

## **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:

[10×1=10]

(a) A certificate of registration shall be issued in prescribed form ST – 2 under S.T. laws within \_\_\_\_\_ days, of receipt of applications.

- (i) 7 days
- (ii) One day
- (iii) 30 days
- (iv) 90 days

(b) Value of captively consumed excisable goods is to be taken at —

- (i) 110% of cost production;
- (ii) 120% of cost production;
- (iii) 100% of cost production;
- (iv) 90% of cost production.

(c) VAT is chargeable if sales are:

- (i) Outside the state
- (ii) Within the State
- (iii) Both (i) & (ii)
- (iv) None of (i) and (ii)

(d) Service of beautification of buildings at Srinagar is ₹ 3,00,000. The amount of service tax payable will be —

- (i) ₹ 45,000;
- (ii) Nil;
- (iii) ₹ 22,500;
- (iv) None of the above.

(e) Assessment under service tax includes —

- (i) provisional assessment;
- (ii) reassessment;
- (iii) best judgment assessment;
- (iv) all of the above.

(f) Bonafide Baggage including \_\_\_\_\_ person effects is exempt from customs duty.

- (i) Used
- (ii) Unused
- (iii) Damaged
- (iv) Lost

(g) Which of the following is not a declared good under CST Act?

- (i) rice;
- (ii) jowar;
- (iii) wheat;
- (iv) charcoal.

(h) From the base-line, 'Exclusive economic zone' extends to —

- (i) 12 nautical miles
- (ii) 200 nautical miles

## Answer to MTP\_Intermediate\_Syllabus 2016\_Jun2017\_Set 1

- (iii) 24 nautical miles
- (iv) 300 nautical miles

(i) EOU has to issue \_\_\_\_\_ certificate for obtaining inputs without payment of Duty.

- (i) CT - 1
- (ii) CT - 2
- (iii) CT - 3
- (iv) None of the above

(j) In order to attract excise duty under central Excise Act 1944, Goods must be:

- (i) Movable
- (ii) Movable or immovable
- (iii) Immovable
- (iv) None of above

(B) Say True or False for the following question:

[5×1=5]

- (a) Service tax is levied under entry 97 of List I of Seventh Schedule to Constitution of India.
- (b) Buying commission is always includible in customs valuations.
- (c) No fees are payable while applying for service tax registration.
- (d) Territorial waters of India extend upto 24 nautical miles inside sea from baseline on coast of India
- (e) Unbranded software is service.

(C) Match the following:

[5×1=5]

	Column 'A'		Column 'B'
1.	Pollution control equipment	A	avoids cascading effect of tax.
2.	VAT	B	Declared goods under CST
3.	B-4 Bond	C	Removal of confiscated goods
4.	Indirect taxes	D	Eligible for Cenvat credit as capital goods
5.	Jute	E	regressive in nature.

(D) Fill in the blanks:

[5×1=5]

- (i) Central Excise Revenue Audit (CERA) is conducted by the \_\_\_\_\_.
- (ii) SSI units are required to submit \_\_\_\_\_ (monthly/ quarterly/ half-yearly) return in Form No. ER-3.
- (iii) \_\_\_\_\_ (Green/Yellow) bill of entry is for clearance from warehouse on payment of customs duty.
- (iv) Service tax came into force from the year \_\_\_\_\_.
- (v) VAT cannot be imposed on the value of \_\_\_\_\_.

Answer to 1(A):

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

Answer to 1(B):

- (a) True.
- (b) False.

## Answer to MTP\_Intermediate\_Syllabus 2016\_Jun2017\_Set 1

- (c) True.  
(d) False.  
(e) True.

### Answer to 1(C):

- 1 → D  
2 → A  
3 → C  
4 → E  
5 → B

### Answer to 1(D):

- (i) Comptroller and Auditor General of India  
(ii) quarterly  
(iii) Green  
(iv) 1994  
(v) service.

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

2.(a) State the advantages of indirect taxes. [5]

(b) Hero Electronics Ltd. is engaged in the manufacture of colour television sets having its factories at Kolkata and Gujarat. At Kolkata the company manufactures picture tubes which are stock transferred to Gujarat factory where it is consumed to produce television sets. Determine the Excise duty liability of captively consumed picture tubes from the following information:-Direct material cost (per unit) ₹ 800; Direct Labour ₹ 100; Indirect Labour ₹ 50; Direct Expenses ₹100; Indirect Expenses ₹50; Administrative Overheads ₹50; Selling and Distribution Overheads ₹100. Additional Information:- (1) Profit Margin as per the Annual Report of the company for 2015-16 was 12% before Income Tax. (2) Material Cost includes Excise Duty paid ₹89 (3) Excise Duty Rate applicable is 12.5%. [10]

### Answer to 2(a):

Advantages of Indirect Taxes:

- (i) Since the price of commodity or service is already inclusive of indirect taxes, the customer i.e. the ultimate tax payer does not feel a direct pinch while paying indirect taxes and hence, resistance to indirect taxes is much less compared to resistance to direct taxes.
- (ii) Indirect taxes are easier to collect as indirect taxes are mainly on goods/commodities/services, for which record keeping, verification and control is relatively easy (at least in organized sector). Manufacturing activities are carried out mainly in organized sector, where records and controls are better.
- (iii) Tax evasion is comparatively less in indirect taxes in organized sector due to convenience of control
- (iv) Collection costs of indirect taxes as percentage of tax collected are lower in indirect taxes compared to direct taxes.
- (v) Government can levy higher taxes on luxury goods, which reduces the wasteful expenditure.

### Answer to 2(b):

Cost of production is required to be computed as per CAS-4. Material cost is required to be exclusive of Cenvat credit available.

Sr. No.	Particulars	Total Cost (₹)
1.	Material Consumed (Net of Excise duty) (₹ 800 – ₹ 89)	711
2.	Direct Labour	100

## Answer to MTP\_Intermediate\_Syllabus 2016\_Jun2017\_Set 1

3.	Direct Expenses	100
4.	Works Overheads (₹ 50+₹ 50)	100
5.	Quality Control Cost	—
6.	Research and Development Cost	—
7.	Administrative Overheads	50
8.	Total (1 to 7)	1,061
9.	Less - Credit for Recoveries/Scrap/By-Products/Misc Income	—
10.	Cost of Production (8-9)	1,061
11.	Add - 10% as per rule 8	106
12.	Assessable Value	1,167
13.	Excise duty @12.5% of ₹ 1,167	145.88

Therefore, total duty liability = ₹ 145.88

Note - (1) In absence of any information, it is presumed that administrative overheads pertain to production activity. (2) Actual profit margin earned is not relevant for excise valuation.

**3.(a) C Limited is engaged in manufacturing water pipes. Compute the CENVAT credit admissible to C Ltd. The excise duty paid at the time of purchase of following goods is:—**

	(Value in ₹)
<b>Raw Steel</b>	<b>12,000</b>
<b>Water pipe making machine</b>	<b>25,000</b>
<b>Lubricating oil</b>	<b>2,000</b>
<b>Equipments used in the office</b>	<b>10,000</b>
<b>Petrol</b>	<b>15,000</b>
<b>Pollution control equipment</b>	<b>22,000</b>
<b>Components, spares and accessories used in machinery</b>	<b>12,000</b>

[8]

**(b) A Small Scale Unit (SSI) has effected clearances of goods of the value of ₹ 460 lakhs during the financial year 2015-16. The said clearances include the following: (i) Clearance of excisable goods without payment of Excise duty to a 100% EOU unit - ₹ 40 lakhs. (ii) Export to Nepal and Bhutan - ₹ 50 lakhs, (iii) Job-work in terms of Notification No. 214/86 C.E., which is exempt from duty - ₹ 60 lakhs. (iv) Goods manufactured in rural area with the brand name of others - ₹ 70 lakhs. Write a brief note with reference to the Notifications governing SSI under the Central Excise Act whether the benefit of exemption would be available to the unit for the financial year 2016-17.**

[7]

**Answer to 3(a):**

Calculation of Cenvat Credit admissible to C Ltd.:

Particulars	Nature of goods	Value (₹)	Eligibility	Cenvat Credit (₹)
Raw Steel	Other than capital goods	12,000	100%	12,000
Water pipe making machine	Capital goods	25,000	50%	12,500
Lubricating oil	Other than capital goods	2,000	100%	2,000
Equipment used in office	Capital goods	10,000	Not eligible	--
Petrol	Other than capital goods	15,000	Not eligible	--
Pollution control equipment	Capital goods	22,000	50%	11,000
Components, spares	Capital goods	12,000	50%	6,000

## Answer to MTP\_Intermediate\_Syllabus 2016\_Jun2017\_Set 1

and accessories used in machinery				
Total Cenvat Credit admissible				43,500

### Answer to 3(b):

Turnover in respect of sale to EOU (₹ 40 lakhs) and job work under notification No. 214/86 - CE (₹ 60 lakhs) is required to be excluded for purpose of SSI exemption limit of ₹ 400 lakhs.

Turnover of SSI excluding these sales is ₹ 360 lakhs (₹ 460 lakhs - ₹ 40 lakhs - ₹ 60 lakhs). Hence, the SSI unit will be entitled to exemption in 2016-17 upto first turnover of ₹ 150 lakhs.

**4.(a) State the distinctions between pilfered goods u/s 13 of the Customs Act and Lost or destroyed goods u/s 23 of the Customs Act. [6]**

**(b) M/s. Premium Industries Ltd., has imported a machine from Japan at an F.O.B. cost of 1,00,000 yen (Japanese). The other expenses incurred were as follows: (i) Freight from Japan to Indian port 10,000 yen; (ii) insurance paid to insurer in India ₹ 5,000; (iii) Designing charges paid to consultancy firm in Japan 15,000 yen; (iv) M/s Premium Industries Ltd. spent ₹ 50,000 in India for development work connected with the machine; (v) Transportation cost from Indian port to factory ₹ 15,000; (vi) Central Government has announced exchange rate prevailing in the market was 1 yen = ₹ 0.40 by notification under section 14(3). However the exchange rate prevailing in the market was 1 yen = ₹ 0.4052 (vii) M/s Premium Industries Ltd. made payment to the bank based on exchange rate of 1 yen = ₹ 0.4150, (viii) The commission payable to the agent in India was @5% of F.O.B. price in Indian rupees. The rate is BCD @10%. Similar goods are subject to 12.5% excise in India. Education cess and special CVD is as applicable. Find the customs duty and other duties payable. How much CENVAT can be availed by importer, if he is manufacturer? [7+2]**

### Answer to 4(a):

Pilfered goods u/s 13 of the Customs Act vs. Lost or destroyed goods u/s 23 of the Customs Act:

Pilfered goods	Lost or destroyed goods
(i) Pilferage refers to that in small quantities	(i) Lost or destroyed postulates loss or destroyed by whatever reason whether theft, fire, accident etc.
(ii) In this case, the importer is not liable to pay duty	(ii) The duty payable on lost goods is remitted by Assistant/Deputy Commissioner.
(iii) In this case, if the pilfered goods are retrieved duty becomes payable.	(iii) In this case, restoration is impossible if the goods are destroyed.
(iv) The pilferage must have occurred after the unloading of the goods but before the proper officer has made an order for clearance for home consumption under section 47 of the Customs Act or deposit on a warehouse under section 60 of the Customs Act.	(iv) In this case, the goods must have been lost or destroyed at any time before their clearance for home consumption. Thus, it also covers the cases where the goods are lost after the duty has been paid and order for clearance has been given but before the goods are actually cleared.

### Answer to 4(b):

Particulars	Japanese Yen
FOB	1,00,000
Add: Freight	10,000
Add: Designing charges	15,000
Sub-total	1,25,000
	<b>Value in ₹</b>

## Answer to MTP\_Intermediate\_Syllabus 2016\_Jun2017\_Set 1

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Sub- total (1,25,000 YEN x ₹0.40)	50,000
Add: Insurance	5,000
Add: Commission (1,00,000 YEN x 5% x ₹0.40)	2,000
CIF Value	57,000
Add: 1% unloading on CIF	570
<b>Assessable Value</b>	<b>57,570</b>

### Calculate of Custom Duty payable:

Basic Customs Duty = @10% of ₹ 57,570 is ₹ 5,757,

CVD = @12.5% of ₹ 63,327 is ₹ 7,916,

Education Cess = @ 2% of ₹ 13,673 is ₹ 273,

SAH Education Cess = @ 1% of ₹ 13,673 is ₹ 137 and

Special CVD = @4% of ₹ 71,653 is ₹ 2,866.

Total Customs Duty payable is ₹ 16,949.

Cenvat credit of ₹ 7,916 (CVD) can be availed up to 50% in the first year and balance in the subsequent years. However, with regard to Special CVD is ₹ 2,866 can be availed fully in the first year itself.

### 5.(a) Specify whether the following payments can be treated as consideration for service:

(i) Amount received in settlement of dispute

(ii) Amount received advances for performance of service

(iii) Security deposit that is returnable on completion of provision of service.

(iv) Excess payment made as a result of a mistake.

[8]

(b) Explain any four services under negative list.

[7]

### Answer to 5(a):

(i) Amount received in settlement of dispute = It shall not be regarded as consideration unless it represents a portion of the consideration for an activity that has been carried out. If the dispute itself pertains to consideration relating to service then it would be a part of consideration.

(ii) Amount received advances for performance of service = Such advances are consideration for the agreement to perform a service.

(iii) Security deposit that is returnable on completion of provision of service = Returnable deposit is in the nature of security and hence do not represent consideration for service. However if the deposit is in the nature of a colorable device wherein the interest on the deposit substitutes for the consideration for service provided or the interest earned has a perceptible impact on the consideration charged for service then such interest would form part of gross amount received for the service. Also security deposit should not be in lieu of advance payment for the service.

(iv) Excess payment made as a result of a mistake = If excess payment returned, it is not consideration. If not returned and retained by the service provider it becomes a part of the taxable value.

### Answer to 5(b):

1) Services provided by Govt. or local Authority — All services provided by Govt., in terms of their sovereign right to business entities.

- Grant of mining licenses
- Audit of Comptroller and Auditor General, etc.

Exclusions:

- Speed post, Express Parcel post, Life insurance and agency services carried out on payment of commission

## Answer to MTP\_Intermediate\_Syllabus 2016\_Jun2017\_Set 1

- Services in relation to vessel or an aircraft
  - Transport of goods and passengers
  - Support services.
- 2) Services provided by Reserve Bank of India (RBI) — All type of services provided by RBI.  
Exclusions: Services provided to RBI.
- 3) Services provided by a foreign diplomatic mission located in India — All type of services.
- 4) Agriculture or agricultural produce — The following items are included:
- Cultivation, harvesting, seed testing
  - Supply of farm labour
  - Trimming, sorting etc. thereby marketable in the primary market
  - Renting of agro machinery loading, unloading, packing, storage and warehousing of agricultural produce
  - Agricultural extension services
  - Services by any agricultural produce marketing committee
  - Commission on Sale or Purchase of Agricultural Produce
  - Cultivation of Ornamental Flowers
  - Poultry Farm
- Exclusions:
- Potato Chips or Tomato Ketchup
  - Grinding, sterilizing extraction of packaging in retail packs of agricultural products.

**6.(a) M/s. LST Ltd. is engaged in the business of renting of immovable properties owned by it. During the quarter ended on 31-03-2016, it has collected a rent (exclusive of property tax of ₹ 20 lakhs) of ₹ 120 lakhs. The said sum includes rent from,-**

- (1) Vacant land used for horticulture : ₹ 10 lakhs;
- (2) A building let out to RBI: ₹ 12 lakhs;
- (3) A temple hall was let out for religious purpose for general public : ₹ 15 lakhs;
- (4) Residential houses let out to individuals for commercial use : ₹ 20 lakhs

**Compute the value of taxable services, assuming the rent is exclusive of service tax in each case. Ignore Small Service Providers' exemption. [7]**

**(b) XYZ Ltd. of Delhi, engaged in various businesses has provided the following services, whose values are listed below. Compute its service tax liability:**

- (1) Service of interior decoration in respect of immovable property located in Jammu: ₹ 5 lakh;
- (2) Professional services of valuation of immovable properties [vide a single contract for a consolidated consideration] to Mumbai based Reliance Industries Ltd. in respect of its four properties located in Delhi, Kashmir, Kolkata and London. It is assumed that XYZ Ltd. performed 20%, 30%, 15% and 35% of his total services in foregoing four cities respectively : ₹20 lakhs;
- (3) Architectural services to an Indian Hotel Chain which has business establishment in Mumbai for its newly acquired property in Sydney: ₹ 40 lakh; [8]

**Answer to 6(a):**

Computation of the value of taxable service & service tax (₹ in lakhs):

Total rent (Municipal tax does not form part of value)	120
Less: Amounts that do not form part of the taxable service -	
(1) Vacant land used for Horticulture (covered in negative list)	10
(2) Building let out to RBI	Taxable
(3) Temple hall let out for religious purpose meant for general public (Exempt under Notification No. 25/2012-ST, dated 20-06-2012)	15
(4) Residential houses let out to individuals for commercial use (Not covered in negative list since the said houses are used for commercial purposes)	Taxable



## Answer to MTP\_Intermediate\_Syllabus 2016\_Jun2017\_Set 1

Total taxable value	95
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### Answer to 6(b):

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

(1)	Service of interior decoration in respect of immovable property located in Jammu: As per Rule 5 of Place of Provision of Services Rules, 2012 in respect of services provided directly in relation to immovable property, the place of provision will be location of immovable property. Therefore, in the given case, the place of provision of service will be Jammu which falls in non taxable territory and thus this service will not be taxable.	Nil
(2)	Professional services of valuation of immovable properties : As per Rule 7 of Place of Provision of Services Rules, 2012 if services referred in Rule 5 (location of specific service) is provided at more than one location, including a location in the taxable territory, its place of provision shall be the location in the taxable territory where the greatest proportion of the service is provided. Here, percentage of services performed in London and Kashmir will be ignored for determining place of provision of service because London and Kashmir falls in non-taxable territory. Thus, comparison has to be made between location of Delhi and Kolkata. Since in the present context, the greater proportion 20% of services are performed in Delhi, place of provision of services will be Delhi. As a result, such services will be subject to tax.	20,00,000
(3)	Architectural services to an Indian Hotel Chain which has business establishment in Mumbai) for its newly acquired property in Sydney: If Rule 5 (Property rule) were to be applied, the place of provision would be the location of the property i.e. Sydney (outside the taxable territory). However, as per Rule 8, since both the provider and the receiver are located in taxable territory, the place of provisions would be the location of the service receiver i.e. Mumbai. Place of provision being in the taxable territory, the service would be taxable in India.	40,00,000
	Total taxable value	60,00,000
	Service tax liability (including SBC & KKC)	9,00,000

**7.(a) Mr. X, a dealer located in the State of Maharashtra, dealing in machinery used in rolling mills furnishes following information for the financial year 2015-16.**

**(i) Total inter-state Sales during in the financial year (CST not shown separately) – ₹ 2,29,50,000**

**(ii) Trade Commission for which credit have been issued separately – ₹ 5,78,125**

**(iii) Freight and Transportation charges charged separately in invoice – ₹ 4,00,000**

**(iv) Freight charges included in value but not shown separately – ₹ 2,00,000**

**(v) Insurance for transport of machinery upto destination – ₹ 75,000**

**(vi) Installation and commissioning charges levied separately in invoice – ₹ 1,00,000**

**(vii) The buyers have issued C forms in respect of machinery bought by them from Mr. X. Compute the tax liability under CST Act. [10]**

**(b) Compute the purchases eligible for availing input tax credit to determine the VAT liability from the following particulars:-**

Purchases	₹
Goods for resale within the State	10,000

## Answer to MTP\_Intermediate\_Syllabus 2016\_Jun2017\_Set 1

Capital goods required for the purpose of the manufacture or resale of taxable goods	14,000
Goods purchased from the unregistered dealer	3,200
Goods which are being utilized in the manufacture of exempted goods	6,600
High seas purchases	2,300

[5]

### Answer to 7(a):

Computation of Tax Liability

Particulars	Amount (₹)	Amount (₹)
Gross turnover (including CST)		2,29,50,000
Less:		
Trade commission	5,78,125	
Freight charges shown separately in the invoices	4,00,000	
Installation & Commissioning	1,00,000	10,78,125
Aggregate Sale Price		2,18,71,875
Tax on above (₹ 2,18,71,875 × 2/102 )		4,28,860
Turnover		2,14,43,015

### Answer to 7(b):

	₹
Goods for resale within the State	10,000
Capital goods required for the purpose of the manufacture or resale of taxable goods	14,000
Eligible input tax credit	24,000

### 8. Write short note on any three of the following:

[3×5=15]

- (i) Daily Stock Account
- (ii) Project Import
- (iii) Bundled Services
- (iv) VAT Invoice

### Answer to 8:

**(i) Daily Stock Account (DSA):** 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:

1. Description of goods manufactured
2. Opening balance of goods manufactured
3. Quantity manufactured
4. Inventory of goods (closing stock)
5. Goods removed from the place of removal (quantity)
6. Assessable value of goods removed
7. Amount of duty payable to the department
8. 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 five years immediately after the financial year to which such records pertain.

The records under this rule may be preserved in electronic form and every page of the record so preserved shall be authenticated by means of a digital signature. The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee preserving digitally signed records.

**(ii) Project Import:** Project import means, import of machineries required for initial set up of project and also includes raw materials, consumables and spare parts, (10% value of machinery) is allowed to import at concessional or nil rate of duty. Heavy customs duty on imported machinery for project makes project cost very high and may become unviable. The goods are classified under heading 9801, so that the clearance of goods becomes faster.

Eligible projects are:

- (a) Industrial plant
- (b) irrigation Project
- (c) Power Project
- (d) Mining Project
- (e) Project for Oil and Mineral Exploration
- (f) Other Project specified by the Central Govt.

To get benefit under Project Import, the Contract for import has to be registered with Customs. Application is required to be made before importation and contract must be registered before order for clearance of goods is made from Customs. The contract can be amended if required. After completion of Project and submission documents assessment shall be finalized within 60 days.

**(iii) Bundled Services:** '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 the manner of determination of value of two services for the purpose of charging service tax is different.

Services which are naturally bundled in the ordinary course of business:

The rule is – 'If various elements of a bundled service are naturally bundled in the ordinary course of business, it shall be treated as provision of a single service which gives such bundle its essential character'. 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 accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.

Services which are not naturally bundled in the ordinary course of business:

The rule is – 'If various elements of a bundled service are not naturally bundled in the ordinary course of business, it shall be treated as provision of a service which attracts the highest amount of service tax.' Example: A house is given on rent one floor of which is to be used as residence and the other for housing a printing press. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Therefore, if a single rent deed is executed it will be treated as a service comprising entirely of such service which attracts

highest liability of service tax. In this case renting for use as residence is a negative list service while renting for non-residence use is chargeable to tax. Since the latter category attracts highest liability of service tax amongst the two services bundled together, the entire bundle would be treated as renting of commercial property.

**(iv) VAT Invoice:** VAT invoice is also called as Tax Invoice. A VAT invoice shows certain VAT details of a sale or other supply of goods and services. It can be either in paper or electronic form. Under the scheme of VAT, the most important document is tax invoice. A registered dealer is entitled to claim set-off only on the basis of a valid tax invoice. Set off is not available on purchases affected through a bill or cash memorandum. A Tax Invoice is must to claim input tax credit (set off).

A valid Tax Invoice shall contain the following particulars: –

1. The word tax invoice in bold letter at the top or at a prominent place.
2. A consecutive serial number
3. The date on which the invoice is issued
4. The name, address and the TIN of the seller
5. The name, address and TIN of the buyer
6. The description of the goods;
7. The quantity or volume of the goods and price;
8. The value of the goods;
9. The rate and amount of tax charged; and
10. The total value of the goods