

Suggested Answer_Syl12_Jun2017_Paper 11

INTERMEDIATE EXAMINATION GROUP II (SYLLABUS 2012)

SUGGESTED ANSWERS TO QUESTIONS JUNE 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 is compulsory. Answer any five questions from the rest

Wherever necessary, you may make suitable assumptions and
State them clearly in your answer.

Working Notes should form part of the answer.

1×25=25

1. (a) A dealer engaged in effecting inter-state sale is required to get himself registered where his turnover is;
(A) even one paisa
(B) ₹ 9,00,000
(C) ₹ 19,00,000
(D) ₹ 50,00,000
- (b) In case of sale to registered dealers which issue C forms the maximum rate of CST tax is:
(A) 0%
(B) 1%
(C) 4%
(D) 2%
- (c) Which of the following services is exempted in case of passenger transportation services?
(A) Metered Taxi
(B) Contract carriage
(C) Radio Taxi
(D) None of the above
- (d) CESTAT (Tribunal) has passed an order on issue relating to classification of goods. An assessee is aggrieved with the order. Where should he file the appeal?
(A) Supreme Court
(B) High Court
(C) Settlement Commission
(D) Central Board of Excise and Customs
- (e) Which of the following is not a declared goods under CST?
(A) Cereals
(B) Hides and Skin

Suggested Answer_Syl12_Jun2017_Paper 11

- (C) Cotton Yarn
(D) Cigarettes
- (f) An Architect raised bill on customer of ₹ 10,00,000. The customer deducted TDS (of income tax) of ₹ 1,00,000 and issued cheques of ₹ 9,00,000. The Architect is liable to pay Service tax on
(A) ₹ 10,00,000
(B) ₹ 1,00,000
(C) ₹ 9,00,000
(D) He is exempt from service tax
- (g) An importer imported some goods @ 4,10,000 on CIF. Following Euro rates on the date of presentation of BOE (Bill of Entry) is given. What is the exchange rate for customs valuation?
(A) Inter Bank closing Rate ₹63.50 per Euro
(B) RBI rate 1 Euro = ₹ 63.75
(C) Exchange rate notified by CBEC - 1 Euro = ₹64.05
(D) Rate at which bank has ready payment from importer 1 Euro = ₹ 64.20
- (h) State the form in which a service provider is required to file return. What is the periodicity of filing return?
- (i) A provider of works contract service has charged service tax as well as VAT in his invoice. While calculating service tax payable, should he include or exclude VAT amount?
- (j) State true or false:
Excise duty is payable if goods are manufactured in Kashmir.
- (k) Fill up the blank:
Review by the Government relating to levy of _____ duty is called New Shipping Review.
- (l) Fill up the blank:
Duty drawback rate shall not exceed _____ per cent of market price of export goods.
- (m) A company had hired a taxi for purpose of its marketing activities. The taxi operator has charged service tax in his invoice. Can the company avail its Cenvat credit?
- (n) What is the period for which Advance Pricing Agreement can be executed?
- (o) In VAT, exports are zero rated and not exempt. State true or false.
- (p) If goods can be classified under two different headings and both headings are equally applicable—
(A) Heading which appears earlier in tariff prevails.
(B) Heading which appears later in tariff prevails.
(C) The assessee can decide which heading to choose.
(D) The heading where rate of duty is maximum will apply.
- (q) In case of variation between arm's length price and actual price, the actual price can be accepted in case of whole trading if variation is less than specified percentage. What is that percentage?
- (r) An Export Oriented Unit (EOU) can be set up anywhere in India. State true or false.
- (s) What is the normal period for which EPCG authorisation will be issued?
- (t) What is IEC under Foreign Trade Policy?

Suggested Answer_Syl12_Jun2017_Paper 11

- (u) An SEZ unit intends to avail services from a service provider. The service provider can provide service without levying service tax if the SEZ unit issues a certificate in prescribed form. What is that form?
- (v) Automobile components are covered under MRP Valuation provisions. A manufacturer Delta Ltd. is supplying automobile components to Tata Motors which bare to be used in manufacture of trucks. Department is insisting that Delta Ltd. should pay excise duty on basis of MRP. Advise Delta Ltd.
- (w) An Export Oriented Undertaking (EOU) intends to procure some goods from a manufacturer in India without payment of excise duty. Which certificate he is required to issue to Indian manufacturer?
- (x) A contractor is providing works contract service of construction of public road. A subcontractor is providing service to main contractor. Can the sub-contractor claim exemption from service tax?
- (y) What is the rate at which service tax is payable on Bank on its interest income?

Answer: 1

- (a) (A) even one paisa
- (b) (D) 2%
- (c) (A) Metered taxi
- (d) (A) Supreme Court
- (e) (D) Cigarettes
- (f) (A) ₹10,00,000
- (g) (C) Exchange rate Notified by CBEC – 1 Euro = ₹64.05
- (h) A service provider is required to file return in form ST-3 on half yearly basis within 25 days from the end of half – year.
- (i) He should exclude Vat amount
- (j) True
- (k) Anti dumping duty
- (l) 33%
- (m) No. Not eligible
- (n) Five years
- (o) True
- (p) (B) Heading which appears later in tariff prevails.
- (q) 1%
- (r) Yes
- (s) 18 months
- (t) Import Export code Number
- (u) Form A-2
- (v) MRP valuation provisions are not applicable if goods in bulk are supplied to industrial consumers. Hence, Delta Ltd. is not required to pay excise duty on basis of MRP.
- (w) The EOU unit is required to issue CT-3 certificate to Indian manufacturer.
- (x) If main works contract is exempt, sub-contractor providing works contract service to main contractor will be exempt from service tax.
- (y) The interest income is exempt from service tax.

2. (a) Sanjay & Co furnish the following expenditure incurred by them and want you to find the assessable value for the purpose of paying excise duty on captive consumption. Determine the cost of production in terms of Rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules 2000 and as per CAS-4 (Cost Accounting Standard)

	Particulars	₹
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Suggested Answer_Syl12_Jun2017_Paper 11

(i)	Direct material cost per unit inclusive of excise duty @ 12.5%	9,200
(ii)	Direct wages	4,200
(iii)	Other direct expenses	720
(iv)	Indirect materials	125
(v)	Factory overheads	1,400
(vi)	Administrative overhead (25% relating to production capacity)	275
(vii)	Selling and distribution expense	475
(viii)	Quality control	124
(ix)	Sale of scrap realized	45
(x)	Actual profit margin	20%

5

- (b) A small scale manufacturer had achieved sales of ₹124 crores in 2015-16. Turnover achieved during 2016-17 was ₹1.72 crores. Normal duty payable on the product is 12.5%. Find the total excise duty paid by the manufacturer during 2016-17 if,

- (i) The unit has availed Cenvat Credit
(ii) The unit has not availed Cenvat Credit

(Note: The turnover is without taxes and duties)

5

- (c) Explain whether the following items can be included in/excluded from the transaction value under Section 4 of the Central Excise Act, 1944

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- (i) Collection expenses incurred in respect of empty bottles for filling aerated waters from the premises of buyers to the manufacturers.
(ii) Delivery and collection charges of gas cylinders and collection of empty cylinders.
(iii) Notional Interest accruing on deposits for sale/return of gas cylinders as well as rentals.
(iv) Cash discount known at the time of clearance of goods and availed by the customer.
(v) Value of system software loaded in laptop before removal from factory.

Answer: 2

- (a) Cost of production is required to be computed as per CAS-4. Material cost is required to be exclusive of Cenvat credit available.

	Particulars	₹
1.	Material consumed (net of Excise Duty) [₹ 9,200 - ₹ 1,022.22]	8,177.78
2.	Direct wages	4,200.00
3.	Other Direct Expenses	720.00
4.	Works overhead [indirect material (₹ 125) plus factory Overhead (₹ 1400)]	1,525.00
5.	Quality control cost	124.00
6.	Administrative Overhead (25% relates to production activity)	68.75
	Less : Sale of Scrap	(45.00)
	Cost of Production	14,770.53
	Add: 10% profit margin on cost of production ₹14,770.53×10%	1,477.05
	Assessable value as per Rule 8 of the valuation rules	16,247.58

Note: Actual profit margin is not relevant for excise valuation.

Answer: 2 (b)

- (a) If the unit has availed Cenvat Credit, it has to pay full duty on entire turnover. Hence, duty payable is 12.5% of ₹1.72 crores i.e., ₹ 21.5 lakhs
(b) The SSI manufacturer has achieved sales of ₹ 124 crores in 2015-16, which exceeds the limit of ₹ 400 lakhs to claim SSI exemption benefit. Here, the SSI manufacturer is not at all eligible for SSI exemption. It has to pay full duty and claim Cenvat credit.

Suggested Answer_Syl12_Jun2017_Paper 11

Answer: 2 (c)

- (i) Transaction value includes any amount charged in addition to the price of the goods by reason of or in connection with the sale. Since collection expenses are incurred by reason of or in connection with the sale, it would be included in the transaction value.
- (ii) CBEC has vide Circular No. 643/34/2002, dated 1-7-2002 clarified that delivery and collection charges of gas cylinders are by reason of or in connection with the sale of goods and therefore, the same would be included in the transaction value.
- (iii) The interest on advances taken from the customers would not be included in the assessable value, unless the receipt of such advance had no effect of depressing the wholesale price.
- (iv) The transaction value is the price actually paid or payable for the goods. In the given situation, as the case of cash discount has been passed on to the customer, it will be allowed as deduction.
- (v) Valuation of goods is done in the form in which it is cleared. Therefore, computer systems will be valued by including the value of the software loaded on the hard disc.

3. (a) Explain salient features of Anti-Dumping Duty? Who determines anti-dumping duty that can be levied? Where appeal can be filed against order notifying anti-dumping duty on a product?

5+1+1=7

(b) A consignment is imported by air. CIF price is 4000 Euro. Air freight is 1100 Euro and insurance cost is 50 Euro. Exchange rate announced by CBE & C as per customs notification is 1 Euro = ₹88. Basic customs duty payable is 10%. Excise duty on similar goods produced in India is 12.5%. Find value for customs purpose and total customs duty payable. How much Cenvat can be availed by importer, if he is manufacturer?

4+3+1=8

Answer: 3 (a)

- (i) Anti dumping duty is leviable u/s 9A of Customs Tariff Act when foreign exporter exports his goods at low prices compared to prices normally prevalent in the exporting country.
- (ii) Dumping is unfair trade practice and the anti-dumping duty is levied to protect Indian manufacturers from unfair competition.
- (iii) Margin of dumping is the difference between normal value (i.e. his sale price in his country) and export price (price at which he is exporting the goods).
- (iv) Price of similar products in India is not relevant to determine 'margin of dumping'.
- (v) 'Injury Margin' means difference between fair selling price of domestic industry and landed cost of imported products. Dumping duty will be lower of dumping margin or injury margin.
- (vi) Benefits accruing to local industry due to availability of cheap foreign inputs are not considered. This is a drawback.
- (vii) CVD is not payable on anti-dumping duty. Education Cess and SAH education Cess is not payable on antidumping duty. In case of imports from WTO countries, anti-dumping duty can be imposed only if it causes material injury to domestic industry in India,
- (viii) Dumping duty is decided by Designated Authority after enquiry and imposed by Central Government by notification. Provisional antidumping duty can be imposed.

Suggested Answer_Syl12_Jun2017_Paper 11

(ix) Appeal against antidumping duty can be made to CESTAT.

Answer: 3 (b)

Particulars	Value in EURO (€)	Remarks	Workings
CIF price	4,000		
Less: Air freight	1100		
Less: Insurance	50		
FOB price	2,850		
Add: Air freight	570	Restricted to 20% on FOB	EURO 2,850 × 20%
Add: Insurance	50		
CIF (corrected value)	3,470		
Add: 1% unloading on CIF value	34.70		EURO 3,470 × 1%
Assessable Value	3,504.70		
	Value in ₹		
Assessable value	3,08,413.60	Relevant exchange rate is ₹ 88 per EURO	EURO 3,504.70×88
Add; Basic Customs Duty	30,841.36	Relevant rate 10%	₹ 3,08,413.60 × 10%
Sub- total	3,39,254.96		
Add: CVD	42,406.87	Relevant rate 12.5%	₹ 3,39,254.96 × 12.5%
Sub- total	3,81,661.83		
Add: 2% Education Cess	1,465		₹ 73,248 × 2%
Add: 1% SAH Education Cess	732		₹ 73,248 × 1%
Sub- total	3,83,859		
Add: Spl . CVD	15,354		₹ 3,83,859 × 4%
Total value of imported goods	3,99,213		
Total Customs Duty	90,800		

Importer, if he is manufacture can avail the following duties as cenvat credit under Cenvat Credit Rules, 2004 is as follows: CVD = ₹42,406.87 & Spl. CVD = ₹15,354.

Note: Here it is assumed in the answer that Special CVD @4% u/s 3(5) of Customs Tariff Act is payable.

4. (a) Explain difference between Pilferage and Loss or destroyed goods for purpose of levy and exemption from customs duty. 5
- (b) Mr. Narayanan, a registered dealer of plant and boiler in the State of Rajasthan, furnishes the under mentioned information:

Particulars	Amount (₹)
(i) Total inter-state sales during financial year 2015-16 (CST not shown separately)	4,62,50,000
(ii) Trade commission for which credit notes have to be issued separately	11,56,250
(iii) Freight and transportation charges (of this ₹3,00,000 are not charged separately in invoice)	9,00,000
(iv) Insurance premium paid prior to delivery of goods	1,40,000
(v) Installation and commissioning charges levied separately in invoices	1,50,000

Suggested Answer_Syl12_Jun2017_Paper 11

Compute the tax liability under the CST Act, assuming that the buyers have issued C forms for these transactions. 5

- (c) A manufacturer of machinery in India filed income tax return for AY 2016-17. He declared profit of ₹ 74 lakhs. The manufacturer had sold 500 machines to its Associated Enterprise outside India @ 20,000 US dollars per piece. He had also sold similar 700 machines to an unrelated buyer outside India for 22,000 US dollars per machine. Exchange rate is 1 US dollar = ₹ 65.00. Rest of his sales were within India. Compute his taxable income. Which method would you recommend in computing the profit? 5

Answer: 4 (a)

Pilfered goods u/s 13 of Customs Act	Lost or destroyed goods u/s 23 of Customs Act
Pilferage refers to that in small quantities	Lost or destroyed postulates loss or destroyed by whatever reason whether theft, fire, accident etc.
In this case, the importer is not liable to pay duty leviable on such goods.	The duty payable on lost goods is remitted by Assistant/Deputy Commissioner.
In this case, if the pilfered goods are retrieved duty becomes payable	In this case, restoration is impossible if the goods once destroyed
The pilferage must have occurred after the unloading of the goods but before the proper officer has made an order for clearance for home consumption under section 47 or deposit on a warehouse under section 60.	In this case, the goods must have been lost or destroyed at any time before their clearance for home consumption. Thus, it also covers the cases where the goods are lost after the duty has been paid and order for clearance has been given but before the goods are actually cleared.
These provisions do not apply to warehoused goods.	Section 23(i) is applicable to warehoused goods also.
The importer does not have to prove pilferage, as it is obvious at the time of examination by the proper officer.	In this case, the burden is cast on the importer to satisfy the Assistant / Deputy Commissioner that the imported goods have been lost or destroyed at any time before the physical clearance of the goods for home consumption.

Answer: 4 (b)

Particulars	Amount (₹)
Sales turnover	4,62,50,000
Less: Trade Commission	11,56,250
Freight and transportation charges to the extent shown separately in the invoices	6,00,000
Installation and commissioning charges levied separately in invoice	1,50,000
Total Turnover	4,43,43,750
Less: Central Sales Tax (₹ 4,43,43,750 × 2/102)	8,69,485
Taxable turnover	4,34,74,265

Answer: 4 (c)

Suggested Answer_Syl12_Jun2017_Paper 11

The 'Comparable Uncontrolled Price Method' is appropriate. In this method, the price charged in comparable uncontrolled transactions should be considered. Uncontrolled transaction means the transactions between enterprises other than associated enterprises, whether resident or non-resident.

Here, uncontrolled price is USD 22,000. Hence, the difference is to be added in the profit of manufacturer.

The difference = $2,000 \times 50 \times 65 = ₹ 6,50,00,000$.

Thus, his profit on which income tax is payable = ₹ 74 lakhs + ₹ 650 lakhs = ₹ 724 lakhs.

5. (a) ABC Ltd. of Gujarat made total purchases of input and capital goods for ₹ 65,00,000 during the month of January 2017. The following further information are as follows:

(i) Goods worth ₹ 25,00,000 were purchased from Tamil Nadu on which C.S.T. @2% was paid.

(ii) The purchase made in January 2017 includes goods purchased from un-registered dealers amounting to ₹ 18,50,000.

(iii) It purchased capital goods for ₹ 6,50,000 (not eligible for Input Tax Credit) and those eligible for input tax credit for ₹ 9,00,000.

Sales made in the State of Gujarat for ₹ 10,00,000 on which VAT @ 13.50% during the month of January 2017. All purchases are exclusive of tax and VAT on purchases @5%. Calculate net VAT liability.

Note: Credit on capital goods is available in 36 equal monthly installments. 7

(b) State briefly whether the following persons are liable to apply for registration under the Finance Act, 1994 and Service tax (Registration Special Category of Persons) Rules, 2005 and if so from which date. In both cases aggregate value of taxable services was ₹ 6,00,000 upto 31.03.2017. 4

(i) An input service distributor who starts his business with effect from 1st January, 2017.

(ii) A provider of taxable service under brand name of another person. The brand name is not registered by such another person.

(c) State briefly whether the following service under the Finance Act, 1994 relating to service tax are taxable service. 4

(i) Service provided by a person having a place of business in Rajasthan to a customer in State of Jammu and Kashmir.

(ii) Consultancy Service provided from India to a customer out of India.

(iii) Service provided by tour operator in India to a customer in India for tour to Singapore.

(iv) Service provided to an Export Oriented Unit.

Answer: 5 (a)

Particulars	(₹)
Total Purchases in the month of January, 2017	65,00,000
Less: Interstate purchases	(25,00,000)
Purchases from unregistered dealer	(18,50,000)
Capital goods for which no ITC	(6,50,000)
Total Purchases eligible for input tax credit	15,00,000
Less: Purchases (capital goods) eligible for input tax credit	(9,00,000)
Purchases (other than capital goods) eligible for ITC	6,00,000
ITC on capital goods ₹ 9 lacs × 5% × 1/36	1,250
ITC on input goods ₹ 6 lacs × 5%	30,000
Total ITC	31,250

Suggested Answer_Syl12_Jun2017_Paper 11

VAT payable on sales ₹ 10 lacs × 13.5%	1,35,000
Less: Input Tax Credit (ITC) receivable	(31,250)
Net VAT Payable	1,03,750

Answer: 5 (b)

- (i) In case of input service distributors registration is compulsory without any threshold limit. Such person has to obtain the registration within 30 days from the date of commencing the business.
- (ii) A Job worker or a person who renders taxable services under some other brand name, then such person is not eligible to get the exemption limit. Therefore such a job worker is liable for registration within 30 days from the date of under taking such activities.

Answer: 5 (c)

- (i) These are not taxable services..
- (ii) These services can be considered as export of services, which are exempted from the service tax liability.
- (iii) These are taxable services as both service provider and service receiver are in India.
- (iv) Service provided to export oriented undertaking is liable to service tax.

6. (a) Mr. Sridhar is an air travel agent, who discharges his service tax liability at special rates provided under rule 6(7) of the Service Tax Rules, 1994. Compute his service tax liability for the quarter Oct-Dec, 2016 with the help of following particulars furnished by him:

Particulars	Basic fare as per rule 6 (7) of Service Tax Rules, 1994 (₹)	Other charges and fee (₹)	Taxes (₹)	Total value of tickets (₹)
Domestic Bookings	2,48,910	13,980	6,990	2,69,880
International Bookings	10,72,110	60,170	30,085	11,62,365

Mr. Sridhar wants to pay service tax at the general rate of 15% (including cess) in respect of bookings done by him during the quarter Jan-Mar, 2017, instead of following rule 6(7). Can he do so? Explain. 5+2=7

- (b) A service provider provided services and charged service tax in invoices, though he was not registered under service tax. Determine the interest payable by him from the following particulars:

Service tax payable	₹ 1,39,500
Due date of payment	06.06.2016
Date of payment	06.01.2017

Note: Turnover of services in the preceding financial year was ₹120 lakhs. Service tax of ₹1,39,500 has been collected from clients before 06.06.2016. 4

- (c) Dealers having turnover below specified limit can pay State VAT under a composition scheme. However, certain dealers are not eligible to pay State VAT under composition scheme, even if their turnover is below specified limits. Which are such dealers? 4

Answer: 6 (a)

Computation of service tax liability of Mr. Sridhar for the quarter Oct-Dec 2016

Suggested Answer_Syl12_Jun2017_Paper 11

Particulars	₹
Basic fare in case of domestic bookings	2,48,910.00
Service tax @ 0.7% [A] Refer Note 1	1,742.37
Basic fare in case of international bookings	10,72,110.00
Service tax @ 1.4% [B] Refer Note 1	15,009.54
Service tax payable [A] + [B] (rounded off)	16,752.00
Add: SBC @ 0.5% (₹ 16,752 × 0.5/14) (rounded off)	598.00
KKC @ 0.5% (₹ 16,752 × 0.5/14) (rounded off)	598.00
Service tax payable (including SBC & KKC)	17,948.00

Notes:

1. Rule 6(7) of Service Tax Rules, 1994 provides an option to an air travel agent to pay service tax at special rates of 0.7% and 1.4% of 'basic fare' in case of domestic and international bookings for air travel respectively.
2. Since the given basic fare is in terms of rule 6(7) of Service Tax Rules, 1994, service tax has been computed as a percentage of such basic fare only and other charges, fee and taxes have been ignored.

The option once exercised, applies uniformly in respect of all the bookings for air travel made by the air travel agent and cannot be changed during a financial year under any circumstances. Therefore, Mr. Sridhar cannot pay service tax @ 15% (including cesses) for the next quarter.

Answer: 6 (b)

Section 75 of Finance Act, 1994 levies simple interest on failure to pay service tax by the prescribed due date for the period by which such crediting of tax or any part thereof is delayed. Section 75 of Finance Act, 1994 read with Notification No. 13/2016 ST dated 01.03.2016 provides that in case of collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due, the simple interest @ 24% p.a. is payable. However, in all other cases, 15% simple interest p.a. is payable. Interest payable under section 75 will be computed as under:

Computation of interest payable under section 75

Particulars	Rate of interest per annum	Interest (₹)
Period of delay [07.06.2016 - 06.01.2017]	24%	₹ 1,39,500 × 24% × 7/12
Interest payable		19,530

Since the turnover of the services in the preceding financial year is more than ₹ 60 lakh, concession of 3% on applicable rate of interest cannot be availed.

Answer: 6 (c)

Following dealers cannot opt for composition scheme under Vat:

- Dealers who make inter-state purchases
- Dealers who make inter- state sales
- Dealers who import goods and then sale in India.
- Dealers who make stock transfer of goods to other States
- Dealers who export the goods.
- Dealers who want to charge Vat in their invoices.

Suggested Answer_Syl12_Jun2017_Paper 11

7. (a) Mr. Vishal has filed his service tax return for the half year ended on 31.03.2016 on 25.04.2016. Later some mistakes were found on 20.08.2016. He wants to know whether he can revise the said return. Advise him suitably,
- (i) where additional service tax is payable consequent to the error discovered
 - (ii) where he has paid excess service tax as per the original return, and
 - (iii) where he did not claim Cenvat credit of certain input services. 6
- (b) In May, 2015, Mrs. Dixit, a service provider, received a sum of ₹ 10 lakhs from a client. He remitted the service tax due on the same, to the credit of the Central Govt. In March, 2016, it was mutually agreed that no services need to be provided and the assessee agreed to refund ₹10 lakhs. He issued a credit note to the client on 31.03.2016. Can the assessee take credit for the excess service tax earlier remitted earlier? 4
- (c) Poorni Wires Ltd. sells a product to the buyers at ₹ 363.94 per unit. This price includes excise duty at 12.5%, as also State VAT at 5%. Sales commission of 5% on cost tubes is given to the commission agents who had arranged the sale. Compute the assessable value (AV) of the product under excise law. 5

Answer: 7 (a)

There is no provision for submission of revised service tax return after 90 days.

If assessee finds that he has made some mistake resulting in additional payment, he should pay the service tax amount with interest electronically and inform Department suitably.

If he has paid excess amount by mistake, he is required to file refund claim. He cannot adjust excess payment on his own, except in cases where it has been specifically permitted.

If he has not taken Cenvat credit of certain inputs, input services or capital goods, he can avail it in subsequent period, but Cenvat credit can be availed only within one year from date of invoice. This Cenvat credit will be reflected in his return for that subsequent period, as in normal course.

Answer: 7 (b)

Where an assessee has received any payment against a service to be provided which is not so provided by him either wholly or partially for any reason, the assessee may take the credit of such excess service tax paid by him, if the assessee has refunded the payment or part thereof, so received for the service not provided to the person from whom it was received.

In this case, the assessee has issued credit note to the client, which is constructive refund. Hence he can take credit for the service tax earlier, remitted by him and adjust the same against the liability arising in the current period. This is provided in rule 6(3) of Service Tax Rules.

Answer: 7 (c)

Let the AV be Excise duty	100x
Excise Duty	
(including educations cess and SAH cess	12.50x
Add VAT at 5% on 112.5x	5.625x
Selling price	118.125x
Above is given as ₹	363.94
	363.94/118.125

Suggested Answer_Syl12_Jun2017_Paper 11

$$\begin{aligned} \text{Hence } x \text{ is} &= 3.080973 \\ \text{AV i. e. } 100 \times 3.080973 &= 308.10 \end{aligned}$$

Note:

Sales commission is not deductible while ascertaining the AV.

8. (a) State purpose of advance authorization and Duty Free Import Authorization schemes. Explain the distinction between advance authorization and Duty Free Import Authorization Schemes. 6
- (b) A manufacturer is manufacturing taxable goods as well as exempted goods. He avails input tax credit of common inputs and input services. Explain the options available to the manufacturer in such cases. 5
- (c) An air conditioned restaurant has supplied following information for the period January 2017: Restaurant Charges— ₹2,00,000 Service charges collected separately in invoice— ₹ 20,000. Service tax was collected separately at appropriate rates. Calculate his service tax liability assuming service tax rate of 15%. Ignore the cess. 4

Answer: 8 (a)

Purpose of both the schemes is to enable importer to import inputs for manufacture of final product to be exported, without payment of customs duty.

Following are the distinctions:

Advance authorization is not transferable, while DFIA is transferable after fulfillment of export obligation.

Material imported under DFIA is transferable after fulfillment of export obligation, but not so in case of advance authorization.

In case of Advance Authorisation, 15% value addition is sufficient while in case of DFIA, 20% value addition is required.

DFIA cannot be issued where SION prescribes actual user condition for imported inputs.

Answer: 8 (b)

The manufacturer has two options.

(a) Pay 6% 'amount' on value of exempted goods

(b) Pay an 'amount' equal to proportionate Cenvat credit attributable to exempted final products as provided in rule 6(3A) of Cenvat Credit Rules.

He has to avail this option uniformly for all goods. Once the option is availed, it cannot be changed during a financial year.

Answer: 8 (c)

Service tax is payable on 40% of ₹ 2,20,000 [₹ 2,00,000 + ₹ 20,000] i.e. on ₹ 88,000. Service tax on 15% of ₹ 88,000 = ₹ 13,200.