

Paper 18- Indirect Tax Laws and Practice

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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.**

**Section - A
Answer Question No. 1 which is compulsory**

1. Choose the correct answer with justification/ workings wherever applicable: [8×2=16]

- (i) If the invoice is issued within the prescribed period of 30 days from the date of completion of the provision of service, the point of taxation will be:
- (a) Date of invoice
 - (b) Date of invoice or date of payment, whichever is earlier
 - (c) Date of completion of the provision of service
 - (d) Date of completion of the provision of service or date of payment, whichever is earlier.
- (ii) In case of goods liable for confiscation amounting upto ₹ 50,000, the adjudicating authority for confiscating goods u/s 122 of the Customs Act, 1962 will be:
- (a) The superintendent of Customs
 - (b) The Deputy/Assistant Commissioner of Customs
 - (c) The Joint/ Additional Commissioner of Customs
 - (d) Commissioner of Customs
- (iii) Which of the following service is included in the definition of input services?
- (a) legal services
 - (b) credit rating
 - (c) market research
 - (d) All of the above.
- (iv) The relevant date for determination of rate of duty and tariff valuation in case of warehoused goods entered for home consumption is:
- (a) Date of presentation of bill of entry
 - (b) Date of entry inwards of the vessel/arrival of the aircraft or vehicle
 - (c) Date of presentation of bill of entry or date of entry inwards of the vessel/arrival of the aircraft/ vehicle whichever is later
 - (d) Date of presentation of bill of entry or date of entry inwards of the vessel/arrival of the aircraft/ vehicle whichever is earlier.
- (v) If senior advocate provide service of ₹ 1,50,000/- to business entity for Legal services, then who is liable to pay service tax?
- (a) Senior advocate
 - (b) Business entity
 - (c) Exempted service
 - (d) None of the above
- (vi) Indian Institute of Management, Ahmedabad provided services by way of Executive Development Programme for ₹ 55 lakhs. The amount of Service Tax liability (@15%) will be:
- (a) Nil
 - (b) ₹ 5.78 lakhs
 - (c) ₹ 8.25 lakhs
 - (d) None of the above.
- (vii) In FTP, advance authorization scheme is a type of which export promotion scheme?
- (a) Duty exemption scheme
 - (b) Duty remission scheme
 - (c) Reward scheme
 - (d) EPCG scheme.

- (viii) Clean and Green Pvt. Ltd. provided the bio-medical waste treatment facility to a veterinary clinic. This is a:
- (a) Exempted service under negative list
 - (b) Exempted service under mega exemption
 - (c) taxable service
 - (d) taxable service with abatement.

Section – B

Answer any four questions out of six questions given. Each question carries 16 marks.

- 2.(a)** The spectrum is assigned to ABC Company for a total consideration of ₹ 1200 crores, by the Government of India for 20 years in an auction held in May 2016. ABC Company chooses to make full upfront payment on the due date (i.e. 25-6-2016). ABC Company assigns the right to use the spectrum to XYZ Company on 1.8.2016 (and issues invoice dated 1.8.2016) for a consideration of ₹ 930 crores. Find the eligibility of CENVAT Credit to ABC Company and net tax liability in the year 2016-17?

Note: ignore Krishi Kalyan Cess.

[10]

- (b)** State briefly the provisions of the CENVAT Credit Rules, 2004 in respect of removal of inputs and capital goods on which CENVAT credit has been availed in the following cases:

- (i) Capital goods removed in good condition after being put to use for a period of two years, in respect of which period, depreciation under the Income-tax Act, 1961 was claimed.
- (ii) An input becomes a waste and is sold as scrap.
- (iii) Sale of the factory along with the said inputs and capital goods.

[6]

- 3.(a)** XYZ Industries Ltd., has imported certain equipment from Japan at an FOB cost of 2,00,000 Yen (Japanese). The other expenses incurred by M/s. XYZ Industries in this connection are as follows:

- (i) Freight from Japan to India Port 20,000 Yen
- (ii) Insurance paid to Insurer in India ₹ 10,000
- (iii) Designing charges paid to Consultancy firm in Japan 30,000 Yen
- (iv) M/s. XYZ Industries had expended ₹ 1,00,000 in India for certain development activities with respect to the imported equipment
- (v) XYZ Industries had incurred road transport cost from Mumbai port to their factory in Karnataka ₹ 30,000
- (vi) The Central Board of Excise and Customs had notified for purpose of section 14(3)* of the Customs Act, 1962 exchange rate of 1 Yen = ₹ 0.3948. The interbank rate was 1 Yen = ₹ 0.40
- (vii) M/s XYZ Industries had effected payment to the Bank based on exchange rate 1 Yen = ₹ 0.4150.
- (viii) The commission payable to the agent in India was 5% of FOB cost of the equipment in Indian Rupees.

Arrive at the assessable value for purposes of customs duty under the Customs Act, 1962 providing brief notes wherever required with appropriate assumptions.

[11]

- (b)** What do you understand by Deemed Exports under Foreign Trade Policy? **[5]**

- 4.(a)** Mr. Ram has provided the following services during the year 2016-17. Determine whether he is eligible for small service provider exemption during the year 2017-18:

- (i) Service exported to USA ₹ 25,00,000

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- (ii) Fee from agricultural activities ₹ 2,50,000
- (iii) Services provided by way of transport of defence material in a vessel for ₹ 4,50,000
- (iv) Declared services (value as determined under valuation rules is 40% of the total amount charged) for ₹ 6,00,000
- (v) Value of construction services (in which 70% abatement has been provided) for ₹ 2,00,000.
- (vi) Legal consultancy services (reverse charge applicable) for ₹ 7,00,000. **[8]**

(b) The following information relates to purchases and sales of K.K. Ltd. for the month of September 2016:

	₹
(i) Purchases for resale within the State	8,00,000
(ii) Purchases from registered dealers who opted for composition scheme	4,00,000
(iii) Purchases to be used as consumable stores for manufacture of taxable goods	6,00,000
(iv) Purchases of goods where invoices does not show the amount of taxes separately	5,00,000
(v) Purchases of goods for personal consumption	2,00,000
(vi) Purchases of capital goods (not eligible for input credit)	5,50,000
(vii) Purchases of capital goods (eligible for input credit)	5,76,000
Sales made within the State during the month of September 2016 was ₹ 50,00,000 on which VAT @ 4% was payable.	

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 September 2016.
- (ii) VAT payable for the month of September 2016.
- (iii) Input tax credit carried forward.

Note: The input VAT credit on eligible capital goods is available in 24 equal monthly installments. (Make suitable assumptions where required and show the workings) **[8]**

5.(a)(i) State briefly whether the following persons are liable to apply for registration under the Finance Act, 1994 and Service tax (Registration Special Category of Persons) Rules, 2005 and if so from which date:

- (A) An input service distributor who starts his business with effect from 1st January, 2017.
- (B) A provider of taxable service under an unregistered brand name of another person.

In both cases aggregate value of taxable services was ₹ 6,00,000 upto 31-1-2017. **[4]**

(ii) Sri Hanuman is a practicing Cost Accountant. His Gross taxable services during the year 2016-17 are ₹ 9,50,000. Is registration compulsory for him? If so in which year? **[2]**

(b) Compute taxable value and service tax from following sums received by M/s. DSS medical centre (exclusive of service tax) (ignore small service provider's exemption) for the year ending 31.03.2017:

- (i) Testing (with transmission of medical samples between laboratories): ₹ 10 lakhs;
- (ii) Medicine consumed as a part of health care service: ₹ 5 lakhs;
- (iii) Preventive health care services: ₹ 4 lakhs;
- (iv) Treatment along with facilities provided such as TV, AC, room rent, medal to patients (as a part of package): ₹ 33 lakhs;
- (v) Genetic affinity examination for determining biological father: ₹ 4 lakhs;
- (vi) Hair transplant services due to injury in a fire accident: ₹ 7 lakhs;
- (vii) Cosmetic surgery of a film star: ₹ 16 lakhs;
- (viii) Conduction medical examinations of individual: ₹ 1 lakh. **[10]**

- 6.(a)(i)** Rishabh Dev & Co. is engaged in the manufacture of liquid mosquitoes' destroyer. It obtains concentrated alletherin and converts it into diluted alletherin by adding solvent deodorized kerosene oil, perfume (as a masking agent) and DHT (as a stabilizing agent). Revenue alleges that the addition of stabilizing agent, masking agent etc. amounts to manufacture within the meaning of section 2(f) of the Central Excise Act, 1944. Do you think that Revenue's allegation is tenable in law? **[6]**
- (ii)** Assessee imported Compact Disk Read Only Memory (CD ROMs) containing images of drawings and designs of engineering goods. The Appellant (i.e. assessee), filed a Bill of Entry for the clearance of the CD ROM containing drawings, designs of engineering goods. The assessee claimed classification under Custom Tariff heading 4906, or, heading 4911, or, as Information Technology Software, or as CD ROM, where exemption is given from duty. However, the Department classified the same under Customs Tariff heading 8524.39 thereby recorded CD ROMs, liable to duty. Discuss in the light of decided case law, if any, whether the classification of the department is correct in law? **[5]**
- (b)** The assessee was engaged in the manufacture of sugar. The Central Government directed him to maintain buffer stock of free sale sugar for the specified period. The Government of India extended buffer subsidy towards storage, interest and insurance charges for the said buffer stock of sugar. Department issued a show cause notice to the assessee raising the demand of service tax alleging that amount received by the assessee as buffer subsidy was for the services covered within the definition of 'storage and warehousing services'. **[5]**

7. Answer any four:

[4×4]

- (a)** Section 35F of the Central Excise Act, 1944 stipulates that duty and penalty will have to be paid unless an appropriate stay is obtained. Briefly state the criteria required to be satisfied for grant of stay/waiver of pre-deposit and admission of appeal. **[4]**
- (b)** State the points of difference between valuation of imported goods under Customs Act, 1962 and imported services under Finance Act, 1994 and valuation of imported goods and services, as per relevant Accounting Standard. **[4]**
- (c)** M/s. Pure Drugs Ltd. manufactures medicines which are liable to excise duty only under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955. The Assistant Commissioner of Central Excise has directed it to pay the service tax as it is not covered by Negative List [Section 66D(f) of the Finance Act, 1994] since the Central Excise Duty under Section 3 of the Central Excise Act, 1944 is not payable on the medicines manufactured by it. Examine whether M/s. Pure Drugs Ltd. is liable to pay service tax for the year 2014-15. Give reasons in support of your answer. **[4]**
- (d)** When is a sale said to take place in the course of inter-state trade or commerce? **[4]**
- (e)** Describe SION (Standard Input Output Norms) in the context of foreign trade policy. **[4]**

Section – C

Answer Question No. 8 which is compulsory and any one question out of two questions given.

8. Choose the correct answer with justification/ workings wherever applicable: **[2×2=4]**

- (i)** A purchases goods from B for ₹ 12,000. A is a registered person and B is an unregistered person. The goods supplied by B are taxable goods @ 18%. In such a case, who will be liable to pay taxes?
- (a) B as supplier;
(b) A under reverse charge;
(c) None of A or B;
(d) Both A & B.

- (ii) Mr. H has an office in Bihar and he makes supply exclusively in Bihar. He has made supply of taxable goods of ₹ 10 lakhs and exempted goods of ₹ 12 lakhs. What would be his liability for registration?
- (a) Liable to be registered as his aggregate turnover exceeds ₹ 20 lakhs
 - (b) Liable to be registered as his aggregate turnover exceeds ₹ 10 lakhs
 - (c) Not liable to be registered as his taxable turnover does not exceeds ₹ 20 lakhs
 - (d) Not liable to be registered as his taxable turnover does not exceeds ₹ 50 lakhs.
- 9.(a) Write down any two benefits of Goods and Services Tax (GST) which are available to the consumers. **[4]**
- (b) Mention the names of any four state taxes which are subsumed under GST. **[4]**
- (c)(i) What is the taxable event under GST? **[2]**
(ii) What is meant by zero rated supply under GST? **[2]**
- (d) What is a Composite Supply under CGST/ SGST/UTGST Act? Give an example. **[4]**
- 10.(a) What is Goods and Service Tax (GST)? **[4]**
- (b) State any two features of GST. **[4]**
- (c)(i) What is a taxable supply? **[2]**
(ii) What are inter-state supplies and intra-state supplies? **[2]**
- (d) Are self-supplies taxable under GST? Justify. **[4]**