

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:

- (i) Goods are classified under Central Excise Tariff Act based on the "Harmonized System of Nomenclature" having _____ digit classification.
- (ii) Sea beyond _____ miles from the coastal base line is called High Sea.
- (iii) The effective rate of service tax _____ % of the value of taxable service.
- (iv) In customs _____ means transfer from one conveyance to another with or without payment of duty.
- (v) Form F in CST is used in _____.
- (vi) SSI unit whose turnover was less than or equal to _____ in previous year are entitled to full exemption upto _____ in current financial year.
- (vii) Under the concept of _____ mechanism, for one service the service provider as well as service receiver is made liable for payment of service tax to the extent notified.
- (viii) The Central Excise Revenue Audit is conducted by the _____.
- (ix) In case of Anti-dumping, margin of dumping means the difference between normal value and _____.
- (x) Form _____ is prescribed for application to get registered u/s 7 of CST Act.
- (xi) Tax Identification Number consists of _____ characters.
- (xii) Where the value of taxable services provided _____ ₹ 10 lakhs in the previous financial year, the concerned service provider would not be required to pay service tax upto receipts of _____ in the current financial year.
- (xiii) In customs, if cost of transport is not ascertainable, it will be taken as _____ of the FOB value of goods.

[15 × 1]

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

- (i) An unsecured debt is transferred to a third person for a consideration will come under the purview of service tax.
- (ii) There is no difference between 'Zero Rated Sale' and 'Exempted sale'.
- (iii) Advertising/ publicity expenditure by brand name/copyright owner is excludible in the assessable value for the purpose of excise.
- (iv) 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, called transshipment of goods.
- (v) Section 14 of CST Act describes goods of special importance consist of oilseeds, pulses etc.

[5 × 2]

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Answer:

(a) (i) eight

(ii) 200 nautical

(iii) 12.36

(iv) transshipment

(v) Stock/Branch Transfers

(vi) ₹ 4 crores, ₹ 150 lakhs

(vii) joint charge

(viii) Comptroller and Auditor General of India

(ix) export price

(x) A

(xi) 11

(xii) does not exceed, ₹ 10 lakhs

(xiii) 20%

(b) (i) False: The transaction cannot be regarded as service. Since unsecured debt is an actionable claim, a transaction only in such actionable claim is outside the ambit of service. So service tax is not payable. However if a service fee or processing fee or any other charge is collected in the course of transfer or assignment of a debt then the same would be chargeable to service tax.

(ii) False: in case of 'Zero Rated Sale', credit is available on tax paid on inputs, while in case of exempt sale, credit of tax paid on inputs is not available.

(iii) 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.

(iv) False: 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 transhipped to another vessel to a place within India or outside India.

(v) True: Section 14 of CST Act describes goods of special importance consist of oilseeds, pulses, cereals, jute, sugars, tobacco, etc.

Question 2.

(a) Robot 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%)	44,12,000
Finished goods sold (at uniform transaction value throughout the year)	2,50,00,000

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Calculate excise duty payable by M/s. Robot 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) State the procedures for duty drawback on Re-Export as per Sec. 74 of the Customs Act, 1962.
- (c) Write down the provisions of section 72 in relation to the best judgment assessment under the service tax law?
- (d) 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	
Mysore Depot	₹ 210/unit	₹ 205/unit	₹ 215/unit
Patna Depot	₹ 220/unit	₹ 215/unit	₹ 225/unit
Tirupati Depot	₹ 230/unit	₹ 225/unit	₹ 235/unit

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

[6+3+3+3]

Answer:

- (a) Computation of duty payable by Robot 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
Duty @ 12.36% on final product		206.00	12,36,000
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] [₹44,12,000 x 12.36 ÷ 112.36]			4,85,336
Total CENVAT Credit			11,40,536
Duty payable in cash [Duty on Final Product – CENVAT Credit]			95,464

- (b) Section 74 of Customs Act, 1962 provide for drawback if the goods are re-exported as such or after use. This may happen in cases like import for exhibitions, goods rejected or wrong shipment etc. The re-exported goods should be identifiable as having been imported and should be re-exported within two years from date of payment of duty when they were imported.

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This period (of two years) can be extended by CBE&C on sufficient cause being shown. These should be declared and inspected by Customs Officer. Original shipping bill under which the goods were imported should be produced. The goods can be exported as cargo by air or sea, or as baggage or by post. After inspection, export and submission of application with full details, 98% of the customs duty paid while importing the goods is repaid as drawback.

Section 74 is applicable when imported goods are re-exported as it is and article is easily identifiable, while section 75 is applicable when imported materials are used in the manufacture of goods which are then exported.

- (c) Best judgment assessment [Section 72 of Finance Act, 1994] [Circumstance when best judgment assessment can be made]: Section 72 provides that best judgment assessment can be done by the Central Excise Officer if, —
- the assessee fails to furnish the return under section 70;
 - the assessee having made a return, fails to assess the tax in accordance with the provisions of this Chapter or rules made thereunder.

Manner of making best judgment assessment: For making best judgment assessment, the Central Excise Office may require the assessee to produce such accounts, documents or other evidence as he may deem necessary and after taking into account all the relevant material, the Central Excise Officer shall make the assessment of the value of taxable service to the best of his judgment and determine the sum payable by, or refundable to, the assessee. He shall pass the order in writing, after giving an opportunity of being heard to the assessee.

(d)

- 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.
- 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
(a) Mysore Depot	₹ 210
(b) Patna Depot	₹ 220
(c) Tirupati Depot	₹ 230

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

Question 3.

- List out the items which will appear on the Concurrent List (list III) given in Schedule Seven of the Constitution.
- What are the essential ingredients of a sale under CST Act?
- What are the provisions relating to the payment of excise duty on inputs/capital goods cleared as such an assessee on which CENVAT credit has been availed?

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(d) "VAT avoids cascading effect of Tax" — explain.

[2+5+6+2]

Answer:

(a) Concurrent List (List-III) given in Schedule Seven of constitution:

Both union and State Government can exercise power —

Entry No.17A – Forest Income

Entry No. 25 – Education Income

(b) **Essential ingredients of a sale under CST Act:**

- i. There must be two parties to the contract of sale (i.e.) the buyer & the seller.
- ii. There must be valid consent of both the above parties.
- iii. There must be an actual transfer of property in goods (i.e. agreement to sell is not a sale).
- iv. There must be a consideration in cash or in deferred payment or any other valuable consideration in money or money's worth.
- v. Sale includes deemed sales but it does not include a mortgage or hypothecation of or a charge or pledge on goods.

(c) The provisions relating to the payment of excise duty on inputs/capital goods cleared as such are as under:

- (1) **Removal of inputs/capital goods as such without use - 100% credit to be paid:** As per provisions of Rule 3 of CENVAT Credit Rules, 2004, if the inputs or capital goods (on which CENVAT credit has been taken) are removed as such from the factory or premises of the output service provider, the manufacturer of the firm products or provider of output service, as the case may be, shall pay an amount equal to the credit availed in respect of such inputs or capital goods.
- (2) **Removal of inputs and capital goods under the cover of an invoice:** When inputs or capital goods are removed as such from the factory, or premises of the provider of output service, such removal shall be made under the cover of an invoice referred to in Rule 9.
- (3) **Cenvat payment not required when inputs/capital goods removed for provision of output service:** Such payment shall not be required to be made where any inputs or capital goods are removed outside the premises of the provider of output service for providing the output service.
- (4) **Cenvat payment not required when inputs removed for providing free warranty:** Such payment shall not be required to be made where any inputs are removed outside the factory for providing free warranty for final products.
- (5) **Amount paid by the manufacturer or service provider eligible as Cenvat credit to the buyer of such inputs or capital goods:** As per Rule 3(6), the amount paid as aforesaid shall be eligible as Cenvat credit in the hands of the buyer of such inputs/capital goods, as if it was a duty paid by the person who removed such goods.
- (6) **Recovery as per 14 of Cenvat Credit Rules, 2004:** If the manufacturer of goods or the provider of output service fails to pay the amount payable under Rule 3(5) it shall be recovered, in the manner as provided in Rule 14, for recovery of CENVAT credit wrongly taken. [Inserted by CENVAT Credit (Amendment) Rules, 2013 w.e.f. 1-3-2013]

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- (d) System of VAT works on tax credit method. In Tax Credit Method of VAT, the tax is levied on full sale price, but credit is given of tax paid on purchases. Thus, effectively, tax is levied only on 'Value Added'. Most of the countries have adopted 'tax credit' method for implementation of VAT.

Question 4.

(a) Write short notes on Project Import and mention Eligible Projects.

(b) Following transactions took place in the factory of Arvind Ltd. —

- (i) An imported consignment of Raw Materials was received vide Bill of Entry dated 2nd Dec, showing the following Customs Duty payments —
- | | |
|-------------------------|----------|
| Basic Customs Duty | ₹ 23,000 |
| 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) Some inputs for final product were received. These were accompanied by a certified Xerox Copy (photo copy) of Invoice No. 356 dated 23rd Dec. indicating the Excise duty of ₹ 6,400 has been paid on inputs. The original for duplicate copy of invoice are not traceable.

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

(c) An interior decorator charges ₹ 6,50,000 from a client for providing professional services. The breakup of the bill is as follows:-

- (i) Value of furniture sold to the client – ₹ 3,00,000
(ii) Labour and facility charges – ₹ 2,00,000
(iii) Value of materials consumed in providing the service – ₹ 1,50,000

Compute the amount of service tax to be charged from the client.

(d) What is the condition for levy of Specific Safeguard Duty u/s 8C of Customs Tariff Act?

[3+6+4+2]

Answer:

(a) Project Import:

- (i) Project Imports are the imports of Machinery, Instruments and Apparatus, etc. falling under different classifications, required for initial set up or substantial expansion of an existing unit.
- (ii) Items eligible for Project Import, are specified in Heading 98.01 of the Customs Tariff Act, 1975.
- (iii) In a Project, it is difficult to make assessment for several different items which are required and each of which is importable at different rates of Customs Duties.
- (iv) Therefore, one consolidated rate of Customs Duty has been made applicable for all items imported under a project, irrespective of the nature of the goods and their Customs Classification.

Eligible Projects: Eligible Projects or the projects for which the scheme has been made applicable are - (a) Industrial Plants, (b) Irrigation Projects, (c) Power Projects, (d) Mining

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Projects, (e) Projects for Oil or Mineral Exploration, and (f) Other Projects notified by the Central Government.

(b) Eligibility of Cenvat credit

Situation	Eligible Amount	Reasoning
Imported Consignment	₹ 25,800	Countervailing Duty for Excise Duty and VAT Equivalent will be eligible for credit under CENVAT Credit Rules. Basic Customs Duty of ₹ 23,000 is not eligible.
Loss of Inputs	₹ 9,500	<ul style="list-style-type: none"> • Inputs used in the manufacture of dutiable finished products alone are eligible for CENVAT Credit. • When inputs are damaged irretrievably before usage in the manufacturing process, duty attributable to such goods cannot be claimed as CENVAT Credit. • Therefore, duty for 950 Kgs alone is eligible for CENVAT Credit = ₹ 10,000 x 950 Kgs used / 1,000 Kgs received.
Inputs received under Photocopy of Invoice	₹ 6,400	<ul style="list-style-type: none"> • Duty can be claimed only if inputs have been received and documents evidencing payment of duty is available. • CENVAT Credit is allowable on Photostat copies of authenticated invoices. [Kothari General Foods Corpn Ltd 144 ELT 338 (Tri.)]
Total Credit	₹ 53,700	

(c) Computation of service tax payable (amounts assumed exclusive of service tax)

	(₹)
Value of furniture sold to the client [Sale of furniture is 'sale of goods', which cannot be regarded as a service. Though sale is in course of providing the service, however, it constitutes a separate sale, because the parties intend to have separate rights arising out of sale. Such sale cannot be charged to service tax.]	Sale, not service
Add: Labour and facility charges [They are for provision of interior decoration service; hence, includible in value]	2,00,000
Add: Value of materials consumed in providing the service [Materials consumed viz. consumables, etc. in providing services are a part of the value of the service, because service cannot be provided without them.]	1,50,000
Value of service	3,50,000
Service Tax @ 12.36%	43,260

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- (d) Condition for levy of Specific Safeguard Duty u/s 8C of Customs Tariff Act — If Central Government conducting such enquiry as it deems fit, is satisfied that any article is imported into India from People's Republic of China:
- in such increased quantity, and
 - so as to cause or threatening to cause, market disruption to domestic industry.

Question 5.

- (a) Determine the Taxable Turnover, Input Tax Credit and net VAT payable by a Works Contractor from the details given below on the assumption that the Contractor maintains sufficient records to quantify the labour charges. Output VAT at 12.5%:

Particulars	(₹ in Lakhs)
Total Contract Price (excluding VAT)	105
Labour Charges paid for execution of the contract	40
Cost of Consumables used not involving transfer of property in goods	5
Material purchased and used for the Contract, taxable at 12.5% VAT (VAT included)	45

Contractor also purchased a Plant for use in the contract for ₹ 10.4 lakhs. In the VAT Invoice, VAT was charged at 4% separately, and the said amount of ₹ 10.4 Lakhs is inclusive of VAT.

- (b) M/s. Mili Pvt. Ltd., not an SSI unit, purchased fibre 10,000 kg @ ₹ 50 per kg plus excise duty. The said fibre was used to manufacture intermediate product yarn. The said yarn was captively used for the manufacture of fabrics. The said fabric was exempt from duty. The other information are as follows:
- (i) Normal processing loss: 2% of inputs in manufacture of yarn
 - (ii) Rate of excise duty on all products is 12.36%;
 - (iii) Assessable Value of yarn: ₹ 80 per Kg.;
 - (iv) Assessable Value of Fabric (Total): ₹ 13 lakhs;
 - (v) Colouring Dyes used in the manufacture of Fabric: ₹ 2 lakhs plus excise duty.
 - (vi) Duty on Capital Goods imported during the period and used in the manufacture of yarn: Basic Customs Duty ₹ 20,000; Additional duty of customs under section 3(1) of the Customs Tariff ₹ 30,000; Additional duty of customs under section 3(5) of the Customs Tariff Act ₹ 10,000.

Compute - (i) CENVAT Credit available; (ii) Duty payable.

- (c) Vedic Hospital and Research Centre imported a machine from Bob Scientific Equipments Chicago for in house research. The price of the machine was settled at US \$ 5000. The machine was shipped on 10th January. Meanwhile, the Hospital Authorities negotiated for a reduction in the price. As a result, Bob Scientific Equipment agreed to reduce the price by \$ 850 and sent the revised price of \$ 4150 under a telex dated 15th January.

The machine arrived in India on 19th January. The Commissioner of Customs has decided to take the original price as the transaction value of the goods on the ground that the price is reduced only after the goods have been shipped.

Do you agree to the stand taken by the Commissioner? Give reasons.

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(d) Is transfer of property in goods without consideration chargeable to CST?

[4+6+3+2]

Answer:

(a) Computation of Taxable Turnover, Input Tax Credit and net VAT liability

Particulars	₹ Lakhs
Total Contract Value (excluding VAT)	105
Less: Labour Charges paid for execution of the contract	(40)
Less: Cost of Consumables used not involving transfer of property in goods	(5)
Taxable Turnover, i.e.	60
Output VAT Payable [₹ 60 lakhs x 12.5%]	7.5
Less: Input Tax Credit	
• On Materials Purchased Inclusive of VAT $\left[\frac{12.5}{112.5} \times ₹ 45 \text{ lakhs} \right]$	(5)
• On Plant purchased $\left[\frac{4}{104} \times ₹ 10.4 \text{ lakhs} \right]$	(0.4)
Net VAT Liability	2.1

(b) Since the final product 'fabrics' is exempt from duty, hence, the intermediate product 'yarn' shall be liable to excise duty. Thus, the CENVAT Credit of raw material fibre shall be available.

The relevant computations are as follows–

	(Amounts in ₹)
(1) Excise duty on yarn : (10,000 kg - 2% Normal Loss = 9,800 kg) x ₹ 80 per kg x 12.36%	96,902
(2) CENVAT Credit:	
(a) On raw material fibre 10,000 kg x ₹ 50 per kg x 12.36% [WN-1]	61,800
(b) Colouring Dyes [WN-2]	---
(c) Capital goods used in the manufacture of yarn are eligible for 50% credit as follows -	
Basic Customs Duty is not eligible for Cenvat credit.	---
Additional Customs Duty u/s 3(1) of CTA - Eligible for 50% credit in the current year and the balance in subsequent year	15,000
Additional duty of customs u/s 3(5) of CTA - Eligible for 100% credit in current year	10,000
Total Credit [2(a) + 2(b) + 2(c)]	86,800
(3) Duty payable in cash [1 - 2]	10,102

Working Notes:

1. Normal loss of inputs is incurred in factory and in relation to manufacture; hence the same shall also be eligible for Cenvat Credit.
2. Colouring Dyes used in the manufacture of fabric shall not be eligible for credit as fabric is exempt from duty.

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(c)

1. Principle: Price reduced while goods are in transit cannot be taken as revised after importation of goods. Hence, reduced price to be taken as value of goods and not the original price. [Gujarat Heavy Chemicals Ltd. (2004) 163 ELT 448 (Tri.-Mumbai).]
2. Conclusion: So, the contention of the Commissioner is not correct in law. As per Sec. 14(1), the Transaction Value shall be the price for delivery at the time and place of importation. Since the price is revised prior to import, the reduced price of USD 4,150 shall be considered.

(d) Sale u/s 2(g) of the CST Act, means transfer of property for cash or deferred payment or for any other valuable consideration. Where there is transfer of property in goods without consideration, it does not amount to sale within the meaning of the definition under the act and therefore CST is not attracted.

Question 6.

(a) State the relationship between Warehousing Bond and Bonded Warehouse.

(b) Compute the purchases eligible for availing input tax credit from the following particulars:

Purchases	₹
Goods for resale within the State	10,000
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 sea purchases	2,700

(c) Prediction Ltd. sold 100 units manufactured by it for ₹ 12,000 per unit. It had received interest-free advance of ₹ 6,00,000 from the buyer for the whole of the year. Compute the assessable value of 100 units sold in following independent case:

(i) The price charged from other buyers is ₹ 11,500 per unit.

(ii) The price charged from other buyers is ₹ 12,800 per unit.

(iii) The normal rate of interest is 12% per annum and the price charged from other buyers is ₹ 12,800 per unit.

[4+6+5]

Answer:

(a) Warehousing Bond — Since imported goods are kept in warehouse without payment of customs duty, importer has to execute a bond binding himself to (1) observe all provisions of Customs Act and rules/regulations in respect of the goods (2) pay on demand the (i) duties, interest (ii) warehousing rent and charges with interest (3) pay all penalties leviable for violations of provisions of Customs Act, rules and regulations. The bond amount is equal to twice the amount of duty assessed. Generally, part of bond amount is secured by way of a bank guarantee.

Bonded warehouse — Since goods are kept in warehouse under a 'bond', the warehouse is termed as 'bonded warehouse'. It does not necessarily mean that the warehouse is physically bonded. For example, in case of manufacture in warehouse, the manufacture is in 'bonded warehouse' but there is no physical supervision of customs officer. However, in case of goods stored in warehouse and cleared from warehouse on payment of duty, the

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warehouse is under physical control of customs officer and clearance can be only with his permission.

(b) Computation of purchases eligible for Input Tax Credit (ITC)

Goods for resale within State - Eligible	₹ 10,000
Capital goods required for manufacture or resale of taxable goods - Eligible	₹ 14,000
Goods purchased from unregistered dealer - They are not eligible for ITC	Ineligible
Goods used for manufacture of exempted goods - They are not eligible for ITC	Ineligible
High Seas purchases (i.e. imported from outside India)- They are not eligible for ITC	Ineligible
Purchases eligible for Input Credit	₹ 24,000

(c) Computation of Assessable Value of Prediction Ltd.: As per the explanation 2 to Rule 6 of the Central Excise Valuation Rules, 2000, where an assessee receives any advance payment from the buyer against delivery of any excisable goods, no notional interest on such advance shall be added to the value unless the Central Excise Officer has evidence to the effect that the advance received has influenced the fixation of the price of the goods. Hence, the assessable value shall be determined as under:

(i) Assessable value = ₹ 12,000 x 100 = ₹ 12,00,000.

No notional interest shall be added as advance received has not influenced the price.

(ii) Assessable value = (₹ 12,000 + ₹ 800) x 100 = ₹ 12,80,000.

₹ 800 shall be added as notional interest (₹ 12,800 - ₹ 12,000) as the price charged is influenced due to the receipt of advance.

(iii) Assessable value = (₹ 12,000 + ₹ 800) x 100 = ₹ 12,80,000.

Rate of interest is irrelevant, however, ₹ 800 shall be added as notional interest (₹ 12,800 - ₹ 12,000) as the price charged is influenced due to the receipt of advance.

Question 7.

(a) RVI Ltd. enters into a contract with PQR Ltd. for construction of a new building primarily for the purpose of commerce or industry for a total consideration of ₹450 lakhs on 03-07-2013. The relevant details are given as under –

Stage	Date [Expected]	Date of issuance of invoice	Date of Payment	Amount of Payment (₹)
Initial/Booking	03-07-2013	03-07-2013	03-07-2013	45 lakhs
50% completion of building [after getting certificate from the stipulated Chartered Engineer]	15-03-2014	22-03-2014	29-03-2014	170 lakhs
75% completion of building [after getting certificate from the stipulated Chartered Engineer]	20-06-2014	21-07-2014	25-07-2014	115 lakhs
100% completion of building [after getting certificate from the stipulated Chartered Engineer]	30-09-2014	20-10-2014	07-10-2014	120 lakhs

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Determine the Point of Taxation in respect of each of above stage of completion.

- (b) Grid Energy Ltd. imported a lift from England at an invoice price of ₹ 20,00,000. The assessee had supplied raw material worth ₹ 5,00,000 to the supplier for manufacture of said lift. Due to safety reasons, the lift was not taken to the jetty in the port but was unloaded at outer anchorage. The charges incurred for such unloading amounted to ₹ 30,000 and the cost incurred on transport of the lift from outer anchorage to the jetty was ₹ 45,000. The importer was also required to pay ship demurrage charges ₹ 10,000. The lift was imported at actual cost of transport ₹ 45,000 and insurance charges ₹ 20,000. Compute its assessable value.
- (c) A hotel has provided bundled service of renting along with supply of food and catering for a marriage function of a celebrity. The total amount charged (exclusive of taxes) by the hotel was ₹ 100 lakh. The celebrity had supplied certain foreign beverages (FMV ₹ 10 lakh) free of cost. The excise duty paid on food items by the hotel is ₹ 2,25,480, while service tax paid on input services used in providing such services is ₹ 1,12,360. Determine the service tax liability assuming that assessee has opted for abatement available, if any.
- (d) How will the assessable value under the subject transaction be determined under section 4 of the Central Excise Act, 1944?
Contracted sale price for delivery at buyer's premises ₹ 10,00,000. The contracted sale price includes the following elements of cost:
- (I) Cost of drawings and designs ₹ 6,000
 - (II) Cost of primary packing ₹ 3,500
 - (III) Cost of packing at buyer's request for safety during transport ₹ 7,500
 - (IV) Excise duty ₹ 2,11,200
 - (V) VAT (Sales tax) ₹ 37,000
 - (VI) Octroi ₹ 19,500
 - (VII) Freight and insurance charges paid from factory to 'place of removal ₹ 20,000
 - (VIII) Actual freight and insurance from 'place of removal' to buyer's premises ₹ 42,300

[4+4+4+3]

Answer:

- (a) The above case falls under continuous supply of service and the point of taxation shall be determined as under-

Stage of Completion	Deemed date of completion of provision of service as per Explanation 1 to Rule 6	Point of Taxation	Reason/Remarks
Initial/ Booking	03-07-2013	03-07-2013	Date of issuance of invoice as well as Date of Payment is same i.e. 03-07-2013.

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50%	15-03-2014	22-03-2014	Since invoice has been issued on 22-03-2014 i.e. within 30 days from the date of completion of provision of service [which is 15-03-2014], comparison has been made between Date of issuance of invoice [22-03-2014] and Date of Payment [29-03-2014]. Accordingly, Point of Taxation will be 22 – 03- 2014.
75%	20-06-2014	20-06-2014	Since invoice has been issued on 21-07-2014 i.e. after 30 days from the date of completion of provision of service [which is 20-06-2014], comparison has been made between Date of Completion of Provision of Service [20-06-2014] and Date of Payment [25-07-2014]. Accordingly, Point to Taxation will be 20-06-2014.
100%	30-09-2014	07-10-2014	Since invoice has been issued on 20-10-2014 i.e. within 30 days from the date of completion of provision of service [which is 30-09-2014], comparison has been made between Date of issuance of Invoice [20-10-2014] and Date of Payment [07-10-2014]. Accordingly, Point of Taxation will be 07-10-2014.

(b) Computation of Assessable Value

	₹
FoB price in Indian ₹	20,00,000.00
Add: Material supplied by assessee (free of charge) [Includible under Rule 10(1)(b)]	5,00,000.00
Add: Cost of transport under Rule 10(2)(a) comprising of -	
1. Barging and lighterage charges i.e. unloading at outer anchorage and transport to jetty viz. ₹ 30,000 + ₹ 45,000 = ₹ 75,000	75,000.00
2. Ship Demurrage Charges	10,000.00
3. Other costs on actual basis	45,000.00
Add: Insurance under Rule 10(2)(c)	20,000.00
CIF	26,50,000.00
Add: Loading, unloading and handling charges under Rule 10(2)(b) @ 1% of CIF	26,500.00
Assessable Value	26,76,500.00

(c) Since it is a bundled service of renting and providing of food, facility, etc., hence, Rule 2C of the Service Tax (Determination of Value) Rules, 2006 is not applicable. However, abatement of 30% is admissible under Not. No. 26/2012-ST

	Amounts in ₹
Amount charged by hotel	1,00,00,000
Add: Value of beverages supplied by celebrity free of cost	10,00,000

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Total sum within the meaning of abatement notification	1,10,00,000
Taxable Value @ 70%	77,00,000
Service Tax @ 12%	9,24,000
Add: EC and SHEC @ 3%	27,720
Service tax liability	9,51,720
Less: Credit of excise duty on food items (Not allowed as condition of abatement)	Not allowed
Less : Credit of input services used in providing this service (Allowed, not barred)	1,12,360
Service tax payable in cash	8,39,360

(d) Computation of assessable value

Sale price	₹ 10,00,000
Less: Excise Duty	₹ 2,11,200
VAT	₹ 37,000
Octroi	₹ 19,500
Freight and insurance from Place of removal to buyers	₹ 42,300
	₹ 3,10,000
Assessable Value ₹	6,90,0000

Question 8.

(a) Describe the taxability of 'bundled services'.

(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: 550 kgs.

Exchange rate applicable: ₹ 50=US\$ 1

Basic customs duty: 20%.

Education and secondary and higher education cess as applicable.

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.

(c) Write a short note on the Place of Provision of Passenger Transportation Services.

(d) What is the provision for registration in case of Multiple Services?

[4+5+4+2]

Answer:

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- (a) '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 accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.

- (b) The following points are to be taken note of –

- (1) The question clearly states that only basic customs duty, EC and SHEC thereon and anti-dumping duty are leviable on the goods in question and no other duty viz. additional duty of customs u/s 3(1) or special additional duty of customs u/s 3(5) is leviable.
- (2) For the purposes of the notifications imposing anti-dumping duty, "landed value" means the assessable value as determined under the Customs Act, 1962 and includes all duties of customs except duties levied under sections 3, 8B, 9 and 9A of the said Customs Tariff Act, 1975.
- (3) No EC and SHEC is imposable on anti-dumping duty.

Keeping in mind the aforesaid, the relevant computations are as under

	(Amounts in ₹)
CIF Value of the consignment (in Indian ₹) [US \$ 25,000 x ₹ 50]	12,50,000
Add: Landing Charges @ 1%	12,500
Assessable Value	12,62,500
Add: Basic Customs Duty @ 20%	2,52,500
Add: EC and SHEC @ 3% on Basic Customs Duty	7,575
Landed Value/Cost of the goods [A]	15,22,575
Cost of commodity for the purposes of anti-dumping notification [B] [550 Kg. x US\$ 70 per Kg. x ₹ 50 per dollar]	19,25,000
Anti-dumping duty [B - A]	4,02,425

- (c) The relevant provisions for the Place of Provision of Passenger Transportation Services are as under -

- (1) **Passenger Transportation Services [Rule 11 of Place of Provision of Services Rules, 2012]:**
The place of provision of a passenger transportation service is the place where the passenger embarks on the conveyance for a continuous journey.
- (2) **Continuous journey [Rule 2(d) of Place of Provision of Services Rules, 2012]:** Continuous journey means a journey for which, -
 - a. a single ticket or invoice has been issued; or
 - b. more than one ticket or invoice has been issued at the same time,
 - c. either by -
 - (i) by one service provider, or
 - (ii) through one agent acting on behalf of more than one service provider, and

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d. which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.

(3) **Leg of journey [Rule 2(g) of Place of Provision of Services Rules, 2012]:** Leg of journey means a part of the journey that begins -

a. where passengers embark or disembark the conveyance, or

b. where it is stopped to allow for its servicing or refuelling, and

c. ends where it is next stopped for any of those purposes.

(4) **Analysis:** For a journey to be regarded as continuous journey it is not necessary that a single tick invoice must be issued. However, the service provider or agent must be one person.

In case the journey is not a continuous journey, each journey shall be regarded as separate journey and same shall be liable to be taxed accordingly.

(d) One application for registration is enough even though the service provider is providing or provides multiple services. Registration is not granted service wise but assessee wise. All services can be mentioned in one ST-1 form and the same can be submitted in the office of the Superintendent of Central Excise.