

## Paper-11 Indirect Taxation

Time Allowed: 3 hours

Full Marks: 100

Working notes should form part of the answers.

1. Answer the following questions [1 × 20= 20]

**(i) Can parliament make a law on State List to implement international treaty?**

**Answer:** Yes, (as per article 253)

**(ii) What is the meaning of an 'assessee' in relation to Service Tax?**

**Answer:** 'Assessee' means a person liable to pay Service Tax and includes his agent.

**(iii) A taxpayer transfers his business to another person - what is to be done with the Registration?**

**Answer:** In the event of transfer of the business, the transferee should obtain a fresh certificate of Service Tax registration. The transferee will have his own PAN.

**(iv) Can excess payment be adjusted while paying tax for the next month or quarter?**

**Answer:** Yes. If any excess payment is made in any months or quarter that can be adjusted while paying tax for the next month or quarter.

**(v) Can service tax be paid by cheque?**

**Answer:** Yes, you can pay service tax by cheque.

**(vi) Whether a single Return is sufficient when an assessee provides more than one service?**

**Answer:** A single return is sufficient because the ST-3 Return is designed to capture details of each service

**(vii) What are the records to be maintained by the persons availing credit?**

**Answer:** There is no specific format of records to be maintained. However, they have to maintain adequate records showing the details such as receipt, disposal, consumption and inventory of inputs and capital goods, the amount of credit taken and utilized etc.

**(viii) If export proceeds are received in Indian currency, will it be denied export benefit?**

**Answer:** Yes. If export proceeds are received in Indian currency, no export benefits shall be available.

**(ix) Whether Cenvat Credit is available on CST sale?**

**Ans:** No. Credit of Central Sales Tax (CST) paid on inputs and capital goods purchased from other States will not be available.

**(x) Whether refund of VAT Credit is possible?**

**Answer:** Yes, refund of excess VAT credit is permitted only if goods were exported out of India.

**(xi) What is the periodicity of issue of C form?**

**Answer:** The purchasing dealer is required to issue C form to selling dealer on quarterly basis. One C form should contain all sales in the quarter.

**(xii) Whether fees paid to Court or Tribunal subject to service tax?**

**Answer:** No. Fees paid to Court or Tribunal for dispensation of justice will not be subject to service tax as these are excluded from definition of service.

**(xiii) What are the duties levied under Central Excise Act?**

**Answer:** Basic duty and special duty of excise are levied under Central Excise Act.

**(xiv) Whether capital goods not defined as Capital goods will be eligible as input?**

**Answer:** Yes. Definition of input excludes Capital goods. Only those goods defined as capital goods under Cenvat Credit Rules will be excluded. Other capital goods, if used in factory and has some relation with manufacture, will be eligible as inputs.

**(xv) What are the types of Drawback rates?**

**Answer:** Duty drawback rates are of following types – (a) All Industries Rate (b) Brand Rate and (c) Special Brand Rate.

**(xvi) When transaction value shall be accepted even where the buyer and seller are related?**

**Answer:** The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influence the price.

**(xvii) What is the date for determination of rate of duty in case of goods cleared from warehouse?**

**Answer:** In the case of goods cleared from a warehouse under section 68, the date of presentation of the Ex-Bond clearance Bill of Entry for home consumption under that section.

**(xviii) What is the taxable event under Custom Act in case of exportation?**

**Answer:** Taxable event in the case of exportation is when the vessel cross the territorial water of India.

**(xix) R Ltd., a company incorporate in USA holds 30% shares of S Ltd. an Indian Company. It also holds 32% shares of G Ltd., a company incorporated in Germany. Whether R Ltd. and G Ltd are associated enterprise?**

**Answer:** Yes. S Ltd. and G Ltd are associated enterprises since in both the case more than 26% shares are hold.

**(xx) X Ltd. participates in the management or control or capital of Y Ltd. Whether X Ltd. and Y Ltd. is an associate enterprises?**

**Answer:** Yes. Y Ltd. shall be associated enterprises of X Ltd. as a result of direct participation.

(2) Answer any two questions [2 × 2= 4]

**(a) Who can make a law on tax – Centre or State?**

**Answer:** Article 246(1) of Constitution of India states that Parliament has exclusive powers to make laws with respect to any of matters enumerated in List I in the Seventh Schedule to Constitution (Called 'Union List'). As per Article 246(3), State Government has exclusive power to make laws for State with respect to any matter enumerated in List II of Seventh Schedule to Constitution. List III (concurrent list) contains entries where both Union and State Governments can exercise power.

**(b) If there is a matter in Concurrent List and both Centre and State make a law on that matter, which law will prevail?**

**Answer:** The law made by parliament shall prevail over the law made by the state legislature and the latter will be valid only to the extent to which it is not repugnant to the former.

**(c) Who can make a law for Wealth tax on agricultural property – Central or State?**

**Answer:** The Supreme Court has held that the power to impose wealth-tax on the total wealth of a person including his agricultural land belongs to parliament in its residuary jurisdiction. (Union of India v, H. S. Dhillon, A.I.R. 1972 SC 1061).

(3) Answer any two questions [2 × 8=16]

**(a) Vendibility criterion/Marketability is a litmus test to be fulfilled before any goods can be subjected to levy of excise duty. Discuss this statement with the help of decided cases.**

**Answer:**

The provisions relating to marketability of goods is discussed as under –

**(1) Marketability:** Marketability is the capability of the product of being bought and sold into the market. The Supreme Court in the Tariff schedule, it will not be liable to duty of excise unless it is marketable in the condition in which the department wants to levy excise duty.

**(2) Important aspects of marketability:** Certain important features with respect to marketability are –

**(a)** Actual sale is not necessary to constitute marketability.

**(b)** The usage in captive consumption is not a determining factor of marketability.

**(c)** There is no requirement that the article, material or substance must be commercially known product and must be worthwhile to trade in. [this is evident from the Explanation to section 2(d)]

**(d)** The goods must be marketable in the condition in which the department wants to levy excise duty. Thus, theoretical possibility of goods being sold is not enough to constitute marketability. It must be shown that article is actually capable of being sold.

**(e)** The fact that the product in question is generally not bought and sold or has no demand in the market is irrelevant.

**(f)** Marketability is not confined to territorial limits of India.

**(g)** There need not be a market of whole lot of persons to constitute marketability. Even a single buyer can constitute marketability. – AP State Electricity Board v. CCEX. [1994] 70 ELT 3 (SC)

**(h)** Burden of proof of marketability is on the revenue department.

**(3) Concept of “Deemed Marketability”:** Explanation to Section 2(d) introduces a concept of “deemed marketability” by providing that “goods” include any article, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable.

**(b) Determine the assessable value for purpose of excise duty under the Central Excise Act, 1944 in the following cases:**

- (i) An assessee sells his excisable goods for ₹ 120 per piece and does not charge any duty of excise in his invoice. Subsequently it was found that the goods were not exempted from excise duty but were liable at 20% advalorem.
- (ii) Certain excisable goods were sold for ₹ 120 per piece and 20% advalorem is the rate of excise duty. Subsequently it was found that the price cum duty was in fact ₹ 140 per piece as the assessee had collected ₹ 20 per piece separately.
- (iii) The cum duty price per piece was ₹120 and the assessee had paid duty at 20% advalorem. Subsequently it was found that the rate of duty was 30% advalorem and the assessee had not collected anything over and above ₹ 120 per piece.

**Solution:**

The assessable value shall be calculated as under-

$$\text{Assessable Value} = \frac{\text{Price cum duty} - \text{Permissible deductions}}{100 + \text{Rate of Excise duty}} \times 100$$

It is assumed that all the prices given in question excludes permissible deductions i.e. sales taxes and other taxes and EC & SHEC have also been ignored.

$$(i) \text{ Assessable Value} = \frac{\text{Price cum duty} - \text{Permissible deductions}}{100 + \text{Rate of Excise duty}} \times 100 \text{ i.e., } \frac{120}{100 + 20} \times 100 = ₹ 100$$

$$(ii) \text{ Assessable Value} = \frac{\text{Price cum duty} + \text{Additional consideration} - \text{Permissible deductions}}{100 + \text{Rate of Excise duty}} \times 100$$

$$\text{i.e., } \frac{120 + 20}{100 + 20} \times 100 = ₹ 116.67$$

$$(iii) \text{ Assessable Value} = \frac{\text{Price cum duty} - \text{Permissible deductions}}{100 + \text{Rate of Excise duty}} \times 100 \text{ i.e., } \frac{120}{100 + 30} \times 100 = ₹ 92.30$$

**(c) Sona Ltd., purchased a lathe machine at a cum-duty price of ₹ 18,63,680. The excise duty rate charged on the said machine was 16% plus education cess 2% plus secondary and higher education cess 1%. The machine was purchased on 1-7-2013 and was disposed of on 30-9-2015 for a price of ₹ 10,00,000 in working condition as second hand machine.**

**Calculate the amount of CENVAT credit allowable for the financial year 2013-14 and 2014-15 and also specify the amount payable towards CENVAT credit already taken at the time of disposal of the machinery in the year 2014-15.**

**Solution:**

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The relevant computations are as follows –

Cum-duty-price of the lathe machine	18,63,680
Rate of excise duty (16% + EC @ 2% + SHEC @ 1% thereon)	16.48%
Excise duty included in the aforesaid cum-duty-price	2,63,680
As per Rule 4(2) of the CENVAT Credit Rules, 2004, the credit shall be available –	
• Upto 50% in the financial year 2013-14 itself	1,31,840
• Balance in the subsequent financial year(s) i.e. financial year 2014-15	1,31,840

### Computation for reversal under proviso to Rule 3(5A) of the CENVAT Credit Rules, 2004:

Total Credit	[1]	2,63,680
Date of taking credit, being the first date of taking the credit	[2]	01-07-2013
Date of removal	[3]	30-09-2013
No. of quarters from date of taking credit to date of removal [(3)–(2), in quarters]	[3]	9
Percentage computed for the no. of quarters for which asset held	[4]	22.50%
Amount to be paid [100% - (5)]	[5]	77.50%
Limit (A) i.e., Total Credit x % of amount to be paid [(1) x (5)]	[6]	2,04,352
Transaction Value of Sale (assumed that the price is exclusive of duty)	[7]	10,00,000
Limited (B) i.e. Excise duty @ 16.48% on value	[8]	1,64,800
Amount of Reversal i.e., CENVAT credit to be paid being higher of (6) or (9)	[9]	2,04,352

### Alternative assumption:

The date of taking the credit refers to each date on which the credit is taken: An alternative assumption is the “date of taking the credit” refers to the each date on which the credit is taken. Accordingly, since only up to 50% duty can be taken as credit in the year of receipt and balance can be taken in the subsequent year(s), hence, the date of each taking of the credit shall be considered. In view thereof, they compute the amount required to be reversed under Rule 3(5A) as follows (It is assumed that 50% credit is taken in the year of purchase and the balance 50% is taken in the subsequent year)-

		For first 50%	For balance
Total credit on lathe machine, which has been removed [Rs. 2,63,680 x 50%]	[A]	1,31,840	1,31,840
Date of taking the credit (Assuming, credit is taken on the day of receipt. For the balance 50%, the credit can be and is taken on the first day of the next year i.e. financial year 2014-15.)	[B]	01-07-2013	01-04-2014
Date of removal of capital goods being lathe machine	[C]	30-09-2015	30-09-2015
No. of quarters from date of taking the credit to the date of removal	[D=C-B]	9	6
Percentage computed @ 2.5% per quarter	[E]	22.50%	15.00%
Credit required to be reversed = 100% - Percentage computed above	[F]	77.50%	85.00%
Credit required to be reversed = A x F		1,02,176	1,12,064
Total Reversal Required to be made [Limit(A)]			2,14,240
Transaction Value of Sale (assumed that the price is exclusive of duty)			10,00,000

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Excise duty @ 16.48% on value [Limit (B)]	1,64,800
Amount of Reversal i.e., CENVAT credit to be paid is higher of : Limit A or B	2,14,240

**(4) Answer any two questions [2 × 6= 12]**

**(a) Miss Priyanka imported certain goods weighing 1,000 kgs. with CIF value US \$ 40,000. Exchange rate was 1 US \$ = ₹ 60 on the date of presentation of bill of entry. Basic customs duty is chargeable @ 10% and education cess as applicable. There is no excise duty payable on these goods, if manufactured in India. As per Notification issued by the Government of India, anti-dumping duty has been imposed on these goods. The anti-dumping duty will be equal to difference between amount calculated @ US \$ 60 per kg. and 'landed value' of goods. You are required to compute custom duty and anti-dumping duty payable by Miss Priyanka.**

**Answer:**

CIF value is ₹ 24,00,000 (60 x 40,000). Landing charges @ 1% are ₹ 24,000. Hence, assessable value is ₹ 24,24,000. Computation of customs duty is as follows -

	Duty %	Amount	Total Duty
(A) Assessable Value ₹		24,24,000.00	
(B) Basic Customs Duty	10	2,42,400.00	2,42,400.00
(C) Edu Cess of Customs - 2% of 'B'	2	4,848.00	4,848.00
(D) SAH Education Cess of Customs - 1% of 'B'	1	2,424.00	2,424.00
(E) Sub-total for Spl CVD 'A+B+C+D'		26,73,672.00	
(F) Special CVD u/s 3(5) - 4% of 'E'	4	1,06,946.88	1,06,946.88
(G) Total Duty			3,56,618.88
(H) Total duty rounded to ₹			3,56,619

Landed cost = Assessable value plus customs duty = ₹ 27,80,619 (24,24,000 plus 3,56,619). Value calculated @ USD 60 per Kg = 60 x 1,000 x 60 = 36,00,000.

Hence, Anti-dumping duty = ₹ 8,19,381 (₹ 36,00,000 – ₹ 27,80,619)

**(b) Compute the assessable value for purpose of determination of Customs duty from the following data: - (i) Machinery imported from USA by air (FOB price) - USD 4,000 (ii) Accessories compulsorily supplied alongwith the machinery - USD 1,000 (iii) Air freight - USD 1,200 (iv) Insurance Charges - Actuals not available (v) Local agent's commission to be paid in Indian Currency – ₹ 9,300 (vi) Transportation from Indian Airport to factory ₹ 4,000. Exchange rate USD 1 = ₹ 48. Provide explanations where necessary.**

**Answer:**

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 (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. Since insurance charges are not known, insurance cost should be taken @ 1.125% of FOB price i.e. USD 56.25. Total CIF price is 6,056.25 USD i.e. ₹ 2,90,700. Add Local Agent's Commission – ₹ 9,300. Transportation cost within India are not required to be added to assessable value. Thus, CIF price is ₹ 3,00,000. Add 1% landing charges i.e. ₹ 3,000. Hence, assessable value is ₹ 3,03,000.

**(c) Mrs. & Mr. Kapoor visited Germany and brought following goods while returning to India. (i) Their personal effects like clothes, etc., valued at ₹ 35,000. (ii) A personal computer bought for ₹ 46,000. (iii) A laptop computer bought for ₹ 95,000. (iv) Two litres of liquor bought for ₹ 1,600. (v) A new camera bought for ₹ 47,400. What is the amount of customs duty payable?**

**Answer:**

Personal effects and one laptop are exempt from customs duty. Two litres of liquor can be accommodated in General free Allowance. Hence, Mr. Kapoor can bring one personal computer and two litres of liquor on his account. Total value is ₹ 47,600 (PC ₹ 46,000 plus liquor ₹ 1,600). He will get General Free Allowance of ₹ 35,000 and duty payable will be on ₹ 12,600. Customs Duty @ 35% of ₹ 12,600 will be ₹ 4,410 plus education cess of ₹ 88.20 @ 2% of customs duty and SAH education cess of ₹ 44.10 @ 1% of customs duty.

Mrs. Kapoor can bring one camera on her account. Total value is ₹ 47,400. She will get General Free Allowance of ₹ 35,000 and duty payable will be on ₹ 17,400. Customs Duty @ 35% of ₹ 17,400 will be ₹ 6,090 plus education cess of ₹ 121.80 @ 2% of customs duty and ₹ 60.90 as SAH education cess.

**(5) Answer any two questions [2 × 4= 8]**

**(a) Mention the various export promotion schemes under FTP.**

**Answer:**

Various Export Promotion schemes have been introduced to encourage exports. Some of these are –

- (1) Duty exemption and Remission Schemes
- (2) Reward Schemes
- (3) EPCG Schemes
- (4) EOU / SEZ Schemes
- (5) Deemed exports

**(b) Explain the 'Principle of Restriction' under FTP.**

**Answer:**

FTP provides for certain restrictions on exports and imports for various strategic and health and other reasons.

- (1) Purpose of Restrictions: DGFT is authorized to impose restrictions, through notification, for –
  - (a) Protection of –
    - (i) public morals.
    - (ii) Human, animal or plant life or health.
    - (iii) Patents, trademarks, and copyrights and the prevention of deceptive practices.
    - (iv) National treasures of artistic, historic or archaeological value.
    - (v) Trade of fissionable material or material from which they are derived.
  - (b) Prevention of traffic in arms, ammunition and implements of war and use of prison labour.
  - (c) Conservation of exhaustible natural resources.
- (2) Export/import of restricted goods/services: Any goods/services, export or import of which is restricted under ITC (HS) may be exported or imported only in accordance with an Authorization or in terms of a public notice issued in this regard.

**(c) Briefly discuss duty remission schemes.**

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### Answer:

The provisions are as under-

- (1) Duty remission schemes: Duty remission schemes enables post export replenishment or remission of duty on inputs used in export product. Duty remission schemes consists of -
  - (a) Duty Drawback (DBK) Scheme.
  - (b) Duty Entitlement Passbook (DEPB) Scheme.
- (2) Re-import of goods exported under duty exemption/remission scheme: Goods exported under Advance Authorization/DFIA/DEPB may be re-imported in same or substantially the same form. The RA which has issued AA/DFIA/DEPB, should also be kept informed of such re-importation within one month of the re-importation.
- (3) Value Addition: For the purpose of duty exemption and remission schemes, Value Addition (VA) shall be calculated as follows:-

$$\text{Value addition} = \frac{A-B}{B} = 100:$$

Where –

A = FOB value of export realized / FOR value of supply received.

B = CIF value of inputs covered by Authorization, plus any other imported materials used on which benefit of DBK is claimed.

### (6) Answer any two questions [2 × 10= 20]

**(a)(i) Chand Business Services Ltd. is providing taxable services. The services became taxable from 1-7-2012. Chand Ltd. for the month of March, 2014 received following receipts (in ₹) (inclusive of service tax) - (i) Amount received in respect of services rendered in May 2013 - 10,30,000 (ii) Services provided to the Branch of World Health Organisation - a unit of UN - 1,03,000 (iii) Services rendered to its Auditors - 5,15,000 (no payment received but adjusted against Audit Fee Payable) (iv) Advance received for services to be rendered in May, 2014 - 6,18,000 (v) Services provided to office staff and their relatives free of cost - 20,000. Out of the advance received, 50% was returned on 15-4-2014 to the party, as they have closed their operations from 31-3-2014. Compute the taxable services and service tax payable for March, 2014 by Chand Business Services Ltd. When the tax is due for payment? [5]**

### Answer:

(i) Since the service became taxable w.e.f. 1-7-2012, service tax is payable on this amount. Hence service tax is payable on ₹10,30,000; (ii) The service is exempt (iii) Service tax is payable even if amount is received in kind. Hence, service tax is payable on ₹ 5,15,000 (iv) Service tax is payable when advance is received. Hence, service tax is payable on ₹ 6,18,000. Service tax is payable on 31-3-2014 and hence service tax is payable on entire advance. If 50% advance was refunded later, assessee can adjust the amount of service tax from future liability of service tax (v) No service tax is payable on free services.

It is presumed that assessee has provided services more than ₹ 10 lakhs during 2013-14 and hence cannot claim exemption available to small service provider in March, 2014. Thus, he is liable to pay service tax on ₹ 21.63 lakhs (10.30 + 5.15 + 6.18 lakhs). Hence, 'value for the service tax is ₹ 19,25,062.30 (11,33,000 × 100)/112.36'. Service tax @ 12.36% would be ₹ 2,37,937.70.



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(ii) Sudama Ltd. commenced its business on 21st June, 2013 in Kolkata. It has provided /availed following services upto 31st March, 2014. Determine its service tax liability for the Financial Year 2013-14 - (i) Taxable services provided under its own brand name : ₹ 9,00,000 (ii) Declared services (Sum charged ₹ 4 lakh, but value determined as per valuation rules is 60% i.e. ₹ 2,40,000) (iii) Services wholly exempt under Notification No. 25/2012-ST dated 20-6-2012 – ₹ 6,00,000 (iv) Services provided under brand-name of other person – ₹ 3,60,000 (fully taxable) (v) Availed services of goods transport agency and paid freight of ₹ 2,00,000. The assessee is ready to opt any exemption available to it under Service Tax Law (Make suitable assumptions wherever required and show workings.) [5]

**Answer:**

(i) Entire 9 lakhs exempted as first turnover upto 10 lakhs is exempted as per Notification No. 33/2012-ST dated 20-6-2012 (ii) Actually when abatement is available, the 'value of service' is not reduced i.e. value continues to be full 4 lakhs and hence really exemption of only first one lakh should be available and balance 3 lakhs should be taxable i.e. service tax should be payable on ₹ 1.80 lakhs (60% of ₹ 3 lakhs). However, in the question it is stated that value of taxable service itself is reduced to ₹ 2.40 lakhs If so, first one lakh should be exempted and service tax would be payable on ₹ 1.40 lakhs (iii) No service tax payable. The turnover of ₹ 6 lakhs is not required to be considered for calculating exemption limit of ₹ 10 lakhs, as the Notification No. 33/2012-ST dated 20-6-2012 states that 'aggregate value' shall not include value charged on invoices towards services which are exempt from service tax under any other notification. Thus entire 9 lakhs under (i) above and one lakh under (ii) above would be exempt from service tax (iv) Service tax payable on ₹ 3,60,000. [This turnover is not required to be considered for calculating exemption limit of ₹ 10 lakhs, as the Notification No. 33/2012-ST dated 20-6-2012 states that nothing in this notification shall apply taxable services provided under brand name of another person] (v) In this service, service tax is payable on 25% of value under reverse charge basis - Hence, service tax is payable as follows - (A) On ₹ 5 lakhs @ 12.36% [1.40 lakhs of (ii) above and 3.60 lakhs of (iv) above] – ₹ 61,800 (B) On ₹ 2 lakhs @ 3.09% - 6,180. Total duty payable – ₹ 67,980.

**(b)(i) Compute the interest payable for the delayed payment of service tax by the service providers in the following cases - (a) Service provider XYZ Ltd. – ₹ 1,23,600, delay 20 days. The aggregate value of taxable services rendered in the previous financial year was ₹ 40 lakhs (b) Service provider Mr. Pravin – ₹ 2,16,000, delay 25 days. The aggregate value of taxable services rendered in the previous financial year was ₹ 62 lakhs. Assume that the service tax liability and the delay given relates to a period in the financial year 2013-14. [5]**

**Answer:**

(a) Interest rate is 15%. Hence, interest for 20 days delay would be  $(1,23,600 \times 0.15 \times 20) / 365 = ₹ 1,015.89$   
(b) Interest rate is 18%. Hence, interest for 25 days delay would be  $(2,16,000 \times 0.18 \times 25) / 365 = ₹ 2,663.01$ .

**(ii) ABC Ltd., a unit in SEZ, received services from various service providers in relation to authorized operations in SEZ during the month July, 2013. At the time of making payment, service provider asks it to pay tax, however, it argues that service tax is not applicable on taxable services provided to it. The following details are furnished for the month July, 2013:**

**(a) Value of Taxable services used exclusively for authorised operations within SEZ: ₹5,00,000**

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(b) Value of Taxable Services used by SEZ units and DTA units : ₹ 8,00,000

(c) Value of Taxable services used wholly for DTA units : ₹ 3,00,000

(d) Export Turnover of SEZ Unit: ₹ 1,00,00,000

(e) Turnover of DTA Unit: ₹ 60,00,000

(f) Service Tax Rate: 12.36%

Compute the amount payable as service tax by M/s. ABC along with incentives available to it by way of exemption/refund/CENVAT Credit for the month assuming that all conditions are complied with. [5]

**Answer:**

The relevant computations as per Notification No. 12/2013-S.T., dated 01-07-2013 are shown below -

No.	Particulars	Value	Service Tax payable @ 12.36%	Refund, if any
(i)	Taxable services used exclusively for authorised operations within SEZ	5,00,000	Fully Exempt; Option not to pay service tax	No need to claim refund, as tax not paid
(ii)	Services used by both SEZ and DTA units - Proportionate Refund = Service Tax × SEZ Turnover ₹ 100 lakhs ÷ Total Turnover of all the units to which service relates ₹ 160 lakhs	8,00,000	98,880	61,800
(iii)	Services used wholly for DTA - No refund/exemption	3,00,000	37,080	-
Total			1,35,960	61,800
Amount available as CENVAT Credit to the DTA units [Service Tax payable - Refund] (Proportionate amount of service tax that have not been refunded after applying the formula shall be available to the DTA Units of the entity as CENVAT Credit.)				74,160

(c)(i) Mr. Ranjan has provided the following services during the year 2013-14. Determine whether he is eligible for small service provider exemption during the year 2014-15:

	Particulars	₹
(a)	Service exported outside India	5,00,000
(b)	Renting of residential dwelling for residence	5,00,000
(c)	Service fully exempt under mega exemption notification	8,00,000
(d)	Declared services (Value as per Section 67 read with the valuation rules is 40% of the total amount charged)	6,00,000
(e)	Value of Services in which 30% abatement has been provided; and	2,00,000
(f)	Other services provided (including ₹ 50,000 towards services where whole of the service tax was payable by the service recipient)	5,60,000

[5]

**Answer:**

Mr. Ranjan would be eligible for small service providers exemption under Notification No. 33/2012-ST, if the "aggregate value" of taxable services provided during the year 2013-14 is upto ₹ 10,00,000. The relevant computations are shown below (amount in ₹) -

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(a)	Service exported outside India- Not taxable service, as not liable to service tax u/s 66B -Not includible	NIL
(b)	Renting of residential dwelling for residence is falling under negative list - Not taxable services - Not includible	NIL
(c)	Services fully exempt under other mega exemption notifications - Specifically excluded in determination of aggregate value of taxable services	NIL
(d)	Declared services - Value as determined as per section 67 and Valuation Rules is to be taken	2,40,000
(e)	Services eligible for abatement - Abatement is a form of partial exemption. Value as per section 67 viz. ₹ 2,00,000 shall be taken.	2,00,000
(f)	Other services – Includible (Even services covered under reverse charge are includible) (It is assumed that Mr. Ranjan is not a GTA service provider).	5,60,000
	Aggregate Value under Notification No. 33/2012 – ST for F.Y. 2013-14	10,00,000
Since the aggregate value is ₹ 10,00,000 (i.e., not exceeding ₹ 10,00,000) during F.Y. 2013-14, Mr. Ranjan is eligible for small service provider exemption during the financial year 2014-15.		Eligible for exemption

**(c)(ii) A partnership firm, gives the following particulars relating to the services provided to various clients by them for the half-year ended on 30-09-2013.**

**(i) Total Bills raised for ₹ 8,75,000 out of which bill for ₹ 75,000 was raised on a approved International organization and payments of bills for ₹ 1,00,000 were not received till 30-09-2013.**

**(ii) Amount of ₹ 50,000 was received as an advance from XYZ Ltd. on 25-09-2013 to whom the services were to be provided in October, 2013. You are required to find out the:**

**(a) Taxable value of services; and**

**(b) Amount of service tax and education cess and secondary and higher education cess payable. [5]**

**Answer:**

Computation of value of taxable services and service tax payable for the half-year ended on 30-09-2013 (amount in ₹):

Total Bills raised	8,75,000
<b>Less:</b> Bill raised on an approved International Organization (Service provided to approved International Organization are exempt from service tax)	75,000
	8,00,000
<b>Add:</b> Advance received on 25-09-2013	50,000
	<b>8,50,000</b>
Value of taxable services (₹ 8,50,000 x 100/112.36) <span style="float: right;">[WN-1]</span>	7,56,497
<b>Service tax @ 12.36%</b>	93,503

Working Note:

- (1) Since the question does not provide that service tax has been charged separately, thus advance and the bills raised have been presumed to be inclusive of service tax.
- (2) Bills of ₹ 1,00,000, payment for which has not been received till 30-09-2013 will be charged to service tax in the half year ended 30-09-2013 as the point to taxation is the issuance of invoice or receipt of payment, whichever is earlier.
- (3) It has been assumed that the partnership firm is not entitled to exemption for small service provider's in F.Y. 2013-14 and is liable to service tax.

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(7) Answer any two questions [2 × 6= 12]

(a) Compute net VAT liability of Rishi from the following information –

Raw materials from foreign Market (Includes duty paid on imports @20%) – ₹ 1,20,000

Raw material purchased from local market –

Cost of Raw material	₹ 2,50,000
Add : Excise duty @ 16%	₹40,000
Sub-total	₹ 2,90,000
Add: VAT @ 4%	₹ 11,600
Total	₹ 3,01,600

Raw material purchased from neighbouring State (Includes CST @ 2%) – ₹ 51,000

Storage and transportation cost – ₹ 9,000

Manufacturing expenses – ₹ 30,000.

Rishi sold goods to Resav and earned profit @ 12% on the cost of production. VAT rate on sale of such goods is 4%.

**Answer:**

Cost of production is as follows –

(i) Imported raw material - ₹ 1,20,000

(ii) Local raw material - ₹ 2,50,000

(Vat & CENVAT credit is not to be considered as its set off i.e. credit is available)

(iii) Raw material from neighbouring State - ₹ 51,000

(Set off of CST is not available. Hence, it is includible in cost)

(iv) Storage and transportation cost ₹ 9,000

(v) Manufacturing Expenses - ₹ 30,000

Hence, total cost of production [i to v] - ₹ 4,60,000

Profit @ 12% of ₹ 4,60,000 is ₹ 55,200

Hence, turnover (net selling price) ₹5,15,200 (₹4,60,000+₹55,200)

Vat payable @ 4% on turnover (net selling price) of ₹ 5,15,200 = ₹ 20,608.

Input Tax Credit (ITC) available on local raw material is ₹ 11,600. ITC (Vat credit) of CST is not available. ITC of import duty is also not available.

Hence, Net Vat payable - ₹ 9,008 [₹ 20,608 - ₹ 11,600].

[Note - Since Rishi is a manufacturer, he is eligible to get Cenvat credit of excise duty of ₹ 40,000 also. Hence, this should also be excluded from the cost of production.]

(b) Lucky, a registered dealer submits the following information for the month of February, 2014

(A) Details of purchase –

(i) Raw material purchased from another State (CST @ 2%) - ₹10,00,000

(ii) Raw material X purchased within the State - ₹15,00,000 Vat rate 1%

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- (iii) Raw material Y imported from Singapore (includes customs duty paid @ 10%) - ₹11,00,000
- (iv) Raw material Z purchased within the State - ₹6,00,000 Vat rate 12.5%
- (B) Details of sales –
- (i) Sale of goods produced from raw material X - ₹ 27,00,000 Rate of Vat 4%
- (ii) Sale of goods produced from inter-state purchase and imported raw materials - ₹32,00,000 Rate of Vat 1%
- (iii) Sale of goods produced from raw material Z - ₹ 8,00,000 Rate of Vat 12.5%.
- (Note - The purchase and sales figures given above do not include VAT/CST.)
- Assume that there was no opening or closing inventory. Compute the amount of Value Added Tax (VAT) payable by Lucky for the month of February, 2014.

Answer:

**(A) Input Tax Credit (Set off) Available –**

(i) CST paid on purchases	No credit
(ii) ITC on purchase of X	15,000
(iii) Customs duty paid on imports of Y	No credit
(iv) ITC on purchase of Z	75,000
Hence, total Input Tax Credit available	₹ 90,000

**(B) Vat payable on sales –**

(i) Sale of goods produced from raw material X	1,08,000 (4% of 2.7 lakhs)
(ii) Sale of goods produced from inter-state purchase and imported raw materials	32,000 (1% of 32,00,000)
(iii) Sale of goods produced from raw material Z	1,00,000 (12.5% of 8,00,000).
Total Vat payable on sales	₹ 2,40,000

Net Vat payable = ₹ 1,50,000 (2,40,000 - 90,000).

(Note that Vat provisions do not require one to one relation.)

**(c) Star Constructions undertakes works contracts and maintains sufficient records to quantify the labour and other service charges. From the details given below, calculate the taxable turnover, input tax credit and net vat payable under the State VAT Law –**

- (i) Total contract price (excluding VAT) ₹ 1,80,00,000
- (ii) Materials purchased and used for the contract taxable at 12.5% VAT (inclusive of VAT) ₹33,75,000
- (iii) Labour charges paid for execution of the contract ₹ 40,00,000
- (iv) Other service charges paid for the execution of the contract ₹ 20,00,000
- (v) Cost of consumables used not involving transfer of property in goods ₹ 10,00,000.

Star Constructions also purchased a plant for use in the contract for ₹20,80,000 (inclusive of VAT). In the VAT invoice relating to the same, VAT was charged at 4% separately. Assume 100% input tax credit is available on capital goods immediately. Make suitable assumptions where required and show the workings.

Answer:

**Following deductions are available from total value of works contract –**

(i) Labour charges	40,00,000
(ii) Other service charges	20,00,000
(iii) Consumables of which property is not transferred	10,00,000
Total deductions	70,00,000

Hence value for purpose of Vat on works contract - 1,10,00,000 [1,80,00,000 - 70,00,000].

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Vat payable on the works contract is not given in the question. Hence, it is assumed to be 12.5%. Thus, Vat payable @ 12.5% on 1,10,00,000 is ₹ 13,75,000

### Calculation of Input Tax Credit available –

(a) Materials purchased and used for the contract taxable at 12.5% VAT (inclusive of VAT) ₹33,75,000. Hence, Vat on purchase is 3,75,000  $([33,75,000 \times 12.5]/112.5)$ .

(b) Vat on capital goods - 4% of 20,80,000 i.e. 83,200. Entire credit on capital goods is available.

Hence, total input tax credit available is ₹ 4,58,200  $[3,75,000 + 83,200]$ .

Hence, net Vat payable by cash =  $13,75,000 - 4,58,200 = ₹ 9,16,800$ .

### (8) Answer any two questions $[2 \times 4 = 8]$

(a) Khan Ltd is an Indian Company engaged in the business of developing and manufacturing Industrial components. Its Bangkok Subsidiary Techpro Inc. supplies technical information and offers technical support to Khan for manufacturing goods, for a consideration of Euro 3,00,000 per year.

Income of Khan Ltd is ₹ 270 Lakhs. Determine the Taxable Income of Khan Ltd if Techpro charges Euro 3,50,000 per year to other entities in India. What will be the answer if Techpro charges Euro 1,80,000 per year to other entities. (Rate per Euro may be taken at ₹ 80).

**Answer:**

#### Computation of Total Income of Khan Ltd.

Particulars		
When Price Charged for Comparable Uncontrolled Transaction	3,00,000	1,80,000
Price actually paid by Khan Ltd. $[\text{€ } 3,00,000 \times 80]$	2,40,00,000	2,40,00,000
Less: Price charged in ₹ (under ALP)		
$[\text{€ } 3,50,000 \times 80]$	2,80,00,000	
$[\text{€ } 1,80,000 \times 80]$		1,44,00,000
Incremental Profit on adopting ALP [A]	(40,00,000)	96,00,000
Total income before adjusting for differences due to Arm's Length Price	2,70,00,000	2,70,00,000
Add: Difference on account of adopting Arm's Length Price [if (A) is positive]	NIL	96,00,000
Total Income of Khan Ltd.	2,70,00,000	3,66,00,000

Note:- U/s 92(3), Taxable Income cannot be reduced on applying ALP. Therefore, difference on account of ALP which reduces the Taxable Income is ignored.

(b) Sony Japan and Z Ltd. an Indian company are associated enterprises. Z Ltd. manufactures Mobile phones and sells them to Sony Japan and L.G. Korea. During the year, Z Ltd. supplied 1,20,000 Mobile phones to Sony Japan at a price of ₹2,000 per unit and 20,000 units to L.G. Korea at a price of ₹3,200 per unit. The transactions of Z Ltd. with Sony and L.G. are comparable subject to the following differences:

- (i) While sales to Sony is on FOB basis, sales to L.G. are CIF basis. The freight and insurance paid by Sony for each unit is ₹300.
  - (ii) The sales to L.G. are under a free warranty for 1 year whereas sales to Sony are without such warranty. The estimated cost of executing such warranty may be taken at ₹350.
  - (iii) Sony placed large order and as such Z Ltd. offered a quantity discount of ₹50 per unit to Sony.
- Compute the arm's length price and the amount of increase in the total income of Z Ltd, if any, due to such arm's length price.

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**Answer:**

In the above case, we shall start with the price at which these Mobile phone have been sold to L.G. which may taken as price of uncontrolled transaction. Thereafter we shall make the adjustment on account of above difference as under:

	₹	₹
Sale price of Mobile phones sold to L.G.		3,200
Less: Adjustment of differences on account of :		
(i) freight and insurance charges	300	
(ii) estimated cost of warranty	350	
(iii) bulk quantity discount	50	700
Arm's Length Price for Mobile phones sold to Sony Japan		2,500
Arm's Length Price for 1,20,000 phones (1,20,000 x 2,500)		30,00,00,000
Price charged from Sony Japan (1,20,000 units x 2,000)		24,00,00,000
Therefore, the total income of Z Ltd. shall be increased by		6,00,00,000

**(c) LG Japan and XYZ India Ltd. are associated enterprises. XYZ India Ltd. imports 200 Air-conditioners from LG Japan at a price of ₹15,000 per unit and these are sold to ITC Hotel Ltd. at a price of ₹17,000 per unit. XYZ India Ltd. has bought similar products from Samsung India Ltd. and sold to Oberai Hotel at a gross profit of 10% on sales. XYZ Ltd. incurred freight of ₹400 and custom duty of ₹ 1,500 per unit in case of purchases made from LG Japan and ₹200 in case of purchases from Sumsung India Ltd.**

**Compute the arm's length price and the amount of increase in the total income of XYZ Ltd., if any, due to such arm's length price.**

**Answer:**

	₹
In this case, arm's length price is determined as under:	
Resale price of goods purchased from LG Japan	17,000
Less: Normal Gross profit Margin @ 10%	(-)1,700
Less: Difference in the expenses connected with purchases (1,900 – 200)	(-)1,700
Arm's Length Price	13,600
Price paid to LG (200 units x 15,000)	30,00,000
Arm's Length Price (200 units x 13,600)	27,20,000
Increase in the total income of XYZ Ltd. due to reduction in purchase cost	2,80,000