PAPER 11- INDIRECT TAXATION

The following table lists the learning objectives and the verbs that appear in the syllabus learning aims and examination questions:

	Learning objectives	Verbs used	Definition
LEVEL B	KNOWLEDGE What you are expected to know	List	Make a list of
		State	Express, fully or clearly, the details/facts
		Define	Give the exact meaning of
	COMPREHENSION What you are expected to understand	Describe	Communicate the key features of
		Distinguish	Highlight the differences between
		Explain	Make clear or intelligible/ state the meaning or purpose of
		Identity	Recognize, establish or select after consideration
		Illustrate	Use an example to describe or explain something
	APPLICATION How you are expected to apply your knowledge	Apply	Put to practical use
		Calculate	Ascertain or reckon mathematically
		Demonstrate	Prove with certainty or exhibit by practical means
		Prepare	Make or get ready for use
		Reconcile	Make or prove consistent/ compatible
		Solve	Find an answer to
		Tabulate	Arrange in a table
	ANALYSIS How you are expected to analyse the detail of what you have learned	Analyse	Examine in detail the structure of
		Categorise	Place into a defined class or division
		Compare and contrast	Show the similarities and/or differences between
		Construct	Build up or compile
		Prioritise	Place in order of priority or sequence for action
		Produce	Create or bring into existence

Paper 11- Indirect Taxation

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

The figures in the margin on the right side indicate full marks.
All questions are compulsory. In question No. 1, all sub-questions are compulsory. In question Numbers 2 to 8, student may answer any two of the three sub-questions (a), (b) and (c).
Wherever necessary, you may make suitable assumptions and state them clearly in your answer.
Working notes should form part of the answer.

1. Answer the following questions with suitable reasons: **1×20=20**

(a) State the condition for levy of Specific Safeguard Duty u/s 8C of Customs Tariff Act.
(b) Mention the types of Duty Drawback rates.
(c) State the date for determination of rate of duty in case of goods cleared from warehouse.
(d) A service provider cannot opt for centralised registration under service tax even though he has centralised billing system — Discuss.
(e) A biscuit manufacturing company prints on the packages the MRP of ₹5.00 for the state of West Bengal, ₹6.00 for Madhya Pradesh and ₹7.00 for the rest part of India. Calculate the Assessable Value for the purpose of calculating the excise duty?
(f) Mr. X, a dealer in Delhi, transfers property in goods to Ram of Bangalore without any consideration. Is the transfer chargeable to CST?
(g) Determine the point of taxation in case of copyright, trademarks etc.
(h) Goods already exported cannot be confiscated under Customs Act — Comment.
(i) Whether tailor made or unbranded software is good or not? Give reason.
(j) A manufacturer puts labeling on packaged products which is produced by him. Is such labeling amounted to manufacture?
(k) Whether an unsecured debt is transferred to a third person for a consideration will come under the purview of service tax or not? Comment.
(l) If an importer sold 75 units of imported goods @ ₹ 80, 65 units @ ₹ 75 and 50 units @ ₹ 55 in India, then what will be the basis of valuation of those imported goods? Provided, all the imported goods are identical or similar in nature.
(m) By whom Central Excise Revenue Audit is conducted? Also state his responsibility regarding this audit.
(n) R Ltd., a company incorporate in USA holds 30% shares of S Ltd. an Indian Company. It also holds 32% shares of G Ltd., a company incorporated in Germany. Whether S Ltd. and G Ltd are associated enterprise?
(o) X Ltd. participates in the management or control or capital of Y Ltd. Whether X Ltd. and Y Ltd. is an associate enterprises?
(p) Mitali, a consulting engineer, raised a bill of ₹2,19,225 (including Service Tax) on her client for Consultancy Services rendered by her on January 15, 2015. If a partial payment of ₹1,33,945 is received by Mitali on February 5, 2015, calculate the amount of Service Tax payable by her for the quarter ended on March 31, 2015.
(q) "VAT helps in checking tax evasion and in achieving neutrality." — Is the statement true? Justify.
(r) Mr. X, a physiotherapist, providing his service in a clinical establishment in independent capacity. Is it taxable service?
(s) Which Article of Constitution of India empowers Central Govt. to levy taxes in List I of Seventh Schedule?
(t) Name the legislation which controls Foreign Trade Policy.

2. Answer any two: **2×2=4**

(a) State any two transactions which are both 'deemed sale of goods' for purpose of levy of State Vat and 'declared service' for levy of service tax. **2**

(b) Which entry in Seventh Schedule to Constitution of India is relevant for purpose of imposition of service tax? **2**

(c) State the 'taxable event' for purpose of levy of Central Excise Duty? **2**

3. Answer any two: **8×2=16**

(a) (i) A commodity is specified in the Central Excise Tariff (CET). It is wholly exempt, and the Stock was manufactured before the Union Budget. When the stock was cleared after the Budget, exemption had been withdrawn. Discuss the liability to and levy of Central Excise Duty. **2**

(ii) Determine the value on which Excise duty is payable in the following instances –

A. P Ltd. sold goods to Q Ltd. at ₹ 100 per unit. In turn, Q Ltd. sold the same to R Ltd. at a value of ₹ 110 per unit. P ltd. and Q Ltd. are related, whereas Q Ltd. and R Ltd. are unrelated,

B. P Ltd. & Q Ltd. are interconnected undertakings u/s 2(g) of MRTP Act. P Ltd. sells goods to Q Ltd. at value of ₹ 100 per unit and to R Ltd. at ₹ 110 per unit, who is an independent buyer.

C. P Ltd. sells goods to Q Ltd. at a value of ₹ 100 per unit. The said goods are captively consumed by Q Ltd. in its factory. P Ltd and Q Ltd. are unrelated. The cost of production of the goods to P Ltd. is ₹ 120 per unit.

D. P Ltd. sells Motor Spirit to Q Ltd. at ₹ 31 per litre. But Motor Spirit has administrated price of ₹ 30 per litre, fixed by the Central Government.

All the price mentioned above are exclusive of Excise Duty. **6**

(b) (i) State the principles and periodicity of Excise Audit 2,000. **2+3=5**

(ii) The cum-duty price of the product is ₹ 10,62,024. It includes sales tax @ 2% and excise duty @ 4% (plus 3% Education Cess and SHEC) Find out the assessable value and excise duty and sales tax. **3**

(c) M/s. Ram Ltd., a manufacturer of various excisable goods, furnishes you with the following information for the year ended 31st March, 2015. From the under mentioned information, determine whether the company will be entitled SSI exemption under Notification No. 8/2003, dated 01-03-2003 during the financial year 2015-16:

(1) Clearances of finished excisable goods covered under Section 4A of Central Excise Act [Notified abatement 20%] RSP of goods ₹ 120 lakhs;

(2) Value of clearances of inputs as such under Rule 3(5) of Cenvat Credit Rules, 2004 on which Cenvat Credit has been taken ₹ 20 lakhs;

(3) Value of clearances of excisable goods bearing brand name of foreign company which is assigned in favour of Ram Ltd. ₹ 110 lakhs;

(4) Value of clearance as licensee of goods carrying the brand name of another person upon full payment of duty = ₹ 200 lakhs;

(5) Value of clearance of waste and scrap which were exempt from duty = ₹ 30 lakhs;

(6) Value of clearances of plastic containers for packing of pickles produced by them under brand name of Quick Pickles. Quick pickles use these plastic containers ₹ 30,00,000;

(7) Clearances of other excisable goods ₹ 134 lakhs. **8**

4. Answer any two: **6×2=12**

(a) (i) 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. **4**

(ii) State Non Injurious Price in Anti Dumping Duty? **2**

(b) M/s. Rani & Co. imported goods declaring transaction value of ₹ 500 per unit, which was rejected. Rules 4 and 5 of Import Valuation Rules are found inapplicable. M/s. Rani & Co. furnishes you the following data and requests you to compute the value of imported goods as per Rule 7:

1. Sale Price in India (after processing, etc.): ₹ 1,125 p.u. (inclusive of VAT @ 12.5%);
2. Commission to Indian agent on above sales: 5% of sale price (before VAT);
3. Cost of processing after import: ₹ 55 p.u.
4. Freight and Insurance from Port of import onwards: ₹ 40 and ₹ 10 p.u.
5. General Expenses and Overheads in India are absorbed at: ₹ 110 p.u.
6. Net profit margin (normally earned by others also): 10% of sale price (before VAT)
7. Rate of Basis Customs Duty: 10% + 3% EC/SHEC (no other duty leviable).
8. Handling charges at customs port at time of import: ₹ 45 p.u.

Ignore Cenvat Credit/Input Credit related aspects. **6**

(c) (i) A bill of entry was presented on 1st November, 2014. The vessel carrying goods arrived on 11th November, 2014. Entry inwards was granted on 12th November, 2014 and the bill of entry was assessed on that date and was also returned to the importer for payment of duty on that date. The duty amounting to ₹ 2,60,000 was paid by the importer on 20th November, 2014. Calculate the amount of interest payable under section 47(2) of the Customs Act, 1962, given that there were three holidays on 13th, 14th and 16th November, 2014. **4**

(ii) An Importer imported certain inputs for manufacture of Final Product. A small portion of the imported inputs were damaged in transit. An Exemption Notification was in force providing exemption in respect of specified Raw Materials imported into India for use in manufacture of specified goods which was applicable to the imports made by the Importer in the present case. Explain, whether the Importer could claim the benefit of the aforesaid notification in respect of the entire lot of the inputs imported, including those that were damaged in transit. **2**

5. Answer any two: **4×2=8**

(a) State the procedures for duty drawback on Re-Export as per Sec. 74 of the Customs Act, 1962. **4**

(b) One of the methods for determining Arm's Length Price is Resale Price Method (RPM). State the applicability of RPM. **4**

(c) Mention few incentives which are being offered to SEZ units to attract investments in those areas. **4**

6. Answer any two: **10×2=20**

(a) (i) S Ltd. is a building contractor and has agreed to provide works contract services by way of construction (notified under Point of Taxation [POT] Rules as continuous supply of services). The terms of payment of total ₹ 100 lakhs are finalized as follows:

Installment	Amount	Event on which consideration payable	Date of completion of such event	Date of Invoice (DoI)	Date of Payment (DoP)
1	15%	Signing of agreement	1 Aug 14	5 Aug 14	4 Aug 14
2	45%	Construction of floor	1 Nov 14	10 Nov 14	15 Nov 14
3	30%	Completion of finishing	1 Jan 15	5 Feb 15	10 Feb 15
4	10%	Handing over of possession	5 Mar 15	10 Mar 15	10 Mar 15

Determine the Point of Taxation. **4**

(ii) Mr. Pal of US sends US$ 1,000 to his father in India as follows —

- Mr. Pal pays US$ 1,050 to Bank of America (US$ 1,000 + US$ 50 as charges)
- Bank of America pays US$ 1,030 to Canara Bank (India) (US$ 30 as charges)
- Canara Bank pays US$ 1,005 to M/s. Shan (US$ 5 as charges).
- M/s. Shan pays ₹ 59,900 (US$ 1,000 × ₹ 60 per USD less ₹ 100 towards charges) to Mr. Pal's father. RBI rate has all through been ₹ 61 per US$.

Calculate the taxability of this chain. **6**

(b) (i) Mr. Ravi has provided the following services during the year 2014-15. Determine whether he is eligible for threshold exemption during the year 2015-16:

(1) Services provided outside India : ₹ 1 lakh ;

(2) Services (falling under negative list): ₹ 2 lakh ;

(3) Services fully exempt under other notifications : ₹ 3 lakh ;

(4) Declared Services (Sum charged ₹ 4 lakh, but, value determined as per the valuation rules is 60% i.e., ₹ 2,40,000) ;

(5) Services (where amount charged is ₹ 60,000, but, after abatement, value is ₹ 20,000); and

(6) Other services provided: ₹ 7 lakh (including ₹ 1 lakh towards services where whole of the service tax was payable by the service recipient) **7**

(ii) Mention few agriculture related services which are covered in the negative list. **3**

(c) (i) "There may be various forms of rendition of services……" — Give some examples of those forms of services. **5**

(ii) Rungliot Company provides a service of rent-a-cab by providing chauffeur-driven cars for overseas visitors. It is a taxable service. The chauffeur is given a lump-sum amount to cover his overnight accommodation, food and other incidental expenses such as parking fees by Rungliot Company during the whole tour. After finishing the tour, the chauffeur returns the balance of the amount with a statement of his expenses and the relevant bills thereof. In the present case write about the consideration related to the services with the help of Service Tax (Determination of Value) Rules, 2006. **3**

(iii) State the services which are provided by Govt. or local authority are excluded from negative list? **2**

7. Answer any two: **6×2=12**

(a) (i) 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. **4**

(ii) Is transfer of property in goods without consideration chargeable to CST? Discuss. **2**

(b) A manufacturer sold goods to distributor for ₹ 20,000. The distributor sold the goods to the wholesaler for ₹ 24,000. The wholesaler sold the goods to the retailer for ₹ 30,000. The retailer sold the goods to the final consumer for ₹ 40,000. The VAT rate is 12.5 per cent which is charged separately. Compute VAT liability under invoice method. **6**

(c) Define 'Dealer' as per CST Act. Name the persons who are included in the definition of 'Dealer'. **3+3=6**

8. Answer any two: **4×2=8**

(a) Sony Japan and Z Ltd., an Indian company are associated enterprises. Z Ltd. manufactures Mobile phones and sells them to Sony Japan and L.G. Korea. During the year, Z Ltd. supplied 1,20,000 Mobile phones to Sony Japan at a price of ₹2,000 per unit and 20,000 units to L.G. Korea at a price of ₹3,200 per unit. The transactions of Z Ltd. with Sony and L.G. are comparable subject to the following differences:

(I) While sales to Sony is on FOB basis, sales to L.G. are CIF basis. The freight and insurance paid by Sony for each unit is ₹300.
(II) The sales to L.G. are under a free warranty for 1 year whereas sales to Sony are without such warranty. The estimated cost of executing such warranty may be taken at ₹350.
(III) Sony placed large order and as such Z Ltd. offered a quantity discount of ₹50 per unit to Sony.

Compute the arm's length price and the amount of increase in the total income of Z Ltd, if any, due to such arm's length price. **4**

(b) Describe the term "reasonably accurate comparability adjustments" in the context of the transfer pricing. **4**

(c) Khan Ltd. is an Indian Company engaged in the business of developing and manufacturing Industrial components. Its Bangkok Subsidiary Techpro Inc. supplies technical information and offers technical support to Khan for manufacturing goods, for

a consideration of Euro 3,00,000 per year.
Income of Khan Ltd is ₹ 270 Lakhs. Determine the Taxable Income of Khan Ltd if Techpro charges Euro 3,50,000 per year to other entities in India. What will be the answer if Techpro charges Euro 1,80,000 per year to other entitles. (Rate per Euro may be taken at ₹ 80). **4**