

# **Paper 11 - Indirect Taxation**

**Paper 11 - Indirect Taxation**

**Full Marks:100**

**Time allowed: 3 hours**

**1. Answer the following questions:**

**(A) Multiple Choice Questions:**

- (a) (ii)    (b) (i)            (c) (iii)    (d) (ii)            (e) (ii)            (f) (ii)            (g) (ii)

**(B) Say Yes/No for the following questions:**

- (a) No  
 (b) No  
 (c) Yes  
 (d) Yes  
 (e) No  
 (f) Yes

**(C) Match the following:**

1. D  
 2. C  
 3. E  
 4. A  
 5. B

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

**2. (a)**

Particulars	Selling price	VAT	ITC	Amount Payable to govt.
Javed to Kabir	5000	625	0	625
Kabir to Hakim	5500	687.50	625	62.50
Hakim to Mohan	6000	750	687.50	62.50
Mohan to consumer	7000	875	750	125
				<b>875</b>

**(b) Difference between a sale for Export and sale in the course of Export**

<b>Sale for Export</b>	<b>Sale in the Course of Export</b>
(i) A sale effected by the dealer (seller) and he is not connected with the export of the goods which actually takes place subsequently.	(i) Seller has an express between the sale and the export.
(ii) Seller may or may not have the knowledge that the buyer intends to export the goods purchased.	(ii) The seller who purchases goods in India subsequently exports as such.



## Answer to MTP\_Intermediate\_Syllabus 2012\_June2016\_Set 1

June every year. Whenever specific rates are provided, drawback shall be payable only if amount is more than 1% of FOB value, except when the drawback claim per shipment exceeds ` 500. Revised rates have been announced vide by notification. The all industry drawback rates are given in two ways -

- (a) when Cenvat facility has been availed and
- (b) when Cenvat facility not availed. The difference between the two is central excise portion of duty drawback. If rate indicated in both is same, it means that it pertains to only customs portion and is available irrespective of whether exporter has availed Cenvat or not - condition No. 5 to notification.

Duty drawback rate shall not exceed 33% of market price of export goods (Rule 8A w.e.f 15-02-2006). In case of some cases, value cap has been fixed. In such cases, maximum drawback allowable per unit of quantity has been specified.

5. (a)

Particular	Amount (`)
Sale of rice on commission basis	2,65,000
Transport by school to students	Exempted
Packing of tomato ketchup	54,000
Serving in food in Ac restaurant (40%)	40,000
Merchant banking services	8,00,000
Royalty for transfer of patents	3,00,000
Up gradation of IT software	8,00,000
Total	<b>22,59,000</b>
Service tax @ 14%	3,16,260
Swatch breath cess@ 0.5%	11,295

- (b) Service tax provisions apply to restaurants air conditioned or having central air-heating in any part of establishment.  
The restaurants with AC central heating and bar are required to pay service tax on 40% amount. They can avail Cenvat credit of input services, capital goods and input goods other than food items.  
However, services provided in relation to serving of food or beverages by a canteen maintained in factory covered under factories Act having facility of air conditioning or central air heating at any time during the year is exempt from service tax.

6. (a) Acquisition fraud

The acquisition fraud is based on the fact that goods imported are tax free. A dealer imports goods and makes sale within the country. The dealer either has his own VAT registration number or he hijacks other's VAT number. He collects the tax from buyer and then disappears without paying the collected tax to Government. The buyer is usually innocent and is not aware that the seller is not going to pay tax to government. This is 'missing trade fraud' of one type.

In Indian Context, this fraud is possible when CST rate is Nil or is reduced to 1%. A dealer can purchase goods inter-state and make sale within the state. He will collect tax and then disappear. He may use someone else's VAT number in his invoices or may himself get registered with address of some temporary rented premises.

- (b) Accessories and spare parts and maintenance implements which are compulsorily supplied along with the machinery are chargeable at the same rate as applicable to main machine [proviso (a) to section 19 of Customs Act, read with accessories

## Answer to MTP\_Intermediate\_Syllabus 2012\_June2016\_Set 1

(conditions) Rules, 1963). Hence, it is not necessary to find separate value of accessory.

FOB value of imported goods -	USD 5,000
Air freight (limited to 20%) -	USD 1,000
Insurance charges are not known	
1.125% of FOB price	USD 56.25
Total	USD 6,056.25
In Indian rupees	USD 6,056.25 × ` 48
	` 2,90,700
Add: local agents commission	` 9,300
Total CIF	` 3,00,000
Add landing charges @ 1%	` 3,000
Total Assessable Value	` 3,03,000

7. (a) Calculation of point of taxation

For services provided -	1,00,000	Amount received	- 1,13,260
Add services tax @ 12.36%	12,360	Less amount receivable	-1,12,360
Total	1,12,360	Excess amount received	900

Excess amount received 900 no separate invoice is to be issued.

Point of taxation for invoice value of 1,12,360 is 01-04-2014

For 900 rupees point of taxation is 01 – 07-2014.

(b) Any service provided in more than one location, including a location in taxable territory its place of provision shall be the location in taxable territory where the greatest proportion of services is provided. Kerala 25%.

(c) Calculation of cost production in terms of rule 8 of valuation Rules, 2000 (amount in `)

Direct material (11,648 - 1,648 = 10,000) WN1	10,000
Direct wages & Salaries	8,400
Works overheads	6,200
Quality control costs WN2	3,500
Research and development cost WN2	2,400
Administration overhead WN2	4,100
Selling and distribution cost WN3	-
Total	34,600
Less: realizable value of scrap WN4	1,200
Cost of production	33,400
Value of excisable goods under Rule 8 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 @ 110% of cost or production	36,740

Working notes:

1. Raw- material cost shall be taken net of excise duty assuming cenvat credit is available.
2. Quality control cost, research and development cost and administration overhead related to production shall form part of cost of production as per CAS-4.
3. Selling and distribution costs shall not form part of cost of production.
4. Realizable value of scrap shall be deducted to arrive at cost of production.

8. (a) Computation of arm length price (ALP) is as follow –
- (i) Though the ALP is Rs. 125 per unit, however, since the adoption of ALP will result in decrease in total income of Indian subsidiary (the cost of purchase being higher), therefore, the price of US \$ 100 per unit shall be admissible.
  - (ii) However, in this case, the ALP = price to unrelated buyers = US \$ 80 per unit, and since its adoption increases taxable income in India, hence, the same shall be adopted.
- (b) A transaction is considered as cross-border transaction if it originates in one country and gets concluded in another country. Thus, it is not necessary that every international transaction within the meaning of section 92B of the Income -tax Act is a cross-border transaction or vice-versa.