Paper 11 - Indirect Taxation

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Full Marks: 100 **Time allowed: 3 Hours**

1. **Answer the following questions**

A) Multiple choice questions **[7x2 =14]**

i) Aggregate sale price was ₹ 10,200 in interstate sale from Haryana, sales tax rate is 12.5%. Buyer from Delhi issued 'C' from. How is the tax rate calculated?
(a) 2/102
(b) 2/100
(c) 12.5/112.5
(d) 12.5/100

ii) A dealer engaged in effecting interstate sale is required to get himself registered where his turnover exceeds:
(a) Any Amount
(b) ₹9,00,000
(c) ₹10,00,000
(d) ₹50,00,000

iii) The selling price of VINTEX Ltd. inclusive of Basic Excise Duty @ 12.5% and CST 2% is ₹ 3600. What would be the assessable value of the product per unit under Central Excise Act?
(a) ₹3,325.90
(b) ₹3,137.25
(c) ₹3,065.10
(d) None

iv) If there is difference of opinion about interpretation of a provision in FTP, whose interpretation is final?
(a) Principal chief commissioner of customs
(b) Director General of Foreign Trade
(c) Revenue Secretary, Ministry of Finance
(d) Chairman of CBEC.

v) Brand Rate of Duty Drawback is applicable only when
(a) All industry Rate is not applicable
(b) All industry rate does not cover 80% of drawback amount due
(c) Both conditions
(d) None of the conditions (a) and (b)

vi) Which of the following services is exempted in case of passenger transportation services:
(a) National Waterways
(b) Tourism Carriage Contract
(c) Radio Taxi
(d) None

vii) Definition of service includes ___________
(a) An activity
(b) for consideration
(c) Both
(d) None of (a) and (b)

Answer:

i) (a)
ii) (a)
iii) (b)
iv) (b)
v) (c)
vi) (a)
vii) (c)

B) Say Yes or No for the following questions: [6x1=6]

(a) Definition of sale under CST includes pledge, mortgage and hypothecation.
(b) Service to WHO is exempted.
(c) Duty Draw Back (DDB) is allowed on wearing apparel.
(d) MRP provisions are not applicable for packaged commodities meant for industrial and institutional consumers.
(e) Advance authorization is made in Aayat Niryaat Form.
(f) Penalty and fine for violation of Government rules attract Service-tax.

Answer:

(a) No
(b) Yes
(c) No
(d) Yes
(e) Yes
(f) No.

C) Match the following [5x1=5]

Column A		Column B
1. ACES		A. Jammu and Kashmir
2. White Colour BOE		B. Penultimate sale
3. IEC		C. Home Consumption
4. Form H		D. Import Export Code
5. Excise Duty extends to whole of India including		E. Automation of Central Excise and S.T.

Answer:

1. E.
2. C.
3. D.
4. B.
5. A.

Answer any FIVE questions from the following each question carries 15 marks

2. (a) Ram & Co. a registered dealer with Head Office at Kolkata, furnishes to you the following information:

i) Inter State Sale of goods (it includes ₹10,00,000 being the value of goods transferred to Chennai Branch covered by Form F) ₹ 49,20,000
ii) Dharmada collected ₹ 25,000

iii) Weighment charges ₹ 2,15,000

iv) Cash discount shown in invoice as per trade practice ₹ 60,000

v) Indemnity charges (recovered from buyer to cover transit loss based on their request) ₹ 53,000.

Calculate the turnover and CST payable on the assumption that all the sales were made to registered dealers. 8

Answer:

Calculation of Taxable Turnover and CST Payable:

	₹
Interstate sale of goods	49,20,000
Less: Branch transfer covered by F form	10,00,000
Selling Price	39,20,000
Add: Inclusions:	
Dharmada	25,000
Weighment charges	2,15,000
Less: Exclusions:	
Cash Discount	(60,000)
Indemnity charges (Which are in nature of insurance charges)	(53,000)
Taxable turnover	40,47,000

CST = ₹ 40,47,000 × 2% = ₹ 80,940

Note: It is assumed that sales prices are exclusive of CST

(b) Explain the VAT variants. 7

Answer:

VAT could be levied with three specific variants, viz., a) Gross Product Variant, b) Income type Variant, and c) consumption type Variant.

(i) Gross Product Variant: This variant allows deductions for all purchases of raw materials and components but no deduction is allowed for business inputs. It means capital goods such as plant and machinery are not deductible from the tax base in the year of purchase and depreciation on the plant and machinery is not deductible in the subsequent years. Thus, the economic base of gross product variant is equivalent to Gross National product. In this variant of VAT, capital goods carry a heavier tax burden as they are taxed twice. Modernization and upgrading of plant and machinery is delayed due to this dual tax treatment.

(ii) Income Variant: Unlike the gross product variant, in this variant of VAT, deductions are allowed for purchases of raw materials and components as well as depreciation on capital goods. It provides incentive to classify purchases and, therefore, the economic base of the income variant is equivalent to Net National Product. In practice, however, there are many difficulties connected with specification of any method of measuring depreciation which basically depend on the life of an asset as well as on the rate of inflation.

(iii) Consumption Variant: This variant allows deduction for all business purchases including capital assets. That is, gross investment is deducted in calculation of value added. The economic base of the tax, therefore, is equivalent to total private consumption. It neither distinguishes between capital and current expenditure nor specifies the life of asset or depreciation allowance for different assets. This form is neutral between different methods of production; there would be no effect on tax liability due to the method of production. The tax is also neutral between the decision to save or consume.

3. (a) C Ltd. is engaged in manufacturing water pipes. Compute Cenvat Credit admissible to C Ltd. The Excise Duty paid at the time of purchase of following goods is :

	Value in ₹
Raw Steel	**12,000**
Water pipe making machine	**25,000**
Lubricating Oil	**2,000**
Equipments used in office	**10,000**
Petrol	**15,000**
Pollution control equipment	**22,000**
Components, spares equipment	**12,000**

8

Answer:

Calculation of Cenvat credit admissible to C Ltd.

Particulars	**Nature of goods**	**Value (₹)**	**Eligibility**	**C.C. (₹)**
Raw Material	Inputs	12,000	100%	12,000
Water Pipe making machine	Capital goods	25,000	50%	12,500
Lubricating Oil	Input	2,000	100%	2,000
Equipment used in office	Capital goods	10,000	Not eligible	-
Petrol	-	15,000	Not eligible	-
Pollution Control Equipment	Capital Goods	22,000	50%	11,000
Components spares and accessories	Capital goods	12,000	50%	6,000
Total CC admissible				43,500

(b) Write about Daily Stock Account. **7**

Answer:

Every assessee registered under Central Excise should maintain the Daily Stock Account (DSA) [Rule 10(1) of Central Excise Rules, 2002].

There is no specific format for Daily Stock Account. The following information should be captured in the DSA:

- Description of goods manufactured
- Opening balance of goods manufactured
- Quantity manufactured
- Inventory of goods (closing stock)
- Goods removed from the place of removal (quantity)
- Assessable value of goods removed
- Amount of duty payable to the department
- Particulars with regard to the amount of duty actually paid.

The first page and the last page of the DSA shall be duly authenticated by the manufacturer or his authorized person. The DSA shall be preserved for a period of five years immediately after the financial year to which such records pertain.

Penalty upto the amount of duty payable can be imposed and the offending goods can be confiscated if DSA is not maintained by the manufacturer. [Rule 25(1)(b) of Central Excise Rules]

4. **(a) An exporter exported 2000 pairs of leather shoes @750 per pair. All industry rate of Duty Drawback is fixed on average basis i.e., 11% of FOB subject to the maximum of ₹ 80 per pair. The exporter found that the actual duty paid on inputs was ₹ 1,95,000. He has approached you as a consultant to apply u/r 7 of Duty Drawback Rules for fixation of Special Brand Rate.** **8**

Answer:

Duty paid on inputs was		→ 1,95,000
Duty Drawbacks:		
2000 x 750 x 11%	→ 1,65,000	
(or)		
Max 200 x 80	→ 1,60,000	→ 1,60,000
whichever is lower		

Special Brand Rate is applicable only if drawback under all industry rate does not cover 80% of duty paid. Hence, duty drawback of ₹ 1,60,000 is 82.05% of total duty paid on inputs of ₹ 1,95,000.

As duty drawback is covering more than 80%, exporter is not eligible to claim special brand rate.

(b) What is meant by Transit goods and Transshipment goods under Customs? **7**

Answer:

Transit goods: Any goods imported in any conveyance will be allowed to remain on the conveyance and to be transited without payment duty, to any place out of India or any customs station. These goods should be mentioned as Transit Goods in the Import General Manifest (IGM). They are allowed by customs to be transited through Indian port without payment of duty.

However Section 53 is applicable in case of prohibited goods. It means to say transit of goods does not cover prohibited goods, which will not be allowed to be transited.

Transshipment goods: Transshipment means transfer from one conveyance to another with or without payment of duty. It means to say that goods originally imported from outside India into India, then transshipped to another vessel to a place within India or outside India.

If the imported goods are intended for transshipment, a 'bill of transshipment' shall be presented to the proper officer by the person-in-charge of conveyance or the person authorized by the exporter to transship along with a fee of ₹20 and also a bond.

If the transshipped goods are covered by an international treaty or a bilateral agreement between India and another country then a 'Declaration of Transshipment' will be presented in the place of Bill of Transshipment.

5. **(a) SM Ltd. filed its Service Tax returns for the half years ending on September 2014 and March 2015 on 25.11.2014 and 31.7.2015. The two half yearly returns show a Service Tax Liability of ₹ 2,00,000 and ₹ 1,00,000 respectively. Is any late fee/ fine payable by SM Ltd.?**

If yes, what is the quantum of such fee in both the cases? Will your answer be different if SM Ltd. files a nil return for the half year ending on Sept. 2014? 7

Answer:
The due dates to file return in ST-3 are:
25th Oct. for first half year ending on 30th Sept. and
25th April for second half year ending on 31st March
No. of days delay for 1st half year return is ____
Oct. 6 days + No. 25 days = 31 days

	₹
Penalty is → upto 30 days	1,000
1 days	100
	1,100

2nd Half year no. of days delay is ____
April 5 days + May 31 days + June 30 days + July 31 days = 97 days
Upto 30 days of delay = ₹1,000
₹100 per day of delay subject to max. of ₹20,000. w.e.f 8.4.2014
67 x 100 = ₹6,700
Total ₹7,700
Penalty can be waived or reduced if the ST 3 return belongs to Nil Return.

(b) Explain the provisions relating to service – tax on educational services covered under Negative list of services. 8

Answer:
Following service is in negative list - Services by way of— (i) pre-school education and education up to higher secondary school or equivalent (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force (iii) education as a part of an approved vocational education course.

[Note: "Approved vocational education course" means — (i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961 (52 of 1961); or (ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training run by a person registered with the Directorate General of Employment and Training, Union Ministry of Labour and Employment.]

6. (a) Give the list of Records to be maintained under VAT 7

Answer:
Generally under the state VAT following records are to be maintained:
- Records of purchases of inputs
- Records of debit notes and credit notes
- Quantity records of inputs
- Record of credit notes received from supplier
- Record of Capital goods
- Sale register and tax charged on sales

(b) From the following particulars determine the assessable value of the imported equipment giving explanation for each item 1) FOB cost of equipment (Japanese Yen) 2,00,000 Yen 2) Freight charges 20,000 Yen, 3) Charges for development connected to equipment paid in India ₹ 60,000 4) Insurance charges paid in India for transportation from Japan ₹15,000 5) Commission payable to Agents in India ₹15,000. Exchange Rate as per RBI is 1 Yen = ₹ 0.45; Exchange Rate as per CBEC is 1 Yen = ₹ 0.50 landing charges 1% CIF Cost. 8

Answer:

Computation of assessable value

Note: Exchange rate is the rate prescribed by CBEC i.e., 1 Yen = ₹ 0.50

Particulars	Japanese Yen	Amount in ₹
FOB Value of equipment	2,00,000	1,00,000
Add: Freight	20,000	10,000
Insurance		15,000
Selling Commission		15,000
Total CIF Value		1,40,000
Add: Landing charges @ 1% of CIF		1,400
Assessable Value		1,41,400

7. (a) Food King Pvt. Ltd. supplies foods and beverages only —

i) At a restaurant for ₹ 11,250 (inclusive of VAT ₹ 1,250)

ii) Supplied food to Infosys Company ₹ 22,500 (inclusive of VAT ₹ 2,500).

Find S.T. Liability. 5

Answer:

Value of Service	₹ 10,000 x 40%	= ₹ 4,000	Restaurant
Value of Service	₹ 20,000 x 60%	= ₹ 12,000	Outdoor catering service
		₹ 16,000	
Service Tax = ₹ 16,000 x 14.5%	= ₹ 2,320		

(b) An interior designer based at Mumbai, renders his services in May 2014, to an Indian MNC based at New Delhi, for construction of a shopping mall at Dubai. Determine the place of provision of service in the above situation and discuss if the service is taxable in India. 5

Answer:

As per Rule 8 of Place of Provision of Service Rules, the place of provision of service is India as both Service Provider and Service Receiver are in India.

As per Rule 5 of Place of Provision of Service Rules, the place of provision of service is in Dubai (location of immovable property is Dubai). But later rule prevails. Hence Rule 8 prevails over Rule 5.

(c) Write about Boat Note under Customs. 5

Answer:

In India we have certain ports where the ships cannot come to the shore for unloading or loading goods due to depth of the Sea or vessel may not fin the time in having berth in the port. In such cases goods are sent to shore in a small cargo (i.e. it may be loaded in a small boat and sent to shore). As per the Boat Note Regulations such a small boat must be accompanied by a Boat Note issued by the Customs officer. The boat note must be in duplicate and machine numbered. Separate forms are prescribed for export cargo, import cargo and transshipment cargo.

8. (a) PK Japan and XYZ Ltd. India are associated enterprises XYZ imports 200 ACs' from PK at a price of ₹ 15,000 p.u. and these are sold to ITC Hotel Ltd. at a price of ₹ 17,000 p.u. XYZ has brought similar products from Samsung India Ltd. and sold to Oberai Hotel at a gross profit of 10% of sales. XYZ incurred freight ₹ 400; customs duty ₹ 1,500 p.u. in case of purchases made from PK Japan and ₹ 200 in case of purchase made from Samsung India Ltd. Compute ALP and the amount of increase in Total Income of XYZ Ltd. if any due to such ALP. 10

Answer:

	₹
In this case, arm's length price is determined as under:	
Resale price of goods purchased from PK Japan	17,000
Less: Normal Gross profit Margin @ 10%	(-)1,700
Less: Difference in the expenses connected with purchases (1,900 – 200)	(-)1,700
Arm's Length Price	13,600
Price paid to PK (200 units x 15,000)	30,00,000
Arm's Length Price (200 units x 13,600)	27,20,000
Increase in the total income of XYZ Ltd. due to reduction in purchase cost	2,80,000

(b) What are different types of arm's length price? 5

Answer:
Arm's length price can be computed by following methods:
- Comparable Uncontrolled Price method,
- Resale Price Method,
- Cost plus Method,
- Profit Split Method,
- Transactional Net Margin Method,
- Any other method prescribed by the Board.