

**Paper 11- Indirect Taxation**

## MTP\_Intermediate\_Syllabus 2012\_Dec 2015\_Set 2

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The following table lists the learning objectives and the verbs that appear in the syllabus learning aims and examination questions:

	<b>Learning objectives</b>	<b>Verbs used</b>	<b>Definition</b>
<b>LEVEL B</b>	KNOWLEDGE  What you are expected to know	List	Make a list of
		State	Express, fully or clearly, the details/facts
		Define	Give the exact meaning of
	COMPREHENSION  What you are expected to understand	Describe	Communicate the key features of
		Distinguish	Highlight the differences between
		Explain	Make clear or intelligible/ state the meaning or purpose of
		Identify	Recognize, establish or select after consideration
		Illustrate	Use an example to describe or explain something
	APPLICATION  How you are expected to apply your knowledge	Apply	Put to practical use
		Calculate	Ascertain or reckon mathematically
		Demonstrate	Prove with certainty or exhibit by practical means
		Prepare	Make or get ready for use
		Reconcile	Make or prove consistent/ compatible
		Solve	Find an answer to
		Tabulate	Arrange in a table
	ANALYSIS  How you are expected to analyse the detail of what you have learned	Analyse	Examine in detail the structure of
		Categorise	Place into a defined class or division
		Compare and contrast	Show the similarities and/or differences between
	Construct	Build up or compile	
	Prioritise	Place in order of priority or sequence for action	
	Produce	Create or bring into existence	

**Paper 11- 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 Numbers 2 to 8, student may answer any two of the three sub-questions (a), (b) and (c). Wherever necessary, you may make suitable assumptions and state them clearly in your answer. Working notes should form part of the answer.**

- 1. Answer the following questions with suitable reasons: [1×20=20]**
- (a) State the time when Provisional Anti-Dumping Duty is imposed in customs.
  - (b) Whether Service provided from India with respect to immovable property situated abroad is called export of services?
  - (c) List out the items which will appear on the Concurrent List (list III) given in Schedule Seven of the Constitution.
  - (d) State the date for determination of rate of duty in case of goods cleared from warehouse.
  - (e) State the types of registration in VAT.
  - (f) State the taxable event under Custom Act in case of exportation.
  - (g) State the types of Drawback rates.
  - (h) Whether fees paid to Court or Tribunal subject to service tax?
  - (i) Jeevan Exporters exported 1,000 Kg of metal of FOB value of ₹ 2 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.
  - (j) 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 ₹ 1 lakh. The mistake came to notice on 2nd July 2014. Advise ABC Co. Ltd. about the course of action.
  - (k) "Clinkers produced from lime stone is consumed within the factory of production of cement." — Whether it is captive consumption?
  - (l) State the tariff value of readymade garments if the same are not covered under section 4A of Central Excise Act.
  - (m) Whether light diesel oil is included in the definition of 'input' under Rule 2(k) of Cenvat Credit Rules, 2004.
  - (n) State the due date of payment of excise duty paid electronically through internet banking by an assessee availing SSI exemption.
  - (o) State the point of taxation where invoice has been issued prior to change in effective rate of tax, but the payment for the invoice is made after the change in effective rate of tax.
  - (p) Give an example of bundled service for the purpose of service tax.
  - (q) In case of zero rated sales in VAT, whether credit is available on tax paid on inputs.
  - (r) Whether charcoal is included in the list of 'goods of special importance' in the context of interstate trade.
  - (s) Define Arm's Length Price as per section 92F(ii) of Income-tax Act.
  - (t) State the meaning of 'Permanent Establishment' in the case of international taxation.
- 2. Answer any two: [2×2=4]**
- (a) State the purpose of the Central Excise (Determination of Retail Sale Price of Excisable

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- Goods) Rules, 2000. 2
- (b) State the basic concept of Excise Duty. 2
- (c) State the administration policy of Service Tax. 2

**3. Answer any two:** **[8×2=16]**

(a)(i). A Ltd. has given a Turnkey Contract to B Ltd. for erection, installation and commissioning of a Central Air Conditioning Plant. The Central Excise Officer raises a demand for Excise Duty on B Ltd in respect of the installed plant. Examine as to whether the Excise Duty is payable on the Plant. 3

(ii). D Ltd., engaged in the manufacture of Machines (and not availing Small-Scale concession) sold a Machine to A Ltd. The Cum-Duty Sale Price of the Machine excluding VAT is ₹5,80,000. Rate of Excise Duty is 12%, Education Cess is 2% and Secondary Higher Education Cess is 1%. Sale Price includes the following Charges:

Particulars	₹
Warranty Charges	28,000
Secondary Packing	6,000
Trade Discount actually allowed	30,000
Design and Development Charges of Machine	20,000
Primary Packing	10,000
Cost of return fare of vehicles	5,000
Advertisement & Publicity charges borne by A Ltd.	16,000
Pre-Delivery Inspection Charges	22,000
After Sales Service Charges	18,000

Determine the Assessable Value of the machine for the purpose of Central Excise Duty. Provide notes in respect of the treatment for each of the items listed above. 5

(b)(i). ABC Bank provides the following information for the month of June:

CENVAT Credit available on Inputs	2,50,000
CENVAT Credit available on Inputs Services	3,00,000
Service Tax liability before availing eligible CENVAT	10,00,000

Determine the amount of CENVAT Credit available to ABC Bank for the month of June, 2014 in view of Rule 6(3B) of Cenvat Credit Rules, 2004. Also determine the net service tax liability of the bank after availing the eligible CENVAT Credit. **[1+1+2]**

(ii). M/s PQR Ltd. was denied CENVAT Credit on the grounds that the documents produced by it for claiming CENVAT credit did not contain the information required therein. Discuss whether such a denial is right in provisions of the Central Excise Law. 4

(c)(i). Explain with reference to Central Excise Rules, 2002 —

1. Power to stop and search;
2. Power to detain or seize goods.

**[2+2]**

(ii). C Ltd. is a manufacturer of tooth powder, which is a commodity notified u/s 4A of the Central Excise Act, 1944 and the notified percentage of abatement is 35%. It sells tooth powder in cans to various retail shop-keepers and gives 2 cans free along with purchase of every 100 cans. The MRP indicated on each can is ₹ 150 per cans. The transaction value is ₹130 per can. During a month, M/s. C Ltd. sold 1,00,000 cans and gave away 2,000 cans free to the retail shop-keepers. Compute the amount of excise duty payable by C Ltd. Excise Duty is 12%. 4

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### 4. Answer any two:

[6 x 2 = 12]

(a)(i). Mr. P of Kolkata imported a machinery on 1-1-2014 (value ₹ 2 lakh and duty ₹20,600) from Mr. B of US. Later, he found that machinery was defective and therefore, he sent back that machinery for repairs, etc. abroad. The cost of insurance and freight from Kolkata to US is ₹10,000. Repair work was carried out on machinery by Mr. B and materials worth ₹15,000 and labour, etc. worth ₹8,000 was borne by Mr. B. The cost of insurance and freight for repaired goods from US to Kolkata is ₹12,000. Determine the duty payable at the time of re-import on 1-1-2015, if rate of duty is 10.3%. Department claims that machinery will be liable to duty on full normal value of ₹2,20,000 (market price on 1-1-2015). 3

(ii). Determine the dates of commencement of the definitive anti-dumping duty in the following cases under section 9A of the Customs Tariff Act, 1975 and the Rules made thereunder :

1. Where no provisional duty is imposed;
2. Where provisional duty is imposed ;
3. Where anti-dumping duty is imposed retrospectively from a date prior to the date of imposition of provisional duty. [1+1+1]

(b). From the following particulars, determine the assessable value of the imported equipment giving explanation for each item: (₹)

1. FOB cost of equipment (Japanese Yen) 2,00,000 Yen
2. Freight charges in Japanese Yen 20,000 Yen
3. Charges for development connected to equipment paid in India ₹ 60,000
4. Insurance charge paid in India for transportation from Japan ₹ 15,000
5. Commission payable to agent in India ₹ 20,000

Exchange rate as per RBI is 1 Yen = ₹ 0.45; Exchange rate as per CBEC is 1 Yen = ₹ 0.50.

Landing charges: one per cent of CIF cost. 6

(c). Ms. Roy, a resident of India and carrying out her profession in USA, returned back to India after 2 years of stay and brought -

1. Used personal effects (including jewellery ₹1,10,000): ₹ 1,60,000 ;
2. Professional equipments : ₹ 1,20,000 (including personal computer : ₹ 45,000)
3. Used household articles : ₹ 25,000 ;

Determine duty payable by Ms. Roy.

Assume that Ms. Roy is not eligible for concession available on termination of work under Rule 5 of the Baggage Rules, 1998 and concession on transfer of residence under Rule 8. 6

### 5. Answer any two.

[4 x 2 = 8]

(a) M/s Max Ltd. claimed duty drawback in respect of its export products. Over 97% of the inputs by weight of the product were procured indigenously and were not excisable. All industry rates under the Customs and Central Excise Duties Drawback Rules, 1995 were fixed taking into account the incidence of customs duty on imported product inputs. Explain briefly with reference to Rule 3(1)(ii) of the said rules whether the claim of M/s Max will merit consideration by the authorities. 4

(b) State the role played by DGFT in executing Foreign Trade Policy. 4

(c) State the objectives of the SEZ Act, 2005. 4

### 6. Answer any two:

[10x2=20]

(a)(i). Rini Sugar Mills is engaged in the manufacture of sugar. Government of India had

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issued directions under the Sugar Control Order for sugar companies to maintain buffer stock of sugar of certain quantity for a specified period. In order to compensate the sugar mill the government had extended buffer stock subsidy towards storage, interest and insurance charges in respect of the buffer stock of sugar actually held by the sugar mill. The department has issued a show cause notice to the assessee raising a demand of service tax on the ground that the amount received by the sugar mill as buffer subsidy is covered under the taxable service of 'storage and warehousing'. Discuss whether the action of the department is sustainable in law. **4**

**(ii).** DBC Ltd. is engaged in providing taxable services under the Finance Act, 1994. For the half year ending on 31-3-2014, it furnished the return on 20-6-2014. On the basis of information provided answer the following :

1. Specify the due date and form for filing the return.
2. Compute the amount of late fee payable by DBC Ltd., under the Finance Act, 1994 and Rules made thereunder. **[2+2]**

**(iii).** State few items which are excluded from the definition of 'service'. **2**

**(b)(i).** TLT Industries furnishes the details of its activities undertaken in the month of May, 2014 as under (Amounts are exclusive of service tax):

S.No.	Particulars	Amount (₹)
1.	Supply of farm labour	60,000
2.	Warehousing of refined vegetable oil	1,30,000
3.	Sale of wheat on commission basis	60,000
4.	Hiring of trucks for transport of minerals	2,50,000
5.	Leasing of vacant land to a stud farm	40,000
6.	Renting of farmhouse for marriage and birthday parties	45,000
7.	Dehusking of paddy in rice mill	30,000

Compute the service tax liability of company for the month of May, 2014.

Assume that the point of taxation in respect of all the activities falls in the month of May, 2014 itself. Company had paid service tax ₹ 3,18,000 during the Financial Year 2013-14. **8**

**(ii).** State few areas which are covered by the ACES (Automation of Central Excise and Service Tax). **2**

**(c)(i).** Super Ltd., located in Mumbai (India), receives taxable services from Best Ltd., of USA on 18-10-2014. The relevant invoice for \$ 2,00,000 is raised by Best Ltd., on 20-11-2014. Assuming that Super Ltd. makes the above mentioned payment on the dates as indicated in the following table, determine the point of taxation under the Point of Taxation Rules, 2011 in each case giving reasons for your answer :

CASE I: 10-2-2015

CASE II: 15-04-2015. **[2+2]**

**(ii).** During the year ended 31-3-2015, Anil & Co. (partnership firm), running a coaching centre, has collected a sum of ₹ 10.2 lakhs as service tax. ₹ 70,000 was met through Cenvat credit and the balance was paid by cheque on various dates. The details pertaining to the quarter ended 30-9-2015 are as under (all sums exclusive of service tax):

Particulars	Amount (₹)
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Value of free coaching rendered	30,000
Coaching fees collected from students	14,50,000
Advance received from a college for coaching their students on 30-9-2015.	3,00,000

Determine the service tax liability for the quarter and indicate the date by which the service tax has to be remitted by the assessee. **[3+1]**

- (iii). Discuss whether services related to 'post mortem' is included in the negative list of services. **2**

### 7. Answer any two:

**[6×2=12]**

- (a)(i). Mr. X, a dealer located in the State of Maharashtra, dealing in machinery used in rolling mills furnishes following information for the financial year 2014-15 - (i) Total Inter-state Sales during the financial year (CST not shown separately) - ₹ 2,29,50,000 (ii) Trade Commission for which credit notes have been issued separately - ₹ 5,78,125 (iii) Freight and Transportation charges charged separately in invoice - ₹ 4,00,000 (iv) Freight charges included in value but not shown separately - ₹ 2,00,000 (v) Insurance for transport of machinery upto destination - ₹ 75,000 (vi) Installation and commissioning charges levied separately in invoice - ₹ 1,00,000 (vii) The buyers have issued C forms in respect of machinery bought by them from Mr X. Compute the tax liability under CST Act. **4**

- (ii). State the restrictions in availing input tax credit in case of stock transfer to another state. **2**

- (b) The following information relates to purchases and sales of Prism Ltd. for the month of May, 2014:

	₹
Purchases for resale within the State	7,00,000
Purchases from registered dealers who opted for composition scheme	4,00,000
Purchases to be used as consumable stores for manufacture of taxable goods	6,00,000
Purchases of goods where invoices does not show the amount of taxes separately	5,00,000
Purchases of goods for personal consumption	2,00,000
Purchases of capital goods (not eligible for input credit)	5,50,000
Purchases of capital goods (eligible for input credit)	5,76,000

Sales made within the State during the month of May, 2014 was ₹ 50,00,000 on which VAT @ 4% was payable. The input VAT credit on eligible capital goods is available in 24 equal monthly installments. Assuming that all purchases given above are exclusive of VAT @ 12.5%, calculate:

- (i) The amount of input tax credit available for the month of May, 2014.  
(ii) VAT payable for the month of May, 2014.  
(iii) Input tax credit carried forward. **6**

- (c) State the cases where no input tax credit is available to the dealers in VAT. **6**

### 8. Answer any two:

**[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

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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 –

1. The product is sold to Indian subsidiary at 120 USD per piece;

2. The product is sold to Indian subsidiary at 180 USD per unit.

**[2+2]**

(b) Write a short note on — Comparable Uncontrolled Price Method.

**4**

(c) State the procedure to determine Arm's Length Price in the context of international taxation.

**4**