

INTERMEDIATE EXAMINATION

December 2014

P-11(ITX)
Syllabus 2012

Indirect Taxation

Time Allowed: 3 Hours

Full Marks: 100

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

All questions are compulsory. In question No. 1, all sub-questions are compulsory. In question number 2 to 8, student may answer any two of the three sub-questions (a), (b) and (c).

1. Answer the following questions with suitable reasons : 1×20=20
- (a) Normally, if tax is levied by law of Parliament, it is administered by Central Government. However, there is one tax which is levied by law of Parliament, but administered by State Government. Which is that Tax?
 - (b) CESTAT (Tribunal) has passed an order on issue relating to classification of goods. An assessee is aggrieved with the order. Where he should file appeal?
 - (c) A manufacturer in India is exporting goods to Nepal. He is getting payment from the Nepalese customer in Indian Rupees. Value of goods is ₹ 1,00,000. The excise duty rate is 12%. Education cess is as applicable. How much excise duty is payable by the manufacturer?
 - (d) In which form and at what periodicity an SSI unit registered under Central Excise is required to file return in respect of manufacture and clearance of excisable goods and excise duty payable?
 - (e) A manufacturer utilized 1,000 Kg of inputs on which excise duty of ₹ 1,00,000 was paid to supplier of those goods. He manufactured 950 Kg of final product out of input goods used and balance 50 Kg was process loss. How much Cenvat credit can be availed by the manufacturer?
 - (f) Is currency 'goods' for purpose of Customs Act?
 - (g) Shipping Bill was presented electronically on 26.02.2014, when foreign exchange rate was ₹ 59 = One US Dollar. Let Export Order was passed by Customs Officer on 3.3.2014, when exchange rate was ₹ 59.50 = One US dollar. The ship crossed territorial waters of India on 10.3.2014 when exchange rate was ₹ 59.75 = One US dollar. Which exchange rate should be considered for valuation of export goods?
 - (h) Excise duty payable on an article is 12% as per Central Excise Tariff. However, as per an exemption notification, the excise duty payable is 6%. If such goods are imported, at what rate additional customs duty will be payable under section 3(1) of Customs Tariff Act?
 - (i) There is difference of opinion about interpretation of a provision in Foreign Trade Policy among following authorities:
 - (i) Principal Chief Commissioner of Customs
 - (ii) Director General of Foreign Trade
 - (iii) Revenue Secretary, Ministry of Finance
 - (iv) Chairman, Central Board of Excise and Customs (CBE&C). Whose interpretation will be held as final and binding?

Please Turn Over

- (j) Jeevan Exporters exported 1,000 Kg of metal of FOB value of ₹ two lakhs. The rate of duty draw back on such exports is ₹ 120 per Kg. Market price of the goods is ₹ 80,000. Calculate the duty draw back receivable by Jeevan Exports.
- (k) Kamal has entered into franchise agreement with a leading franchisor for providing service under the brand name of franchisor. The details of business of Kamal are as follows:
- (i) started business on 1.5.2014
 - (ii) Reached value of service provided ₹ 5 lakhs on 1.7.2014
 - (iii) Reached value of service provided ₹ 9 lakhs on 1.8.2014
 - (iv) Reached value of service provided ₹ 10 lakhs on 1.9.2014. Advise Kamal when he should apply for registration under service tax.
- (l) ABC Co. Ltd. filed half yearly service tax return on 24th April 2014. Later, during internal audit, it was discovered that there was short payment of ₹ one lakh. The mistake came to notice on 2nd July 2014. Advise ABC Co. Ltd. about the course of action.
- (m) A service provider is required to pay service tax for month of March, 2014 before 31.3.2014. He is not able to correctly calculate service tax payable. Advise him course of action to be adopted to avoid interest liability.
- (n) An auditor has provided auditing services to a company. He has issued invoice and charged service tax. Can the company avail the Cenvat credit of service tax charged by the auditors?
- (o) Hotel Greenview is having a non-air conditioned restaurant serving food. The value of food provided in the restaurant during April 2014 to June 2014 was ₹ 60 lakhs. Calculate service tax payable by Hotel Greenview.
- (p) A manufactured goods within State of Odisha. The Vat paid on inputs was ₹ 1,30,000. The goods were sold in inter-state for Rs. 20 lakhs by charging Central Sales Tax 2%. How much Input Tax Credit can be availed by the manufacturer?
- (q) As per definition of Central Sales Tax Act, the 'turnover' is inclusive of Central Sales Tax or exclusive of Central Sales Tax?
- (r) What is the maximum rate at which State Vat can be imposed on 'declared goods'?
- (s) What is the maximum period allowable for Advance Pricing Agreement (APA) can be got approved from CBDT in International transactions?
- (t) If the difference between actual transaction value and the average of arms length price determined by most appropriate method is below specified limit, the actual transaction value is accepted for income tax purposes without any adjustment. What is the limit?

2. Answer any two of the following :

2×2=4

- (a) State any two transactions which are both 'deemed sale of goods' for purpose of levy of State Vat and 'declared service' for levy of service tax. 2
- (b) Can State Government impose sales tax on sale of newspapers? Answer with relevant provision in Constitution of India. 2
- (c) What is 'taxable event' for purpose of levy of Central Excise Duty? 2

3. Answer any two of the following :

8×2=16

- (a) (i) A manufacturer had sent his inputs for job work under rule 4(5)(a) of Cenvat Credit Rules. What is the time limit within which the goods should be returned to factory after job work? Explain the consequences if goods are not returned with the specified period. 3
- (ii) A manufacturer sold the goods on 6th July 2014 for ₹ One lakh, on which he charged excise duty @ 12.36%. Later, after negotiations, the customer agreed to give price rise of 5%. The manufacturer raised supplementary invoice on 25th October, 2014 charging differential price. How much excise duty and interest is payable by the manufacturer? Assume that assessee paid excise duty electronically in both the cases on due dates. 3
- (iii) An assessee received a show cause notice. The demand of excise duty was confirmed against him by Commissioner (Appeals). He feels that his case is not very strong and hence he is in two minds whether to approach Settlement Commission or file appeal before CESTAT. Advise him. 2
- (b) (i) A manufacturer produced 2,500 pieces of excisable goods during October 2014. All the pieces were in packed condition. The MRP as printed on package is Rs. 400 (inclusive of all taxes and duties). The product is covered under MRP valuation provisions under section 4A of the Central Excise Act and abatement available under the relevant notification is 40% on MRP. The excise duty rate is 12% plus education cess as applicable. The Sale of manufacturer was as follows:
- (a) 500 pieces to wholesalers at ₹ 200 per piece in the same package (excluding taxes and duties);
- (b) 1,000 pieces to semi-wholesalers at ₹ 220 per piece in the same package (excluding taxes and duties);
- (c) 600 pieces at ₹ 360 in retail sale (inclusive of all taxes and duties) in the same package;
- (d) 50 pieces were distributed as free samples. Balance 350 pieces were in stock at the month end. How much excise duty is payable for the month of October, 2014? 4
- (ii) State briefly treatment of each 5 of the following items below in arising at cost of production as per CAS-4, for valuation under rule 8 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000.
- (a) Central Excise duty on direct material charged by the supplier-manufacturer of the raw materials;
- (b) Research and Development Costs;
- (c) Administrative costs relating to office management;
- (d) Sale of scrap and value realized from sale of such scrap;
- (e) Cost incurred on major break down of machinery;
- (f) interest and finance charges. 4
- (c) (i) An EOU unit is selling goods to Indian customer. He is using wholly indigenous raw materials for manufacturing those goods. He is selling the goods at ₹ 200 per piece. Customs duty rate is 10% and excise duty rate is 12%. Education cess is as applicable. How much duty is payable by the EOU unit? 3

- (ii) Excise duty is normally payable by manufacturer, but there are some exceptions. State the exceptions.

3

- (iii) Explain admissibility of remission of excise duty in following cases:

- (a) Finished Goods stored in store room were found to be stolen;
(b) Finished Goods were cleared from factory by preparing excise invoice and during transit to place of customer, the goods were damaged due to road accident.

2

4. Answer any two of the following :

6×2=12

- (a) (i) An importer submitted Bill of Entry electronically on 22.08.2014. Bill of Entry was returned from customs on 29.8.2014 for payment of customs duty of ₹ 1,00,000. Customs office was closed on 30.8.2014 and 1.9.2014 due to Saturday and Sunday. The importer paid customs duty on 10.9.2014. He cleared the goods from customs on 13.9.2014 after obtaining 'Out of customs charge' order from customs authorities. How much interest is payable by the importer?

4

- (ii) State the various purposes for which goods warehoused in customs warehouse.

2

- (b) (i) State definition of 'margin of dumping'.

2

- (ii) Compute the Assessable Value of a machine imported from USA by PQR Pvt Ltd., under Customs Act, 1962 —

(a) FOB Value of Machine — 15,000 US dollars;

(b) Air freight paid — 4,000 US dollars;

(c) Insurance for transit of machine — not ascertainable;

(d) Cost of design work of the machine done in India — ₹ 45,000;

(e) Indian Local Agent's Commission — ₹ 15,000;

(f) Cost of transport of goods from port to factory in India — ₹ 5,000. Exchange rate is One US dollar = ₹ 60

4

- (c) (i) State any five circumstances under which export goods are liable to confiscation under section 113 of Customs Act, 1962.

3

- (ii) A trader has imported goods. After imports, he approached a customer who was manufacturer in India for sale of 60% of imported goods. The price quoted by trader was agreeable to the Indian manufacturer. However, the manufacturer in India stated that he will purchase the imported goods from the trader only if he (i.e. Indian manufacturer) can avail Cenvat credit of import duties paid by the trader. Advise the trader whether and how this can be done and which duties are eligible for Cenvat credit by the Indian manufacturer?

3

5. Answer any two of the following :

4×2=8

- (a) (i) A regular exporter of goods intends to apply for Advance Authorisation for annual requirements. What is the maximum value for which he is entitled to get Annual Advance Authorisation? 2
- (ii) When an exporter can apply for Special Brand Rate of duty drawback? 2
- (b) Explain salient features of Served from India scheme. 4
- (c) Enumerate various supplies which are eligible as 'deemed exports' for purpose of certain benefits. 4

6. Answer any two of the following :

10×2=20

- (a) (i) ABC Co. Ltd. provided various services during 2014-15. Out of the services provided, services of ₹ 30,00,000 were subject to service tax @ 12.36% and services of ₹ 15,00,000 were exempt. Services of ₹ 5,00,000 were eligible as export of service. If the service was provided in India, service tax rate was 12.36%. The company had received input services on which service tax charged by service providers was ₹ 1,00,000. The company utilized the Cenvat credit of service tax paid on these input services. The input services are common to both taxable and exempt services. ABC Co. Ltd. had not intimated any option to department under rule 6 of Cenvat Credit Rules. Calculate the total amount payable by ABC Co. Ltd. to Government. Which option was available to ABC Co. Ltd. to reduce the amount payable? 5
- (ii) Deepak Global Tours organize tours all over the world. They arrange a tour to Singapore. Mr. Jairam, from Mumbai participated in the tour. Mr. Jairam is of the view that no service tax is chargeable by the Tour Operator as the tour is outside India. Is the contention of Mr. Jairam correct? State with reasons. 3
- (iii) A recognized educational institution is providing bus services to its students for which separate charges are recovered. Is the school liable to pay service tax? State with reasons. 2
- (b) (i) Distinguish between 'negative list of service' and 'exempted service'. 3
- (ii) Name any two services where the service provider will be considered as 'intermediary' for purpose of Rule 9(c) of Place of Provision of Service Rules. 2
- (iii) Mrs. Paramita has provided interior decoration service including material to design jewellery shop owned by Bob Jewellers P Ltd. The breakup of value of material and value of services is not available. M/s. Bob Jewellers paid ₹ 11,00,000 to Mrs. Paramita for the work. In addition, in appreciation of good work done by Mrs. Paramita, Bob Jewellers P Ltd. presented a necklace to Mrs. Paramita values at ₹ 1,00,000. Calculate service tax payable by Mrs. Paramita. She is not eligible for exemption available to a small service provider. Service tax is to be charged extra. 5
- (c) (i) A service was provided by Deepa Traders, a partnership firm, on 15.6.2014 when service tax rate was 10%. Invoice was raised on 10.7.2014 when service tax rate was 12%. Payment for the invoice was received on 15.10.2014 when service tax rate was 11%. State the rate at which the service provider would be liable to pay service tax, if the value of services provided by him in previous financial year was ₹ 45 lakhs. What would be due date for payment of service tax? 3

- (ii) A whole-time director of a company is receiving salary of ₹ twenty two lakhs from a private limited company. Is service tax payable? If payable, who is liable to pay service tax? 2
- (iii) State the provisions regarding payment of service tax by service receiver in case of service of security agency. 3
- (iv) A service provider has provided service on 10.4.2014 and issued invoice on 5.5.2014. The service receiver made payment to service provider on 20.3.2015. State how and when the service receiver can avail Cenvat credit. 2

7. Answer any two of the following :

6×2=12

- (a) (i) State various purposes for which goods can be purchased at concessional rate under Central Sales Tax Act, by issuing C form. 2
- (ii) Compute Vat payable on works contract when the dealer does not intend to pay Vat under any composition scheme - Contract Price (excluding Vat) - ₹ 1,00,000, Input materials used in contract including Vat @ 14.5% - ₹ 11,450, Cost of labour in execution of the works contract - ₹ 25,000. Cost of other services in the execution of works contract - ₹ 10,000, Consumables used in the works contract - ₹ 5,000, Plant and machinery purchased including Vat @ 4% - ₹ 26,000, Vat rate on output - 14.5%. Assume that 100% input tax credit on capital goods is available. 4
- (b) (i) A sold goods to B in inter-state sales. A is registered under Central Sales Tax Act but B is not registered. What will be the rate of central sales tax if
- (a) State Vat rate for Goods sold within the State is 1%.
- (b) State Vat rate for Goods sold within the State is 15%. 2
- (ii) Mr. X, a dealer located in the State of Maharashtra, dealing in machinery used in rolling mills furnishes following information for the financial year 2013-14.
- (a) Total inter-state Sales during in the financial year (CST not shown separately) - ₹ 2,29,50,000
- (b) Trade Commission for which credit notes have been issued separately - ₹ 5,78,125
- (c) Freight and Transportation charges charged separately in invoice - ₹ 4,00,000
- (d) Freight charges included in value but not shown separately - ₹ 2,00,000
- (e) Insurance for transport of machinery upto destination - ₹ 75,000
- (f) Installation and commissioning charges levied separately in invoice - ₹ 1,00,000
- (g) The buyers have issued C forms in respect of machinery bought by them from Mr. X. Compute the tax liability under CST Act. 4
- (c) (i) Distinguish between 'zero rated sale' and 'exempted sale'. 3
- (ii) A is selling goods to B in inter state sales. Later, B is exporting the goods. State conditions subject to which the sale made by A to B is exempt from Central Sales Tax. 3

8. Answer *any two* of the following :

4×2=8

(a) (i) An Indian company had placed purchase order for import of cement machinery from Germany. The contract envisaged that two engineers from Germany will be deputed to India for erection, commissioning and commissioning of the equipment in India. The German company will charge separately for such services. Advise whether the amount paid to foreign company will be considered as 'fees for technical services'.

(ii) Flip Laboratories Ltd. is 100% subsidiary of a US Company. The parent company sales its products to unrelated buyers at US dollars 150 per unit. Compute the Arms Length Price (ALP) in following two situations —

(a) The product is sold to Indian subsidiary at 120 USD per piece;

(b) The product is sold to Indian subsidiary at 180 USD per unit,

2+2=4

(b) India has entered into Double Taxation Avoidance Agreement (DTA) with. In case of a particular transaction, income tax is found to be payable as per provisions of Income Tax Act but that transaction is exempt under Double Taxation Avoidance Agreement (DTAA) with USA. The Income Tax Officer (ITO) is of the view that since income Tax Act is passed by Parliament, it overrides provisions of DTA, as DTA is not approved by Parliament. State whether the view taken by ITO is correct. You may take support of case law decided on this issue.

4

(c) What is the significance of 'safe harbor rule' while considering arm's length price? Explain with one illustration.

4
