

INTERMEDIATE EXAMINATION GROUP II (SYLLABUS 2008)

SUGGESTED ANSWERS TO QUESTIONS JUNE 2014

Paper- 10 : APPLIED INDIRECT TAX

Time Allowed : 3 Hours

Full Marks : 100

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

Answer Question No. 1 which is compulsory and any five from the rest.

Wherever required, the candidate may make suitable assumptions
and state them clearly in the answers.

All questions relate to the assessment year 2013-14 unless stated otherwise in the question.

1. (a) Fill up the blanks : 1x15=15
- (i) Input credit _____ be available on input purchased outside the State.
 - (ii) Mandatory inspection charges _____ part of assessable value under Central Excise.
 - (iii) A refund claim under Section 11B of the Central Excise Act, has to be filed within _____ from relevant date.
 - (iv) Assessee availing SSI concession is required to file _____ return.
 - (v) National Calamity and Contingent Duty is charges @ _____ % on mobile phone.
 - (vi) Anti dumping duty ceases on the expiry of _____ from the date of imposition.
 - (vii) _____ form is required to submit for declaration of exports.
 - (viii) In case of delay in payment of Service tax, interest @ _____ % per annum is payable for delayed period.
 - (ix) The Constitution of India states that no tax shall be levied or collected except by authority of law under Article _____ .
 - (x) Under the CST Act, one declaration in Form C can cover all the transactions of purchase in one, irrespective of the total value of the transactions during the said period.
 - (xi) A certificate of CST registration issued by the concerned authority shall be in Form _____.
 - (xii) The VAT rate applicable for a product in West Bengal is 1 %. When the same is sold from West Bengal to a dealer in Orissa, the CST rate applicable is _____.
 - (xiii) Assessee paying duty of ₹ _____ annum through PLA are required to submit Annual Financial Information Statement for each financial year by 30th November of succeeding year in prescribed form ER-4.
 - (xiv) General rate of duty on import of baggage is _____.
 - (xv) _____ means goods declared under Section 14 to be of special importance in inter-state trade or commerce.
- (b) State with reasons, whether the following are True or False: 2x5=10
- (i) Levy and collection in the contest of Central Excise are synonymous.

Suggested Answer_Syl2008_Jun2014_Paper_10

- (ii) Glass mirror cannot be classified as glass or glass wave.
- (iii) Sales includes mortgage or hypothecation or a charge or pledge on goods.
- (iv) Refund of Anti-Dumping duty is not permissible.
- (v) Penalty under Section 76 & 78 of the Finance Act, 1994 can be imposable simultaneously.

Answer:

1. (a) (i) Will not
(ii) Forms
(iii) One year
(iv) Quarterly
(v) 1%
(vi) Five years
(vii) ARE-1
(viii) 18% or 15%
(ix) Article 265
(x) Quarter
(xi) B
(xii) 1
(xiii) One crore or more
(xiv) 36.05% (35% basic customs duty plus 2 % education cess plus 1 % SAH education cess)
(xv) Declared goods.

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

- (i) **False.** The term "LEVY" means imposition of tax/duty. Collection of duty is postponed to the stage of removal of goods as per Rule 4 of the Central Excise Rules, 2002.
- (ii) **True.** Because glass loses its basic character after it is converted into mirror.
- (iii) **False.** Sale does not include mortgage or hypothecation or a charge or pledge etc.
- (iv) **False.** Whenever an importer proves to the satisfaction of the Central Government that he has paid antidumping duty imposed on any article in excess of actual margin of dumping he shall be entitle to refund that excess amount.
- (v) **False.** Section 76 of the Finance Act, 1994 deals with penalty when liability to pay service tax is not discharged. Penalty under Section 78 of the Finance Act, 1994 specifically deals with cases of evasion of payment of service tax with a guilty of mind. These two provisions are mutually exclusive and therefore no double penalty can be imposable.

2. (a) The price of a machine removed from factory at Mumbai on 28/09/2013 to a buyer there was ₹4 Lakhs (Exclusive of excise duty and taxes). Suddenly the buyer refused to take delivery of the machine. From 1st October, 2013, the company increased the price of machinery to ₹4.20 Lakhs with immediate effect. The machinery manufacturer then sold the machine to another buyer directly on 12th November, 2013 at increased price of ₹4.20 Lakhs. What is the excise duty payable? (Rate of Excise Duty is 12%) 4

(b) Explain the maxime - "Latter the Better".

3

(c) Material supplied by the service receiver whose fair Market value is 1 lakh and the service receiver, instead of supplying the material free, has charged the service provider ₹ 60,000 plus ₹ 3,000 as VAT, what amount to is to be deducted and included

Suggested Answer_Syl2008_Jun2014_Paper_10

in this case?

4

(d) There is no difference between "Zero rated Sales" and "Exempted Sales"—Explain. 4

Answer:

2. (a) The price prevailing at the time of removal from factory (i.e. ₹4 lacs on 28th September, 2013 is the assessable value.

So, total duty payable on that is as follows:

Basic Duty @12% (₹4,00,000×12%)	₹48,000
Education Cess @ 2% (₹48,000×2%)	₹960
S&HE Cess @1% (₹48,000×1%)	₹480
Total Duty payable	₹49,440

This duty is payable on 5th/6th of October 2013 because the goods were removed from the factory in the month of September.

The price at which the goods are sold to other buyer on 12.11.2013 is not relevant for duty calculation. Any subsequent increase or reduction in price of any goods after goods are cleared from factory is not relevant provided the price is final at the time of removal.

Hence, Excise duty payable is ₹49,440.

- (b) When the goods cannot be classified with reference to Rule 3(a) or Rule 3(b) they shall be classified under the heading which occurs last in the numerical order among those which equally merit consideration. It means that where two or more headings seem to be equal, priority should be given to essential character. Thus if a product by virtue of its essential character comes under two headings then the product can be classified under the heading which appears last.
- (c) When the customer has supplied some material free of charge, its value is required to be included. If he has supplied material by charging some amount for the same, its amount can be deducted including VAT.

Here the service receiver is supplied material at concessional rate whose value is ₹63,000 (including VAT).

So ₹1,00,000 will be added to the amount charged by the service provider and deduction of ₹63,000 will be made.

In net effect ₹37,000 will be added.

(d) Following are the differences between Zero Rated Sales and Exempted Sales:

Zero Rated Sales	Exempted Sales
VAT is charged @ 0%	VAT is charged NIL
ITC can be claimed	No ITC on inputs can be claimed
Refund available	No refund at all
Dealer is in the VAT Chain	Dealer is out of VAT Chain

3. (a) Mr. BADRI is a registered dealer in the state of TAMIL NADU purchased inputs (Raw

Suggested Answer_Syl2008_Jun2014_Paper_10

Materials) for ₹90,000 on which VAT paid @ 4%. Capital goods purchased for manufacturing of finished goods in the month of January 2013 for ₹1,30,000 (VAT @ 13.50%). He manufactured finished goods from these inputs. Finished goods have been sold during the month of January, 2013 are given below :

- (i) 13.5% VAT sales within the state, for ₹1,30,000.
- (ii) Goods sent on stock transfer within the State of Tamil Nadu which is subsequently sold for ₹20,000 (VAT @ 13.5% on account of sale).
- (iii) Goods sold to registered buyer within the state of Tamil Nadu for ₹90,000 which are exempt from VAT.

VAT on capital goods allowed up to 50% in the last 1st year of purchased and the balance in the subsequent two years. There was no opening or closing stock of inputs. Calculate net VAT liability? 6

- (b) R Ltd. Manufactured dutiable goods which were liable to duty @ 12.36% during the month of January 2014, for ₹ 3,00,000. These goods are lying in the factory of R Ltd. as finished goods as on 31st January 2014. Goods which are in the Work in Progress (WIP) stage valued at ₹ 80,000. It can be considered as manufactured goods.

Due to quality defect, finished as well as WIP are written off in the books of accounts.

- (i) Cost of input goods consumed to produce finished product is ₹ 1,00,000 (Excise Duty ₹12,360)

- (ii) Inputs lying in the Work in Progress (WIP) valued at ₹ 30,000 (Excise Duty @ 12.36%)

You are required to find the amount of CENVAT Credit allowed in the following two situations :

- (a) If excise duty has been remitted on finished goods.

- (b) If excise duty has not been remitted on finished goods. 4

- (c) Briefly explain the concept of Green Channel & Red Channel in the Context of Customs Act. 2

- (d) Write only whether the following Service are taxable or not.

- (i) Brand Ambassador Service 1
- (ii) Parking facility to general public 1
- (iii) Technical testing of Drugs 1

Answer:

3. (a) Statement showing the Purchases and Input VAT credit available for the month of January, 2013:

Particulars	Value (₹)	Input VAT Credit (₹)
4% Purchase (Raw Material)	90,000	3,600
13.5% Purchase (Capital Goods)	1,30,000	17,550
Total	2,20,000	21,150

Statement showing the Net Sale and Output VAT liability for the month of January 2013:

Particulars	Value (₹)	Output VAT Liability (₹)
13.5% Sales (1,30,000 + 20,000)	1,50,000	20,250
Exempted Sales (sold within the State)	90,000	—
Total Sales	2,40,000	20,250

Suggested Answer_Syl2008_Jun2014_Paper_10

Particulars	₹
VAT Payable on Sales	20,250
Less: VAT on purchase (Raw Material)	
ITC allowed = ₹3,600 x 1,50,000/2,40,000	(2,250)
Less: VAT on capital goods	
ITC allowed = ₹17,550 x 50/100	(8,775)
Net VAT payable for the month	9,225

Note: Balance Input VAT credit on capital goods is ₹8,775 will be available for utilization in subsequent financial years.

- (b) (i) If the finished goods are written off into the books of account and the amounts of excise duty has been remitted, the manufacturer would be required to reverse the credit on the input used.

So entire CENVAT Credit on inputs ₹16,068 has to be reversed [(₹1,00,000 x 12.36/100) i.e. ₹12,360 + (₹30,000 x 12.36%/100) i.e. 3,708]

- (ii) The finished goods are written off in the book of accounts and the amount of excise duty has not been remitted, the Manufacturer would be liable to pay excise duty. Therefore, entire CENVAT Credit on inputs ₹16,068 is available for utilization against duty liability.

- (c) As per Section 77 of the Customs Act, 1962 provides that the owner of any baggage has to make declaration of its contents to Customs Officer. It is impractical to ask every person about the contents of the baggage. Therefore, Customs have provided two channels at the Airport. Green Channel is the Channel where the person going through it declare that he does not have any dutiable goods. Red Channel is that where the person have dutiable goods should have declared and pass through the Red Chanel.

(d)

(i)	Brand Ambassador Service	Yes
(ii)	Parking Facility to general Public	Yes
(iii)	Technical Testing of Drugs	Yes

4. (a) Briefly throw light on any six exemptions available to SSI units under central excise legislation. 6

- (b) Mr. Shankar is a qualified Cost Accountant and has been rendering taxable services for the past several years. He furnishes the following details pertaining to the quarter ended 30th June 2013.

	Particulars	₹
(i)	For preparation of accounting statements for Charitable Trusts	3,00,000
	Other Clients	8,00,000
(ii)	Advance received from ABC Ltd. for tax consultancy	2,00,000
(iii)	Fees received from World Health Organisation	6,00,000

The Assessee ultimately did not render any service to ABC Ltd. and by mutual consent, ₹ 2 lacs was returned to ABC Ltd. on 10th June, 2014.

All the above figures excluding (iii) are excluding service tax and wherever the service

Suggested Answer_Syl2008_Jun2014_Paper_10

tax was due, it was received from clients. You are required to compute the value of taxable services rendered. 5

(c) A ship Kanishkh, sailing from Singapore to Dubai via, India carries various types of products namely 'A, B, C & D'.

'A & B' are destined to Chennai Port

On account of submission of bill of transshipment product 'A' is sent in another vessel to Tuticorin Port as ultimate destination in India and product 'B' transhipped to Colombo.

Ascertain the imported goods, transshipment goods and transit goods. On which goods is import/customs duty payable? 4

Answer:

4. (a) The SSI units can avail the following exemptions under Central Excise which are as follows :

- (i) SSI units are eligible for exemption from duty under Notification No. 8/2003-CE, dated 1-3-2003 upto ₹150 lakh;
- (ii) SSI unit are exempt from registration but annual declaration is required if clearance exceed ₹90 lakhs p.a. [Notification No. 36/2001-CE(NT)];
- (iii) No clubbing to be done for purpose of determining eligibility limit of ₹400 lakhs and exemption limit of ₹150 lakhs, where the specified goods are manufactured in a factory belonging to or maintained
 - (a) by the Central Government, or
 - (b) by a State Government, or
 - (c) by a State industries Corporation, or
 - (d) by a State Small Industries Corporation, or
 - (e) by the Khadi and Village Industries Commission.

(b)

Computation of taxable services rendered by Mr. Shankar For the quarter ended 30.06.2013

Sl. No.	Particulars	Amount (₹)
(i)	For preparation of accounting statements for charitable trusts For preparation of accounting statements for other clients	3,00,000 8,00,000
(ii)	Advance received from ABC Ltd. - this includes service tax ₹ (2,00,000 x 100/112.36) Note: It is immaterial that no services were rendered in the current quarter and the advance was partially returned in the subsequent quarter.	1,77,999
(iii)	Fees received for services rendered to W.H.O. is exempt	NIL
	Total taxable services	12,77,999

(c) Product 'A' is imported goods because its ultimate destination is in India.

Products 'A & B' are called transshipment of goods, since these goods are transhipped to another vessel.

Product 'A' transhipped to Tuticorin attracts import duty whereas product 'B' is destined to Colombo, Sri Lanka without payment of duty.

Suggested Answer_Syl2008_Jun2014_Paper_10

Products C and D are transit goods since these goods remain in the same vessel Kanishkh chartered to Dubai.

5. (a) While ascertaining the assessable value for customs duty purposes, specify any two charges to be excluded under rule 3 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. 3
- (b) State the conditions to be fulfilled for self-adjustment of service tax paid in excess by an Assessee. 5
- (c) What is 'Importer Exporter Code Number' (IEC)? State the manner in which the same has to be applied for. In what export/import documents should the same be stated? 5
- (d) What is meant by "Reverse Charge" in the context of VAT? 2

Answer:

5. (a) Exclusions from Assessable Value:

Interpretative Note to rule 3 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 provide that following charges shall be excluded.

- (i) Charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation of plant, machinery or equipment.
- (ii) Cost of transport after importation.
- (iii) Duties and taxes in India.

- (b) Conditions for Self-Adjustment:

As per the Rule 6(4B) of the Service Tax Rules, 1994, self-adjustment of excess payment of service tax allowed under Rule 6(4A) is subject to the following conditions:

- (i) Excess payment since exact amount to be paid could not be calculated
- (ii) When tax is to be paid by 31st March and calculation of exact amount of Service Tax is difficult
- (iii) Any calculation mistakes

Self-adjustment will not be applicable when excess payment relates to interpretation of law, taxability, classification, valuation or eligibility to exemption notification.

An assessee who have centralized registration (i.e. one RC) can adjust the excess service tax paid on their own without any monetary limit provided the excess amount paid is on account of delayed receipt of details of payments from branches.

In case of assessee with multiple registration certificates (RCs), excess service tax paid on their own without any monetary limit w.e.f.1.4.2012 (NT3/2012-ST dt. 17.3.2012). The monetary limit is ₹2,00,000 up to 31.3.2012 for a month/quarter as per Rule 6(4B) (iii) of the Service Tax Rules, 1994.

Such adjustments can be made only in the succeeding month or quarter

Earlier, the details of self-adjustment should be intimated to the Superintendent of Central Excise within a period of 15 days from the date of adjustment as per Rule

Suggested Answer_Syl2008_Jun2014_Paper_10

6(4B) (iv) of the Service Tax Rules, 1994, w.e.f. 1.4.2012, there is no need to intimate to the Department about such self-adjustment.

(c) Import / Export Code Number:

Every Importer and Exporter must obtain an 'Importer Exporter Code Number' (IEC) from DGFT (Director General of Foreign Trade) or officer authorised by him, by applying in prescribed form (Section 7 of FT (D&R) Act).

Import and Export without IEC Number is not permitted, unless specifically exempted (Para 2.12 of FTP).

Declaration of IEC Number on Import/Export documents - IEC Number will be declared on Bill of Entry, Shipping Bill and other documents relating to customs [Rule 13 Foreign Trade (Regulation) Rules, 1993].

Application for IEC Number - Application for IEC Number has to be made to DGFT in prescribed Form ANF 2A, with fees of ₹250 (it was ₹1,000 up to 11.4.2008).

Format of bank certificate is given in Appendix 18A of HBP Vol 1. Profile of Importer/Exporter should be given in Form ANF 1.

(d) Reverse Charge under VAT:

Though the White Paper makes no mention of purchase tax, some States like Tamil Nadu, Kerala and Andhra Pradesh have made provision for imposition of purchase tax when purchase is from unregistered dealers. Its credit will be available where VAT credit on purchases is available. Thus, in effect, in respect of purchases where VAT credit is not available, purchase tax will be payable. This is termed as 'reverse charge'.

6. (a) What are the conditions for treating transaction value as the assessable value of excisable goods? 6

(b) The cum duty price per piece was ₹150 and the assessee had paid duty @ 20% ad valorem. Subsequently it was found that rate of duty was 30% ad valorem and the assessee had not collected anything over and above ₹150 per piece. Determine the assessable value. 2

(c) Determine the transaction value and Excise Duty payable from the following information:

(1) Total invoice price : ₹ 18,000
(2) Invoice price includes the following :

	₹
(i) Sales Tax	1,000
(ii) Surcharge on ST	100
(iii) Octroi	100
(iv) Insurance from Factory to Depot	100
(v) Rate of Basic Excise Duty	10% ad valorem
(vi) Rate of special ED	24% ad valorem

7

Answer:

Suggested Answer_Syl2008_Jun2014_Paper_10

6. (a) The following conditions must be fulfilled for treating Transaction Value as Assessable Value of excisable goods for levy of duty:

- (i) The excisable goods must be sold by the assessee;
- (ii) Such sale should be for delivery at the time and place of removal;
- (iii) Price must be the sole consideration for sale; and
- (iv) Assessee and buyer of the goods must not be related persons.

(b) Assessable Value = ₹(150 x 100)/130 = ₹115.38.

(c) It is assumed that invoice price ₹18,000 is depot price. Then deduction of insurance and transport charges from factory to depot will not be available.

Deduction available will be:	₹
Sales Tax	: 1000
Surcharge	: 100
Octroi	: 100

Thus, net price excluding taxes on final product (but inclusive of excise duty) will be ₹16,800.

Rate of Excise Duty is 35.02% (10% basic + 24% special and education cess 3%)
Duty payable is as follows:

A.V. : ₹16,800 - ₹4,357 = ₹12,443.

[ED(Basic + Special): 35.02% of ₹12,443 = ₹4,357].

7. (a) Assessable value of certain goods imported from Canada is ₹10,00,000. The packet contains 5000 pieces with maximum retail price of ₹200 each. The goods are assessable under Section 4A of the Central Excise Act, 1944 after allowing an abatement of 40%. The excise duty rate is 12% ad valorem. Calculate the amount of additional duty of customs under Section 3(1) of the Customs Tariff Act, 1975 assuming basic custom duty @ 10% ad valorem. 5

(b) What is negative list in service tax? Give the names of three such services which are included in negative list. 5

(c) Mr. Rey is regularly paying excise duty and value added tax on his manufacturing and sales activities respectively. Calculate VAT on sales as well as net VAT liability from the following information:

Purchase from local market (VAT inclusive of @ 12.5%)	₹ 1,29,375
Manufacturing expenses	₹ 80,000
Profit on cost @	75%
Excise Duty @	12.36%
Output VAT @	12.50%

5

Answer:

7. (a)

Computation of Additional Duty on Customs

Particulars	₹
Maximum Retail Price (5,000 x ₹200)	10,00,000

Suggested Answer_Syl2008_Jun2014_Paper_10

Less: Abatement @ 40%	4,00,000
Assessable Value	6,00,000
Additional Duty of Customs 12%	72,000
Add: Educational Cess 2% on Additional Duty	1,440
Add: SHES – 1% on Additional Duty	720
Additional Customs Duty payable	74,160

(b) The services specified in the negative list go out of the ambit of chargeability of Service Tax. The negative list is given in Section 66D of the Finance Act, 1994 itself.

- (i) Services provided by the Government or local authority.
- (ii) Services provided by Reserve Bank of India.
- (iii) Agricultural produce.

(c)

Computation of VAT payable

Particulars	₹
Cost of purchase (₹1,29,375 x 100 / 112.50)	1,15,000
Manufacturing Expenses	80,000
	1,95,000
Profit @ 75% on cost	1,46,250
Assessable Value	3,41,250
Add: Excise Duty (3,41,250 x 12.36%)	42,178
Taxable Turnover	3,83,428
Add: Output VAT (3,83,428 x 12.5%)	47,929
Aggregate Sales	4,31,357
VAT payable	47,929
Less: Input Credit (1,29,375 – 1,15,000)	14,375
Net VAT Payable	33,554

8. (a) Salem head post office provided the following services to persons other than government during the quarter ending 31.3.2014:

Service rendered	Amount (₹)
Basic main services	1,00,000
Transfer of money through money orders	5,00,000
Operation of saving accounts	1,50,000
Rural postal life insurance services	2,00,000
Distribution of mutual funds, bonds of passport applications	5,00,000
Issuance of postal orders	3,00,000
Collection of telephone and electricity bills	1,00,000
Pension payment service	50,000
Speed post services	5,00,000
Express parcel post services	2,00,000

Compute the service tax liability of Salem head post office for the quarter ending 31.3.2014.

Notes:

- (i) Point of taxation for all the aforesaid cases fall during the quarter ending 31.3.2014.
- (ii) All the service charges stated above are exclusive of service tax.
- (iii) Small service provider's exemption need not be taken into account while solving the aforesaid.

8

(b) Define Person-in-Charge u/s 2(31) of the customs act.

3

Suggested Answer_Syl2008_Jun2014_Paper_10

(c) What do you understand by 'Centralized Registration'? Which authority grants the centralized registration? 4

Answer:

8. (a) Service provided by the government or a local authority are not chargeable to service tax as they are included in the negative list. However the following services provide to a person other than the government, by the department of post are excluded from the negative list:

- (i) Speed Post and Express Parcel Post are Taxable Services.
- (ii) Agency service which include distribution of mutual funds, bonds, passport application, and collection of telephone electricity bills, etc. Hence, the aforesaid services are taxable.

Thus, the amount of service tax payable by Salem head post office for the quarter ending 31.03.2014 would be as follows:

Particulars	Amount (₹)
Basic mail services	Nil
Transfer of money through money orders	Nil
Operation of saving accounts	Nil
Rural post life insurance service	2,00,000
Distribution of mutual funds, bonds of passport applications	5,00,000
Issue of postal orders	Nil
Collection of telephone and electricity bills	1,00,000
Pension payments	Nil
Speed post services	5,00,000
Express parcel post	2,00,000
	15,00,000
Value of taxable service	
Service tax at 12% [15,00,000x12%]	1,80,000
Education cess at 2% [1,80,000x2%]	3,600
Secondary and higher education cess at 1% [1,80,000x1%]	1,800
Services tax liability	1,85,400

(b) Person-in-charge in relation to —

Conveyance	Person-in-charge
Vessel	Master of vessel
Aircraft	Commander or pilot in charge of aircraft
Railway train	Conductor, guard or other person having the chief direction of the train
Any other	Driver or the other person in charge of

(c) Meaning of centralized Registration:

Sometimes an assessee provides taxable service from more than one premises. Rule 4(2) of Service Tax Rules, 1994 provides that in such cases, the assessee can obtain centralized registered at his option if :

He has centralized billing or centralized accounting in respect of such service, and

Such centralized billing or centralized accounting systems are located in one or more office or premises.

Suggested Answer_Syl2008_Jun2014_Paper_10

Authority granting the Centralized Registration:

According to rule 4(3) of Service Tax Rules, 1994 centralized registered is granted by the Commissioner of Central Excise in whose jurisdiction the premises or offices, from where centralized billing (or) accounting is done, are located.