

Paper 18- Indirect Tax Laws and Practice

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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.**

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

Q.1. Choose the correct answer with justification/ workings wherever applicable: [10×2=20]

- (i) In the context of anti-dumping duty, the difference between the normal value and the export price of the goods is the:
- (a) injury margin
 - (b) margin of dumping
 - (c) drawback
 - (d) none of the above.
- (ii) Which of the following service is not included in the definition of input services as per Cenvat Credit Rules?
- (a) credit rating;
 - (b) legal services;
 - (c) services provided in relation to health services used primarily for personal use;
 - (d) coaching and training
- (iii) Mr. X an Indian resident, aged 45 years, returned to India after visiting USA on 10/04/2016. He had gone to USA on 13/03/2016. On his way back to India he brought a watch worth 23,000 with him. The customs duty will be payable by him:
- (a) nil
 - (b) ₹ 8,292
 - (c) ₹ 2,369
 - (d) none of the above
- (iv) Additional Duty of Customs as per sec 3(1) of the Customs Tariff Act, 1975 or Countervailing Duty (CVD) cannot be imposed on:
- (a) Anti Dumping Duty;
 - (b) Protective duty;
 - (c) Safeguard duty;
 - (d) All of the above.
- (v) If remission of duty for loss of goods involved is up to ₹ 10,000, the adjudicating authority will be:
- (a) Superintendent of Central Excise;
 - (b) Assistant Commissioner of Central Excise;
 - (c) Joint Commissioner of Central Excise;
 - (d) Commissioner of Central Excise.
- (vi) Which of the following is a variant of VAT?
- (a) Gross Product Variant;
 - (b) Income Type Variant;
 - (c) Consumption Type Variant;
 - (d) All of the above.
- (vii) Which of the following is not considered as a declared goods u/s 14 of the CST Act?
- (a) Cotton fabrics;

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- (b) Cotton Yarn;
- (c) Gutka;
- (d) Unmanufactured Tobacco.

(viii) The Department of Agriculture, Co-operation and Farmers Welfare, provided Soil Conservation Service, Animal Husbandry, Dairying and Fisheries to a farmer by charging fee of ₹20,000. Its taxability will be:

- (a) exempted under Negative List
- (b) exempted under Mega Exemption
- (c) taxable at normal rate
- (d) taxable with abatement

(ix) Which of the following is a Duty Exemption Scheme under Foreign Trade Policy 2015-2020?

- (a) Merchandise Exports from India Scheme (MEIS);
- (b) Duty Drawback Scheme;
- (c) Advance Authorisation Scheme;
- (d) Service Exports from India Scheme (SEIS).

(x) M/s. DLF Ltd., sponsored ₹ 20 lakhs in respect of a Tournament organized by Board of Council for Cricket in India (BCCI). The person liable to pay tax:

- (a) DLF Ltd.
- (b) BCCI
- (c) both DLF Ltd. & BCCI
- (d) exempted service.

2.(a) M/s R & Co. Ltd. have cleared their goods manufactured final products during January, and the duty payable is ₹ 2,40,000. Given below are the details of excise duty payable by them during the month at the time of purchase of goods.

		₹	
(i)	On inputs (Raw Materials)	1,00,000	(Invoice for excise duty of ₹ 20,000 paid was received by the assessee on February)
(ii)	On input service	20,000	
(iii)	On welding electrodes for repairs and maintenance of capital goods	5,000	
(iv)	Fuel (excluding HSD/Petrol)	6,000	
(v)	Storage tank	8,000	
(vi)	Tubes and Pipes (used in the factory)	14,000	
(vii)	Air Conditioner for the office of the Factory Manager	12,000	

Find the total duty payable by the assessee for the month of January, after taking into account the CENVAT credit available. **[10]**

(b) State the validity of the following statements with reference to the CENVAT Credit Rules, 2004:

- (i) CENVAT credit of the Service tax paid can be claimed in a case where a manufacturer does not have registration under Service Tax provisions.
- (ii) Where the inputs (other than capital goods) are written off in the books of accounts and the amount of excise duty has been availed, the manufacturer would be required to reverse the credit.
- (iii) Credit of duties of excise on inputs will not be available if inputs are used in intermediate product, which is exempt from duty, even though the final product is dutiable. **[2+2+2]**

3.(a) An importer imported some goods for subsequent sale in India. The Customs Officer

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assessed value of goods for ₹ 10,19,090.

The above value includes the following:

Air Freight 25% on Free on Board (FOB)

Insurance @1.125%

Unloading charges @1% on Cost, Insurance and Freight (CIF)

Importer approached you to find correct assessable value for his import. [10]

- (b)** State the benefits available to status holders in the context of foreign trade policy 2015-20. [6]

- 4.(a)** Uber (USA) operating radio taxi services in India. In the month of January 2017, the following services are rendered by it.

Free services provided to new customers who travelled for the first time. However, payment made to taxi drivers ₹ 10,00,000.

Hire charges collected from customers ₹ 12,25,500. Payment made to taxi drivers ₹ 11,00,000.

Uber appointed X Pvt. Ltd., as their representative in India. Person liable to pay service tax is willing to avail abatement if any.

You are required to find:

(i) Who is liable to pay service tax.

(ii) Service tax liability

(iii) Due date of payment of service tax

Assume for all services point of taxation is in the month of January 2017. [2+6+1]

- (b)** Ajay Ltd. has agreed to render services to Mr. Guru. The following are the chronological events:

₹

Contract for services entered into on 1-6-2016

Completion of provision of service on 30-6-2016

Advance received on 1st June, 2016 towards all services 60,000

Total value of services, billed on 25th July, 2016 2,10,000

Above includes non-taxable services of 70,000

Balance amount is received in Aug, 2016

When does the liability to pay service tax arise and for what amount? Contract contains clear details of services; consideration and service tax are charged separately, as mutually agreed upon. [7]

- 5.(a)** Briefly examine whether the following activities are liable to service tax as per the provisions of Finance Act, 1994.

(i) Mr. Ravi, a singer performs in a bus where passengers drop some coins in his bowl kept, either after feeling rejoiced or out of compassion.

(ii) Mr. Rajesh during long drive with his wife Manju violated traffic rules and was imposed fine of ₹ 1,000.

Also, examine would your answer be different in (i) if Mr. Ravi is called upon Mumbai to perform in an award show for ₹ 50,000. [5]

- (b)** Queen Hotel Ltd., provider of rooms. Rent charged per day per room is as follows:

	₹
Room Rent	= 550
Furniture rent	= 400
Air-conditioner rent	= 150
Refrigerator rent	= 50
Less: Discount	= (250)
Net amount charged	= 900

During the month of Jan 2017, 20 rooms are let out throughout the month, and balance 35 rooms are let out only for 15 days.

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Painting services received by Queen Hotel Ltd. for ₹ 1,12,360 (including service tax ₹ 12,360) for painting hotel rooms before giving on rent. Room perfume purchased by paying central excise duty ₹ 2,700 and Air-condition machine purchased by paying excise duty of ₹ 10,500 in the month of Jan 2017. Find the service tax liability for the month of Jan 2017 in the following two cases.

Case 1: Abatement not availed.

Case 2: Abatement availed.

[11]

6.(a) PQR Ltd., Ghaziabad purchased plastic granules valued ₹ 1,16,000 (inclusive of central excise) for manufacture of plastic moulded chairs. It availed CENVAT credit of excise duty of ₹ 16,000 paid on the said inputs. It subsequently cleared the said inputs as such from the factory in the following manner:

- (i) Sales to Sansar Ltd. (purchase price: ₹ 20,000) – ₹ 40,000
- (ii) Sales to Krishna Trading Co. (purchase price: ₹ 10,000) – ₹ 10,000
- (iii) Clearance to PQR Ltd.'s own factory at Kanpur (purchase price: ₹ 70,000) – Free of cost.

PQR Ltd. has sought your advice on the excise duty payable by it on the above clearances. Give your advice in the matter.

[7]

(b)(i) X Ltd (manufacturer) provides the following information for the month of April:

Purchases within the state on 1st April:	
Purchase of Raw materials and Components	₹ 1,00,000
4% VAT paid on above purchases	₹ 4,000
Machinery (Capital Goods) purchased for (life 10 years)	₹ 5,00,000
4% VAT paid on above capital Goods	₹ 20,000
Sales within the state:	
Total value of sale	₹ 4,00,000
@4% VAT payable on sales	

Compute the VAT under Income Variant.

[5]

(ii) A Ltd. is located in Special Economic Zone. It wants to know the concessional benefits under the CST Act.

[4]

7.(a)(i) Parsvnath Music System Ltd. imported recorded audio and video discs in boxes each containing 50 discs. Each individual disc was then packed in transparent plastic cases known as jewel boxes. An inlay card containing the details of the content of the compact disc was also placed in the jewel box. The whole thing was then shrink wrapped and sold in wholesale. The Department contended that the said process amounted to manufacture.

Explain, with the help of decided case law, if any whether Department's contention is justified in law.

[5]

(ii) ABC Ltd., imported artemia cyst (i.e. brine shrimp eggs). The same has been classified as 'prawn feed' under the heading 2309 (i.e. Heading 2309 of the Customs Act, 1975, includes products of a kind used in animal feeding, not elsewhere specified or included, obtained by processing vegetable or animal materials to such an extent that they have lost the essential characteristics of the original material, other than vegetable waste, vegetable residues and by-products of such processing.) which includes products used as animal feed. However, the Department contended that this product was classifiable under the heading 0511.99 (i.e. which refers to other products in the category of non edible animal products). The contention of importer was that these imported cysts contained little organisms/ embryos which later became larva that prawns feed on. Therefore, according to them, the nature and character of the product was not changed by nurturing or incubation. You are required to examine whether the contention of the Department is justified in law.

[6]

(b) Dwarakanath Devasthanams, Dwaraka was running guest houses for the pilgrims. The department issued S.C.N. stating that the assessee were liable to get service tax registration under "short term accommodation service" and thus liable to pay service

tax. The assessee, on the other hand submitted that they were not club or any other association and thus, were not liable to get registered under service tax. The Assessee contested that since they were running guest houses without any profit motive, they were not liable to pay service tax.

You are required to examine whether the show cause notice issued by the department is valid or not, by referring to case law, if any. **[5]**

8. Answer any four:

[4×4]

(a) Can a document which is relevant for a proceeding under the Central Excise Act, 1944 be searched by a Central Excise Officer? Explain the relevant provisions. **[4]**

(b) Mr. D, an exporter was held guilty of exporting 'prohibited goods' due to which his goods were confiscated. He demanded the release of goods in lieu of redemption fine under section 125 of the Customs Act, 1962.

However, the customs officer denied to grant him the said option.

Examine whether, in the instant case, the customs officer is bound to release the goods in lieu of redemption fine. **[4]**

(c) Hotel Beach Glory has provided the following information for the month of April 2016:

S. No.	Services Provided	(₹)
(i)	Serving of food in a restaurant with air-conditioned facility	3,00,000
(ii)	Supply of food in convention centre for organizing conferences along with renting thereof	2,80,000

You are required to compute the value of taxable service for the month of April 2016.

Note:

(i) All the above amounts are exclusive of service tax.

(ii) Hotel Beach Glory is not eligible for small service provider's exemption under Notification No. 33/2012-ST, dated 20.06.2012 and does not avail CENVAT credit on inputs and capital goods. **[4]**

(d) Write a short note on addition method for computation of VAT. **[4]**

(e) Mention few capital goods which are eligible under EPCG Scheme. **[4]**