

INTERMEDIATE EXAMINATION

GROUP II

(SYLLABUS 2012)

SUGGESTED ANSWERS TO QUESTIONS

DECEMBER 2016

Paper- 11: INDIRECT TAXATION

Time Allowed : 3 Hours

Full Marks : 100

The figures in the margin on the right side indicate full marks.

Question no. 1, is compulsory. Answer any five out of remaining seven questions.

Total six questions are to be answered.

1. Answer the following questions will suitable reasons: 1×25=25
- (a) What is the purpose of payment of duty or tax under protest?
 - (b) A manufacturer procured certain inputs. The assessable value for excise valuation was ₹ 10,000. Excise duty paid @ 12.5% was ₹ 1,250. Later he sold 50% of those inputs @ ₹ 6,000, as these were in excess of his requirements. Advise the manufacturer about steps he should take.
 - (c) Which of the following service received by a manufacturer or service provider is not eligible for Cenvat Credit?
 - (i) Legal Services
 - (ii) Coaching and training
 - (iii) Maintenance service provided to a motor car not eligible for Cenvat credit as capital goods
 - (iv) Procurement of inputs
 - (d) What are the products covered under third schedule of Central Excise Act.
 - (e) A small scale manufacturer having turnover below certain limit of turnover is not required to obtain excise registration. However, he is required to submit declaration to excise department once he crosses a specified turnover. What is that specified turnover, when declaration is required to be filed?
 - (f) A manufacturer filed return but did not pay excise duty as declared in return. What is the penalty if a manufacturer fails to pay excise duty within one month from due date?
 - (g) In ports where imported goods are cleared on manual submission of documents, imported goods are cleared from customs port on payment of customs duty on submission of
 - (i) White Bill of Entry
 - (ii) Green Bill of Entry
 - (iii) Yellow Bill of Entry
 - (iv) Pink Bill of Entry
 - (h) What are 'Coastal goods'?
 - (i) State provision in customs law in respect of pilfered goods.
 - (j) What is period upto which imported goods can be kept in customs warehouse without payment of interest?
 - (k) State the ceiling on quantum of duty drawback in relation to market price of export goods.
 - (l) State the administrative authority for Foreign Trade Policy.

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- (m) What the normal period of validity of Authorisation issued under Foreign Trade Policy?
- (n) A service provider imported consumables which were used for providing taxable service in India. Following duties were paid at the time of imports - Basic customs duty of 10%, CVD equal to excise duty payable in India, special additional duty @ 4%, Education Cess 1% and Secondary and Higher Education Cess - 1%. Advise if he can avail Cenvat credit of any of these duties? If so - which duty or duties?
- (o) State the time limit for issue of show cause notice to service provider when there is no charge of suppression of facts or willful misstatement.
- (p) A service provider collected service tax from his customer but did not pay it to Government. What is rate at which interest is payable by service provider?
- (q) State true or false - The air travel agent is not required to pay service tax on air fare recovered by him from his customer.
- (r) What is the time limit for filing revised return under service tax?
- (s) Name the Act under which service tax is imposed in India.
- (t) A merchant exporter in West Bengal procures material for export from a manufacturer in Orissa. Which form the merchant exporter should issue to manufacturer in Orissa so that the supplier need not charge Central Sales Tax (CST) in his invoice?
- (u) State Vat rate of a commodity is 1%. These were sold inter-state to unregistered buyer outside the State. What would be rate of Central Sales Tax?
- (v) Tax Identification Number for State Vat consists of
- (i) 10 digit alpha-numeric code
 - (ii) 11 digit numeric code
 - (iii) 12 digit alpha-numeric code
 - (iv) 13 digit numeric code
 - (v) None of the above
- (w) A dealer is importing goods and selling them in one State only. Can he opt for composition scheme for payment of State Vat?
- (x) State the maximum period for which Advance Pricing Agreement can be executed?
- (y) Arm's length price (ALP) can be computed by various methods. If two methods give two different ALP, which price should be adopted?

Answer:

1. (a) The purpose of payment of duty or tax under protest is to reserve your claim for refund. If duty or tax is paid under protest, time limit normally applicable for claiming refund of duty or tax is not applicable.
- (b) The manufacturer should pay 'amount' of ₹ 625.
- (c) Maintenance service provided to a motorcar not eligible for Cenvat credit as capital goods
- (d) List of goods where packing, repacking, labelling etc. will amount to manufacture u/s 2(f) (iii) of Central Excise Act [These are same goods which are covered under MRP provisions under section 4A].
- (e) ₹ 90 lakhs or more.
- (f) 1% on such amount of the duty not paid, for each month or part thereof calculated from the due date, for the period during which such failure continues.
- (g) White Bill of Entry.
- (h) 'Coastal goods' means goods, other than imported goods, transported in a vessel from one port in India to another port in India [section 2(7) of Customs Act].
- (i) Section 13 of Customs Act provides that if imported goods are pilfered after unloading but before order for clearance is passed by Customs Officer for clearance for home consumption or deposit in a warehouse, no customs duty is payable on the goods, unless the pilfered goods are restored to importer.
- (j) The period is 90 days.

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- (k) 33% of market price of export goods
 (l) DGFT (Director General of Foreign Trade).
 (m) Normal period of validity of authorisation issued under FTP is 12 months from issue of authorisation.
 (n) He can avail Cenvat credit of CVD equal to excise duty only.
 (o) 30 months [This is under Finance Act, 2016]
 (p) 24%.
 (q) True.
 (r) It is 90 days from date of filing of original return.
 (s) Finance Act, 1994.
 (t) The merchant exporter should issue form H under CST Act.
 (u) CST rate will be 1%.
 (v) 11 digit numeric code
 (w) No. He cannot opt for composition scheme.
 (x) Maximum period for which Advance Pricing Agreement can be executed is five years.
 (y) If two methods give two different prices, its arithmetical mean shall be taken - first proviso to section 92C(2) of Income Tax Act.

2. (a) Following information is provided in respect of manufacture of an engine for purpose of captive consumption in the same factory. Calculate value for purpose of Central Excise duty. 7

	₹
Cost of direct material (including central excise duty ₹ 5,245 eligible for Cenvat credit)	1,45,245
Cost of direct employees	27,340
Consumable stores and repairs	13,800
Quality Control Cost	7,900
Research and Development Cost	15,150
Factory Overheads	2,850
Administration Cost - Production related	19,280
Administration Cost - Others	5,780
Selling and distribution cost	9,150
Scrap value realised	2,720

- (b) Certain goods were imported from Korea into India Normal value of these goods in Korea is ₹ 2,100. Export price to India is ₹ 1,600. Landed cost in India is ₹ 1,900. Fair selling price of that product in India is ₹ 2,200. Calculate anti-dumping duty that can be imposed on these goods if imported in India. 3

- (c) (i) Explain purpose of Place of Provision of Service Rules.
 (ii) What would be place of provision of service in relation to design of a building?
 (iii) What would be place of provision of consultancy services? 5

Answer:

2. (a)

Particulars	₹
Cost of direct materials	1,40,000
Cost of direct employees	27,340
Consumable stores and repairs	13,800
Quality Control Cost	7,900
Research and Development Cost	15,150

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Factory Overheads	2,850
Production related administrative cost	19,280
Sub-total	2,26,320
Less - Scrap value realised	2,720
Cost of Production as per CAS-4	2,23,600
Add: 10%	22,360
Assessable Value of Excisable goods	2,45,960

(b) Dumping margin is ₹ 500 [Normal value of ₹ 2,100 - export price from Korea ₹ 1,600]. Injury margin is ₹ 300 [Fair selling price in India ₹ 2,200 - landed price of goods imported from Korea ₹ 1,900].

Hence, lower of dumping margin and injury margin i.e. ₹ 300 can be imposed as anti dumping duty on these goods imported from Korea.

(c) (i) Section 66B of the Finance Act, 1994 provides that service tax shall be levied on all services (except services in negative list) provided or agreed to be provided in taxable territory. Thus, it is essential to decide whether service has been provided or agreed to be provided in taxable territory (India except J&K).

Place of Provision of Services Rules have been issued to determine place of provision of service i.e. whether service is provided in taxable territory or outside taxable territory.

(ii) In case of service in relation to design of a building, the place of provision of service would be where building is located or proposed to be located.

(iii) In case of consultancy services, location of service receiver is the place of provision of service.

3. (a) (i) **State situations where an exporter would prefer to pay excise duty on final products and claim rebate of excise duty paid, instead of clearing goods under bond without payment of excise duty.**

(ii) **Which documents are required to be prepared at time of clearance from factory to clearing goods for export under claim of rebate?**

(iii) **Can he claim rebate of excise duty in following situations:**

(A) **Supplies to unit in Special Economic Zone**

(B) **Supply to EOU unit**

3+3+2=8

(b) **An exporter intends to import some capital goods for manufacture of goods which he plan to export. He is not sure how much he would be able to export and hence does not want to give commitment about export obligation. He intends to export his products first and then claim benefit of duty exemption on capital goods. Advise him how he can do so.**

Can indigenous capital goods be procured by him without payment of excise duty? 4+1=5

(c) **Name any two transactions where both State Vat and service tax are payable on same transaction. 2**

Answer:

3. (a) (i) Normally it is advisable not to pay excise duty at the time of export, than to pay it and then wait for refund from Government. However, in following situations, it may be beneficial to pay excise duty and claim rebate -

➤ If assessee has balance of duty in Capital Goods Cenvat Credit Account, it will be advisable to pay duty and claim refund, as balance in Capital goods Cenvat Credit Account is never refundable. This may happen when duty paid on capital goods is heavy and assessee may not be able to utilise the credit.

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- An SSI unit may pay excise duty and claim rebate, as getting refund of Cenvat credit of inputs is not an easy procedure. Moreover, he is not entitled to get refund of duty paid on capital goods.
 - When duty paid goods are proposed to be exported.
 - Claiming rebate is much simpler and straight-forward procedure than claiming refund of duty paid on inputs under Cenvat procedure.
- (ii) Invoice, packing list and ARE-1 form
(iii) Supplies to SEZ unit can be made under claim of rebate but not supplies to EOU unit.
- (b) In case of post export EPCG scheme, the capital goods are imported on full payment of duty. Later, duty remission is granted in proportion to export obligation fulfilled.

Post Export EPCG Duty Credit Scrip shall be available to exporters who intend to import capital goods on full payment of applicable duties in cash and choose to opt for this scheme.

Basic Customs duty paid on Capital Goods shall be remitted in the form of freely transferable duty credit scrip(s), Specific Export Obligation under this Scheme shall be 85% of the applicable specific Export Obligation.

The advantage of the scheme is that the exporter does not have any specific export obligation when he imports capital goods on payment of full customs duty. Later, he gets remission on the basis of exports made by him.

These Duty Credit Scrip(s) can be used for payment of applicable custom duties for imports and applicable excise duties for domestic procurement.

Indigenous capital goods be procured under this scheme without payment of excise duty.

- (c) (i) Works contract service (ii) Sale of food in Air Conditioned Restaurant (iii) Information Technology Software.

4. (a) A manufacturer imported raw material for his production from USA. The details are as follows:

- (i) FOB value - USD 30,000
- (ii) Packing charges - USD 500
- (iii) Value of returnable container in which the goods were packed - USD 4,000
- (iv) Insurance charges from foreign port upto India - USD 200
- (v) Ocean freight from foreign port to India - USD 700
- (vi) Commission paid to agent in India of foreign supplier - USD 500
- (vii) Transport charges from Indian port to factory in India – ₹ 15,000
- (viii) Erection expenses incurred at factory in India – ₹ 25,000

Exchange rate is 1 USD = ₹ 62.00 on date of filing of Bill of Entry. The exchange rate was 1 USD = ₹ 62.25 when customs duty was paid. Central Excise duty in similar goods in India is 12.5%. Calculate

- (A) Assessable value for customs and
- (B) Total customs duty payable
- (C) Duties eligible for Cenvat Credit.

4+3+2=9

- (b) If a particular activity or transaction is not covered under any of three Lists in seventh schedule to Constitution, which authority is empowered to exercise the power in respect of such activity or transaction? Under which provision? Name a tax levied under authority of

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those provisions.

1+1+1=3

- (c) Deepa Glow Ltd., manufactures a product specified under section 4A of the Central Excise Act, 1944. The maximum retail sale price of the product as printed on carton is ₹ 100. This includes 12.5% excise duty and 2% CST. For this product, 30% abatement is allowable under section 4A. Quantity of 1,000 pieces were sold by Deepa Glow Ltd. to the wholesale dealers at ₹ 75 per piece. You are required to compute the excise duty liability.

3

Answer:

4. (a) Packing charges, insurance charge, ocean freight and agency commission are includible in customs value. Value of durable and returnable container is not includible. Hence, CIF price = 31,900 [30,000 + 500 + 200 + 700 + 500]
Exchange rate is a USD = ₹ 62.00.
Hence, CIF value in ₹ = 19,77,800.
Add 1% landing charges – ₹ 19,778
Assessable Value – ₹ 19,97,578

Calculation of customs duty

Seq.	Duty Description	Duty %	Amount	Total Customs Duty
(A)	Assessable Value ₹		19,97,578	
(B)	Basic Customs Duty	10	1,99,757.80	1,99,757.80
(C)	Sub-Total for calculating CVD '(A+B)'		21,97,335.80	
(D)	CVD 'C x excise duty rate	12.5	2,74,666.98	2,74,666.98
(E)	Sub-total for edu cess on customs 'B+D		4,74,424.78	
(F)	Edu Cess of Customs - 2% of 'E'	2	9,488.50	9,488.50
(G)	SAH Education Cess of Customs -1% of 'E'	1	4,744.25	4,744.25
(H)	Sub-total for Spl CVD 'C+D+F+G'		24,86,235.53	
(I)	Special CVD under section 3(5) - 4% of 'H'	4	99,449.42	99,449.42
(J)	Total Customs Duty			5,88,106.95
(K)	Total duty rounded to	₹		5,88,107

Eligibility of Cenvat credit - Buyer who is manufacturer, is eligible to avail Cenvat Credit of D and I above.

- (b) All residual powers are with Central Government under Entry No. 97 of List I of Seventh Schedule to Constitution of India. The entry reads as follows - Any other matter not included in List II, List III and any tax not mentioned in list II or list III.

Service tax is presently imposed under authority of those provisions.

- (c) Assessable value – ₹ 70 per piece. Excise duty @ 12.5% is ₹ 8.75 per piece. Hence, excise duty payable is ₹ 8,750 for 1,000 pieces.

5. (a) **Abhimanyu Road Carriers, a Goods Transport Agency, furnished following data with respect to services provided by it in June 2016 —**

Sr. No.	Details	Amount in ₹
1	Goods transport services provided to ABC Ltd. on issues of consignment note	40,00,000
2	Goods transport service for transport of goods without issuing any consignment note	1,70,000

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3	Goods transport service provided to an unregistered partnership firm on issue of consignment note	8,00,000
4	Composite service of packing, loading, transport of goods, unloading and unpacking at destination	5,00,000
5	Goods transport service provided to an individual person on issue of consignment note	15,00,000
6	Goods transport service of ginned cotton	2,00,000

Calculate service tax payable by Abhimanyu Road Carriers considering service tax rate as 15% [Ignore cesses]. 7

(b) State the conditions to be fulfilled, subject to which transaction value can be accepted as assessable value for purpose of valuation under section 4 of Central Excise Act. 4

(c) Who is the adjudicating authority if customs duty demand is less than ₹ 5 lakhs?
Where appeal can be filed against his order?
What is the time limit for filing appeal?
How much delay can be condoned by Appellate Authority?
How much pre-deposit of duty is required for filing first appeal?
Where further appeal can be filed against order of first appellate authority? 4

Answer:

5. (a) (1) Service tax is payable by ABC Ltd. under reverse charge and hence Abhimanyu Road Carriers is not liable to pay service tax.
(2) Goods transport services without issuing any consignment note are not Goods Transport Agency Services and hence no service tax is payable.
(3) Service tax is payable by unregistered firm under reverse charge and hence Abhimanyu Road Carriers is not liable to pay service tax.
(4) The service is cargo handling service and not goods transport agency service. Hence, service tax is payable @15% of ₹ (5,00,000×30%) = ₹ 22,500. [Circular No. 186/5/2015-ST, dt. 05.10.2015]
(5) Service tax is payable by Abhimanyu Road Carriers as service receiver is individual. Hence, service tax is payable on 30% of ₹ 15,00,000 i.e. on ₹ 4,50,000 @ 15%. Hence, service tax payable is ₹ 67,500.
(6) The service is exempted from service tax.
Thus, total service tax payable is ₹ 90,000.

(b) The basic provisions of Section 4(1)(a) of Central Excise Act state that 'assessable value' when duty of excise is chargeable on excisable goods with reference to value will be 'transaction value' on each removal of goods, if following conditions are satisfied -

- The goods should be sold at the time and place of removal.
- Buyer and assessee should not be related
- Price should be the sole consideration for the sale.
- Each removal will be treated as a separate transaction and 'value' for each removal will be separately fixed.

Transaction value can be rejected only for one of aforesaid reasons and not for any other reason.

(c) Deputy or Assistant Commissioner of Customs is the adjudicating authority if excise duty demand is less than ₹ 5 lakhs.
Appeal against his order can be filed before Commissioner (Appeals) within 60 days from date of communication of order.

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The Commissioner (Appeals) can condone delay upto 30 days.

Mandatory pre-deposit of 7.5% of duty is required to be paid for entertaining appeal.

Appeal against order of first appellate authority can be filed before CESTAT (Customs, Excise and Service Tax Appellate Tribunal).

6. (a) Find service tax payable in each of following cases. Each transaction is independent of other transactions. Service tax rate is 15%. Ignore cesses. 7
- (i) Supply of farm Labour – ₹ 1,00,000
 - (ii) Transport of postal mail by a vessel – ₹ 60,000
 - (iii) Serving food in non-air conditioned restaurant – ₹ 1,05,000
 - (iv) Renting of hotel rooms with morning breakfast with room rent ₹ 1,500 per day – ₹ 3,00,000
 - (v) Construction of office building with material for customer on his land – ₹ 10,00,000
 - (vi) Royalty for providing use of technical knowhow on which R&D cess was paid – ₹ 3,00,000
 - (vii) Development of Information Technology Software – ₹ 8,00,000.
- (b) Explain the scheme in Foreign Trade Policy to promote export of services from India. 5
- (c) A manufacturer in Tamil Nadu received an order from a buyer in Maharashtra. The manufacturer manufactured goods as per the order received and despatched goods to its depot in Maharashtra without charging CST. The depot in Maharashtra sold the goods to buyer in Maharashtra charging Maharashtra State Vat. The depot in Maharashtra issued F form to manufacturer in Tamil Nadu. Discuss the validity of transaction and liability of Vat. 3

Answer:

6. (a) (i) Nil as service is exempted
(ii) ₹ 2,700 [15% of (30% of ₹ 60,000)] [Entry 10 of Notification No. 26/2012-ST, dt. 20.06.2012]
(iii) Nil as exempted
(iv) Service tax on ₹ 2,10,000 [70% of ₹ 3,00,000] @15% - ₹ 31,500 [Entry 4 of Notification No. 26/2012-ST, dt. 20.06.2012].
(v) Service tax on ₹ 3,00,000 [30% of ₹ 10,00,000] @15% - ₹ 45,000 [Entry 12 of Notification No. 26/2012-ST, as amended w.e.f. 01.04.2016]
(vi) R&D cess is payable @ 5%. Thus, R&D cess paid is ₹ 15,000. Service tax payable @ 15% of ₹ 3,00,000 is ₹ 45,000. Deduction of R&D cess paid is payable. Hence, net service tax payable is ₹ 30,000 [45,000 - 15,000]
(vii) ₹ 1,20,000 [15% of ₹ 8,00,000].
- (b) The scheme is known as Service Exports from India Scheme (SEIS).
Only those service providers having minimum net foreign exchange (NFE) earnings of USD 15,000 in preceding financial year are eligible for SEIS. For individual service providers and sole proprietorship, minimum NFE should be USD 10,000.
Services to EOU and services by EOU are not eligible for SEIS.
Services provided by SEZ unit outside India are eligible for SEIS. Service by DTA unit to SEZ was ineligible and will continue to remain ineligible for rewards under SEIS.
'Services' include all tradable services covered under General Agreement on Trade in Services (GATS) and earning foreign exchange - para 9.50 of FTP 2015-2020.
- 'Service Provider' means a person providing - (i) Supply of a 'service' from India to any other country (mode 1 - Cross border trade) (ii) Supply of a 'service' from India to service consumers) of any other country in India (mode 2 - Consumption abroad). Only export of services falling under clauses (i) and (ii) above are eligible for SEIS scrip.

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The general rate of duty scrip is 3% to 5% of Net Foreign Exchange (NFE) earnings for different services.

The duty credit scrips can be used for following - (a) Payment of customs duties for import of inputs as well as capital goods, (b) Payment of excise duty on domestic procurement of inputs or goods, including capital goods as per customs notifications (c) Payment of service tax on procurement of services as per service tax notification (d) Payment of customs duty and fees.

(c) The transaction is not valid as supply to pre-known buyer in other State is not a valid stock transfer. The transaction will be held as inter-state sale from Tamil Nadu. The manufacturer will be liable to pay Central Sales Tax at rate equal to State Vat rate on that product in Tamil Nadu.

7. (a) **A service provider has various places in India from which he is providing taxable service. He intends to apply for centralised registration for his taxable services. State —**
- (i) **Conditions for eligibility to obtain Centralised registration.**
 - (ii) **Authority to whom he should apply for centralised registration.**
 - (iii) **Can he obtain more than one centralised registration?**
 - (iv) **Distinction between centralised registration and input service distributor. 3+1+1+2=7**
- (b) **Distinguish between zero rated sale and exempt sale, in relation to State Vat provisions. State transaction which is presently zero rated under State Vat. 3+1=4**
- (c) **State purpose and scope of safe harbour rules. 4**

Answer:

7. (a) (i) A person can obtain Centralised Registration, at his option, if (a) he has centralised billing system or centralised accounting system in respect of services provided by him, and (b) such centralised billing or centralised accounting systems are located in one or more premises.
- (ii) He can register such premises or offices from where centralised billing or centralised accounting systems are located Centralised Registration will be granted by Principal Commissioner/Commissioner of Central Excise in whose jurisdiction the premises or offices, from where centralised billing or accounting is done, are located.
- (iii) He can obtain more than one centralized registrations.
- (iv) Input Service Distributor distributes input tax credit to its various manufacturing units or units providing taxable service. Centralised Registration is to pay service tax at one place for taxable services provided at its various premises or offices.
- (b) Certain sales are 'zero rated' i.e. tax is not payable on final product in certain specified circumstances. In such cases, input tax credit (set off) will be available on the inputs i.e. input tax credit will not be denied.
- Distinction between 'zero rated sale' and 'exempt sale' is that in case of 'zero rated sale', credit is available on tax paid on inputs, while in case of exempt goods, credit of tax paid on inputs is not available.
- As per para 2.5 of White Paper on State-Level VAT, export sales are zero rated, i.e. though sales tax is not payable on export sales, credit will be available of tax paid on inputs.
- (c) Many transactions are coming within purview of transfer pricing provisions. This raises lot of disputes. Hence, section 92CB of Income Tax Act empowers CBDT to formulate safe harbor rules.
- 'Safe Harbour' means circumstances in which income tax authorities shall accept the

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transfer price declared by assessee, without going into details of Arm's Length Price (ALP).

Assessee can opt to exercise Safe Harbour Rules by submitting form No. 3CEFA to assessing officer. If assessing officer does not take any action within two months from end of the month in which the option was filed, the Safe Harbour action will be considered to have been accepted.

The option will remain valid for the period specified in Form 3CEFA or five years whichever is less. However, once the option is accepted, it cannot be changed and if assessee declares less margin in a particular year, the income will be calculated on basis of safe harbor rates or margins only [This is rather risky, as assessee binds himself for five years].

8. (a) Mita Enterprise from State of West Bengal furnishes following data for month ending June, 2016:

(i) Vat rate on inputs - 5%

(ii) Vat rate on output - 14.5%

(iii) Inputs purchased from registered dealers within State during the month – ₹ 30,00,000

(iv) Output sold to buyers within State of West Bengal during the month – ₹ 18,00,000

(v) Output sold to buyers inter-state from whom C forms have been received – ₹ 6,00,000 (excluding CST as applicable)

(vi) Inputs purchased from other States as inter-state purchases – ₹ 3,00,000 (excluding CST @ 2%)

(vii) Opening stock of inputs - Nil. Closing stock of inputs purchased within State as on 30.06.2016 – ₹ 12,50,000. Closing stock of inputs purchased from other States as on 30.06.2016 – ₹ 1,50,000

Compute

(a) Vat liability

(b) Central Sales Tax (CST) payable and

(c) Net Vat payable in cash.

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(b) A manufacturer of paper machinery filed income tax return, declaring profit of ₹ 97 lakhs. The manufacturer had sold 50 numbers of paper machinery to its associated enterprise outside India @ USD 3,000 per machinery. 30 pieces of similar machinery were sold to an unrelated buyer. Exchange rate of dollar was one dollar = ₹ 65.

Compute the taxable income of the manufacturer stating the method you will apply, under following three independent and separate situations —

(i) 30 pieces were sold to unrelated buyers at USD 3,500 per piece.

(ii) 30 pieces were sold to unrelated buyers at USD 3,080 per piece.

(iii) 30 pieces were sold to unrelated buyers at 2,800 USD per piece.

3+2+1=6

(c) What is meant by 'reverse charge' in service tax?

Who is liable to pay service tax in case of services of non-executive and independent director?

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Answer:

8. (a) (i) Vat payable on output sold within State - 14.5% of ₹ 18,00,000 = ₹ 2,61,000
(ii) Input Tax Credit (set off) available - 5% of ₹ 30,00,000 – ₹ 1,50,000 [Entire input tax credit is available if part of input is in stock. Input tax credit of CST is not applicable]
(iii) Net Vat payable by cash (i-ii) – ₹ 1,11,000
(iv) Central Sales Tax (CST) payable - 2% of ₹ 6,00,000 – ₹ 12,000

(b) The 'Comparable uncontrolled price method' is most appropriate. In this method, the price charged or paid for property transferred or services provided in a comparable uncontrolled transaction, (i.e., a transaction between enterprises other than associated

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enterprises whether resident or non-resident) or a number of such transactions, is identified.

- (i) In the first case, the uncontrolled price is 3,500 dollars. Hence, Arm's Length Price is USD 3,500. The difference of 500 dollars per machine is required to be added in the profit.

Thus, profit to be increased = $500 \text{ dollar} \times 50 \text{ Nos} \times 65 \text{ ₹ (exchange rate)} = ₹ 16,25,000$.

Thus, the taxable income of the manufacturer is ₹ (97 + 16.25) lakhs = ₹ 113.25 lakhs.

- (ii) If variation between arm's length price and actual price is 1% in case of wholesale trading and 3% in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken will be deemed to be arm's length price for AY 2015-16 – Notification No. 86/2015 dated 29-10-2015.

Here, the variation is less than 3%. Hence, USD 3,000 will be taken as Arms Length Price and no addition will be made in profit as declared by manufacturer.

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

- (c) Normally, service tax is payable by service provider. However, in some specified cases, service tax is payable by service receiver. This is termed as 'reverse charge'.

In case of services of non-executive and independent director, the company receiving the services of directors is liable to pay entire service tax liability.