Paper 11- Indirect Taxation

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

The figures in the margin on the right side indicate full marks.
Working notes should form part of the answer.

1. Answer the following questions:

(A) Multiple choice questions: [7×2=14]

(a) Form ER-1 has to be submitted by the manufacturer on:
- (i) weekly basis
- (ii) monthly basis
- (iii) quarterly basis
- (iv) half-yearly basis.

(b) S.S.I. units can make the excise duty payments once in:
- (i) Months
- (ii) Quarter
- (iii) Half- year
- (iv) Annual

(c) Which of the following amount to manufacture under central Excise Act 1944?
- (i) Cutting and sizing
- (ii) Repairing & reconditioning
- (iii) Mixing of metals
- (iv) None

(d) Which of the following rule of the Place of Provision of Services Rules, 2012 is dealt with performance based services?
- (i) Rule 4
- (ii) Rule 5
- (iii) Rule 6
- (iv) Rule 7

(e) As per sec 2(d) of the CST Act, 'Goods' includes all materials, articles, commodities and all other kinds of movable property, but does not include:
- (i) newspapers
- (ii) stocks
- (iii) shares
- (iv) All of the above.

(f) VAT rate of gold, if within State of Gujarat, is 1%. If gold is sold to an unregistered buyer in Delhi, the CST rate will be:
- (i) Nil
- (ii) 1%
- (iii) 4%
- (iv) 10%

(g) In case of customs valuation, if the cost of insurance is not ascertainable, these will be calculated at:
- (i) 1.125% of FOB Value of goods
- (ii) 20% of FOB Value of goods
- (iii) 10% of FOB Value of goods
- (iv) 1.50% of FOB Value of goods

Answer:

(a) (ii)
(b) (ii)
(c) (iii)
(d) (i)
(e) (iv)
(f) (ii)
(g) (i)

(B) Say Yes or No for the following question: [6×1=6]

(a) Excise Department cannot challenge the reasonability of MRP printed on the package.
(b) Cenvat credit can be availed on the rent-a-cab service utilized to carry employees from home to factory and back.
(c) Hides and skins are declared goods under CST Act.
(d) A service provider is required to file return in form ST-4 on quarterly basis within 15 days from close of quarter.
(e) Duty drawback is allowed on wearing apparels.
(f) Registration of Service Tax is granted by Commissioner of Central Excise.

Answer:
(a) Yes
(b) No
(c) Yes
(d) No
(e) No
(f) No

(C) Match the following: [5×1=5]

	Column 'A'		Column 'B'
1.	Tax Identification Number	A	Calculation of cost of production for captive consumption
2.	All type of services provided by RBI	B	person does not have any dutiable goods
3.	Krishi Kalyan Cess	C	@0.5% on the value of taxable services
4.	CAS-4	D	consist of 11 digits
5.	Green channel	E	included in negative list

Answer:
1 → D
2 → E
3 → C
4 → A
5 → B

Answer any five questions from the following.
Each question carries 15 marks

2.(a) Anuradha & Co., a registered dealer in VAT, furnishes following details of purchases and sales for the month of March. 2016:

Particular	Amount (₹)
Opening balance of VAT Input Tax Credit	25,000
Opening balance of stock of inputs	Nil
Purchase of goods from registered dealers within the State (including State VAT)	28,62,500

Purchases from outside State against issue of C form (including CST amount)	**15,30,000**
Net sales within State excluding State VAT	**55,00,000**
Closing stock of goods purchased within the State as on 31.03.2016 (inclusive of VAT paid on purchases)	**1,14,500**

VAT rate on both inputs and outputs is 14.5%. Determine VAT liability of dealer for the month of March, 2016. [8]

Answer:

Computation of VAT Payable:

Particulars	Amount (₹)	Amount (₹)
Output VAT [₹ 55,00,000 x 14.5%]		7,97,5000
Less: input VAT		
— Opening Balance	25,000	
— Local Purchase [₹ 28,62,500/114.5% x 14.5%]	3,62,500	
— CST Purchase	Nil	3,87,500
VAT Payable		4,10,000

(b) Laxman & Co. furnishes to you the following information.

1) **Interstate sale of goods (it includes ₹ 10,00,000 being the value of goods transferred to Chennai branch for which it had issued form F ₹ 69,00,000**
2) **Dharmada collected separately ₹ 25,000 (This was collected only from buyers who had voluntarily agreed to pay such charges).**
3) **Weighment charges recovered separately from buyers ₹ 2,40,000**
4) **Cash discount shown in invoice as per trade practices ₹ 60,000**
5) **Transit insurance charges recovered from buyer to cover transit loss based on their request ₹ 50,000.**

Calculate the turnover and CST payable on the assumption that all the sales were made to registered dealers who have issued 'c' forms. Assume that the prices are exclusive of CST. [7]

Answer:

Computation of Taxable Turnover

Particulars	Amount (₹)	Amount (₹)
Gross turnover		69,00,000
Add: Weighment charges		2,40,000
Dharmada (Charity)		25,000
		71,65,000
Less:		
Stock transfer to the branch	10,00,000	
Cash Discount	60,000	
Transit Insurance	50,000	11,10,000
Taxable turnover		60,55,000
Tax on above [₹ 60,55,000 × 2%]		1,21,100

3.(a) B Ltd manufactures two products namely, Eye Ointment and Skin Ointment. Skin Ointment is a specified product under section 4A of the Central Excise Act, 1944. The sale prices of the two products are ₹ 43 per unit and ₹ 33 per unit respectively. The sale

price of both the products included 12.5% excise duty as BED, education cess of 2% and SAH of 1%. It also includes CST of 2%. Additional information is as follows:
Units cleared: Eye Ointment - 1,00,000 units, Skin Ointment – 1,50,000 units. Deduction permissible under section 4A: 40%.
Calculate the total excise duty liability of B Ltd for both the products. [7]

Answer:
Eye Ointment:

Let us assume x as the assessable value

Assessable Value =	x
Add: BED @12.5% =	0.125x
	1.125x
Add: CST @ 2% =	0.0225x
Selling price =	1.1475x
Assessable value per unit	₹ 43 x 1/1.1475 = ₹ 37.47 per unit
Total Assessable Value =	₹ 37,47,000
Excise duty @12.5% on 1,00,000 units =	₹ 4,68,375 (i.e. ₹ 37.47 x 1,00,000 units)
Skin Ointment:	
Maximum Retail Price =	₹ 33
Less: Abatement @40% =	₹ (13)
Assessable Value (per unit) =	₹ 20
Total Assessable Value =	₹ 30,00,000 (i.e. ₹ 20 x 1,50,00 units)
Excise Duty @12.5% =	₹ 3,75,000
B Ltd liable to pay total excise duty =	₹ 8,43,375

(b) Following transactions took place in the factory of A Ltd.:
(i) An imported consignment of raw materials was received vide Bill of Entry dated 2.12.15 showing the following customs duty payments: Basic Customs duty ₹ 25,000; Additional duty (CVD) ₹ 20,000; Special Additional duty ₹ 5,800.
(ii) A consignment of 1,000 kgs of inputs was received. The Excise duty paid as per the invoice was ₹ 10,000. While the input was being unloaded 50 kgs were damaged and were found to be not usable.
(iii) A vehicle containing machinery was received. The machinery was purchased through a dealer and not from the manufacturer. The dealer's Invoice No. 925, dated 3.9.15 marked 'original for buyer' certified that the excise duty paid by the manufacturer of machinery was ₹ 24,000. The dealer is registered with the Central Excise Authorities.
(iv) Some inputs for final products were received. These were accompanied by a certified Xerox copy (photo copy) of Invoice No. 286 dated 15.1.2016 indicating that Excise duty of ₹ 6,400, has been paid on inputs. The original or duplicate copies of invoice are not traceable.
Indicate the eligibility of CENVAT Credit in each case under the CENVAT Credit Rules, 2004 with explanations where necessary. [8]

Answer:
(i) CENVAT credit available for the following: Additional duty (CVD) ₹ 20,000;
Special Additional duty ₹ 5, 800

(ii) CENVAT credit available for 950 Kgs
Eligible CENVAT credit = ₹ 10,000 x 950/1000 = ₹ 9,500.

(iii) CENVAT credit can be availed if the goods are purchased from a first or second stage dealer. The eligible CENVAT credit for the first year = ₹ 24,000 x 50% = ₹ 12,000.

The balance CENVAT credit for the second and subsequent years

(iv) CENVAT credit is not available based on the certified Xerox copy of invoice. CENVAT credit can be availed only when any one of the following invoices available:

(1) Original for buyer

(2) Duplicate for transporter

(3) Triplicate for seller.

However, It is pertinent to note that the High Court held that Cenvat Credit could be taken on the strength of private challans (i.e. other than prescribed documents) as the same were not found fake and there was proper certification that duty has been paid (CCEx. v Stelko Strips Ltd. 2010 (255) E.L.T. 397 (P&H)).

Therefore in the given case Xerox copy of invoice can be considered as a valid document for taking CENVAT credit.

4.(a) What is transit of goods and transhipment of goods? Give examples. [4+4]

Answer:

Transit of Goods: Any goods imported in any conveyance will be allowed to remain on the conveyance and to be transited without payment of duty, to any place out of India or any customs station.

Example: A vessel Bhishma, sailing from U.S.A. to Australia via India. Bhishma carries various types of goods namely 'A, B, C & D'. 'A & B' are destined to Mumbai Port and balance remains in the same vessel. Subsequently vessel chartered to Australia.

Transhipment of Goods: Transhipment 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 transhipped to another vessel to a place within India or outside India.

Example: A vessel Bhishma, sailing from U.S.A to Australia via. India carries various types of products namely A, B, C & D. A & B are destined to Mumbai Port. On account of submission of bill of transhipment product 'A' transshipped to Chennai port as ultimate destination in India and product 'B' transhipped to Srilanka. Product 'A' is imported goods because its ultimate destination is in India. Products 'A' & 'B' are called as Transhipment goods, since these goods are transshipped to another vessel, Product 'A' transhipped to Chennai attracts import duty whereas product 'B' is destined to Srilanka without payment of duty. Products 'C' & 'D' are transit goods since these goods remains in the same vessel Bhishma chartered to Australia.

(b) A commodity is imported into India from a country covered by a notification issued by the Central Government under section 9A of the Customs Tariff Act, 1975. Following particulars are made available:
CIF value of the consignment: US$25,000
Quantity imported: 500 kgs.
Exchange rate applicable: ₹ 50= US$1
Basic customs duty: 20%
Education and secondary and higher Education Cess as applicable as per the Finance Act, 2008.
As per the notification, the anti-dumping duty will be equal to the difference between the costs of commodity calculated @US$70 per kg. and the landed value of the commodity as imported.
Appraise the liability on account of normal duties, Cess and the anti-dumping duty.

Assume that only 'Basic Customs Duty' (BCD) and Education and Secondary and Higher Education Cess are payable. [7]

Answer:
Statement showing land value of imported goods and anti-dumping duty:

Particulars	US $
CIF value	25,000
Add: 1% unloading charges on CIF	250
Assessable value	25,250
	Value in ₹
Assessable value (i.e. 25,250 x ₹ 50)	12,62,500
Add: Customs duty 20.60% on Assessable value	2,60,075
Landed value (or value of imported goods)	15,22,575
Market value of imported goods (500 kgs x ₹ 50 x US$70)	17,50,000
Anti-dumping duty (₹ 17,50,000 – ₹ 15,22,575)	2,27,425
Total customs duty payable	4,87,500

5.(a) What do you understand by Automation of Central Excise and Service Tax (ACES)? State the usefulness of it. [4+4]

Answer:
Automation of Central Excise and Service Tax (ACES): The Central Board of Excise & Customs (CBE & C) has developed a new software application called Automation of Central Excise and Service Tax (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 Assessees and Department, and gives complete end to end solution.

In ACES, the various processes of Service Tax automated are —
i. Registration,
ii. Returns,
iii. Refunds,
iv. ST-3A,
v. Dispute Resolution and
vi. Audit.

Usefulness: ACES can be used for —
a. Online registration and amendment of registration details
b. Electronic filing of documents such as Returns, Claims, Intimations and permissions
c. Online tracking of the status of applications, claims and permissions
d. Online facility to view documents like Registration Certificate, Returns, Show Cause Notice, Order-In-Original etc.

(b) Determine Point of Taxation (with reasons) in the following cases –

No.	Date of Completion of Service	Date of Payment	Date of Invoice
1	10/08/2016	06/09/2016	18/08/2016
2	10/08/2016	10/09/2016	13/09/2016
3	10/08/2016	05/08/2016	17/08/2016

[7]

Answer:

The point of taxation will be:

No.	Date of Completion of Service (DoS)	Date of Payment (DoP)	Date of Invoice (DoI)	Point of Taxation
1	10/08/2016	06/09/2016	18/08/2016	18/08/2016 [DoI, as invoice issued within 30 days of DoS]
2	10/08/2016	10/09/2016	13/09/2016	10/08/2016 [DoS, as invoice not issued within 30 days of DoS]
3	10/08/2016	05/08/2016	17/08/2016	05/08/2016 [DoP, as payment received before DoI]

6.(a) A Trader supplies raw material of ₹ 1,150 to processor. Processor processes the raw material and supplies finished product to the trader. The processor charges ₹ 450, which include ₹ 350 as processing expenses and ₹ 100 as his (processor's) profit. Transport cost for sending the raw material to the factory of processor is ₹ 50. Transport charges for returning the finished product to the trader from the premises of the processor is ₹ 60. The finished product is sold by the trader at ₹ 2,100 from his premises. He charges Vat separately in his invoice at applicable rates. The rate of duty is 12.5%. What is the Assessable Value and what is total duty payable? [5]

Answer:

Assessable Value is to be calculated on basis of selling price of trader which is ₹ 2,100 (cum-duty). This price is to be treated as inclusive of excise duty. Hence, assessable value will be (₹ 2,100 x 100) / 112.50 i.e. ₹ 1,866.67. Basic excise duty @ 12.5% will be ₹ 233.33.

(b) AB Bank Ltd., furnishes the following information relating to services provided and the gross amount received —

	₹ (lakhs)
Merchant Banking Services	**10**
Asset Management (including portfolio management)	**3**
Service charges for services to the Government of India	**1.5**
Interest on overdraft and cash credits	**3**
Banker to the issue	**5**
Locker rent	**2**

Repayment of financial lease made by the customer to the bank ₹ 80 lakhs which includes a principal amount of ₹ 50 lakhs. Compute the value of taxable service under the Finance Act, 1994 and the service tax liability of AB Bank Ltd. [10]

Answer:

Computation of taxable value and tax payable (assuming all sums received are exclusive of service tax)

	₹
Merchant Banking Services - Taxable	10,00,000
Asset Management (including portfolio management) - Taxable	3,00,000
Service charges for services to the Government of India - No exemption,	

hence, taxable	1,50,000
Interest on overdraft and cash credits - Not taxable, as covered in negative list u/s 66D(n)	Not taxable
Banker to the issue - Taxable ;	5,00,000
Locker rent - Taxable (It is renting and taxable)	2,00,000
Hire-purchase/Finance Lease: Value of taxable service = 10% of (Installment ₹ 80 lakh -Principal sum ₹ 50 lakh) i.e. 10% of interest of ₹ 30 lakh [This is a declared service u/s 66E(g).]	3,00,000
Total taxable value	24,50,000
Service tax @ 15%	3,67,500

7.(a) State the differences between direct taxes and indirect taxes. [5]

Answer:

Difference between Direct Taxes & Indirect Taxes:

	Direct Taxes	Indirect Taxes
Meaning	Direct Taxes are those taxes where the incidence and impact falls on the same person.	Indirect Tax is a tax where incidence and impact fall on two different person.
Nature of tax	Direct Tax progressive in nature.	Indirect Tax is regressive in nature.
Taxable Event	Taxable Income of the Assessees	Purchase / Sale / Manufacture of goods and provision of services.
Levy & Collection	Levied and collected from the Assessee.	Levied & collected from the consumer but paid/ deposited to the Exchequer by the Assessee / Dealer.
Shifting of Burden	Directly borne by the Assessee. Hence, cannot be shifted.	Tax burden is shifted or the subsequent / ultimate user.
Collected	After the income for a year is earned or valuation of assets is determined on the valuation date.	At the time of sale or purchases or rendering of services.

(b) Write short note on the following: [2×5=10]

(i) Anti-dumping duty

(ii) Deemed export under foreign trade policy

Answer:

(i) Anti-dumping duty:

1. Anti dumping duty is leviable u/s 9A of Customs Tariff Act when foreign exporter exports his goods at low prices compared to prices normally prevalent in the exporting country.
2. Dumping is unfair trade practice and the anti-dumping duty is levied to protect Indian manufacturers from unfair competition.
3. Margin of dumping is the difference between normal value (i.e. his sale price in his country) and export price (price at which he is exporting the goods).
4. Price of similar products in India is not relevant to determine 'margin of dumping'.
5. 'Injury Margin' means difference between fair selling price of domestic industry and landed cost of imported products. Dumping duty will be lower of dumping margin or injury margin.

6. Benefits accruing to local industry due to availability of cheap foreign inputs are not considered. This is a drawback.
7. CVD is not payable on anti-dumping duty. Education Cess and SAH education Cess is not payable on anti-dumping duty. In case of imports from WTO countries, anti-dumping duty can be imposed only if it causes material injury to domestic industry in India.
8. Dumping duty is decided by Designated Authority after enquiry and imposed by Central Government by notification. Provisional antidumping duty can be imposed.
9. Appeal against antidumping duty can be made to CESTAT.

(ii) Deemed export:
Goods manufactured in India and supplies from DTA to EOU, EHTP, STP & BTP units will be regarded as deemed exports and DTA supplier shall be eligible for export incentives.
The following supplies considered as deemed exports:
Goods supplied by a manufacturer:
1. Supply of goods against Advance Authorisation/Advance Authorisation for Annual Requirement/DFIA (Duty Free Import Authorisation).
2. Supply of goods to units located in EOU/STP/BTP/EHTP.
3. Supply of capital goods against EPCG (Export Promotion Capital Goods) authorization.
4. Supply of marine freight containers by 100% EOU provided said containers are exported within 6 months by another 100% EOU.

Goods supplied by a Main contractor/sub-contractor:
1. Supply of goods to projects or turnkey contracts financed by multilateral or bilateral agencies/Funds notified by Department of Economic Affairs (DEA), under International Competitive Bidding.
2. Supply of goods to any project where import is permitted at zero customs duty.
3. Supply of goods to mega power projects against International Competitive Bidding.
4. Supply to goods to UN or international organisations.
5. Supply of goods to nuclear projects through competitive bidding (need not be international competitive bidding).
6. Export of finished goods from job worker's premises may be permitted, provided such premises are registered with Central Excise authorities. Where job worker is SEZ/EOU/EHTP/STP/BTP unit, no such excise registration is required and export may be effected either from job worker's premises or from premises of unit. Export of such

8.(a) A manufacturer of paper machinery filed income tax return, declaring profit of ₹ 97 lakhs. The manufacturer had sold 50 numbers of paper machinery to its associated enterprise outside India @ USD 3,000 per machinery. 30 pieces of similar machinery were sold to an unrelated buyer. Exchange rate of dollar was one dollar = ₹ 65. Compute the taxable income of the manufacturer stating the method you will apply, under following three independent and separate situations —
(i) 30 pieces were sold to unrelated buyers at USD 3,500 per piece.
(ii) 30 pieces were sold to unrelated buyers at USD 3,080 per piece.
(iii) 30 pieces were sold to unrelated buyers at 2,800 USD per piece. [10]

Answer:
The 'Comparable uncontrolled price method' is most appropriate. In this method, the price charged or paid for property transferred or services provided in a comparable uncontrolled transaction, (i.e., a transaction between enterprises other than associated enterprises whether resident or non-resident) or a number of such transactions, is identified.

(i) In the first case, the uncontrolled price is 3,500 dollars. Hence, Arm's Length Price is USD 3,500. The difference of 500 dollars per machine is required to be added in the profit.
Thus, profit to be increased=500 dollar×50 No.s × 65 ₹ (exchange rate) = ₹ 16,25,000.
Thus, the taxable income of the manufacturer is ₹ (97 + 16.25) lakhs = ₹ 113.25 lakhs.

(ii) If variation between arm's length price and actual price is 1% in case of wholesale trading and 3% in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken will be deemed to be arm's length price for AY 2015-16 –Notification No. 86/2015 dated 29-10-2015.
Here, the variation is less than 3%. Hence, USD 3,000 will be taken as Arms Length Price and no addition will be made in profit as declared by manufacturer.

(iii) If the price charged to unrelated buyer is less than price charged to associated enterprise, no addition is made to profit declared. However, any deduction is not allowed in declared profit.

(b) C Ltd., a resident Indian company, sold goods to its associated enterprise D Inc. of USA. D Inc. sold goods to its independent buyers at US dollars 15,000. D Inc. earned profit of 15% on purchase cost in that transaction. Calculate Arm's Length price in the hands of C Ltd. State the effect on C Ltd., if C Ltd. sells the goods to D Inc.
(i) above the Arm's Length Price,
(ii) below the Arm's Length Price. [5]

Answer:
The purchase price of D Inc. is USD [15,000 x 100]/115 = USD 13,043.48. Thus, Arm's Length Price (ALP) in hands of C Ltd. is USD 13,043.48. If C Ltd. sales the goods at price higher than ALP, it means profit of C Ltd. will be higher. In that case, the income as declared by C Ltd. in income tax return will be accepted by Indian income tax authorities. However, if C Ltd. sales to D Inc. below the ALP, the difference between ALP and the price at which goods were sold by C Ltd. will be added to the income declared by C Ltd. in its income tax return.