Housing loan principal repayment	35,000		
PPF subscription	45,000		
Life insurance premium	<u>30,000</u>		
Total ₹ 1,10,000 but limited to		1,00,000	
Deduction under section 80D			
Medical insurance premium paid ₹ 15,000 (fully allowed since it is within the permissible limit)		<u>15,000</u>	<u>1,15,000</u>
Total income			<u>3,28,525</u>

13. (i) Since the sale consideration of house property exceeds ₹ 50 lakh, Mr. David is required to deduct tax at source under section 194-IA at the time of credit of such sum to the account of Mr. Jack or at the time of payment, whichever is earlier. Tax @ 1% of the sale consideration is required to be deducted by Mr. David under section 194-IA.
- Tax deductible under section 194-IA = ₹ 75 lakh × 1% = ₹ 75,000
- (ii) As per section 194LA, tax shall be deducted at source @ 10%, if the compensation/consideration or enhanced compensation/consideration on compulsory acquisition of immovable property (other than agricultural land) during the year exceeds ₹ 2,00,000. Therefore, in this case, since there has been a compulsory acquisition of urban land, tax has to be deducted at source under section 194LA.
- Tax deductible under section 194LA = ₹ 2,50,000 × 10% = ₹ 25,000

- (iii) Payments made to a non-resident entertainer, shall be subject to tax deduction @ 20% under the provisions of section 194E plus education cess@2% and secondary and higher education cess@1%.

Tax deductible under section 194E = ₹ 40 lakh × 20.6% = ₹ 8,24,000

- (iv) As per section 194J, a company shall be liable to deduct tax at source @ 10% on any remuneration or fees or commission paid to a director, on which the tax is not deductible under section 192. The limit of ₹ 30,000 under section 194J is not applicable on any remuneration or fees or commission payable to director of a company.

Tax deductible under section 194J = ₹ 25,000 × 10% = ₹ 2,500

14. (i) The contention of Mrs. Lal is incorrect.

As per section 139(1), every person who is a resident, other than not-ordinarily resident in India, having –

- (a) any asset (including financial interest in any entity) located outside India or
(b) signing authority in any account located outside India

is required to file a return of income in the prescribed form compulsorily on or before the due date of filing the return of income.

Hence, the contention of Mrs. Lal is not correct, as she-

- (i) holds financial interest in a company in London and
(ii) owns a house property in London.

Therefore, she has to compulsorily file her return of income for A.Y 2014-15 on or before the due date of filing return of income.

- (ii) (a) **Disagree:** The return of income of LLP should be signed by a designated partner.

Any other partner can sign the Return of Income of LLP **only in** the following cases:-

- (i) where for any unavoidable reason such designated partner is not able to sign and verify the return, or,
(ii) where there is no designated partner.

- (b) **Disagree:** In case an assessee opts to offer his income as per the presumptive taxation provisions of section 44AD, then, the due date under section 139(1) for filing of return of income for the year ended 31.03.2014 shall be 31st July, 2014.

It is only in case where the assessee does not opt for presumptive taxation provisions under section 44AD and offers income to be lower than 8% of total

turnover and his total income exceeds the basic exemption limit, he has to keep books of account as per section 44AA and get his accounts audited under section 44AB, in which case the due date for filing return would be 30th September, 2014.

15. (i) Section 65(44) of the Finance Act, 1994, which defines service, specifically excludes from its scope the services that are provided by the employee to the employer in the course of employment. However, services provided outside the ambit of employment for a consideration would be a service. Since, services provided on contract basis i.e. principal-to-principal basis are not services provided in the course of employment, services provided on contract basis by a person to another would be treated as provision of "service".

Thus, services provided by Mr. Raju, an employee, on contract basis to the associate company of Vikram Enterprises, the employer, would be treated as provision of service and charged to service tax.

- (ii) Admission to entertainment events or access to amusement facilities are covered in the negative list under clause (j) of section 66D. A standalone amusement ride set up in a mall qualifies as an amusement facility in which fun or recreation is provided by means of a ride. Access to such amusement ride on payment of charges would be covered in the negative list. Hence, service tax is not chargeable in the instant case.
- (iii) Providing private tuitions to the students of Graduation Level for a consideration is a service. However, the following services relating to education are covered in the negative list of services under clause (l) of section 66D of the Finance Act, 1994:
- (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 recognized by any law for the time being in force;
 - (iii) education as a part of an approved vocational education course;

Since, private tuitions are not covered in the above entry of the negative list, they would be chargeable to service tax.

16. Rule 8 of the Point of Taxation Rules, 2011 *inter alia*, applies in respect of payments pertaining to patents, where the **whole amount of the consideration** for the provision of service is not ascertainable at the time when service was performed, and subsequently the use or the benefit of these services by a person other than the provider gives rise to any payment of consideration. As per rule 8, in such a case, the service would be treated as provided each time when a payment in respect of such use or the benefit is received by the provider in respect thereof, or an invoice is issued by the provider, whichever is earlier.

Since in the given case, whole amount of the consideration for the provision of patent is not ascertainable at the time when service was performed and subsequently the use of these services by LMN Ltd. gives right to payment of consideration, both the conditions specified in rule 8 get satisfied. Therefore, the point of taxation of Sam Limestone Ltd. for various financial years, determined as per rule 8, is as under:

Point of Taxation	Reason/Remarks
08.08.2012	Date of issuance of invoice [08.08.2012] falls before the date of payment [23.09.2012]
05.05.2013	Date of receipt of payment [05.05.2013] precedes the date of issuance of invoice [15.05.2013]
13.02.2014	Date of issuance of invoice [13.02.2014] falls before the date of payment [28.03.2014]

17. Non payment of service tax on the plea of non-ascertainability of the value of service is not permissible under service tax law.

Rule 3 of the Service Tax (Determination of Value) Rules, 2006 provides that where the value of a taxable service is not ascertainable, the same shall be determined by the service provider in the following manner:-

- (a) The value of such taxable service would be equivalent to the gross amount charged by the service provider to provide similar service to any other person subject to fulfillment of the conditions below:
1. Such service is in the ordinary course of trade.
 2. The gross amount charged is the sole consideration.
- (b) Where the value cannot be determined in accordance with clause (a), the service provider will determine the equivalent money value of such consideration. However, such value should, in no case be less than the cost of provision of such taxable service.

Therefore, Mr. Ramvilas Mehta's contention is not correct. He should value the service in the manner provided by Rule 3 of Service Tax (Determination of Value) Rules, 2006 and pay service tax. Accordingly, he should value the service provided by him on the basis of similar services and if that is not possible, he should value the service on the basis of equivalent money value of consideration and pay service tax on the same.

18. As per section 75 of the Finance Act, 1994, failure to pay service tax, including a part thereof within the prescribed period attracts simple interest @ 18%. However, the applicable rate gets reduced to 15% for service providers whose turnover of services does not exceed ₹ 60 lakh during any of the financial years covered in the notice or during the preceding financial year. Such interest is payable for the period by which such crediting of the tax or any part thereof is delayed.

Computation of interest on delayed payment of service tax

Name of the service provider	MNO Ltd.	Mr. Rohan
Service tax liability	₹ 1,25,800	₹ 2,46,000
Delay in payment of service tax	15 days	30 days
Value of taxable services in the previous financial year	₹ 48,00,000	₹ 65,00,000
Rate of interest	15%	18%
Interest	$[1,25,800 \times (15/100) \times (15/365)] = ₹ 775$	$[2,46,000 \times (18/100) \times (30/365)] = ₹ 3,639$

19. The advice given by Star Ltd. to sub-contractor Galaxy Ltd. is not tenable in law.

A sub-contractor providing taxable service is essentially a service provider who is liable to pay tax on the services so provided by him. The fact that services provided by such sub-contractors are used by the main service provider for completion of his work does not in any way alter the fact of provision of taxable service by the sub-contractor.

Since, services provided by sub-contractors are in the nature of input services, the sub contractor's service tax charge can be availed as credit by the main contractor whose burden of paying tax would reduce to that extent.

20. (i) No, he cannot do so. As per rule 7B of the Service Tax Rules, 1994, an assessee can submit a revised return, to correct a mistake or omission, within a period of 90 days from the date of submission of the original return.

Since, Mr. Lavi has submitted the half-yearly return on 5th October, 2013, he cannot file the revised return after 3rd January, 2014. The period of 90 days starts from the date of submission of the original return and not from the due date of filing the return.

- (ii) The return filed by Mr. Abhi is not valid. Return must indicate *inter alia*, **monthwise**:

- (i) the value of taxable services charged/billed;
- (ii) the value of taxable service realised;
- (iii) the amount of service tax payable/paid etc.

Since, Mr. Abhi has not furnished month-wise details of value of taxable service, gross amount charged and service tax payable but consolidated details in lump sum for the half year in question, the return filed by him is an invalid return.

21. Computation of invoice value of sales charged by Mr. Maanu

Particulars	ABS pipes (12.5% VAT) (₹) (75%)	PVC Pipes (exempt) (₹) (25%)
Cost of raw materials purchased	1,50,000	50,000
VAT paid	NIL (refer Note 2)	6,250 (refer Note 3)
Cost of other materials local	30,000	10,000
VAT paid	NIL (refer Note 2)	1,250 (refer Note 3)
Interstate purchases	60,000	20,000
CST paid (Refer Note 4)	1,200	400
Manufacturing expenses	28,800	9,600
Cost of goods sold	2,70,000	97,500
Add: Profit is 20% on sales (i.e., 25% of cost)	67,500	24,375
Sale price	3,37,500	1,21,875
Add: VAT payable (rounded off to nearest rupee)	42,188	NIL
Invoice value	3,79,688	1,21,875

Computation of VAT liability for ABS pipes

Particulars	(₹)
Output VAT	42,188
Less: Input VAT = [(25,000 × 75%)+(5,000×75%)] refer Note 5	22,500
Net VAT liability	19,688

Notes:-

- All the expenses have been apportioned in the ratio of 3:1 on pro-rata basis as 75% of production has been utilized and manufactured as ABS pipes and 25% of production as PVC pipes.
- Since ABS pipes 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 ABS pipes is allowed.

22.

Goods	Purchases [A]	Input VAT rate [B]	Input VAT credit [C] = [A] x [B]	Sales (Turnover) [D]	Output VAT rate [E]	Output VAT [F] = [C] x [D]
	₹	%	₹	₹	%	₹
X	1,75,000	-	-	3,50,000	-	-
Y (See Note)	2,00,000	12.5	25,000	2,40,000	12.5	30,000
Z	<u>2,00,000</u>	4	<u>8,000</u>	<u>2,50,000</u>	4	<u>10,000</u>
Total	5,75,000		33,000	8,40,000		40,000

Computation of Net VAT payable by Tarun Enterprises

	₹
Opening balance of input VAT credit	3,000
<i>Add:</i> Input VAT credit for December, 2013 [C]	<u>33,000</u>
Total Input VAT credit available	36,000
<i>Less:</i> Output VAT payable on taxable turnover [F]	<u>40,000</u>
Net VAT payable	4,000

Note:

	₹
Purchase value of goods 'Y' (including VAT)	2,25,000
<i>Less:</i> VAT included in above $\left(2,25,000 \times \frac{12.5}{112.5} \right)$	25,000
Purchase price excluding VAT	<u>2,00,000</u>

23. VAT registration of M/s Swabhiman Enterprises may be cancelled as he has discontinued his business. Other circumstances under which VAT registration can be cancelled are as follows:

- (i) Disposal of business;
- (ii) Transfer of business to a new location;
- (iii) Annual turnover of a manufacturer or a trader dealing in designated goods or services falling below the specified amount.

24. Computation of input tax credit and Net VAT payable for January, 2014:

Particulars	Amount(₹)
Output VAT payable (Note-1)	Nil
Less: Input tax credit $\left[90,00,000 \times \frac{(12.5-2)}{100} \right]$ [Note-2]	<u>9,45,000</u>
Net VAT payable	<u>Nil</u>
Balance input tax credit carried forward to next month	9,45,000

Notes:

1. Inter-State stock transfers do not involve sale and, therefore they are not subjected to VAT or CST.
 2. VAT paid on inputs used in the manufacture of finished goods which are stock transferred (inter-State) will be available as input tax credit after retention of 2% of such tax by the State Government.
25. An independent auditor can ensure that the tax payer has discharged his tax liability properly while filing the returns only when the particulars furnished by the tax payer are verified by him in minute details in the following manner:
- by going through the books of account and
 - analysing and interpreting the provisions of the State-Level VAT laws and
 - reporting the under-assessment, if any, made by the dealer requiring additional payment or reporting any excess payment of tax warranting refund to the tax payer.
26. Yes, the dealers are entitled to set off on capital goods like any other purchases. However, the set off is not allowed in respect of the capital goods covered in the negative list and is also subject to retention rules, if any, applicable under the particular State VAT law.

In order to claim set off on capital goods, the dealers have to first bifurcate their purchase into capital goods eligible for set off and capital goods not so eligible (being items covered in the negative list). The purchase of capital goods must be supported with a tax invoice. The set off must be claimed as per the applicable provisions in respect of installments and after obtaining prior permission, if required under the applicable State VAT law. Set off on capital goods should not exceed the tax paid by the vendor on the same in the Government Treasury.