

Paper 11- Indirect Taxation

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Full Marks: 100

Time allowed: 3 hours

The figures in the margin on the right side indicate full marks.
Working notes should form part of the answer.

1. Answer the following questions:

(A) Multiple choice questions:

[7×2=14]

- (i) In which of the following services, Cenvat credit cannot be availed?
(a) Rent-a-cab service utilized to carry employees from home to factory and back;
(b) Goods transport service for inputs;
(c) Sales promotion expense;
(d) All of the above.
- (ii) The selling price of VINTEX Ltd. inclusive of Basic Excise Duty @ 12.5% and CST 2% is ₹ 3600. What would be the assessable value of the product per unit under Central Excise Act?
(a) ₹3,325.90
(b) ₹3,137.25
(c) ₹3,065.10
(d) None.
- (iii) An importer imported some goods @ \$10000 on CIF. Following Dollar rates on the date of presentation of BOE is given. What is the exchange rate?
(a) Inter Bank closing Rate ₹ 43.38 per dollar
(b) RBI floor rate 1\$= ₹ 43.37
(c) CBEC under Customs Act 1\$= ₹ 43.55
(d) Rate at which bank has ready payment from importer 1\$=₹ 43.58
- (iv) Which of the following amount to manufacture under central Excise Act 1944?
(a) Cutting and sizing;
(b) Repairing & reconditioning;
(c) Mixing of metals;
(d) None.
- (v) When excise duty is payable on the basis of certain unit like weight, length, volume, thickness etc., it is called:
(a) Duty based on production capacity;
(b) Specific Duty;
(c) Duty based on Tariff value;
(d) Compounded Levy Scheme.
- (vi) Which of the following is not a declared good under CST Act?
(a) rice;
(b) jowar;
(c) wheat;
(d) charcoal.
- (vii) Service of beautification of buildings at Srinagar is ₹ 3,00,000. The amount of service tax payable will be —
(a) ₹ 45,000;
(b) Nil;
(c) ₹ 22,500;
(d) None of the above.

Answer:

- (i) (a)
(ii) (b)
(iii) (c)
(iv) (c)

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- (v) (b)
(vi) (d)
(vii) (b)

(B) Say Yes or No for the following question:

[6×1=6]

- (i) Duty Draw Back (DDB) is allowed on wearing apparel.
(ii) Service to WHO is exempted.
(iii) Customs duty is not levied on goods Derelict, Wreck.
(iv) VAT can be imposed on the value of service.
(v) Unbranded software is service.
(vi) Goods manufactured or produced in SEZ are excluded excisable goods.

Answer:

- (i) No
(ii) Yes
(iii) No
(iv) No
(v) Yes.
(vi) Yes.

(C) Match the following:

[5×1=5]

	Column 'A'		Column 'B'
1.	Legal service	A	Harmonised System of Nomenclature
2.	Jute	B	An input service
3.	Swachh Bharat Cess	C	avoids cascading effect of tax
4.	VAT	D	Declared goods under CST
5.	HSN	E	@0.5% on the value of taxable services

Answer:

- 1 → B
2 → D
3 → E
4 → C
5 → A

Answer any five questions from the following.
Each question carries 15 marks.

2.(a) Mrs. H, the proprietress of Aarav Enterprises is a registered dealer in Vadodara (Gujarat). From the under mentioned particulars relating to the quarter ended 31st March, 2016. Find out her taxable turnover and the tax payable under the Central Sales Tax Act, 1956:

- (i) Goods worth ₹ 2,20,000 were invoiced to its against at NOIDA (U.P) while the goods were in transit, these were sold to Uttar Pradesh Government for ₹ 2,41,020. The rate of tax in respect of such goods in the appropriate state is 13.5%.
(ii) Sale to a 100% Export Oriented Undertaking (EOU), goods worth ₹ 20,20,000 in Mumbai. The rate of tax in the State is 1%.

The above selling prices are inclusive of the central sales tax. The dealer has submitted all necessary declarations, wherever required. [7]

Answer:

Taxable Turnover = ₹ 2,12,352 (i.e. ₹ 2,41,020 × 100/113.5)

Taxable Turnover = ₹ 20,00,000 (i.e. ₹ 20,20,000 × 100/101)

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Total = ₹ 22,12,352

Central Sales Tax payable:

CST on sale of goods to UP Government = ₹ 28,668 (i.e. ₹ 2,12,352 x 13.5/100)

CST on sale of goods to 100% EOU = ₹ 20,000 (i.e. ₹ 20,00,000 x 1/100)

Total = ₹ 48,668

Notes: (1) Branch transfer exempted from Central Sales Tax against Form F. However, goods are sold during the movement from one state to another state which will attract CST.

(2) Goods sold to 100% Export Oriented Units subject to Central Sales Tax.

2.(b) Mr. Raj is a registered dealer and gives the following information. You are required to compute the net tax liability and total sales under the VAT from the following information.

Raj sells his products to dealers in his state and other states as well.

The profit margin is 15% of cost of production and VAT rate of sales is 13.5% of sales.

(i) Intra state purchase of raw material is ₹ 2,50,000 (excluding VAT of 5%)

(ii) Purchase of raw material from an unregistered dealer ₹ 80,000 (including VAT of 13.5%)

(iii) Import of raw material ₹ 1,85,000 (excluding custom duty of 10%)

(iv) Purchase of raw material from other state ₹ 50,000 (excluding CST of 2%)

(v) Transportation charges, wages and other manufacturing expenses excluding tax ₹ 1,45,000

(vi) Interest on bank loan ₹ 1,60,000.

[8]

Answer:

Statement showing net VAT liability and total sales for Mr. Raj

Particulars	₹
Intra state purchases	2,50,000
Raw material purchased from unregistered dealer including VAT	80,000
Import of raw material (including customs duty)	2,03,500
Purchase of raw material from other states (including CST)	51,000
Transportation charges, wages etc.	1,45,000
Total cost of production	7,29,500
Add: profit @15%	1,09,425
Taxable turnover	8,38,925
Add: VAT @ 13.5%	1,13,255
Sales	9,52,180

Net VAT liability is ₹ 1,00,755 (i.e. ₹ 1,13,255 – ₹ 12,500)

3.(a) A manufacturer having a factory at Mumbai has uniform price of ₹ 2,000 per unit (exclusive of taxes and duties) for sale anywhere in India. During the financial year 2015-16, he made the following sales:

Particulars	Quantity sold in units	Cost of transportation (₹)
Goods sold at factory in Mumbai	1,000	Nil
Goods sold from New Delhi	500	12,000

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Goods sold from Chennai	600	48,000
Goods sold from Kolkata	900	30,000

Find assessable value per unit and total excise duty payable by the manufacturer.
Excise duty @ 12.5% [7]

Answer:

Selling price per unit = ₹ 2,000

Less: cost of equalized freight = ₹ 30

Assessable value per unit = ₹ 1,970

Total excise duty payable = ₹ 7,38,750 (3,000 units x ₹ 1,970 per unit x 12.5%)

Working note: (1)

Particulars	Quantity sold in units	Cost of transportation (₹)
Goods sold at factory in Mumbai	1,000	Nil
Goods sold from New Delhi	500	12,000
Goods sold from Chennai	600	48,000
Goods sold from Kolkata	900	30,000
Total	3,000	90,000

(2) Cost of equalized freight = ₹ 30 (₹ 90,000/3,000 units)

(3) The aforesaid equalized freight has to be certified by the Cost Accountant / Chartered Accountant / Company Secretary in practice.

3.(b) C Ltd. is engaged in manufacturing water pipes. Compute Cenvat Credit admissible to C Ltd. The Excise Duty paid at the time of purchase of following goods is:

	Value in ₹
Raw Steel	10,000
Water pipe making machine	13,000
Lubricating Oil	2,000
Equipments used in office	12,000
Petrol	7,500
Pollution control equipment	25,000
Components, spares equipment	18,000

[8]

Answer:

Calculation of Cenvat Credit admissible to C Ltd.:

Particulars	Nature of goods	Value (₹)	Eligibility	Cenvat Credit (₹)
Raw Steel	Other than capital goods	10,000	100%	10,000
Water pipe making machine	Capital goods	13,000	50%	6,500
Lubricating oil	Other than capital goods	2,000	100%	2,000
Equipment used in office	Capital goods	12,000	Not eligible	--
Petrol	Other than capital goods	7,500	Not eligible	--
Pollution control equipment	Capital goods	25,000	50%	12,500
Components, spares and accessories used in machinery	Capital goods	18,000	50%	9,000
Total Cenvat Credit admissible				40,000

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4.(a) State the characteristics of Similar Goods in the context of customs.

[4]

Answer:

Characteristics of Similar Goods:

1. Alike in all respects, have like characteristics and like components and perform same functions. These should be commercially inter-changeable with goods being valued as regards quality, reputation and trade mark.
2. The goods should have been produced in the same country in which the goods being valued were produced.
3. They should be produced by same manufacturer who has manufactured goods undervaluation - if price of such goods are not available, price of goods produced by another manufacturer in the same country can be considered. . However, if engineering, development work, art work, design work, plan or sketch undertaken in India were completed by the buyer on these imported goods free of charge or at reduced rate for use in connection with the production and sale for export of these imported goods, these will not be 'similar goods'.

4.(b) CIF value of imported goods is ₹ 10,00,000. Basic Customs duty payable is 10%. If the goods were produced in India, excise duty payable would have been 12.5%. Education Cess is 2% and SAH Education Cess is 1%. Special CVD is payable at appropriate rates. Find the Customs duty payable. What are the duty refunds /benefits available if the importer is (a) manufacturer or, (b) service provider or, (c) trader? [11]

Answer:

Statement showing assessable value and customs duties:

Particulars	Value in ₹	Workings
CIF value	10,00,000	
Add: 1% unloading charges	10,000	₹ 10,00,000 x 1%
Assessable value	10,10,000	
Add: Basic Customs Duty (BCD)	1,01,000	₹ 10,10,000 x 10%
Sub-total	11,11,000	
Add: Countervailing Duty (CVD) @ 12.5%	1,38,875	₹ 11,11,000 x 12.5%
Sub-total	12,49,875	
Add: 2% Education cess	4,798	₹ 2,39,875 x 2%
Add: 1% SAH Education cess	2,399	₹ 2,39,875 x 1%
Sub-total	12,57,072	
Add: Spl. CVD	50,283	₹ 12,57,072 x 4%
Value of imported goods	13,07,355	

The following import duties are allowed as CENVAT credit:

If the importer	BCD ₹	CVD ₹	SPL.CVD ₹	Edu. CESS ₹
Manufacturer	CENVAT credit not allowed	1,38,875	50,283	CENVAT credit not allowed
Service provider	CENVAT credit not allowed	1,38,875	CENVAT credit not allowed	CENVAT credit not allowed
Dealer	CENVAT credit not allowed	CENVAT credit not allowed	CENVAT credit not allowed. However refund is allowed if VAT paid. (₹ 50,283)	CENVAT credit not allowed

5.(a) Specify whether the following payments can be treated as consideration for service:

- (i) Amount received in settlement of dispute
- (ii) Amount received advances for performance of service

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(iii) Security deposit that is returnable on completion of provision of service. [9]

Answer:

- (i) Amount received in settlement of dispute = It shall not be regarded as consideration unless it represents a portion of the consideration for an activity that has been carried out. If the dispute itself pertains to consideration relating to service then it would be a part of consideration.
- (ii) Amount received advances for performance of service = Such advances are consideration for the agreement to perform a service.
- (iii) Security deposit that is returnable on completion of provision of service = Returnable deposit is in the nature of security and hence do not represent consideration for service. However if the deposit is in the nature of a colorable device wherein the interest on the deposit substitutes for the consideration for service provided or the interest earned has a perceptible impact on the consideration charged for service then such interest would form part of gross amount received for the service. Also security deposit should not be in lieu of advance payment for the service.

5.(b) Determine Point of Taxation (with reasons) in the following cases –

No.	Date of Completion of Service	Date of Payment	Date of Invoice
1	10/08/2016	06/09/2016	18/08/2016
2	10/08/2016	10/09/2016	13/09/2016
3	10/08/2016	05/08/2016	17/08/2016

[6]

Answer:

The point of taxation will be:

No.	Date of Completion of Service (DoS)	Date of Payment (DoP)	Date of Invoice (DoI)	Point of Taxation
1	10/08/2016	06/09/2016	18/08/2016	18/08/2016 [DoI, as invoice issued within 30 days of DoS]
2	10/08/2016	10/09/2016	13/09/2016	10/08/2016 [DoS, as invoice not issued within 30 days of DoS]
3	10/08/2016	05/08/2016	17/08/2016	05/08/2016 [DoP, as payment received before DoI]

6.(a) Write about the canon of certainty and canon of economy, as enunciated by Adam Smith. [5]

Answer:

1. Canon of Certainty: The individual should know exactly what, when and how he is to pay a tax. Otherwise, it causes unnecessary suffering. Similarly, the State should also know how much it will receive from a tax.
2. Canon of Economy: This means that the cost of collection should be as small as possible. If the bulk of the tax is spent on its collection, it will take much out of the people's pockets but bring little into the State's pocket. It is not a wise tax.

6.(b) Write short on the following:

[5+5=10]

(i) Advantages of VAT

(ii) Status holders in foreign trade policy.

Answer:

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(i) Advantages of VAT:

1. Tax burden is only at the last i.e. consumption stage. This is useful for taxation structure based on 'destination principle'.
2. It becomes easier to give tax concessions to goods used by common man or goods used for manufacture of capital goods or exported goods.
3. Exports can be freed from domestic trade taxes.
4. It provides an instrument of taxing consumption of goods and services.
5. Interference in market forces is minimum.
6. Simplicity and transparency.
7. Aids tax enforcement by providing audit trail through different stages of production and trade. Thus, it acts as a self-policing mechanism resulting in lower tax evasion.
8. Tax rates can be lower as tax is levied on retail price and not on wholesale price.

(ii) Status holders: Business leaders who have excelled in international trade and have successfully contributed to country's foreign trade are proposed to be recognized, as Status Holders and given special treatment and privileges to facilitate their trade transactions, in order to reduce their transaction costs and time.

All exporters of goods, services and technology having an import-export code (IEC) number shall be eligible for recognition as a status holder.

An applicant shall be categorized as status holder upon achieving export performance during current and previous two financial years, as indicated below:

Status category	Export Performance FOB/FOR (as converted) Value (in US \$ Million) during current year and two previous years
One Star Export House	3
Two Star Export House	25
Three Star Export House	100
Four Star Export House	500
Five Star Export House	2000

Note: One million = 10 lakhs

7.(a) ABC Bank Ltd. provides the following information for the month of January, 2017. Compute the value of taxable services and service tax payable. Consider the rate of service tax including cess is 15%.

	Amount in ₹ lakhs
3. Interest received on various loans including home loan	1,500
4. Administrative charges and folio charges collected	120
5. Value of sale and purchase of forward contract	100
6. Charges for credit and debit card extended	200
7. Charges for ATM card transaction	350
8. Commission received for DD, transfer and cheque collection	200
9. Margin earned on reverse repo transactions	400

[9]

Answer:

1. Service by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount is not a taxable service. Hence, no service tax is payable.
2. Taxable - ₹ 120 lakhs.
3. Not taxable as it is transaction in money.
4. taxable - ₹ 200 lakhs
5. taxable - ₹ 350 lakhs
6. Taxable - ₹ 200 lakhs.
7. It is sale and purchase of securities, which are goods and hence not taxable.

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Hence, value of taxable service = ₹ 870 lakhs. Service tax @ 15% - ₹ 130.50 lakhs.

7.(b)(i) Jeevan has entered into franchise agreement with a leading franchisor for providing service under the brand name of franchisor. The details of business of Jeevan are as follows:

- **Started business on 1.5.2016**
- **Reached value of service provided ₹ 5 lakhs on 1.7.2016**
- **Reached value of service provided ₹ 9 lakhs on 1.8.2016**
- **Reached value of service provided ₹ 10 lakhs on 1.9.2016.**

Advise Jeevan when he should apply for registration under service tax. [4]

Answer:

Exemption is not available when service is provided under brand name of other person. Hence, application for registration is to be made within 30 days i.e., before 31.05.2016.

7.(b)(ii) whole-time director of a company is receiving salary of rupees twenty two lakhs from a private limited Company. Is service tax payable? If payable, who is liable to pay service tax? [2]

Answer:

When there is employer employee relation, the transaction is outside the definition of 'service' itself, as per section 65B(44) of Finance Act, 1994. Hence, no service tax is payable. Since, no service tax is payable, there is no reverse charge.

8.(a) State relevance of 'arm's length price' in international transactions between associated companies. [5]

Answer:

The tax rates vary from country to country. A multinational company may have associate companies in various countries. In such cases, in case of international transactions, the tendency is to show more profit in countries where tax rate is low. This is done by adjusting the price at which goods are sold or services are provided. These are 'controlled transactions'. To avoid such tax avoidance devices, it has been provided that such transactions should be valued on basis of arm's length prices for calculation of profits (or loss) of that assessee. Principle of arm's length price requires that a transaction between two related parties should be priced, as if they were not related. The principle is to place uncontrolled and controlled transactions on an equal footing.

8.(b) Explain which enterprise can be termed as 'associated enterprises'. Your answer need not contain provisions relating to 'deemed associated enterprise'. [5]

Answer:

As per section 92A(1) of Income Tax Act, an enterprise would be regarded as an associated enterprise of another enterprise, if:

- A. It participates directly or indirectly, or through one more intermediaries, in the management or control or capital of the other enterprise; or
- B. In respect of it, one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.

Section 92A(1)(a) applies when there is participation by one enterprise into other enterprise.

8.(c) C Ltd., a resident Indian company, sold goods to its associated enterprise D Inc. of USA. D Inc. sold goods to its independent buyers at US dollars 15,000. D Inc. earned profit of

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15% on purchase cost in that transaction. Calculate Arm's Length price in the hands of C Ltd. State the effect on C Ltd., if C Ltd. sells the goods to D Inc.

(i) above the Arm's Length Price,

(ii) below the Arm's Length Price.

[5]

Answer:

The purchase price of D Inc. is USD $[15,000 \times 100]/115 = \text{USD } 13,043.48$. Thus, Arm's Length Price (ALP) in hands of C Ltd. is USD 13,043.48. If C Ltd. sales the goods at price higher than ALP, it means profit of C Ltd. will be higher. In that case, the income as declared by C Ltd. in income tax return will be accepted by Indian income tax authorities. However, if C Ltd. sales to D Inc. below the ALP, the difference between ALP and the price at which goods were sold by C Ltd. will be added to the income declared by C Ltd. in its income tax return.

Section 92A(1)(b) of Income Tax Act applies when there is participation by a third enterprise into both the enterprises.