CLAT PG Tax Law

Sample Paper – 1

Duration: 15 Minutes **Maximum Marks: 15**

Instructions

- This paper contains **15** Multiple Choice Questions (Single Correct Answer), modelled on the Tax Law portion of **CLAT PG** entrance.
- Each correct answer carries **+1 mark**. There is **a penalty of 0.25 marks** for each incorrect answer. Unattempted questions carry no penalty.
- Only **one** option is correct. Choose carefully.
- Syllabus: Income Tax Act 1961, CGST Act 2017, Customs Act 1962, and constitutional provisions (Articles 265–289) at LLM entrance level.
- Use of mobile phones, calculators, or electronic gadgets is strictly prohibited.

Questions

Q.1. The State Legislature of Uttarakhand enacted a statute imposing a levy on the sale of software licences within the state. A software company challenged the legislation on the ground that it lacked constitutional authority. The company argued that imposition of any tax not expressly authorised by the Constitution is void. Which of the following propositions best captures the constitutional position under Article 265 of the Constitution of India?

(A) A tax can be levied by executive instruction if the legislature has remained silent, provided the levy is reasonable and serves a public purpose.

(B) The doctrine of implied powers permits a legislature to impose a tax that is incidental to an entry in the Seventh Schedule, without explicit enabling legislation.

(C) No tax shall be levied or collected except by authority of law, meaning that both the imposition and collection of the tax must be backed by a valid statute enacted by a competent legislature.

(D) A tax statute is valid so long as the state government demonstrates that the proceeds are used for a welfare purpose, even if the enabling entry in Schedule VII is absent.

Q.2. Parliament enacted the Integrated Goods and Services Tax Act, 2017 to levy and collect IGST on inter-state supplies. A group of states contends that revenues from IGST should be retained entirely by them because the supply originates within their territory. In light of Article 269A of the Constitution, which statement correctly describes the constitutional arrangement for IGST?

(A) Taxes levied and collected by the Union on inter-state supplies of goods and services shall be apportioned between the Union and the states in accordance with the principles formulated by Parliament on the recommendation of the Goods and Services Tax Council, and the states' share shall be assigned to them.

(B) The entire proceeds of IGST vest in the Consolidated Fund of India and cannot be assigned to individual states under any constitutional provision.

(C) IGST is constitutionally a state subject; Parliament may collect it only as an agent of the states and must remit the full proceeds to the originating state.

(D) The states may independently levy and collect a tax on the inter-state movement of goods as long as the rate does not exceed the IGST rate notified by Parliament.

Q.3. Mrityunjay, a practising advocate, files his income-tax return as an individual. The assessing officer notices that Mrityunjay also manages a *mahila mandal* in his village — a loose group of women that has no registration, no formal constitution, and no separate bank account. The AO proposes to treat the *mahila mandal* as a separate taxable entity distinct from Mrityunjay. Which of the following is a correct statement about the definition of "person" under Section 2(31) of the Income Tax Act, 1961?

(A) Only juridical persons with a separate legal identity recognised under statute can constitute a "person" for the purposes of the Act; informal associations are excluded.

(B) A Hindu Undivided Family is not a "person" under the Act because no separate legislation defines its legal personality.

(C) A partnership firm is excluded from the definition of "person" as the Act taxes only the partners individually.

(D) The definition of "person" in Section 2(31) includes an individual, a Hindu Undivided Family, a company, a firm, an Association of Persons or Body of Individuals (whether incorporated or not), a local authority, and every artificial juridical person not falling within the preceding categories, making the list exhaustive of seven categories.

Q.4. Nalini, an Indian citizen, left India for the first time on 10th April of the previous year to take up employment in Germany. She returned to India on 20th February of the current year. During the previous year in question, she was present in India for a total of 56 days before her departure. Assuming no other visits, and that no other clause of Section 6 of the Income Tax Act, 1961 applies, what is her residential status for that previous year?

(A) Resident and Ordinarily Resident, because she holds an Indian passport and her domicile remains in India.

(B) Non-Resident, because she was present in India for fewer than 182 days in the relevant previous year.

(C) Resident but Not Ordinarily Resident, because she has been in India for more than 60 days but less than 182 days.

(D) Not Ordinarily Resident, because she left India for employment and the 60-day threshold applies to Indian citizens going abroad for employment.

Q.5. Prashant is an employee of a public sector undertaking (PSU) that is not owned by the government. He is provided rent-free accommodation in a city with a population exceeding 25 lakh. The PSU owns the house. Under Section 17(2) read with Rule 3 of the Income Tax Rules, 1962, how is the perquisite value of the rent-free accommodation computed?

(A) Fifteen per cent of the employee's salary (as defined in Rule 3) is taken as the perquisite value where the accommodation is owned by the employer and the city population exceeds 25 lakh.

(B) The licence fee determined by the government for similar accommodation is the perquisite value, regardless of the city's population.

(C) The actual market rent of the accommodation, as determined by an approved valuer, constitutes the perquisite value in all cases.

(D) Ten per cent of salary is the perquisite value for all employees irrespective of city population and ownership of accommodation.

Q.6. Shankara sold his ancestral agricultural land situated within the municipal limits of a city with a population of 8 lakh. The assessing officer sought to tax the gain as capital gains under Section 45 of the Income Tax Act, 1961. Shankara contended that agricultural land is not a capital asset and hence no capital gains can arise. Which of the following statements correctly identifies the applicable legal position?

(A) All agricultural land, whether rural or urban, is expressly excluded from the definition of "capital asset" under Section 2(14) and cannot give rise to capital gains under any circumstance.

(B) Agricultural land is excluded from the definition of "capital asset" only if it is used for cultivation for a continuous period of at least two years prior to the date of transfer.

(C) Agricultural land situated within a specified urban area (within the limits of a municipality or cantonment board or within a notified distance from such limits) is not excluded from the definition of "capital asset" under Section 2(14), and hence the gain on its transfer is chargeable to tax as capital gains under Section 45.

(D) Capital gains on agricultural land are exempt under Section 54B of the Act regardless of whether the land is urban or rural, provided the assessee is an individual.

Q.7. Kamala, a housewife with no established business, purchased 5,000 metric tonnes of rice at a commodity exchange intending to resell it without taking actual delivery, purely for profit on price movement. The transaction was settled by payment of price differences; no rice was ever delivered. The assessing officer sought to tax the gain under the head "Profits and Gains of Business or Profession" as a speculative business transaction. Kamala argued that since she has no business, the gain is a capital gain. Which proposition is legally most accurate?

(A) The gain is a short-term capital gain because the rice was held for less than 36 months and rice qualifies as a capital asset in the hands of a non-trader.

(B) The gain is exempt from tax because it arises from a hedging transaction which is specifically excluded from the definition of speculative transaction.

(C) The gain must be taxed as income from other sources because Kamala is not registered as a trader and the Income Tax Act taxes only established businesses under Section 28.

(D) Even without a pre-existing business, the transaction constitutes an "adventure in the nature of trade", bringing it within Section 28(i) as taxable under Profits and Gains of Business or Profession; the settlement by price differences also qualifies it as a speculative transaction under the Explanation to Section 43(5).

Q.8. Ramona's financial investments for the previous year include: a deposit of Rs. 80,000 in a five-year bank fixed deposit notified for Section 80C; payment of Rs. 60,000 as tuition fees for her two children at a recognised school; and a contribution of Rs. 40,000 to a Public Provident Fund account. She also paid Rs. 50,000 as principal repayment on a home loan. What is the maximum deduction she can claim under Section 80C of the

Income Tax Act, 1961 for that previous year?

(A) Rs. 2,30,000, being the aggregate of all four qualifying investments with no cap applicable to individual assessees who are women.

(B) Rs. 1,50,000, being the overall ceiling on the aggregate deduction permissible under Section 80C, irrespective of the actual amount of qualifying investments made.

(C) Rs. 1,80,000, because tuition fees and PPF together are capped at Rs. 1,00,000, while the remaining items are fully deductible without limit.

(D) Rs. 1,00,000, because only PPF and tuition fees qualify for Section 80C; bank FDs and home loan principal repayment are governed by separate provisions.

Q.9. Vertex Realtors Ltd. (VRL), a registered supplier, transferred a plot of land from one of its subsidiaries to another subsidiary as part of an internal group restructuring. No monetary consideration was charged. The GST department issued a notice treating this as a taxable supply under the CGST Act, 2017. VRL contended that without consideration there can be no supply. Which legal position is correct?

(A) Certain activities listed in Schedule I to the CGST Act, 2017 are treated as taxable supplies even when made without consideration; the supply of goods or services between related persons or distinct persons (as defined) in the course or furtherance of business is one such deemed supply, making VRL's transaction potentially taxable under Section 9(1).

(B) The CGST Act requires both supply and consideration for a taxable event to arise; a transaction without consideration cannot be taxed as a "supply" under any provision of the Act.

(C) Only the supply of services without consideration is covered under Schedule I; a transfer of immovable property such as land is entirely outside the scope of GST as land is not "goods" under the Act.

(D) A supply between group companies is exempt under a general exemption notification issued under Section 11 of the CGST Act, regardless of consideration.

Q.10. Meridian Electronics Ltd. received a supply of components from a vendor. The tax invoice was received and the components were received in March of the tax year. However, the vendor had not deposited the GST collected to the government as of the date Meridian sought to avail Input Tax Credit (ITC). The company argues it has satisfied all documentary and receipt requirements. Under Section 16(2) of the CGST Act, 2017, can Meridian avail the ITC?

(A) Yes, because the recipient's right to avail ITC is absolute once it possesses the tax invoice and has received the goods; the vendor's default is solely the vendor's liability.

(B) No, because ITC can only be availed in the quarter immediately following the quarter in which goods are received; Meridian has lost the right by allowing the financial year to close.

(C) No, because one of the four mandatory conditions under Section 16(2) of the CGST Act is that the tax charged in respect of the supply has actually been paid to the government by the supplier, either in cash or through utilisation of ITC; non-payment by the vendor is a bar to Meridian's ITC claim.

(D) Yes, because the CGST Act places the obligation of tax deposit exclusively on the supplier; the recipient's ITC entitlement is unaffected by the supplier's compliance failures.

Q.11. Zenith Catering Services offers corporate clients a "conference package" comprising: (i) food and beverages; (ii) supply and arrangement of audio-visual equipment; and (iii) valet parking for attendees — all bundled for a single consolidated price. The applicable GST rates are 5% on food, 18% on AV equipment rental, and 12% on parking. The GST department contends the entire package is a "mixed supply" taxable at 18%. Zenith argues it is a "composite supply" with food as the principal supply (taxable at 5%). Which statement correctly resolves this dispute?

(A) The bundle is a composite supply; since food is the principal supply and is naturally bundled with other services, the entire package is taxable at 5%.

(B) If the three elements are not naturally bundled and are capable of being sold separately, the package is a "mixed supply" under Section 8(b) of the CGST Act, 2017, and the tax rate applicable to the item attracting the highest rate — 18% on AV equipment — applies to the entire bundle.

(C) A mixed supply is always taxed at the weighted average of the rates applicable to its components; here, the effective rate would be a blended rate of the three applicable rates.

(D) The composite-versus-mixed categorisation is irrelevant for GST; each element of the bundle is taxed at its own applicable rate, and the supplier must issue separate invoices.

Q.12. Oceanic Imports Ltd. imported a consignment of electronic components from its affiliated foreign supplier at a declared invoice price of US$ 50 per unit. The customs authorities have intelligence that unrelated buyers are purchasing identical goods from the same supplier at US$ 80 per unit. The importer insists that the declared transaction value must be accepted. Under Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, which proposition is correct?

(A) The declared transaction value must always be accepted as the assessable value provided it is supported by a valid commercial invoice; customs authorities have no power to question a price agreed between buyer and seller.

(B) The customs authorities may enhance the value only if they can conclusively prove that the invoice is forged; mere intelligence about comparable prices is insufficient to reject the declared value.

(C) Since the parties are related, the customs authorities may reject the transaction value outright without any further inquiry and must proceed to the next sequential valuation method.

(D) Where buyer and seller are related, the customs authorities may examine whether the relationship influenced the price; if the declared transaction value cannot be accepted, they must sequentially apply the alternative valuation methods prescribed in the Rules (transaction value of identical goods, similar goods, deductive value, computed value, and fallback method) before assessing duty.

Q.13. Prism Holdings Ltd. routed an investment in an Indian operating company through a shell company incorporated in Mauritius that had no employees, no office, and no genuine business activity, solely to avail treaty benefits and avoid Indian capital gains tax. The Income Tax department invoked the General Anti-Avoidance Rules (GAAR) under Chapter X-A of the Income Tax Act, 1961, specifically Section 96. Which of the following correctly states the test for an "impermissible avoidance arrangement" under Section 96?

(A) An arrangement is an "impermissible avoidance arrangement" under Section 96 if its main purpose (or one of its main purposes) is to obtain a tax benefit and it satisfies at least one of the following: it creates rights or obligations not normally created between persons dealing at arm's length; results in misuse or abuse of provisions of the Act; lacks commercial substance (or is deemed to lack it); or is not carried out by ordinary means. The tax authorities may then disregard, recharacterise, or ignore the arrangement.

(B) GAAR applies only if the tax benefit obtained exceeds Rs. 5 crore in the relevant assessment year; smaller arrangements are outside the scope of Section 96.

(C) An arrangement can be impermissible only if it is entered into after the GAAR provisions came into force (1 April 2017) and involves cross-border transactions; domestic arrangements are excluded from Chapter X-A.

(D) GAAR cannot override a tax treaty (DTAA); if a taxpayer qualifies under the Limitation of Benefits clause of the applicable treaty, GAAR provisions are automatically inapplicable.

Q.14. SwiftTech GmbH, a German company, appoints an Indian agent, QuickServe Pvt. Ltd., to solicit orders in India. QuickServe habitually concludes contracts in India on behalf of SwiftTech without requiring approval from Germany. SwiftTech contends it has no Permanent Establishment (PE) in India as it does not own or lease any office or fixed place of business here. Under the OECD Model Convention Article 5 as incorporated in the India-Germany DTAA, which answer is most accurate?

(A) SwiftTech has no PE in India because it neither owns property nor employs persons directly in India; the independent contractor exemption under Article 5(6) protects it.

(B) QuickServe's activities do not create a PE because a PE can arise only from a fixed place of business under Article 5(1); the agency PE concept under Article 5(5) applies only to employed individuals, not companies.

(C) Even in the absence of a fixed place of business, SwiftTech has an "agency PE" in India under Article 5(5) of the DTAA because QuickServe habitually exercises authority to conclude contracts on SwiftTech's behalf in India; the agency PE provisions specifically extend the PE definition to dependent agents.

(D) The definition of PE is a purely domestic law concept and DTAAs cannot expand it; India can tax SwiftTech only on income arising from a fixed place of business situated in India.

Q.15. Indus Pharma Ltd., an Indian company, sells bulk drugs to its wholly owned subsidiary in Singapore at Rs. 500 per kilogram. Independent comparable companies sell the same drugs to unrelated parties at Rs. 750 per kilogram. The Transfer Pricing Officer (TPO) proposes to determine the Arm's Length Price (ALP) at Rs. 750. Indus Pharma contends that Section 92B of the Income Tax Act, 1961 applies only to transactions in tangible goods exceeding a specified threshold. Which statement is legally most accurate?

(A) The TPO has no authority to adjust the price of tangible goods; transfer pricing adjustments under Section 92C are confined to intangibles such as royalties, interest, and management fees.

(B) Section 92B defines an "international transaction" broadly to include any transaction between two or more associated enterprises at least one of which is a non-resident, whether in tangible goods, intangibles, services, lending, or cost-sharing; the ALP determined under Section 92C(1) using the most appropriate method (here, Comparable Uncontrolled Price method) applies, and the TPO's proposed adjustment is within the statutory framework.

(C) The Arm's Length Price concept applies only where the international transaction involves a payment that crosses national borders in the form of foreign exchange; since Indus Pharma prices in rupees, Section 92B is not attracted.

(D) Transfer pricing provisions are inapplicable where the overseas entity is a wholly owned subsidiary because the group as a whole does not gain any tax benefit; consolidation principles treat parent and subsidiary as one entity for this purpose.

Detailed Solutions

Sol.1.

Solution

Concept — Article 265: Article 265 of the Constitution of India provides that no tax shall be levied or collected except by authority of law. This means that both the imposition of a tax and its collection must be backed by a valid statute enacted by a competent legislature; an executive order, notification, or administrative direction is insufficient.

Step 1 — Scope of "authority of law": The phrase "authority of law" in Article 265 requires a legislative act — either an Act of Parliament or of a State Legislature — that is within the competence of the enacting body under the Seventh Schedule. Mere executive action cannot validate a tax.

Step 2 — Competence requirement: Even if a legislature enacts a statute, the statute must fall within an entry in the relevant list (Union List, State List, or Concurrent List). A state cannot tax a subject that falls exclusively within the Union List, even by a formal enactment.

Why other options are wrong:

- Option A: Executive instruction cannot supply "authority of law"; Article 265 expressly requires legislative authority.
- Option B: The doctrine of implied powers cannot extend to taxation beyond an entry; taxation powers are strictly construed.
- Option D: The purpose of expenditure is irrelevant to the validity of a taxing statute under Article 265; the focus is on the source of authority, not the use of proceeds.

Final Answer: Article 265 mandates that both levy and collection of any tax must rest on a valid statute of a competent legislature. $\Rightarrow \boxed{C}$

Answer: (C) Go Back to Q1

Sol.2.

Solution

Concept — Article 269A: Article 269A, inserted by the Constitution (One Hundred and First Amendment) Act, 2016, empowers Parliament to levy and collect the IGST on inter-state supplies of goods and services. Crucially, the proceeds are not kept entirely by the Union — they are apportioned between the Union and the states as Parliament may by law provide on the recommendation of the GST Council.

Step 1 — Constitutional text: Article 269A(1) states that taxes levied and collected by the Union under Article 246A(2) shall be assigned to the states and the Union in the manner provided by Parliament on the GST Council's recommendation. This is the constitutionally mandated apportionment mechanism for IGST.

Step 2 — Distinction from Article 269: Under Article 269, certain taxes (e.g., estate duty, succession duty) are levied and collected by the Union but assigned entirely to the states. Under Article 269A, IGST is shared; the states do not receive the full amount, nor does the Union retain all of it.

Why other options are wrong:

- Option B: IGST proceeds are constitutionally required to be apportioned to states; they do not remain wholly in the Consolidated Fund of India.
- Option C: IGST is a Union subject under Article 246A(2); states cannot independently levy or collect it.
- Option D: States cannot independently impose any tax on inter-state movement of goods; Article 269A vests this power exclusively in Parliament.

Final Answer: IGST is levied by the Union, and its proceeds are apportioned between the Union and states per Parliament's law on GST Council's recommendation. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q2

Sol.3.

Solution

Concept — Section 2(31): Section 2(31) of the Income Tax Act, 1961 defines "person" inclusively across seven categories: (i) an individual; (ii) a Hindu Undivided Family (HUF); (iii) a company; (iv) a firm; (v) an Association of Persons (AOP) or Body of Individuals (BOI), whether incorporated or not; (vi) a local authority; and (vii) every artificial juridical person not falling within the preceding six categories. This list is exhaustive.

Step 1 — AOP/BOI category: An unregistered and informal group of persons acting collectively for a common purpose can qualify as an Association of Persons (AOP) or Body of Individuals (BOI). The absence of registration or formal constitution is not fatal to this classification.

Step 2 — Application to the scenario: The *mahila mandal*, though informal, may qualify as an AOP or BOI if it functions as a collective unit for a common purpose. Accordingly, it could be treated as a separate taxable "person" distinct from Mrityunjay, and the AO's proposal is not without legal basis.

Why other options are wrong:

- Option A: The Act does not restrict "person" to juridical persons with statutory recognition; AOPs and BOIs are included even without incorporation.
- Option B: HUF is explicitly listed as category (ii) in Section 2(31) and is a recognised "person" under the Act.
- Option C: A firm is category (iv) and is expressly included as a "person"; the Act taxes both the firm and can also tax partners separately depending on the provision.

Final Answer: Section 2(31) exhaustively lists seven categories of "person", including AOP/BOI whether incorporated or not. $\Rightarrow \boxed{\text{D}}$

Answer: (D) Go Back to Q3

Sol.4.

Solution

Concept — Section 6(1) residential status: Under Section 6(1) of the Income Tax Act, 1961, an individual is a "resident" if: (a) she is in India for 182 or more days during the previous year; OR (b) she is in India for 60 or more days during the previous year AND for 365 or more days during the four preceding years. An individual who does not satisfy either condition is a "Non-Resident".

Step 1 — The 182-day threshold for citizens going abroad: The second condition (60 days) is modified for Indian citizens who leave India for employment abroad: the 60-day threshold is extended to 182 days for such citizens. This means an Indian citizen going abroad for employment becomes a non-resident only if she is in India for fewer than 182 days under the primary test.

Step 2 — Application to Nalini: Nalini was present in India for only 56 days during the previous year. She does not satisfy the 182-day condition under Section 6(1)(a). The modified 60-day rule under the proviso to Section 6(1)(c) also does not help her since the threshold is 182 days. She is therefore a Non-Resident.

Why other options are wrong:

- Option A: Holding an Indian passport and having Indian domicile are irrelevant to the computation of residential status under Section 6.
- Option C: RNOR status requires first qualifying as "resident" (satisfying the 182-day or 60-day test); Nalini fails the primary test and cannot be RNOR.
- Option D: The special extended threshold for citizens going abroad for employment is 182 days, not 60 days; Option D conflates the thresholds.

Final Answer: Nalini was in India for only 56 days, well below 182 days; she is a Non-Resident for that previous year. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q4

Sol.5.

Solution

Concept — Section 17(2) and Rule 3: Perquisite under Section 17(2)(i) includes the value of rent-free accommodation provided by the employer. Rule 3(1) of the Income Tax Rules, 1962 prescribes the valuation. Where accommodation is owned by the employer (non-government), the perquisite value is a percentage of salary: 15% for cities with population exceeding 25 lakh, 10% for cities between 10 lakh and 25 lakh, and 7.5% for other places.

Step 1 — City population criterion: Since Prashant's city has a population exceeding 25 lakh, the applicable percentage is 15% of salary as defined in Rule 3 (i.e., basic pay + dearness allowance + all taxable allowances, but excluding certain items like employer's PF contribution).

Step 2 — Employer-owned vs. leased accommodation: The 15% rule applies when the employer owns the accommodation. If the accommodation were taken on lease by the employer, the perquisite value would be the actual lease rental paid or 15% of salary, whichever is lower. Here, since the PSU owns the house, 15% of salary applies.

Why other options are wrong:

- Option B: The licence fee approach applies to government employees, not employees of a PSU that is not government-owned.
- Option C: Actual market rent (determined by a valuer) is not the prescribed method under Rule 3 for employer-owned accommodation; it would apply in certain other scenarios.
- Option D: 10% of salary applies only where the city population is between 10 lakh and 25 lakh, not above 25 lakh.

Final Answer: For employer-owned accommodation in a city with population above 25 lakh, the perquisite value is 15% of salary under Rule 3(1)(i). $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q5

Sol.6.

Solution

Concept — Section 2(14) exclusion of agricultural land: Section 2(14) defines "capital asset" as property of any kind held by an assessee, subject to certain exclusions. One exclusion covers agricultural land in India, but only if it is situated in a rural area — specifically, land that is NOT situated within the specified limits of a municipality, panchayat, or cantonment board or within a notified distance from such limits (as prescribed by CBDT notification).

Step 1 — Urban agricultural land: Agricultural land situated within the specified municipal/urban limits or within notified distances is expressly included in "capital asset". It is not excluded. The gain arising from its transfer is therefore a taxable capital gain under Section 45.

Step 2 — Application: Shankara's land is within municipal limits of a city with 8 lakh population, which is above the threshold prescribed in the CBDT notification for the exclusion to apply. Hence the land is a capital asset, and Section 45 is correctly invoked.

Why other options are wrong:

- Option A: The exclusion for agricultural land is not absolute; it does not cover urban agricultural land.
- Option B: The two-year use condition is not part of the Section 2(14) exclusion; the exclusion is location-based, not use-based.
- Option D: Section 54B exemption requires reinvestment in agricultural land within two years; it does not exempt all urban agricultural land gains automatically.

Final Answer: Urban agricultural land (within municipal limits) is a capital asset under Section 2(14); gains from its transfer are chargeable under Section 45. $\Rightarrow$ $\boxed{\text{C}}$

Answer: (C) Go Back to Q6

Sol.7.

Solution

Concept — Adventure in the nature of trade and Section 28: Section 28(i) brings to tax profits of "any business or profession". Courts have consistently held that a single isolated transaction, even by a person with no established business, can constitute an "adventure in the nature of trade" if carried on with a profit motive, commercially organised, and possessing the characteristics of a trading transaction.

Step 1 — Adventure in the nature of trade test: The key indicators are: (a) profit motive; (b) the nature of the commodity (tradeable goods); (c) the volume or scale of the transaction; and (d) the manner of disposal. Here, Kamala acquired a large quantity (5,000 MT) at a commodity exchange purely for resale; all indicators point to a trading adventure.

Step 2 — Speculative transaction under Section 43(5): The Explanation to Section 43(5) defines a "speculative transaction" as one in which a contract for purchase or sale of any commodity (including stocks) is periodically or ultimately settled otherwise than by actual delivery. Since Kamala settled by price differences without delivery, it is a speculative transaction — a subset of PGBP.

Why other options are wrong:

- Option A: Rice as a traded commodity through a commodity exchange, purchased for resale by settlement of differences, is better classified as a trading/speculative adventure, not a capital asset in Kamala's hands.
- Option B: The hedging exemption under the proviso to Section 43(5) applies only to hedging contracts by dealers/producers; Kamala is neither.
- Option C: There is no requirement under the Act that a person be registered as a trader before Section 28 applies; an adventure in trade suffices.

Final Answer: The transaction is an adventure in the nature of trade taxable under Section 28(i) and, being settled by price differences, is also a speculative transaction under Section 43(5). $\Rightarrow \boxed{\text{D}}$

Answer: (D) Go Back to Q7

Sol.8.

Solution

Concept — Section 80C overall ceiling: Section 80C permits deductions for a wide range of investments and payments (PPF, ELSS, life insurance premium, tuition fees, principal repayment on home loan, five-year bank FD, NSC, etc.). However, the aggregate deduction under Section 80C (together with Sections 80CCC and 80CCD(1)) is subject to an overall limit of Rs. 1,50,000 per financial year for an individual or HUF.

Step 1 — All four items are eligible: The five-year notified bank FD (Rs. 80,000), tuition fees for two children (Rs. 60,000), PPF contribution (Rs. 40,000), and principal repayment on home loan (Rs. 50,000) all qualify as deductible investments/payments under Section 80C. Total eligible amount is Rs. 2,30,000.

Step 2 — Application of the cap: Despite eligible investments totalling Rs. 2,30,000, the maximum deduction claimable is capped at Rs. 1,50,000. There is no higher limit for women assessees under Section 80C; the cap applies uniformly.

Why other options are wrong:

- Option A: No enhanced limit exists for women under Section 80C; the Rs. 1,50,000 cap is universal for individuals.
- Option C: There is no sub-cap of Rs. 1,00,000 within Section 80C on tuition fees and PPF; the only cap is the aggregate Rs. 1,50,000 ceiling.

- Option D: Bank FDs (five-year notified) and principal repayment on home loans are specifically listed as eligible investments under Section 80C; they are not governed by separate provisions in this regard.

Final Answer: The aggregate deduction under Section 80C is capped at Rs. 1,50,000 irrespective of actual eligible investments. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q8

Sol.9.

Solution

Concept — Schedule I to the CGST Act, 2017: Section 7(1)(c) of the CGST Act extends the definition of "supply" to include activities specified in Schedule I even when made without consideration. Entry 2 of Schedule I covers "supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business."

Step 1 — Distinct persons: Under Section 25(4), an entity having multiple registrations (whether in one or more states) is treated as "distinct persons" with respect to each registration. "Related persons" under Schedule V includes entities where one directly or indirectly controls the other (e.g., a parent and its subsidiary). VRL and its subsidiary are related persons.

Step 2 — Application: A transfer between related companies in the course of business is a "deemed supply" under Schedule I, Entry 2. Absence of monetary consideration is not a defence; GST can apply.

Why other options are wrong:

- Option B: This is incorrect; Schedule I expressly creates taxable supply events without consideration for specified categories.
- Option C: The question involves a transfer between related persons of which land may be an element; moreover, Schedule I applies to supply of goods OR services, and certain activities relating to land (e.g., construction, development) are not exempt just because "land" is involved.
- Option D: There is no blanket exemption for group company transactions under Section 11; specific conditions and notifications apply.

Final Answer: Transactions between related or distinct persons in the course of business are deemed supplies under Schedule I even without consideration, making VRL's transfer potentially taxable. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q9

Sol.10.

Solution

Concept — Section 16(2) CGST: four cumulative conditions for ITC: Section 16(2) of the CGST Act, 2017 lays down four conditions, all of which must be satisfied before a registered person can avail ITC: (i) possession of a tax invoice or debit note; (ii) receipt of goods or services; (iii) the tax charged on the supply has been actually paid to the government by the supplier; and (iv) the recipient has furnished a valid return under Section 39.

Step 1 — The third condition: The condition that the supplier must have actually deposited the tax to the government is a mandatory pre-condition under Section 16(2)(c). If the supplier has not paid the tax, the recipient's ITC claim is not maintainable, regardless of documentary compliance.

Step 2 — Policy rationale and GST matching mechanism: ITC in GST is designed as a credit of tax actually paid into the government treasury. The matching and reconciliation mechanism (GSTR-2A/2B) ensures that ITC is available to the recipient only if the corresponding tax has flowed into the government's account.

Why other options are wrong:

- Option A: The recipient's right to ITC is not absolute; it is conditional on the supplier's payment of tax to the government.
- Option B: The time-bar on ITC is linked to the filing of the annual return for the relevant year, not to quarterly deadlines; the scenario does not indicate any time-bar issue.
- Option D: Placing the obligation on the supplier does not eliminate the recipient's pre-condition of verified tax payment under Section 16(2)(c).

Final Answer: Section 16(2)(c) requires the supplier to have paid the tax to the government; non-payment bars Meridian's ITC claim. $\Rightarrow \boxed{C}$

Answer: (C) Go Back to Q10

Sol.11.

Solution

Concept — Section 8 CGST: composite vs. mixed supply: Under Section 2(30), a "composite supply" is a supply comprising two or more taxable supplies naturally bundled and supplied in conjunction with each other in the ordinary course of business, where one is the principal supply. Under Section 2(74), a "mixed supply" is a combination of two or more individual supplies sold together for a single price that are not composite supplies.

Step 1 — Which applies here?: Food, AV equipment rental, and valet parking are not naturally bundled in the ordinary course of business; a corporate client could independently hire AV equipment or arrange separate catering. The three supplies are separable. This makes the package a *mixed supply* under Section 2(74).

Step 2 — Tax rate for mixed supply: Section 8(b) provides that a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply that attracts the highest rate of tax. Here, AV equipment rental attracts 18%, the highest rate, so the entire package is taxable at 18%.

Why other options are wrong:

- Option A: A composite supply requires natural bundling; these three elements do not satisfy that requirement.
- Option C: The CGST Act does not prescribe a weighted average for mixed supplies; the highest-rate item governs.
- Option D: Once categorised as a mixed supply, the whole bundle is taxed at one rate (the highest); separate invoicing per element is not the prescribed approach.

Final Answer: The package is a mixed supply; under Section 8(b), the rate applicable to the highest-rated component (18% for AV equipment) applies to the entire bundle. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q11

Sol.12.

Solution

Concept — Section 14 Customs Act and transaction value: Section 14(1) of the Customs Act, 1962 provides that the value of imported goods shall be the transaction value (the price actually paid or payable for the goods when sold for export to India), adjusted as per the Customs Valuation Rules, 2007. However, where the buyer and seller are related, Rule 3(3) of the Customs Valuation Rules requires a more detailed examination.

Step 1 — Related party transactions: Where buyer and seller are related, the transaction value may still be accepted if the importer demonstrates that the price closely approximates one of the test values (e.g., transaction value of identical/similar goods to unrelated buyers, deductive value, or computed value). If the declared value cannot be accepted, the customs authorities must apply the methods sequentially and cannot simply substitute a notional value.

Step 2 — Sequential methodology: The Customs Valuation Rules prescribe a hierarchy: (1) transaction value of identical goods; (2) transaction value of similar goods; (3) deductive value; (4) computed value; (5) fallback method. The authorities cannot skip to a higher method without first exhausting the preceding ones.

Why other options are wrong:

- Option A: The declared value is not inviolable; it can be questioned where parties are related and the relationship appears to influence the price.
- Option B: Customs authorities need not prove forgery; intelligence about comparable prices is a valid basis to investigate related-party pricing under the Rules.
- Option C: A related-party transaction does not automatically mandate rejection of the declared value; the importer is given an opportunity to demonstrate that the price was not influenced by the relationship.

Final Answer: Where parties are related, customs authorities may examine whether the relationship influenced the price and, if not satisfied, must sequentially apply alternative valuation methods under the Customs Valuation Rules. ⇒ $\boxed{\text{D}}$

Answer: (D) Go Back to Q12

Sol.13.

Solution

Concept — Section 96 ITA GAAR: Chapter X-A (Sections 95–102) of the Income Tax Act, 1961, introduced GAAR with effect from 1 April 2017. Section 96(1) defines an "impermissible avoidance arrangement" as an arrangement whose main purpose (or one of the main purposes) is to obtain a tax benefit and which satisfies at least one of four tests: (a) not at arm's length; (b) results in misuse or abuse of the Act; (c) lacks commercial substance; or (d) is not for bona fide purposes.

Step 1 — Four alternative tests: Unlike an "and" test, the four conditions are disjunctive ("or"). If the arrangement fails only one of the four tests and is primarily tax-motivated, it can be treated as impermissible. GAAR gives the Assessing Officer wide powers to disregard, recharacterise, or combine the arrangement.

Step 2 — Application to Prism Holdings: The Mauritius shell with no real employees or activity lacks commercial substance (test (c)) and the arrangement is solely for obtaining treaty benefit, making the main purpose a tax benefit. GAAR invocation appears valid.

Why other options are wrong:

- Option B: There is a threshold of Rs. 3 crore of tax benefit (not Rs. 5 crore) under Rule 10U for GAAR to apply, but this does not change the fundamental test in Section 96; and the option misstates the figure.
- Option C: GAAR applies to any arrangement post 1 April 2017 including domestic arrangements; it is not confined to cross-border transactions.
- Option D: GAAR can override treaty benefits; Section 90(2A) and the Principal Purpose Test in updated treaties do not prevent GAAR from applying where there is lack of commercial substance.

Final Answer: An arrangement is an impermissible avoidance arrangement under Section 96 if its main purpose is to obtain a tax benefit and it satisfies any one of the four prescribed conditions. $\Rightarrow \boxed{A}$

Answer: (A) Go Back to Q13

Sol.14.

Solution

Concept — Article 5 Permanent Establishment (Agency PE): Article 5(5) of the OECD Model Convention (and most DTAAs including India-Germany) provides that even if a foreign enterprise has no fixed place of business in another state, a PE is deemed to exist if a dependent agent in that state habitually exercises the authority to conclude contracts on behalf of the foreign enterprise (Agency PE).

Step 1 — Dependent agent test: An agent is "dependent" if it does not act in the ordinary course of its own business as an independent agent (Article 5(6) protects independent agents acting in their normal course of business). QuickServe is appointed solely to represent SwiftTech and habitually concludes contracts on SwiftTech's behalf, indicating dependence.

Step 2 — Authority to conclude contracts: Since QuickServe habitually concludes (not merely facilitates) contracts in India on SwiftTech's behalf without requiring approval from Germany, the "concluding contracts" limb of Article 5(5) is satisfied. SwiftTech therefore has an Agency PE in India.

Why other options are wrong:

- Option A: The independent contractor exemption under Article 5(6) does not protect SwiftTech because QuickServe acts exclusively (or nearly so) for SwiftTech, making it a dependent agent.
- Option B: Agency PE under Article 5(5) expressly covers corporate agents; it is not limited to employed individuals.
- Option D: DTAAs define and limit the scope of PE; they can both restrict (via exemptions) and, through agency PE provisions, extend taxing rights; domestic law is supplemented by treaty definitions.

Final Answer: SwiftTech has an Agency PE in India under Article 5(5) because QuickServe, as a dependent agent, habitually concludes contracts on SwiftTech's behalf in India. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q14

Sol.15.

Solution

Concept — Section 92B and Arm's Length Price: Section 92B of the Income Tax Act, 1961 defines an "international transaction" broadly as a transaction between two or more associated enterprises, either or both of whom are non-resident, in the nature of purchase, sale or lease of tangible or intangible property; provision of services; lending or borrowing of money; or any other transaction having a bearing on profits, income, losses, or assets of such enterprises.

Step 1 — Associated enterprises: Under Section 92A, Indus Pharma (Indian company) and its wholly owned Singapore subsidiary are "associated enterprises" because one holds a majority stake in the other (more than 26% voting power, or direct control). The Singapore subsidiary is non-resident.

Step 2 — ALP determination: Section 92C(1) requires determination of ALP using the most appropriate method from the five prescribed methods (CUP, RPM, CPM, TNMM, PSM). The Comparable Uncontrolled Price (CUP) method directly compares the controlled transaction price (Rs. 500) with the price charged to unrelated buyers (Rs. 750). The TPO's proposal to adjust to Rs. 750 is within the statutory framework.

Why other options are wrong:

- Option A: Transfer pricing adjustments under Section 92C expressly cover tangible goods; there is no restriction to intangibles.
- Option C: The payment currency (rupees versus foreign exchange) is irrelevant to whether Section 92B applies; what matters is that at least one enterprise is non-resident and the transaction affects profits.
- Option D: Consolidation principles are an accounting concept; they do not apply to transfer pricing determinations under the Income Tax Act, and wholly owned subsidiaries are explicitly covered as associated enterprises under Section 92A.

Final Answer: Section 92B broadly covers international transactions in tangible goods between associated enterprises; the TPO may apply the CUP method to determine ALP at Rs. 750 per kg. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q15

Answer Key

Quick Reference Answer Key

Q.1	Q.2	Q.3	Q.4	Q.5	Q.6	Q.7	Q.8	Q.9	Q.10
C	A	D	B	A	C	D	B	A	C

Q.11	Q.12	Q.13	Q.14	Q.15
B	D	A	C	B

Topic-wise Answer Summary

Q.No.	Topic	Answer
1	Constitutional — Art. 265 (tax without law)	C
2	Constitutional — Art. 269A (IGST devolution)	A
3	Income Tax — Sec. 2(31) definition of person	D
4	Income Tax — Sec. 6 residential status (NRI, 182-day rule)	B
5	Income Tax — Sec. 17(2) perquisite: rent-free accommodation	A
6	Income Tax — Sec. 2(14)/45 capital asset and capital gains	C
7	Income Tax — Sec. 28 PGBP / adventure in nature of trade	D
8	Income Tax — Sec. 80C deductions and overall limit	B
9	GST — Sec. 9(1) / Schedule I deemed supplies	A
10	GST — Sec. 16(2) conditions for ITC	C
11	GST — Sec. 8 composite vs. mixed supply	B
12	Customs — Sec. 14 transaction value method	D
13	Tax Avoidance — Sec. 96 GAAR (ITA)	A
14	DTAA — Art. 5 Permanent Establishment (Agency PE)	C
15	Transfer Pricing — Sec. 92B international transaction / ALP	B