

Paper 11 - Indirect Taxation

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Full Marks:100

Time allowed: 3 hours

1. Answer the following questions:

(A) Multiple Choice Questions:

(a) (i) (b) (i) (c) (iv) (d) (iv) (e) (i) (f) (ii) (g) (i)

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

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

(C) Match the following:

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

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

2. (a) Deficiencies of VAT:

Different rate of tax:

VAT is advantageous under one rate of VAT. Concession like differential vat rate, composition scheme, exception scheme, exempted goods will distort the system.

Disintegration:

VAT credit is allowed for purchases within the state and not allowed for purchases outside the state, neutrality is possible only when all purchases are within the state.

Accounting Cost:

Maintaining the records and accounting increase the expenditure.

Increases the working capital requirement:

Since tax is imposed at each stage it increases the working capital requirement and interest burden on same.

Inequality of taxation:

VAT is consumption tax. Income spent on consumption is more in poor than rich hence tax is regressive in nature.

Increases in Administrative cost:

No. of dealers to be administrated under VAT increases the cost of administration.

Answer to MTP_Intermediate_Syllabus 2012_June2016_Set 2

Higher base rate:

Base rate is 12.5% which is higher.

Treatment of exempted goods:

On exempted goods no VAT and no CENVAT credit on purchases.

Revenue loss:

Due to concession, revenue loss from undeclared states of finished goods increases.

- (b) Sales tax is not payable on deposit for returnable containers, but is payable on excise duty. Hence aggregate S.P for the purpose of CST is 30,00,000. This is inclusive of CST @ 2%.

35,00,000
-5,00,000
30,00,000
 $30,00,000 \times 100/102 = 29,41,176$
 $30,00,000 \times 2/102 = 58,824$

3. (a) In order to claim the benefit of SSI exemption in a financial year, the total turnover of a unit should not exceed ` 400 lakh in the preceding year.

For this purpose, the total value of clearances shall be calculated as follows –

	` in Lakhs
Total value of clearances	465
Less:	
(i) Clearances of certain non-excisable goods manufactured by it	85
(ii) Clearances exempted under specified job-work notification	55
(iii) Exports clearances to USA	75
(iv) Clearances of goods used captively to manufacture finished products, which are exempt under notification other than SSI exemption notification	Nil
Value of clearances	250

Unit eligible for exemption: Since the aggregate value of clearances during the preceding financial year doesn't exceed ` 400 lakhs, therefore, the unit is eligible for SSI- exemption in the financial year 2015-16.

- (b) Sec 2(e) of CEA states that factory means any premises including the precincts thereof, where in or in any part of which, excisable goods other than salt are manufactured or where in or in any part of which any manufacturing process connected with production of these goods is being carried on or is ordinarily carried on.

4. (a) personal effects and two laptop computer are exempted from duty

Mr. Suraj		Mrs. Lathika	
Personal computer	36,000	New camera	97,400
Liquor	3,200	Less GFA	45,000
	39,200		52,400
Less GFA	39,200		
(45,000 restricted to 39,200)		Customs duty @ 36.05%	
Duty payable	Nil		18,890.20

- (b) Pilfered goods u/s 13 of the Customs Act vs. lost or destroyed goods u/s 23 of the Customs Act —

Answer to MTP_Intermediate_Syllabus 2012_June2016_Set 2

Pilfered goods u/s 13	Lost or destroyed goods u/s 23
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 are 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,	Sec 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.

5. (a) Value of taxable services

Particular	Amount (₹)
Supply of farm labour	Exempted
Transport of mail bags by vessel	60,000
Warehousing of potato chips	1,05,000
Renting of hotel room with food (70%)	2,10,000
Asset management services	30,000
Royalty for technical know how	2,50,000
Design of IT software	8,00,000
Total	14,55,000
Service tax @ 14%	2,03,700
Swatch bharat Cess @0.5%	7,275
Total service tax	2,10,975

- (b) (i) Exemption is available when individual consignment is less than ₹ 750.
(ii) In this case exemption is available as gross amount does not exceed ₹ 1500. Hence exemption is available. Hence no Service tax or Swatch Bharat Cess is applicable.

6. (a) Role of Cost Accountant under VAT: Cost Accountants have the following key role to play in proper implementation of VAT —

Answer to MTP_Intermediate_Syllabus 2012_June2016_Set 2

- (i) **Record keeping:** VAT requires proper record keeping and accounting. Systematic records of input credit and its proper utilization is necessary for the dealer to take input tax credit. No doubt, Cost Accountants are well equipped to perform these activities.
- (ii) **Tax planning:** Cost Accountant is competent to analyze various alternatives and its impact on dealer so as to minimize the tax impact.
- (iii) **Negotiations with suppliers to reduce price:** VAT credit alters cost structure of goods supplied as inputs. A Cost Accountant will ensure that the benefit of such cost reduction is passed on by the suppliers to his company.
- (iv) **Helping to departmental officers:** There will be audit wing in department and certain percentage of dealers will be taken up for audit every year on scientific basis. Cost Accountant can ensure proper record keeping so as to satisfy the departmental auditors.
- (v) **External audit of VAT records:** Under VAT system, self assessment has been brought into force. Cost Accountants can play a very vital role in ensuring tax compliance by audit of VAT accounts.

As per the Bombay High Court in the case of Sales Tax Practitioners Association of Maharashtra v State of Maharashtra (2008), has held that VAT audit can be conducted only by Chartered Accountants and Cost Accountants.

(b) Computation of customs duty payable: -

Particulars	`
Total CIF value in INR = US \$ 40,000 × ` 45	18,00,000
Add: Landing charges @ 1%	18,000
Assessable value (AV)	18,18,000
Basic customs duty (BCD) @ 10%	1,81,800
Education cess (EC) @ 2% on BCD	3,636
SHED @ 1% on BCD	1,818
Landed value of imported goods	20,05,254
Total customs duty payable (BCD+ EC + SAHEC)	1,87,254

Computation of Anti dumping duty payable: -

Value of goods in INR as per Notification = 1,000 kgs × US \$60 × ` 45	27,00,000
Les: Landed value of goods	20,05,254
Anti- dumping duty payable	6,94746

7. (a) Difference between direct and indirect taxes:

Direct taxes	Indirect taxes
Payer of tax and sufferer of tax one and same (i.e. impact and incidence on the same person)	Payer of tax is not sufferer of tax whereas sufferer of tax is not paying directly to the Government (i.e. impact on one head and incidence on other head)
Income based taxes	Transaction based taxes
Rate of taxes are different from person to person	Rate of duties are not different from person to Person
Entire revenue goes to Central Government of India	Revenue source to Central Government of India as well as State Governments

Answer to MTP_Intermediate_Syllabus 2012_June2016_Set 2

Central Board of Direct Taxes (CBDT) is an important part of Department of Revenue, Ministry of Finance (India). It plays a vital role in planning & implementing direct taxes policy in India. It also monitors direct taxes law followed by Income Tax Departments	Central Board of Excise and Customs (CBE&C) is an important part of Department of Revenue, Ministry of Finance (India). It plays a vital role in planning & implementing indirect taxes policy in India. It also monitors indirect taxes law followed by Excise and Customs Departments
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(b) Export of service means services provided from India to outside India. It should satisfy the following conditions Rule 6A of Service Tax Rules.

- ❖ Service should be defined U/s 65B (44) of Finance Act, 1994
- ❖ Service provided is in taxable territory.
- ❖ Service receiver is outside India.
- ❖ Service is not specified in negative list.
- ❖ Place of provision of service is outside India.
- ❖ Payment is received by S.P in convertible foreign exchange.
- ❖ Service provider and service receiver should be distinct persons.

(c) Manufacturer:

Manufacturer is the person who actually brings new and identifiable product into existence.

- (i) Duty liability is on manufacturer in most of the cases.
- (ii) Mere supplier of raw material or brand name owner is not 'manufacturer'.
- (iii) Loan licensee is not 'manufacturer'.

Loan licensee can be treated as manufacturer only if the manufacture is carried out by use of his own raw material under his own supervision by hiring the premises and equipment shift-wise or otherwise.

8. (a) Difficulties In applying the Arm's Length Price: -

- (i) The most serious problem is to find transactions between independent enterprises which can be said to be exact compared to the controlled transaction.
- (ii) It is important to appreciate that in an MNE system, a group first identifies the goal and then goes on to create the AE's and finally, the transactions are entered. This does not apply to independent enterprises.
- (iii) Splitting an MNE group into its component parts before evaluating transfer pricing may mean that the benefits of economic of scale, is not appropriately allocated between MNE group.
- (iv) Application of ALP imposes burden on business, as it may require the MNE to do the things that it would otherwise not do (searching comparable transactions, documenting transactions in detail etc;)
- (v) ALP involves lot of cost to group.

(b) Administration of FTP (Foreign Trade Policy) by DGFT (Director General of Foreign Trade): -

- ❖ The FTP is controlled and supervised by DGFT. Central Government can appoint DGFT and other officers like Additional directors, Joint Director, Deputy Director, Assistant Director, Export commissioner. DGFT advise central government in formulating and exercise of powers under ACT.
- ❖ DGFT is empowered to issue HBP (Hand Book Procedures), SION (Standard Input-

- output Norms). He also issues various public notices.
- ❖ DGFT has general powers of review and he can call for records of any case/officer of any EPC (Export promotion council).
 - ❖ Regional Authorities: - DGFT has established Regional Authorities (RA) at various places under Joint Director General of Foreign Trade. Regional Authority means authority competent to grant an authorisation. Under FTDR, powers are delegated to various regional offices to issue authorisation upto prescribed limits. Address officers are given in HBP. If applications are beyond their powers it is sent to committee of head quarters. In respect of Advance Authorisation (AA) and EPCG (Export Promotion Capital Goods Scheme), RA can consider application without any limit of CIF value. Bank guarantees, export obligations, legal undertakings are controlled by RA of DGFT.
 - ❖ Committees: - Committees for granting Relief from FTP — Norms committee, EPCG Committee, Policy Relaxation Committee, Standing Grievances Committee.
 - ❖ Once A.A granted by licensing, the customs authorities cannot refuse an allegation of misrepresentation. Authorisation means permission.
 - ❖ Licensing year means IAP- 31 mar. DGFT can refuse A.A.