

**INTERMEDIATE EXAMINATION
GROUP - II
(SYLLABUS 2016)**

SUGGESTED ANSWERS TO QUESTIONS

DECEMBER - 2017

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, including all its sub-questions is compulsory.
Answer any five questions from the rest.
Wherever necessary, you may make suitable assumptions and
state them clearly in your answers.
Working notes should form part of the relevant answer.

Part – I

(All questions are compulsory.)

1. (a) Answer the following:

1×10=10

- (i) Sale under CST Act includes a transaction in the nature of/a delivery of goods on _____ .
(A) job work
(B) hypothecation
(C) hire purchase
(D) pledge
- (ii) MRP of ₹ 80 is printed on an excisable product sold in the State of West Bengal and ₹ 84 for rest of India. The assessable value adopted for the purposes of central excise will be
(A) As per MRP for the sales in respective States.
(B) ₹ 84
(C) ₹ 82
(D) ₹ 80
- (iii) The selling price of a machinery is ₹ 10,000. The product attracts Basic Excise Duty @ 12.5% and CST @2%. What would be the CST payable?
(A) 225
(B) 200
(C) 196
(D) 221
- (iv) Central Excise Revenue Audit conducted by the _____ .
(A) C & AG
(B) Excise department
(C) Cost Accountant
(D) Chartered Accountant
- (v) Name the product not eligible for SSI exemption under Central Excise:
(A) Sugar
(B) Computer
(C) Watches
(D) Bicycle
- (vi) Sources of Service tax are
(A) Finance Act, 1994
(B) CBEC Circulars

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- (C) Notifications issued by the CBEC
 (D) All three above, besides others
- (vii) The inter-state turnover as per books of Achaya is ₹ 12 lakhs. The same includes freight charges of ₹ 1.2 lakhs, not shown separately in the invoices. The total turnover of the assessee as per the CST Act is (₹ Lakhs):
 (A) 10.2
 (B) 10.8
 (C) 12
 (D) None of the above
- (viii) Assessable value of goods for customs purposes is
 (A) Actual Value
 (B) Deemed Value
 (C) Standard Value
 (D) None of the above
- (ix) Which of the following is covered under Reverse Charge mechanism?
 (A) Motor-cab hire charges
 (B) Directors remuneration
 (C) Commission
 (D) Telephone Charges
- (x) When the actual date of service was on 31st March, 2017 and invoice was raised on 10th April, 2017, what would be the point of taxation when the payment for the said service was received on 15th March, 2017?
 (A) 31st March, 2017
 (B) 6th April, 2017
 (C) 15th March, 2017
 (D) 10th April, 2017

(b) Match the following:

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	Column A		Column B
1.	Packing charges	A	Exempted service
2.	Yellow Bill	B	Included in value
3.	Trading of goods	C	Warehousing
4.	SEZ	D	B1 Bond
5.	Goods removed without payment of duty	E	I Form

(c) State whether each of the following is correct or incorrect:

1x5=5

- (i) Service provider providing services under the brand name of other can claim Small Service Provider Exemption.
 (ii) MRP valuation shall apply to goods covered under MRP valuation scheme even if they are supplied in bulk quantity not intended for retail sale.
 (iii) Outsourced manufacturing unit can act as an Input Service Distributor.
 (iv) Taxable event in case of import of goods, under customs, is the date of entry into Indian Territorial Waters.
 (v) A dealer dealing with works contract is liable to pay VAT on the value of materials transferred while executing the contract.

(d) Fill up the blanks:

1x5=5

- (i) As per Article 246(3), State Government has exclusive powers to make laws for State with respect to any matter enumerated in List II of _____ Schedule to Constitution.
 (ii) The first two digits in the Tax Payers Identification Number (TIN) represent ____ code.
 (iii) A product is exempt from levy of VAT in a State. When that product is sold from that State in inter-State sale, the CST is leviable at _____ %.
 (iv) When a product is not sold in outside market but is used captively, where the cost of production of such product is ₹ 10 lakhs, the assessable value is ₹ _____. The product is sold by others in the market for ₹ 12 lakhs.
 (v) Service tax paid on assignment charges of a natural resource to be allowed as CENVAT credit spread evenly over a period of _____ years.

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Answer:

1. (a) (i) (C)
(ii) (B)
(iii) (C)
(iv) (A)
(v) (C)
(vi) (D)
(vii) (C)
(viii) (C)
(ix) (B)
(x) (C)

(b)

	Column A		Column B
1.	Packing charges	B	Included in value
2.	Yellow Bill	C	Warehousing
3.	Trading of goods	A	Exempted service
4.	SEZ	E	I Form
5.	Goods removed without payment of duty	D	B1 Bond

- (c) (i) Incorrect;
(ii) Correct;
(iii) Correct;
(iv) Incorrect;
(v) Correct

- (d) (i) Seventh
(ii) State
(iii) Nil/Zero
(iv) ₹ 11 lakhs
(v) 3

Part - II

(Answer any five questions.)

2. (a) (i) Why the Seventh Schedule of the Constitution of India is important from taxation perspective? Discuss.
(ii) An important disadvantage of the indirect tax regime is its cascading effect. Do you agree? Explain shortly. 5+3=8

(b) Nirmal Industries Ltd., furnish the following information relevant for the month of May 2017. You are required to find the assessable value for the purpose of paying excise duty, on captive consumption with reference to rule 8 of Central Excise Valuation (Determination of price of excisable goods) Rules, 2000 and as per CAS-4.

(1) Cost of Raw Materials (inclusive of Excise Duty @ 12.5%) — ₹ 13,200.

(2) Factory Wages — ₹ 2,500

(3) Manufacturing Expenses — ₹ 1,000

(4) Other Direct Expenses — ₹ 2,750

(5) Research & Development Cost — ₹ 250

(6) Administrative Overheads (including expenses relating to Marketing Office ₹ 100) — ₹ 350

(7) Sale of scrap realized — ₹ 200

(8) Interest on delayed payments by customers — ₹ 500

(9) Profit Margin — 20%

Computation of Excise Duty Liability of Nirmal Industries Ltd.,

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Answer:

2. (a) (i) Seventh Schedule to Constitution (referred to in Article 246) indicates bifurcation of powers to make laws, between Union Government and State Governments. Parliament has exclusive powers to make laws in respect of matters given in List I (called Union List) of the Seventh Schedule. List II(State List) contains entries under jurisdiction of States. List III (Concurrent List) contains entries where both Union and State Governments can exercise power.

List I - Union List: Entries in this list relevant to taxation provisions are as follows -

- (1) Tax on income other than agricultural income (Entry No.82)
- (2) Customs Duty (including export duties) (Entry No.83)
- (3) Excise Duty excluding duty on alcoholic liquors for human consumption, opium, narcotic drugs, but including medicinal and toilet preparations containing alcoholic liquors, opium or narcotics. (Entry No.84)
- (4) Corporation Tax (Entry No.85)
- (5) Taxes on inter-state sale or purchase of goods other than sale of newspapers (Entry No.92A)
- (6) Taxes on inter-state consignment of goods (Entry No.92B)
- (7) Service Tax (Entry No.92C)
- (8) Any other matters not included in List II or List III.

List II - State List: Entries in this list relevant to taxation provisions are as follows -

- (1) Tax on agricultural income (Entry No.46);
- (2) Excise duty on alcoholic liquors, opium and narcotics (Entry No.51);
- (3) Tax on entry of goods into a local area for consumption, use or sale therein (usually called "Octroi") (Entry No.52);
- (4) Taxes on sale or purchase of goods other than sale of newspapers except inter-state sale or purchase (Entry No.54)

List III - Concurrent List: (Concurrent List contains the areas in which both the centre and state governments can make laws concurrently.) This list does not specify any law relating to taxation. In other words, there is no head of taxation under the concurrent list and hence Union and the States have no concurrent power of taxation. The following are some items listed in the concurrent list, such as:

- Entry No. 17A – Forest income
Entry No. 25 – Education income

- (ii) Cascading Effect: Cascading effect of taxes is one of the major distortions of the Indian taxation regime. Federal structure of our democracy, allows both states and center to levy taxes separately and this has caused this cascading. While Income tax, Excise duty, Service tax and Central Sales tax (CST), Securities Transaction tax is levied by the center; VAT/sales tax, Entry tax, State excise, Property tax, Agriculture tax and octroi is charged by the State governments. There are many possible transactions which come under the ambit of two or more of these taxes and the value of the second tax is calculated on the value arrived at by adding the value of first tax to the value of transaction. For example, manufacturing and sell would be liable to VAT/CST over and above central excise duty.

(b)

Sl. No	Particulars	Total Cost (₹)
1	Raw materials (excluding excise duty) ₹ 13,200 × 100/112.50	11,733.33
2	Factory Wages	2,500.00
3	Manufacturing Expenses	1,000.00

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4	Other Direct Expenses	2,750.00
5	Research & Development Cost	250.00
6	Administrative Overheads (less expenses relating Marketing Office)	250.00
7	Total Cost (1 to 6)	18,483.33
8	Less: Sale of Scrap	200.00
9	Cost of Production (7-8)	18,283.33
10	Add: 10% as per Rule 8	1,828.33
11	Assessable Value	20,111.66

3. (a) State with brief reason, whether the following statements are true or false: 4
- (i) The provisions of the CCR, 2004 in relating to availment and utilization of credit of service tax apply to whole of India including Jammu and Kashmir.
- (ii) Dumpers used in the factory of a manufacturer for carrying bulk raw material, are eligible capital goods for the purposes of claiming the CENVAT credit.

- (b) Calculate the CENVAT credit available with M/S Jupiter & Co., in respect of the following transactions, for the month of December, 2016: 6

Sl. No.	Item	Excise duty paid (₹)
(i)	Raw materials used in the factory of Jupiter & Co.	80,000
(ii)	Goods used in the guest house primarily for the temporary of the newly recruited employee.	30,000
(iii)	Inputs used for making structures for support of capital	1,45,000
(iv)	Capital goods used as parts and components in manufacture of final product	50,000

You are further required to append note on the treatment of each item above.

- (c) A Ltd. is having a manufacturing unit at Faridabad. In the financial year 2016-17 the value of total clearances from the unit was ₹ 750 lakhs as per the following details:

- (i) Exports to USA – ₹ 100 lakhs; to Nepal – ₹ 50 lakhs
- (ii) Clearances to a 100% export oriented unit – ₹ 75 lakhs
- (iii) Clearances as loan licensee of goods carrying the brand name of another upon full payment of duty - ₹ 200 lakhs
- (iv) Clearances exempted vide Notification No. 214/86 - C.E. dated 25.03.86 – ₹ 125 lakhs.
- (v) Balance clearances of goods in the normal course: ₹ 200 lakhs. You are required to state with reasons whether the unit is entitled to the benefit of exemption under Notification No. 8/2003 - C.E. dated 01.03.2003 as amended in the financial year 2009-10. 5

Answer:

3. (a) (i) The statement is not true.
The provisions of the CCR, 2004 in relation to availment and utilization of credit of service tax apply to whole of India except Jammu and Kashmir. The said provisions do not apply to Jammu and Kashmir as service tax law is not applicable to the State of Jammu & Kashmir.
- (ii) The statement is true.
As per the definition of the capital goods, dumpers used in the factory of the manufacturer of the final product are eligible as capital goods for the purposes of claiming the CENVAT credit.

- (b) Computation of CENVAT credit

Particulars	₹
Raw materials used in the factory of the assessee	80,000
Goods used in the guest house primarily for the temporary stay of the recruited employees. [Note 1]	Nil

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Inputs used for making structures for support of capital goods [Note 1]	Nil
Capital goods used as parts and components in the manufacture of final product [Note 2]	50,000
Total CENVAT credit available	1,30,000

Notes:

(i) As per the definition of inputs, there is specific exclusion with regard to the following:

- (1) goods used in a guest house when the same are used primarily for personal
 - (i) use or consumption of any employee.
 - (ii) goods used for making of structures for support of capital goods. Thus, CENVAT credit cannot be claimed in respect of the above goods.
2. Though definition of inputs specifically excludes capital goods, capital goods used as parts or component in the manufacture of a final product are included therein. Thus, CENVAT credit will be available on the same.

(c) Only the normal clearance of ₹ 200 lakhs is to be considered for calculating the limit of ₹ 400 lakhs.

Since the turnover is less than ₹ 400 lakhs, A Ltd. is entitled to SSI concession in the assessment year 2017-18.

Note: Export to Nepal / (except Bhutan) is like export to any other country.

4. (a) (i) **Whether goods cleared from Domestic Tariff Area (DTA) to Special Economic Zones (SEZ) attract export duty? Explain.**

(ii) **Do the provisions of the Customs Act permit manufacture of goods in a warehouse? If so, discuss the provisions in brief.** 4+4=8

(b) **Compute the Assessable Value of a machine imported from Germany by RLI Ltd., under Customs Act, 1962. Also determine the duty liability of RLI Ltd.** 7

Particulars	USD\$
FOB Value	30,000
Air Freight Paid	7,250
Insurance & Transit Cost	Not Known
Designing Charges incurred in India	₹ 15,000
Indian Agent's Commission	₹ 20,000
Transport Charges from port to factory in India	₹ 15,000
Rate of duty	10%
If the machinery is manufactured in India Excise duty payable as per Tariff	12.5%

The rate of exchange notified by CBEC is ₹ 65 per USD.

Answer:

4. (a) (i) Madras High Court in Advait Steel Rolling Mills P Ltd., v UOI 286 ELT 535 has held that the clearance of goods from DTA to SEZ are not chargeable to export duty either under the SEZ Act, 2005 or under the Customs Act, 1962. Court observed the following:

- (a) The charging section needs to be construed strictly. If a person is not brought within the scope of the charging section, he cannot be taxed at all.
- (b) SEZ Act does not contain any provision for the levy and collection of export duty.
- (c) Section 12(1) of Customs Act makes it apparent that customs duty can be levied only on goods imported into or exported beyond territorial waters of India.

Since both the SEZ unit and DTA unit are located within the territorial waters of India, supplies from DTA to SEZ would not attract section 12(1).

(ii) Manufacture of goods in a warehouse:

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Section 65 of the Customs Act deals with it. As per the said section, manufacturing or other operations can be carried out in the warehouse with the sanction of Principal Commissioner of Customs or Commissioner of Customs. The facility is useful when the final products are to be exported after manufacture. After manufacture, the goods may either be exported without payment of customs duty or cleared for home consumption on payment of duty.

Any waste or refuse arisen in the above manufacturing process shall be dealt with as follows:

- (i) if the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods exported
Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into India in that form;
- (ii) if the whole or any part of the goods resulting from such operations are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.

(b) Computation of Assessable Value for Customs:

Particulars	Amount
FOB Value	\$30,000.00
Add: Insurance @ 1.125% of FOB Value	\$337.50
Add: Air Freight (restricted to 20% of FOB)	\$6,000.00
	\$36,337.50
Value in INR @ ₹ 65	₹ 23,61,938.00
Add: Local Agent's Commission	₹ 20,000.00
CIF Value	₹ 23,81,938.00
Add: Landing Charges @ 1%	₹23,819.00
Assessable Value for Customs	₹ 24,05,757

The total duty liability should be calculated as follows:

Particulars	Amount (₹)
Assessable Value	24,05,757
Add: Basic Customs Duty @ 10%	2,40,576
Balance	26,46,333
Add: CVD @ 12.5% on ₹ 26,46,333	3,30,792
Add: Education Cess @ 2% on ₹ 5,71,368	11,427
Add: SAH @ 1% on ₹ 5,71,368	5,714
Total Value of Import	29,94,266
Total Duty Liability	5,88,509

5. (a) Paul Ltd. filed its service tax returns for the half years ending on September, 2015 and March, 2016 on 25.11.2015 and 31.07.2016. The two half yearly returns show a service tax liability of ₹ 4,00,000 and ₹ 2,00,000 respectively. Is any late fee/fine payable by Paul Ltd.? If yes, what is the quantum of such fee in both fee cases?
Will your answer be different if Paul Ltd. files a nil return for the half year ending on September, 2015? 5

- (b) Ms. Padmapriya provided sponsored services for a cinema dance competition titled "Who is the next Michael Jackson" for Ajantha Arts Academy, run by Easygoing Arts Pvt. Ltd., on 19.02.2017. Who will be liable to pay service tax in this case?
Will your answer be different, if the above Academy is owned by an individual? 4

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- (c) A service provider has received an advance of ₹ 5 lakhs from the service receiver on 14.06.2016. No invoice was raised by him for this purpose. No service was provided during the half year ended 30.06.2016. In February, 2017, the above sum was agreed to be returned and a credit note was raised. When advance was received, is any service tax payable? What is the point of taxation? 3
- (d) Vaibhav, an authorised Money Changer, exchanged \$ 2,00,000 on 15th March, 2017 at ₹ 66 per \$. You are required to compute the value of taxable service as per Rule 2B of the Service Tax (Determination of Value) Rules, 2006, in the under-mentioned situations:
- (i) Where the RBI reference rate for \$ is not available;
- (ii) When the RBI reference rate was ₹ 66.25 per \$.
- (iii) Where the \$ 2,00,000 had been converted into ₹ 1,30,000; the RBI reference rate for \$ being as above and ₹ 101 for ₹. 3

Answer:

5. (a) As per Rule 7C of Service Tax Rules:

(1) Where the return prescribed under rule 7 is furnished after the date prescribed for submission of such return, the person liable to furnish the said return shall pay to the credit of the Central Government, for the period of delay of-

(i) fifteen days from the date prescribed for submission of such return, an amount of five hundred rupees;

(ii) beyond fifteen days but not later than thirty days from the date prescribed for submission of such return, an amount of one thousand rupees; and

(iii) beyond thirty days from the date prescribed for submission of such return an amount of one thousand rupees plus one hundred rupees for every day from the thirty first day till the date of furnishing the said return:

(2) Where the annual return referred to in sub-rule (3A) of rule 7 is filed by the assessee after the due date, the assessee shall pay to the credit of the Central Government, an amount calculated at the rate of one hundred rupees per day for the period of delay in filing of such return, subject to a maximum of twenty thousand rupees. Inserted vide Notification 19/2016-Service Tax.

Accordingly,

Penalty will be ₹ 1,100 for the first half year ending on 30th September, as the no. of days delay is 31 days.

Penalty will be ₹ 7,700 for the second half year ending on 30th March, as the no. of days delay is 97 days.

Therefore, total penalty is ₹ 8,800.

Penalty can be reduced or waived if the ST-3 return belongs to nil return.

- (b) Person liable to pay service tax in given situations:

In case of taxable service provided or agreed to be provided by way of sponsorship to any body corporate or partnership firm located in the taxable territory, person liable to pay service tax is the person receiving such service.

Reverse charge Mechanism will apply to sponsorship events services.

The status of the service receiver will determine who has to pay the service tax. Where the service receiver is a company, the service receiver will be liable to pay service tax. Thus in the first situation, Easygoing Arts Pvt. Ltd. will be liable.

In the second situation, the answer will be different.

Where the service receiver is an individual, Reverse Charge Mechanism will not apply. The service provider Ms. Padmapriya will be liable to pay service tax.

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(c) As per rule 3 of Point of Taxation Rules, the point of taxation is the date of receipt of advance, i.e. 14-6-2016.

The advance amount is deemed to be inclusive of service tax.

Thus, the service tax liability will be $5,00,000 \times 15/115 = ₹ 65,217$.

(d) As per rule 2B of the Service Tax (Determination of Value) Rules, 2006, the value of taxable services is computed as under:-

(i) If the RBI reference rate for a currency is not available:

Value of taxable service = 1% of the gross amount of Indian Rupees provided/received

= 1% of ₹ (66 x 2,00,000)

= ₹ 1,32,000

(ii) Value of taxable service = (RBI reference rate for \$ - Selling rate for \$) x Total units of US \$

= ₹ (66.25-66) x 2,00,000

= ₹ 50,000

(iii) In case neither of the currencies exchanged is Indian Rupee:

Value of taxable service = 1% of the lesser of the two amounts the person changing money would have received by converting any of the two currencies into Indian Rupee at that time at the reference rate provided by RBI

Hence, in the given case, value of taxable service would be 1% of the lower of the following:-

(a) US Dollar 2,00,000 x ₹ 66.25 = ₹ 132,50,000

(b) Euro € 1,30,000 x ₹ 101 = ₹ 131,30,000

Value of taxable service = 1% of ₹ 131,30,000 = ₹ 1,31,300

6. (a) What do you mean by service under Service Tax Act? 5

(b) Mr. X Practicing Cost Accountant received ₹ 20,00,000 (exclusive of service tax) in the June, 2016. He paid service tax on 26th July, 2016. Gross receipt in the year 2015-16 is ₹ 25 lakhs.

You are required to calculate Interest on delay payment of service tax. 5

(c) A consulting engineer provided following services in a month:

(i) Free Professional advice to his friend (normal charges for such service would be ₹ 10,000).

(ii) Computer software services ₹ 10 lakhs.

(iii) Consultancy Services to Government of Gujarat ₹ 8 lakhs. Service Tax was charged separately, wherever applicable. He has paid ₹ 50,000 as cess under Section 3 of the Research and Development Cess Act, 1986. What is the amount of service tax payable by him? Service tax rate of 15%. 5

Answer:

6. (a) Service [Section 65B(44)]: "Service" means:

- any activity carried out by a person for another for consideration, and
- includes a declared service,
- but shall not include, -

(1) An activity which constitutes merely, -

- (i) A transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or
- (ii) Such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of Article 366 (29A) of the Constitution; or

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- (iii) A transaction in money or actionable claim;
- (2) A provision of service by an employee to the employer in the course of or in relation to his employment;
- (3) Fees taken in any Court or tribunal established under any law for the time being in force.

(b) Service tax @15% on ₹ 20,00,000 = ₹ 3,00,000.

Due date of payment of service tax = 6th July, 2016.

No. of days delay = 20 days

Interest = ₹ 2465.75 (i.e. ₹ 3,00,000 × 15/100 × 20/365) say ₹ 2466.00

(c) Computation of Service Tax

Particulars	Amount (₹)
Free professional advice	Not taxable
Computer software service	10,00,000
Consultancy service	8,00,000
Value of taxable services	18,00,000
Tax on above @ 15%	2,70,000
Less: R&D Cess	50,000
Service Tax payable	2,20,000

7. (a) (i) **Mr. X of Delhi sold Mobile sets to Mr. Y of West Bengal. The goods are dispatched by Lorry and the Lorry Receipt (LR) is sent by X to Y by courier. In the mean time, Y decides to sell the goods to Z of U.P. Is there any legally permitted way to not charge CST by Y on the sales effected to Z? Explain the provisions with reference to CST Act.**
- (ii) **Define 'Works Contract' as per CST Act. Can sales tax be levied on activity of construction of building? 4+4=8**
- (b) (i) **State various purposes for which goods can be purchased at concessional rate under CST Act by issuing C Form.**
- (ii) **Mr. Abraham is a manufacturer of plastic chairs situated in Bengaluru. He seeks you advice while calculating the VAT on sales as well as net VAT liability from the following information;**
- (I) **Plastic granules purchased from local market (inclusive of VAT @5%) - ₹ 3,67,500;**
 - (II) **Manufacturing Expenses — ₹ 1,25,000;**
 - (III) **Profit on cost @ 30%;**
 - (IV) **Excise Duty @ 12.5%;**
 - (V) **Output VAT @ 14.5%. 3+4=7**

Answer:

7. (a) (i) According to Section 6(2) of the Central Sales Tax Act, 1956, any sale effected during the movement of goods from one State to another by transfer of document of title is known as subsequent sale. Such, subsequent sale shall be exempt from CST when the following conditions are satisfied:
- (1) The first sale should be an interstate sale;
 - (2) A sale subsequent to the sale mentioned herein above should take place;
 - (3) The subsequent sale should be during the course of movement of goods from one State to another;
 - (4) Such subsequent sale shall be effected by transfer of documents of title to such goods;
 - (5) the subsequent sale shall be made to a registered dealer or to a government;

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- (6) the goods are to be of the description referred to in Section 8(3) (i.e., goods specified in the registration certificate) if the subsequent sale are to registered dealer;
- (7) the dealer effecting the subsequent sale should furnish prescribed certificate or declaration to the appropriate authority.

In the case before us, Mr. X of Delhi sold goods to Mr. Y of West Bengal. Hence, the first sale is an interstate sale. Mr. Y intends to sell the goods to Mr. Z of U.P. Hence, the subsequent sale if executed would be an interstate sale. Mr. Y can avoid paying CST on the sale transaction between Y and Z if the following conditions are fulfilled:

- (A) The sale should be by way of transfer of documents of title. So, Y can transfer the LR in favour of Z by way of an endorsement;
- (B) Mr. Z should be a registered dealer in U.P.;
- (C) Mr. Y should ensure that the mobile sets are mentioned in his registration certificate.
- (D) Mr. Y should issue Form C to Mr. X on the first sale;
- (E) Mr. X should issue Form E-I to Mr. Y on the first sale;
- (F) Mr. Z should issue Form C to Mr. Y on the subsequent sale;
- (G) Mr. Y should issue Form E-II to Mr. Z on the subsequent sale.
- (ii) As per CST Act, works contract means a contract for carrying out any work which, includes assembling, construction, building, altering, manufacturing, processing, fabricating, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property.

A dealer dealing with works contract is liable to pay VAT on value of material transferred while executing works contract and service tax on value of services.

As the definition provides inter alia that the construction of immovable property is a works contract, sales tax shall be payable on the said activity.

Note: Works contract dealer can also opt for composition scheme (i.e., reduced rate of VAT) on the entire value of contract inclusive of value of service where bifurcation of value of materials and value of services not possible. Dealers who opts composition scheme not eligible to avail the input tax credit.

- (b) (i) Purposes for which goods can be purchased under concessional rate:
- (1) Goods as being intended for re-sale
 - (2) For use in the manufacture or processing of goods for sale,
 - (3) For use in telecommunication network or in mining
 - (4) For use in generation or distribution of electricity or any other form of power
 - (5) Container or other materials intended for the packing of goods for sale (i.e. primary packing materials)
 - (6) Container or other materials used for packing of any goods mentioned in para (1) or (4) above (i.e. secondary packing materials)

(ii)

Particulars	Amount in ₹
Purchase Value (excluding VAT)	3,50,000
Add: Manufacturing Expenses	1,25,000
Total Cost	4,75,000
Add: Profit @ 30%	1,42,500
Assessable Value	6,17,500
Add: Excise Duty @ 12.5%	77,188
Taxable Turnover	6,94,688
Add: VAT	1,00,730

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Aggregate Turnover	7,95,418
VAT PAYABLE	
VAT collected on bill	1,00,730
Less: Input Credit on purchases	17,500
Net VAT payable	83,230

8. Answer any three questions: 5×3=15
- (a) What do you mean by First Stage Dealer and Second Stage Dealer as per Central Excise Act?
- (b) What do you mean by the term "Goods" as per Customs Act?
- (c) List out the examples for Continuous supply of Services under the Service Tax Act.
- (d) What are the advantages of VAT?

Answer:

8. (a) First Stage Dealer: A Dealer, who purchases goods directly from manufacturer or importer or from the depot or an importer or from the premises of the consignment agent of importer, under cover of an invoice. He can pass the Cenvat credit if goods sold to a manufacturer or second stage dealer.

Example: Mr. D purchased dutiable goods from M/s X Ltd by paying excise duty and the same is sold to M/s Y Ltd. In the given case Mr. D (registered under Central Excise as registered dealer) is competent to pass the excise duty as CENVAT Credit from M/s X Ltd to M/s Y Ltd.

Second Stage Dealer: A registered dealer who purchases goods from the First Stage Dealer is called a Second Stage Dealer. He can pass the Cenvat credit if goods are sold to a manufacturer.

- (b) As per Section 2(22) of the Customs Act, the term goods include:
- Vessels, Aircrafts and vehicles
 - Stores
 - Baggage
 - Currency and Negotiable Instruments and
 - Any other kind of movable property.

If the vessel enters the territorial water merely as a conveyance (i.e. as carrier of the goods), then it cannot be said that the vessel was imported. The reason being that if the vessel enters the territorial water for the purpose of unloading the cargo then the import is of cargo and not of the vessel. (5 Marks)

- (c) Examples for continuous supply of services under the Service Tax Act are as follows:
- (a) Telecommunication service
 - (b) Commercial or Industrial Construction
 - (c) Construction of residential complex
 - (d) Internet Telecommunication Service
 - (e) Works Contract service
 - (f) Renting
 - (g) Insurance
 - (h) Security
- (d) The advantages of VAT are as follows:
- (a) Eliminates cascading effect of Taxation
 - (b) Simple System
 - (c) Transparent System
 - (d) Eliminates avenues of Tax Evasion
 - (e) Provides neutrality as to selection of seller or form of business organization

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- (f) Certainty
- (g) Reduction in Prices
- (h) It has rationalized the Tax Structure.