

# Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

## Paper-10 Applied Indirect Taxation

Time Allowed: 3 hours

Full Marks: 100

Working notes should form part of the answers.

Answer **Question No. 1** which is compulsory and **any five** from the rest.

### Question 1.

(a) Fill up the blanks:

[15 × 1]

- (i) The effective rate of service tax \_\_\_\_\_ % of the value of taxable service.
- (ii) Form \_\_\_\_\_ is prescribed for application to get registered u/s 7 of CST Act.
- (iii) Services rendered by a foreign diplomatic mission located in India are included in the \_\_\_\_\_ list of service in the context of service tax.
- (iv) As per the definition of goods in excise, the two essential elements of goods are it should be movable and \_\_\_\_\_.
- (v) \_\_\_\_\_ means a person engaged in the manufacture or production of goods on behalf of a principal manufacturer from any inputs or goods supplied by the said principal manufacturer or by any other person authorised by him.
- (vi) There are two types of registration in the context of VAT, one is Compulsory Registration and another is \_\_\_\_\_ Registration.
- (vii) In case of Anti-dumping, margin of dumping means the difference between normal value and \_\_\_\_\_.
- (viii) The \_\_\_\_\_ sale price should be the maximum price at which excisable goods in packaged forms are sold to ultimate consumer.
- (ix) Unbranded software is \_\_\_\_\_ (goods/ service)
- (x) The due date of e-payment of service tax in case of an individual is \_\_\_\_\_ (5<sup>th</sup>/ 6<sup>th</sup>/ 15<sup>th</sup>) of the month following the \_\_\_\_\_ (month/ quarter) in which the service is provided or deemed to be provided.
- (xi) VAT prevents the \_\_\_\_\_ effect of tax by providing set-off/ input credit of tax paid earlier.
- (xii) In customs, \_\_\_\_\_ means transfer from one conveyance to another with or without payment of duty.
- (xiii) In excise, Design and Engineering Charges being an essential process/activity for the purpose of manufacture shall be \_\_\_\_\_ (included/ excluded) in the Assessable value.
- (xiv) \_\_\_\_\_ products are such products, which are produced in a process naturally in the course of manufacture of a finished product, which involves more than one process.

(b) State with reasons whether the following statements are 'True' or 'False':

[5 × 2]

- (i) Advertising/ publicity expenditure by brand name/copyright owner is excludible in the assessable value for the purpose of excise.
- (ii) Sawdust generated while cutting wood is not amount to manufacture under Central Excise law.
- (iii) Central Sales Tax is leviable on sale of stocks, shares and securities traded by a dealer in shares.
- (iv) The CENVAT Credit Audit can be ordered by the Commissioner of Central Excise as per Section 14A of Central Excise Act.
- (v) If an individual renders services to himself, it is not liable for service tax.

## **Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2**

---

### **Answer to 1(a):**

- (i) 12.36
- (ii) A
- (iii) negative
- (iv) marketable
- (v) Job worker
- (vi) Voluntary
- (vii) export price
- (viii) retail
- (ix) service
- (x) 6<sup>th</sup>, quarter
- (xi) cascading
- (xii) transshipment
- (xiii) included
- (xiv) Intermediate

### **Answer to 1(b):**

- (i) True: The expenditure incurred by brand name/copyright owner on advertisement and publicity charges, in respect of goods will not be added to assessable value; as such expenditure is not incurred on behalf of the manufacturer-assessee.
- (ii) False: Sawdust generated while cutting wood is manufacture under Central Excise law. Sawdust is a different product and can be used as raw material in manufacturing paper and it is distinctly marketed.
- (iii) False: As per definition of goods under Central Sales Tax, the term does not include stocks, shares and securities.
- (iv) False: The CENVAT Credit Audit can be ordered by the Commissioner of Central Excise as per Section 14AA of Central Excise Act.
- (v) True: Any activity carried out by one person for another is considered as a service. Hence, if an individual renders services to himself, it is not liable for service tax. It is called self-consumption of service.

### **Question 2.**

- (a) Bitan Ltd., which is engaged in the manufacture of excisable goods started its business in May, 2013. It availed small scale exemption in terms of Notification No. 8/2003-C.E. dated 01-03-2003. The following details are provided (₹) :

15,000 kg of inputs purchased @ ₹ 992.70 per kg. (inclusive of excise duty @ 12.36%)	1,48,90,500
Capital goods purchased on 25-06-2013 (inclusive of excise duty at 12.36%)	45,60,000
Finished goods sold (at uniform transaction value throughout the year)	2,50,00,000

Calculate excise duty payable by M/s. Bitan Ltd. in cash, if any, during year 2013-14. Rate of duty on finished goods sold may be taken at 12.36% and you may assume that selling price is exclusive of central excise duty. There is neither any processing loss nor any inventory of input and output. Show your workings and notes with suitable assumptions as required.

- (b) Describe the taxability of 'bundled services'.

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

(c) From the following particulars, calculate assessable value and total customs duty payable:

- (i) Date of presentation of Bill of entry : 14-05-2013 [Rate of BCD 25%; Exchange Rate: ₹ 43.40 and rate notified by CBEC ₹ 43.80]
- (ii) Date of arrival of goods in India: 27-05-2013 [Rate of BCD 20%; Exchange Rate; ₹ 44.10 and rate notified by CBEC ₹ 44.20]
- (iii) Rate of Additional Customs Duty : 12%;
- (iv) CIF value 2,000 US Dollar; Air Freight 500 US Dollars, Insurance cost 100 US Dollars [Landing Charges no ascertainable].
- (v) Education Cess applicable 3%
- (vi) Assume there is no special CVD.

Also determine the Cenvat credit eligibility if the buyer is — (1) manufacturer (2) service provider and (3) trader. [Provide working notes as and when required]

[6+3+6]

**Answer:**

(a) Computation of duty payable by Bitan Ltd. during financial year 2013-14

Particulars	Units	₹/unit	₹
Total value of all finished goods	15,000	1,666.67	2,50,00,000
Less: Exemption of ₹150 lakhs	9,000	1,666.67	1,50,00,000
Dutiable clearances (60% clearances are exempt and 40% dutiable)	6,000	1,666.67	1,00,00,000
<b>Duty @ 12.36% on final product</b>		<b>206.00</b>	<b>12,36,000</b>
Total Credit on inputs [Duty = ₹ 992.70 x 12.36 ÷ 112.36]	15,000	109.20	16,38,000
Less: 60% credit relating to exempted clearances [Reversal under Rule 6 of the CENVAT CREDIT Rules, 2004]	9,000	109.20	9,82,800
Credit relating to dutiable clearances	6,000	109.20	6,55,200
Add: Credit relating to capital goods [100% credit available in first year to SSI- units] [ ₹ 45,60,000 x 12.36 ÷ 112.36]			5,01,616
Total CENVAT Credit			11,56,816
<b>Duty payable in cash [Duty on Final Product – CENVAT Credit]</b>			<b>79,184</b>

(b) 'Bundled service' means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services. An example of 'bundled service' would be air transport services provided by airlines wherein an element of transportation of passenger by air is combined with an element of provision of catering service on board. Each service involves differential treatment as a manner of determination of value of two services for the purpose of charging service tax is different.

Example - A hotel provides a 4-D/3-N package with the facility of breakfast. This is a natural bundling of services in the ordinary course of business. The service of hotel

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.

### (c) Computation of assessable value and the total customs duty payable –

CIF value	US\$	2,000
Less: Freight	US\$	500
Insurance	US\$	100
FOB Value	US\$	1,400
Add: Air Freight restricted @ 20% of FOB value	US\$	280
Insurance (actual amount)	US\$	100
CIF value	US\$	1,780
CIF Value in Indian ₹ (CIF Value in US\$ x ₹ 43.80 per US\$)	₹	77,964
Add: 1% for landing charges	₹	780
<b>Assessable value [A]</b>	<b>₹</b>	<b>78,744</b>
Add: Basic Customs duty @ 20% of [A]	[B] ₹	15,749
Total for additional duty of customs u/s 3(1) Customs Tariff Act, 1975	[C] ₹	94,493
Add: Additional Customs Duty (@ 12% of ₹ 94,493 i.e., [C])	[D] ₹	11,339
Add: Education Cess on total customs duty i.e., 3% of [B+D]	[E] ₹	813
Total for the levy of additional duty of customs u/s 3(5) of Customs Tariff Act, 1975	[F=C+D+E] ₹	1,06,645
Add: Additional duty of customs equal to sales tax etc.	[G] ₹	---
Total cost of imported goods	₹	1,06,645
<b>Total Customs duty [B+D+E+G] (rounded off)</b>	<b>₹</b>	<b>27,901</b>

Cenvat credit eligibility:

- (1) Buyer, who is manufacturer, is eligible to avail Cenvat credit of [D] and [G] above. As there is no Special CVD as per section 3(5) of the Customs Tariff Act, 1975, he will be eligible to avail credit of [D] only.
- (2) A buyer who is service provider is eligible to avail Cenvat credit of [D] above.
- (3) A trader who sells imported goods in India after charging VAT/ sales tax can get refund of Special CVD of 4%, i.e. [G] above. Alternatively, he can pass on the credit of Special CVD also to his customer. In this case, as there is no Special CVD, the trader cannot avail the said benefit.

Working Notes:

- (1) Rate of exchange notified by CBEC on the date of presentation of bill of entry has been considered.
- (2) Rate of duty as applicable on the arrival of aircraft which is later than the date of submission of the bill of entry has been considered.
- (3) Landing charges @ 1% have been considered as per Rule 10(2)(b) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (4) Since Air freight exceeds 20% of FOB value of goods, it shall be restricted to 20% of FOB value of goods.

### Question 3.

- (a) Compute the VAT liability of Manyata for the month of March, 2014 using the invoice method of computation of VAT — Purchases from the local market (including VAT @ 4%) – ₹ 62,400, Storage cost incurred – ₹ 800, Transport Cost – ₹ 1,750. Goods sold at a margin of 10% on the cost of such goods sold. VAT rate of sales is 4%.

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

---

(b) Describe how indirect taxes are administered in India.

(c) Navin Ltd. of Mumbai (having diversified business) has provided the following services, whose values are listed below. Compute its service tax liability:

- (1) Services provided to a company located in Colombo in relation to organization of a sport event in Colombo: ₹ 25 lakh;
- (2) Services provided to a company located in Srinagar in relation to festival celebration in Srinagar: ₹ 5 lakh;
- (3) Services provided to a company located in Jaipur in relation to fashion show in Dubai: ₹ 12 lakh;
- (4) Services of online database access and retrieval services provided from its website: ₹ 17 lakhs (out of this, ₹10 lakh was provided to recipients located outside India).

(d) Explain the effect on Cenvat credit in case of transfer/merger/shifting of undertaking.

[4+3+5+3]

**Answer:**

(a) Since VAT credit on purchases is available, VAT paid on purchases does not form cost of the product. Purchase price inclusive of VAT is ₹ 62,400. VAT rate is 4%. Hence, net purchase cost is ₹ 60,000  $[(₹ 62,400 \times 100)/104]$ . VAT @ 4% of ₹ 60,000 is ₹ 2,400.

Hence, total cost of goods is ₹ 62,550 (₹ 60,000 + ₹ 800 + ₹ 1,750). Add 10% margin of ₹ 6,255 (10% of ₹ 62,550). Thus, selling price is ₹ 68,805.

Vat payable on sale price of ₹ 68,805 @ 4% is ₹ 2,752. Vat credit available is ₹ 2,400. Hence, net Vat payable is ₹ 352 (₹ 2,752 - ₹ 2,400).

Note that Value added to product is ₹ 800 + ₹ 1,750 + ₹ 6,255 i.e. ₹ 8,805. 4% of this amount is ₹ 352. Thus, effectively, Vat is paid only on Value added.

(b) The Department of Revenue of the Ministry of Finance exercises control in respect of matters relating to the indirect taxes through a Statutory Boards, namely, the Central Board of Excise and Customs (CBEC). Matters relating to the levy and collection of all the indirect taxes (customs duties, central excise duties, service tax) fall within the purview of CBEC. The Board has been constituted under the Central Board of Revenue Act, 1963.

CBEC deals with the tasks of formulation of policy concerning levy and collection of customs and central excise duties and service tax, prevention of smuggling and administration of matters relating to customs, central excise, narcotics to the extent under CBEC's purview and service tax. The Board is the administrative authority for its subordinate organizations, including Custom Houses, Central Excise and Service Tax Commissionerates.

The State level indirect taxes are administered by Commercial Tax Departments of the respective States.

(c) The taxable value and service tax is computed below (amount in ₹) —

(1)	Services provided to a company located in Colombo in relation to organization of a sport event in Colombo: As per Rule 6 of the Place of Provisions Rules, 2012, in case of services provided in relation to organization of events, the services shall be taxable at the place of location of event. Since event is held in non-taxable territory, it is not liable to service tax.	Nil
-----	--	-----

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

(2)	Services provided to a company located in Srinagar in relation to festival celebration in Srinagar: As per Rule 6 of the Place of Provisions Rules, 2012, in case of services provided in relation to organization of events, the services shall be taxable at the place of location of event. Since event is held in non-taxable territory, it is not liable to service tax.	Nil
(3)	Services provided to a company located in Jaipur in relation to fashion show in Dubai: Since services are in relation to event held in Dubai, hence, as per Rule 6, they are not taxable. But, since the services are provided to a recipient located in taxable territory (Jaipur) and both service provider and recipient are located in taxable territory, hence, as per Rule 8, these services are liable to service tax.	₹ 12,00,000
(4)	Services of online database access and retrieval services provided from its website: As per Rule 9, the place of provision is the place of location of service provider. Since service provider Navin Ltd. is located in Mumbai (taxable territory), hence, these services will be taxable in full irrespective of location of the service recipient.	₹ 17,00,000
	<b>Total Taxable Value</b>	<b>29,00,000</b>
	<b>Service tax @ 12.36%</b>	<b>3,58,440</b>

- (d) If a manufacturer shifts his factory to another site or provider of output services shifts his business or a manufacturer/service provider transfers his factory/business on account of change in ownership or on account of sale, merger, amalgamation, lease or transfer of factory to a joint venture, the manufacturer/service provider can transfer unutilised Cenvat credit to the transferred/sold/merged/leased or amalgamated factory/business - Rule 10(1) and 10(2) of Cenvat Credit Rules.

The transfer of credit after transfer/merger/shifting is subject to following —

- There should be specific provision for transfer of liabilities of such factory /business of service provider [rule 10(1) and 10(2)]
- The transfer is allowed only if stock of inputs as such or in process, or the capital goods are also transferred along with the factory/premises of service provider to the new site or ownership and the inputs or capital goods on which credit has been availed of are duly accounted for to the satisfaction of Assistant/Deputy Commissioner. [rule 10(3)]

### Question 4.

- (a) Mr. A of Kolkata sells goods to Mr. E of Hyderabad and delivers the same at Kolkata to BBS Transport. The lorry receipt was sent to Mr. E by post. While goods were in transit, Mr. E sells the goods to Mr. U of Vijayawada by making an endorsement of LR and goods were diverted to Vijayawada. Is the second sale between Mr. E and Mr. U chargeable to tax?

- (b) Write the advantages of indirect taxes (any two).

- (c) Esking Ltd. has a manufacturing unit situated in Lucknow. In the financial year 2013-14, the total value of clearances from the unit was ₹ 465 lakhs.

The breakup of clearances is as under:

- Clearances worth ₹ 85 lakhs of certain non-excisable goods manufactured by it.

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

- ii. Clearances worth ₹ 55 lakhs exempted under specified job work notification.
- iii. Exports worth ₹ 100 lakhs (₹ 75 lakhs to USA and ₹ 25 lakhs to Nepal).
- iv. Clearances worth ₹ 50 lakhs which were used captively to manufacture finished products those are exempt under notifications other than Notification No. 8/2003-CE., dated 01-03-2003 as amended.
- v. Clearances worth ₹ 200 lakhs of excisable goods in the normal course.

Explain briefly, the treatment for various items and state, whether the unit will be eligible for the benefits of exemption under Notification No. 8/2003-CE dated 1-3-2003 as amended for the year 2014-15.

- (d) Explain abatements and composition schemes in the context of service tax. Also state the distinction between them.

[2+2+5+(2+2+2)]

**Answer:**

- (a) The first sale by Mr. A to Mr. E is chargeable to central sales tax. However, sale of goods by E to U is exempt under Section 6(2) of Central Sales Tax Act, 1956 i.e. subsequent sale by transfer of documents to avoid multiple tax incidences.

Note: Form E-I from A and Form C from U has to be received by E.

- (b) Advantages of Indirect Taxes:

- (i) Easy management: Indirect taxes mainly relate to organized sector. Hence, it is convenient to control, i.e., levy, control and collection of indirect taxes are easy.
- (ii) Assured Collection: Being easier to control, the incidence of tax evasion is comparatively less. So, the contribution of indirect taxes to the Government shows an increasing trend, as the business progress.

- (c) In order to claim the benefit of SSI exemption in a financial year, the total turnover of a unit should not exceed ₹ 400 lakh in the preceding year.

For this purpose, the total value of clearances shall be calculated as follows –

	(₹ lakhs)
Total value of clearances	465
<b>Less:</b>	
(i) Clearances of certain non-excisable goods manufactured by it	85
(ii) Clearances exempted under specified job-work notification	55
(iii) Exports clearances to USA	75
(iv) Clearances of goods used captively to manufacture finished products, which are exempt under Notification other than SSI-exemption notification	Nil
<b>Value of clearances</b>	<b>250</b>

**Unit eligible for exemption:** Since the aggregate value of clearances during the preceding financial year doesn't exceed ₹ 400 lakhs, therefore, the unit is eligible for SSI-exemption in the financial year 2014-15.

- (d) Service tax is payable on value of taxable service. In case of some services, composition schemes are available while in some cases, partial abatement is available.

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

**Composition schemes** - 'Composition scheme' is a simplified scheme for payment of service tax when calculation of 'value of service' for payment of service tax is very cumbersome or difficult.

In composition scheme, some easy method is prescribed (like deduction of some ad hoc amount) to arrive at the value of taxable service. Composition scheme is at the option of assessee.

**Abatement i.e. partial exemption** - In case of some services, service tax is payable on lower value, i.e. abatement is available from amount charged. Abatement is nothing but partial exemption from service tax. However, in case of some services, abatement is used as a composition scheme.

Abatement is subject to certain conditions like restrictions on availment of Cenvat credit. If assessee does not want to avail the abatement, he simply should not comply with the conditions. In that case, he is required to pay service tax.

**Distinction between abatement and composition scheme:** Practically, result of both abatement and composition scheme appears to be same. However, abatement is nothing but partial exemption from service tax payable, subject to prescribed conditions, while composition scheme is an easy mode of calculating value of service, where finding of value of taxable service is difficult. However, this distinction has not been fully followed. In case of some services, abatement is actually used as a composition scheme.

### Question 5.

(a) Ruby Constructions undertakes works contracts and maintains sufficient records to quantify the labour and other service charges. From the details given below, calculate the taxable turnover, input tax credit and net VAT payable under the State VAT Law.

Sl. No.	Particulars	Amount (₹)
(i)	Total contract price (excluding VAT @ 12.5%)	1,95,00,000
(ii)	Materials purchased and used for the contract taxable at 12.5% VAT (inclusive of VAT)	33,75,000
(iii)	Labour charges paid for execution of the contract (excluding VAT @12.5%)	40,00,000
(iv)	Other service charges paid for the execution of the contract (excluding VAT @12.5%)	20,00,000
(v)	Cost of consumables used not involving transfer of property in goods (excluding VAT @12.5%)	15,00,000

Ruby Constructions also purchased a plant for use in the contract for ₹ 20,80,000 (inclusive of VAT). In the VAT invoice relating to the same VAT was charged at 4% separately.

Assume 100% input tax credit is available on capital goods immediately.

(b) State the situation where an abatement of duty on damaged or deteriorated goods is given in customs as per section 22 of the Customs Act. How the abatement of duty on damaged or deteriorated goods is computed?

(c) Compute the assessable value under the Central Excise Act, 1944 in the following case:  
Production : 2,000 units on 01.01.2014



## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

Quantity sold	:	500 units @ ₹ 200 per unit 600 units @ ₹ 190 per unit
Samples clearances	:	75 units
Balance in stock	:	825 units (at the end of factory day for 01.01.2014)

Assume that the rate per unit is exclusive of Central Excise duty.

[6+(3+1)+5]

**Answer:**

(a) The question states that -

- ◆ contractor maintains sufficient records to quantify the labour charges;
- ◆ hence, value of transfer of property in goods involved in execution of works contract is to be computed by deducting labour and service charges from total contract price.

The computations in this regard are as follows -

	Value (excl. VAT) (₹)	VAT Rate	VAT (₹)
Total Contract Price	1,95,00,000		
Less: Labour charges (assumed inclusive of normal profit)	40,00,000		
Other service charges (assumed inclusive of normal profit)	20,00,000		
Cost of consumables (assumed inclusive of normal profit)	15,00,000		
<b>Value of goods involved in works contract</b>	<b>1,20,00,000</b>	<b>12.50%</b>	<b>15,00,000</b>
Materials purchased and used for contract (eligible for credit) [Value excluding VAT = ₹ 33,75,000 × 100 ÷ 112.5]	30,00,000	12.50%	3,75,000
Capital goods used for contract (eligible for credit; in fact, question itself states that capital goods are eligible for 100% credit) [Value excluding VAT = ₹ 20,80,000 × 100 ÷ 104]	20,00,000	4.00%	80,000
<b>Net VAT payable in cash</b>			<b>10,45,000</b>

(b) Abatement of duty on damaged or deteriorated goods can be given in the following situations [Section 22 of the Customs Act]: Where it is shown to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs, —

- a. that any imported goods had been damaged or had deteriorated at any time before or during the unloading of the goods in India; or
- b. that any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination under section 17, on account of any accident not due to any wilful act, negligence or default of the importer, his employee or agent; or
- c. that any warehoused goods had been damaged at any time before clearance for home consumption on account of any accident not due to any wilful act,

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

negligence or default of the owner, his employee or agent, then abatement of duty on damaged or deteriorated goods can be allowed.

The abatement of duty on damaged or deteriorated goods is computed as follows:

Duty leviable on such damaged or deteriorated goods

$$= \frac{\text{Duty chargeable on the goods before the damage or deterioration}}{\text{Value of the goods before damage or deterioration}} \times \text{Value of the damaged or deteriorated goods}$$

Abatement of duty on damaged or deteriorated goods

$$= \text{Duty leviable on the goods before damage} - \text{Duty leviable on the goods after damage}$$

### (c) Computation of assessable value of the goods (amount in ₹)

Clearances of 500 units @ ₹ 200 per unit	1,00,000
Clearances of 600 units @ ₹ 190 per unit	1,14,000
Samples clearances of 75 units @ ₹ 190 per unit [WN]	14,250
Transaction Value	2,28,250

#### Working note:

CBEC Circular No. 813/10/2005-CX, dated 25.04.2005 has clarified that Sample are to be valued as per provisions of Rule 4 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 i.e. on the basis of value of goods cleared at or around the same time.

However, since the information relating to value of goods sold at the time nearest to the time of removal of samples is not available, valuation may be done on the basis of Rule 11 read with Rule 4. Therefore, normal transaction value of goods sold at or about the time nearest to the time of removal of samples will be the assessable value of the samples. Normal transaction value is the value at which the greatest aggregate quantity of goods is sold. Since, in the given case, the greatest aggregate quantity viz., 600 units are sold at ₹ 190, the normal transaction value would be ₹ 190.

### Question 6.

#### (a) Following transactions took place in the factory of Pipli Ltd. —

- (i) An imported consignment of Raw Materials was received vide Bill of Entry dated 2<sup>nd</sup> Dec, showing the following Customs Duty payments —

Basic Customs Duty	₹ 10,000
Additional Duty (CVD)	₹ 12,000
Special Additional Duty	₹ 4,000
- (ii) A consignment of 1,000 kgs of inputs was received. The Excise Duty paid as per the invoice was ₹ 12,360. While the input was being unloaded 45 kgs were damaged, and were found to be not usable.
- (iii) Some inputs for final product were received. These were accompanied by a certified Xerox Copy (photo copy) of Invoice No. 270 dated 23<sup>rd</sup> Dec. indicating the Excise duty of ₹ 5,500 has been paid on inputs. The original for duplicate copy of invoice are not traceable.

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

Indicate the eligibility of CENVAT Credit under the CENVAT Credit Rules, 2004 with explanations where necessary.

(b) Distinguish between a Sale for Export and Sale in the Course of Export in the context of Central Sales Tax.

(c) Write down the significance of Green Channel and Red Channel in customs.

[6+5+4]

Answer:

(a) Eligibility of Cenvat credit

Situation	Eligible Amount	Reasoning
Imported Consignment	₹ 16,000	Countervailing Duty for Excise Duty and VAT Equivalent will be eligible for credit under CENVAT Credit Rules. Basic Customs Duty of ₹ 10,000 is not eligible.
Loss of Inputs	₹ 11,804	<ul style="list-style-type: none"> <li>• Inputs used in the manufacture of dutiable finished products alone are eligible for CENVAT Credit.</li> <li>• When inputs are damaged irretrievably before usage in the manufacturing process, duty attributable to such goods cannot be claimed as CENVAT Credit.</li> <li>• Therefore, duty for 955 Kgs alone is eligible for CENVAT Credit = ₹ 12,360 x 955 Kgs used / 1,000 Kgs received.</li> </ul>
Inputs received under Photocopy of Invoice	₹ 5,500	<ul style="list-style-type: none"> <li>• Duty can be claimed only if inputs have been received and documents evidencing payment of duty is available.</li> <li>• CENVAT Credit is allowable on Photostat copies of authenticated invoices.</li> </ul> <p style="text-align: right;"><b>[Kothari General Foods Corpn Ltd 144 ELT 338 (Tri.)]</b></p>
<b>Total Credit</b>	<b>₹ 33,304</b>	

(b) Distinctions between a Sale for Export and Sale in the Course of Export

Sale for Export	Sale in the Course of Export
(i) A sale effected by the dealer (seller) and he is not connected with the export of the goods which actually takes place subsequently.	(i) Seller has an express between the sale and the export.
(ii) Seller may or may not have the knowledge that the buyer intends to export the goods purchased.	(ii) The seller who purchases goods in India subsequently exports as such.
(iii) Seller has no intention for export.	(iii) Seller has clear intention to export.
(iv) This sale may be called as penultimate	(iv) This sale is called as export sale.

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

sale.	
(v) Sale exempted from Central Sales Tax provided Form 'H' received from his buyer.	(v) Sale exempted from Central Sales Tax automatically.
(vi) This sale is covered under Section 5(3) of the CST Act, 1956.	(vi) This sale is covered under Section 5(1) of the CST Act, 1956.

(c) Section 77 of Customs Act provides that owner of any baggage has to make declaration of its contents to Customs Officer. Rate of duty and tariff valuation shall be the rate and valuation in force on the date of declaration.

**Green Channel** — It is impractical to ask every traveller to declare contents of his baggage. Hence, customs have provided two channels at airports. If a person does not have any dutiable goods, he can go through green channel.

Going through green channel is in effect declaring that the person is not carrying any dutiable goods. It is not necessary that declaration has to be in writing. It is not duty of Customs Officer to accost individual passenger. A person going through green channel carrying dutiable goods can be penalised for 'false declaration'.

**Red Channel** — Person carrying dutiable goods should pass through red channel and should submit declaration. The declaration of goods and value as given by passenger in disembarkation card is generally accepted, but baggage can be inspected by Customs Officer.

### Question 7.

(a) M/s. Sinjen Ltd. received the following sums (exclusive of taxes). Compute its service tax liability (Ignore small service provider's exemption)-

- (1) Commission from selling of various goods belonging to other parties : ₹ 6.5 lakh ;
- (2) Commission from acting as Clearing and Forwarding Agent: ₹ 6.8 lakh ;
- (3) Commission from acting as clearing agent: ₹ 4.8 lakh ;
- (4) Commission from acting as forwarding agent: ₹ 2 lakh ;
- (5) Margin earned from trading in shares : ₹ 4.6 lakh ;
- (6) Margin from trading in futures : ₹ 4.8 lakh ;

(b) Are Lease Transactions subjected to levy of Value Added Tax under VAT Legislations? State in details.

(c) Ascertain the Assessable Value in respect of each of the clearances given below –

Removed to	Price at Depot as on		Actual Sale Price at Depot on 01/02/2014
	01/01/2014	31/01/2014	
Kolkata Depot	₹ 190/unit	₹ 180/unit	₹ 230/unit
Mumbai Depot	₹ 185/unit	₹ 190/unit	₹ 210/unit
Ranchi Depot	₹ 195/unit	₹ 200/unit	₹ 220/unit

The goods were cleared to respective Depots on 01/01/2014 and actually sold at the depots on 01/02/2014.

[7+5+3]

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

---

### Answer:

#### (a) Computation of service tax liability:

- (1) Commission from selling of various goods belonging to other parties : ₹ 6.5 lakh - Taxable;
- (2) Commission from acting as Clearing and Forwarding Agent: ₹ 6.8 lakh - Taxable;
- (3) Commission from acting as clearing agent: ₹ 4.8 lakh - Taxable;
- (4) Commission from acting as forwarding agent: ₹ 2 lakh - Taxable;
- (5) Margin earned from trading in shares : ₹ 4.6 lakh - Shares are securities and "goods" and trading in goods is a service covered within negative list u/s 66D(e) - Not taxable;
- (6) Margin from trading in futures: ₹ 4.8 lakh - Futures are securities and "goods" and trading in goods is a service covered within negative list u/s 66D(e) - Not taxable;

Taxable Value = ₹ (6.5+6.8+4.8+2) lakhs = ₹ 20.10 lakhs; and service tax thereon @ 12.36% = ₹ 2,48,436.

**(b) Levy:** The Constitutional Authority to levy Sales Tax / VAT on Lease Transactions is contained in Article 366 of Constitution of India, which provides that tax on sale or purchase includes "a tax on the transfer of the right to use any goods for any purpose for cash, deferred payment or other valuable consideration."

**Taxable Event:** Transfer of right to use any "goods" for any purpose for a "valuable consideration". Hence, transfer of assets without consideration and lease of Immovable property does not attract levy of VAT / Sales Tax.

#### **Taxable Turnover:**

= Amount of Valuable Consideration Paid or Payable during given period + Any Charges before delivery thereof, (Less) Interest / Finance Charges included in Lease Payments (only in some States)

#### **Input Tax Credit:**

##### **(i) Lessor's Books:**

- Lessor will collect VAT on Lease Rentals over a period of time. Against such VAT Liability, the Lessor can claim Input Tax Credit of VAT Paid on purchase of the leased asset.
- Some States provide for claiming of Input Tax Credit on such purchases only over the lease period, and not against any other VAT liability.
- Some other States provide for complete utilization of Input Tax Credit on such purchase, against any VAT Liability. Some other States provide an option to carry forward the excess credit.

**(ii) Input Tax credit on Capital Goods:** Assets given on lease will be generally capitalized by the Lessor in his books, and will be treated as Capital Assets. Hence, provision relating to Input Tax Credit on Capital Goods will apply, i.e. utilization of credit over a period of time such within 36 Months etc.

#### **(c)**

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

- 1. Valuation for Depot Transfer:** Price prevailing at the Depot on the date of clearance from the factory will be the Assessable Value to pay Excise duty.
- 2. Assessable Value:** Therefore Assessable Value for each of the clearances will be as under (based on price prevailing at the respective depot on the date of removal from factory i.e. 1.1.2014)

Clearance from	Assessable Value
Kolkata Depot	₹ 190
Mumbai Depot	₹ 185
Ranchi Depot	₹ 195

Note: The actual sale price has no relevance for determining the value of above goods.

### Question 8.

(a) What is Automation of Central Excise and Service Tax or ACES? State the usefulness of ACES.

(b) Leela Ltd., a manufacturer, manufactured components within factory for own use. Cost of raw materials purchased for ₹ 57,000 to manufacture the said components. Cost of overheads as certified by a Cost Accountant, as per Cost Accounting Standard (CAS) – 4 is ₹ 23,000. Profit margin on inter departmental transfer @ 20%. These components are subject to Excise Duty @ 12.36% and State VAT rate @ 12.50%.

You are required to answer (i) Assessable Value of these Components, (ii) Total Excise Duty and (iii) Value Added Tax (VAT).

(c) Mickey Hotels Pvt. Ltd has given the following information for period Oct. 2013 to March, 2014. Compute value of taxable services and tax thereon:

- (1) Reception room and vehicle parking space were let out for a film shooting for 3 months. The charges received for this ₹ 5.5 lacs.
- (2) Conference hall was let out to a Jain Pariwar Trust for a week for a music competition for ₹ 90,000.
- (3) The hotel was booked by a customer for 3 days for a marriage function. The room booking charges were received in advance (excluding service tax) in the said period of ₹ 65,000. The electricity charges separately billed ₹ 20,000, hire charges including catering charges (including food) for 3 days billed of ₹ 3,27,000 after deducting the advance.
- (4) During the year, the conference hall was let out to ABC Ltd. The charges received were as under :  
Hall rent ₹ 4 Lacs, computer & projector systems charges ₹ 27,000, electricity charges ₹ 35,000. Hall rent includes charges for snacks and cold drinks ₹ 50,000.
- (5) The hotel garden was let out to a political party for 3 days for a meeting. Charges received ₹ 25,000.

The hotel charges 10% service charges which are later distributed as tips to employees. The above charges are excluding service tax.

[(2+2)+4+7]

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

### Answer:

(a) The Central Board of Excise & Customs has developed a new software application called Automation of Central Excise and Service Tax or ACES, which aims at improving tax-payer services, transparency, accountability and efficiency in indirect tax administration. It is a centralized, web based software application which automates various processes of Central Excise and Service Tax for Assessee and Department, and gives complete end to end solution.

ACES can be used for:

- i. Online registration and amendment of registration details
- ii. Electronic filing of documents such as Returns, Claims, Intimations and permissions
- iii. Online tracking of the status of applications, claims and permissions
- iv. Online facility to view documents like Registration Certificate, Returns, Show Cause Notice, Order- In-Original etc.

(b) [Rule 8 of Central Excise Valuation (determination of price of excisable goods) Rules, 2000]

	₹
Cost of Material =	57,000
Overhead Cost =	<u>23,000</u>
Cost of Production =	80,000
ADD: 10% profit margin (as per Rule 8 of Valuation Rules) =	<u>8,000</u>
(i) Assessable Value =	88,000
(ii) Excise Duty = ₹ 88,000 x 12.36/100 =	10,877
(iii) VAT payable is nil, since these components are consumed internally. VAT will attract only when there is a sale.	

(c) Computation of value of taxable service including tax thereon (ignoring small service provider exemption) —

[Service charges form part of gross amount charged: 10% services charges are assumed to have been charged in addition to the sums and since they are a consideration for provision of service, they are liable to be included in the gross amount charged.]

	Particulars	₹
1.	Reception room and vehicle parking space were let out for a film shooting for 3 months - It is renting of immovable property service - Since it is not meant for residential or lodging purposes, hence, no abatement allowed - Taxable [₹ 5.5 lakh + 10% Service Charges]	6,05,000
2.	Conference hall was let out to a Jain Pariwar Trust for a week for a music competition - Taxable; it is renting of immovable property [₹ 90,000 + 10% service charges]	99,000
3.	Bundled services of provision for food including renting of premises are eligible for abatement under Notification No. 26/2012-ST @ 30%. Total amount = ₹ 65,000 + ₹ 20,000 + ₹ 3,75,000 = ₹ 4,60,000 + 10% service charges = ₹ 5,06,000. Taxable Value @ 70% of ₹ 5,06,000 will be -	3,54,200
4.	Bundled service of provision food/beverages including renting of premises is eligible for abatement under Notification No. 26/2012-ST @ 30%. Total amount = ₹ 4,00,000 + ₹ 27,000 + ₹ 35,000 = ₹ 4,62,000 + 10%	3,55,740

## Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 2

---

	service charges = ₹ 5,08,200. Taxable Value @ 70% of ₹ 5,08,200 will be-	
5.	Hotel garden was let out to a political party - It is renting of immovable property - Taxable [₹ 25,000 + 10% service charges]	27,500
	<b>Taxable Value</b>	<b>14,41,440</b>
	<b>Service Tax @ 12.36%</b>	<b>1,78,162</b>