INTERMEDIATE EXAMINATION

GROUP III

(SYLLABUS 2008)

SUGGESTED ANSWERS TO QUESTIONS

DECEMBER 2013

Paper- 10 : APPLIED INDIRECT TAX

Time Allowed : 3 Hours **Full Marks : 100**

The figures in the margin on the right side indicate full marks.
Answer Question No. 1 which is compulsory and any five from the rest.
Wherever necessary, you may make suitable assumptions and state them clearly in your answer.
Working notes should form part of the answer.

1. (a) Fill up the blanks: 1x15=15

(i) Duties of customs including export covered in____________ .

(ii) Section 5A of the Central Excise Act, 1944 empowers the ________________to grant exemption from levy of excise duty.

(iii) Exclusive Economic Zone extends to_______________ from the base line of coast.

(iv) Cenvat Credit Audit is covered under ______________ of Central Excise Act.

(v) No interest is payable, if warehousing goods stored less than______________ days.

(vi) Project import under customs duty, should be subject to maximum of ___________.

(vii) _____________is a separate island as if outside India, where inputs or capital goods and input services can be obtained without duty/service tax.

(viii) ____________is the rebate of excise duty and customs duty paid on inputs used in exported final products under section 75 of Customs Act.

(ix) The effective rate of duty shall be______________ on baggage.

(x) Statutory services are ______________services.

(xi) Under service tax legislation, services by a performing folk artist in dance as a brand ambassador is _______.

(xii) The rate of CST applicable to goods exempt from State sales tax is______________ .

(xiii) Government subsidy_____________ form part of sale price under the CST Act, 1956.

(xiv) Branch transfer or stock under the Central Sales Tax Act, 1956 must be effected by Form___________ .

(xv) In respect of capital goods sent for job work should be brought back within ___________ days from the date of dispatch, under the CST Act, 1956.

(b) State with reasons whether the following are True' or 'False': 2x5=10

(i) Parts used for repair or replacement during warranty period are excisable.

(ii) Countervailing Duty (CVD) is payable on Assessable Value + Basic Custom Duty + Anti Dumping Duty.

(iii) Service Tax shall not be chargeable on any taxable service if the same is provided free of cost.

(iv) Petrol is declared goods under CST Act.

(v) Levy of VAT will have effect on retail price of goods.

Answer:

1. **(a)** (i) Entry No.83 of List I (Union List)
(ii) Central Government
(iii) 200 nautical miles
(iv) Section 14AA
(v) 91
(vi) 5%
(vii) Special Economic Zone / SEZ
(viii) Duty Drawback
(ix) 36.05%
(x) Not taxable
(xi)Taxable Service
(xii) NIL
(xiii)Does Not
(xiv) "F"
(xv) 180 days

(b) (i) True — Excise duty is levied if goods are marketable. Actual sale is not relevant. Therefore, goods, which are given for free replacement during warranty period, are also liable for excise duty.

(ii) False — Countervailing Duty (CVD) is not payable on Anti-Dumping Duty. It is payable on Assessable Value plus Basic Custom Duty.

(iii) True — As per Section 66B of the Finance Act, 1994, Service Tax is chargeableon the Gross Amount of a Bill. If the Gross Amount is zero, Service Tax shall also be zero.

(iv) False — Section 14 of the CST Act (goods of special importance) does not include Petrol

(v) True — Since cascading effect of tax has been eliminated, hence, retail sale price of the goods will be reduced.

2. **(a) P Ltd. manufacturers a product whose selling price is ₹ 50,000.00. The above selling price includes the following:**

	₹
• **Packing charges**	**3,500**
• **Transport from manufacturer to buyers place**	**5,000**
• **Excise Duty, EC & SHEC is 14%, 2% & 1% respectively**	

Find the Assessable Value & Excise Duty payable. **5**

(b) Distinguish between "Point of Taxation" and "Taxable Event" in the context of Service tax. **2**

(c) The burden of proving that the transfer of goods is otherwise than by way of sale under the CST Act, 1956 shall be on the sales tax authority — Explain. **2**

(d) Given the following particulars. CIF Value: US $ 15,000.00. Exchange rates as notified rates by RBI ₹ 48 = 1 US $ by CBEC ₹ 44 = 1 US $. Calculate the following under the Customs Act, 1962:
- **FOB value**
- **Cost of insurance**
- **Cost of freight**
- **Assessable value** **6**

Answer:

2. (a)

Selling Price Less: Transport charges	₹ 50,000.00 5,000.00
Balance	45,000.00
Let Assessable Value be Excise Duty Education cess SAH cess	x 0.14 x 0.0028 x 0.0014 x
Total Assessable Value = ₹ 45,000.00/1.1442 = Excise Duty @ 14% = Education Cess @ 2% = SAH cess @ 1% =	1.1442 x 39,329 (Approx) ₹ 5,506.00 110.00 55.00
Total Excise Duty	5,671.00

(b)

POINT OF TAXATION	TAXABLE EVENT
It refers the liability to pay service tax	It refers to levy of service tax
It emphasis to apply correct rate of service tax	It emphasis to impose service tax liability
Liability to pay service tax arises on the basis of date of completion of provision of service or date of invoice or date of payment whichever is earlier	Completion of provision of taxable service is the taxable event.

(c) This is a false statement. Actually transfer of goods otherwise than sale is effected By Form F and the dealer who has made it may claim an exemption in this regard. So automatically the duty is cast upon the dealer and he has to prove it before the Authority.

(d) As per Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, where FOB, cost of insurance and freight not ascertainable then the value shall be calculated as follows:

Let the FOB price be x.

FOB Price	X
Add: Cost of transport (20% of FOB as it is unascertainable)	0.2x
Add: Insurance (1.125% of FOB as it is unascertainable)	0.01125x
CIF	1.21125x

Here CIF value = ₹ (15,000 × 44) = ₹ 6,60,000
Then, 1.21125x = 6,60,000
Or, x = 5,44,892

We can now check the answer as follows:

	₹
FOB Price	5,44,892
Add: Cost of transport (20% of FOB)	1,08,978
Add: Insurance (1.125% of FOB)	6,130
CIF	6,60,000
Add: 1% loading and handling charges	6,600
Assessable Value	6,66,600

3. (a) Write a brief note on the following with reference to the provisions of the Finance Act,

1994: 3+2

(i) Vacant land given on lease or license for construction of a building or temporary structure at a later stage to be used for furtherance of business or commerce.

(ii) Activities relating to promotion of a brand of goods, event, business entity.

(b) Explain briefly, with reference to Rule 21 of the Central Excise Rules, 2002, about granting of remission of duty of Central Excise on the following: 2+2+1

(i) When the finished goods have left the factory on payment of Central Excise duty and destroyed by fire in transit.

(ii) If remission is granted, whether Cenvat Credit on inputs used to manufacture the finished goods required to be reversed.

(ii) Who is the competent authority to grant remission when the amount of Central Excise Duty involved in the destroyed goods is ₹ 9,500?

(c) From the following particulars arrive at the VAT liability for the month of April 2012 and also determine the amount of Input Tax Credit to be carried forward for the next month: 5

(i) Input Tax rate 5% and Output Tax rate is 14.5% in the State.

(ii) Input purchased in the month from within the State—₹ 50,00,000

(iii) Output sold to buyers within the State during the month—₹ 15,00,000

(iv) Output sold to buyers as inter-State sales during the month—-₹ 4,00,000 (CST rate is 2% against Form 'C')

(v) Inputs purchased from other States as Inter-State purchases against Form 'C @ 2% of ₹ 3,00,000

Answer:

3. (a) (i) Renting of vacant land which is given on lease or license for construction of building or temporary structure at a later stage to be used for furtherance of business or commerce has been made liable to service tax by the Finance Act, 2010 under the category of "Renting of Immovable Property Service" under Section 65 (105) (zzzz) of the Finance Act, 1994. Explanation 1 to Section 65 (105)(zzzz) of the Finance Act, 1994, defining immovable Property has been amended to include such land.

(ii) Services provided under a Contract for promotion or marketing of a brand of goods, service or events or endorsement of name, trade name, logo or house mark of a business entity by appearing in advertisement and promotional event have been brought under the Service Tax net vide Finance Act, 2010 vide Section 65 (105) (zzzzq) of the Finance Act, 1994. Carrying out any promotional activity for such goods, service or event will also attract Service Tax. The services can be provided to any person either through a business entity or otherwise.

(b) (i) When the Finished Goods have already left the factory on payment of duty and destroyed by fire in transit, remission is not available. Rule 21 of the Central Excise Rules, 2002 allows remission only if the goods have been lost or destroyed by any unavoidable accident anytime before removal. In this case, the goods have already cleared from the factory and destroyed thereafter. Hence, no remission is allowable.

(ii) According to Rule 3(5)(c) of the Cenvat Credit Rules, 2004, when remission of duty is allowed under Rule 21 of the central Excise Rules, 2002, the Cenvat Credit on inputs used in the manufacture of the final product shall be reversed.

(iii) Rule 21 of the Central Excise Rules, 2002 states that when an amount of Central Excise Duty involved in the destroyed good, for which remission has been granted, doesn't exceed ₹10,000.00. Superintendent of Central Excise can grant the remission.

(c) Computation of VAT liability for the month of April 2012 and the amount of Input Tax Credit to be carried forwarded

Particulars	₹
Input Tax Credit available on the purchase of Inputs from within the State will be @ 5% on ₹ 50,00,000.00	2,50,000.00
No Input Tax Credit will be available on Inputs purchased from other States	NIL
VAT payable on Sales within the Sate @ 14.5% on ₹15,00,000.00	2,17,500.00
CST payable on inter-state sales @ 2% on ₹ 4,00,000.00	8,000.00
Total liabilities of VAT + CST = ₹ 2,17,500.00 + ₹ 8,000.00	2,25,500.00
The amount of VAT available for carry forward to next month ₹2,50,000.00 - ₹ 2,25,500.00 = ₹ 24,500.00	24,500.00

Note: The amount of CST of ₹ 8,000.00 is payable out of surplus balance of Input Tax Credit.

4. (a) The following information is furnished by Mr. Krishna on 6th February 2013, in respect of Machinery imported from USA:

Particulars	**Amount**
FOB value	**$ 20,000**
Exchange rate	**$ 1 = ₹ 44**
Air freight	**$ 4,500**
Insurance charges	**Not Known**
Landing charges	**₹ 1,000**
Basic customs duty	**10%**
Excise duty chargeable on similar goods in India as per tariff rate	**16%**
Additional duty of customs u/s 3(5) of the Customs Tariff Act, 1975	**4%**

Calculate the total Customs Duty payable by Mr. Krishna. 8

(b) Winter Ltd., dispatches goods from Andhra Pradesh and raises invoice on X in Tamil Nadu, Winter Ltd., charges 2% CST and pays the same in Andhra Pradesh. During the course of movement of goods, X sells goods to Y in Kerala and Y ultimately sells goods to Z in Trivandrum. Z takes delivery of goods and the movement of goods comes to end. Sales from X to Y and Y to Z are by transfer of lorry way bill receipts. Explain the Forms to be issued so that the first and subsequent sales are exempt from Central Sales Tax. 4

(c) Arun sells his land along with the standing crops and trees for ₹ 20 lakhs. Sales tax officer wants to assess for CST, the value of standing crops and trees. Comment. 3

Answer:

4. (a)

Statement showing Customs Duties payable by Mr. Krishna

PARTICULARS	**USD($)**
FOB	20,000.00
Add: Air Freight (20,000$×20%)	4,000.00
Add: Insurance (1.125% on FOB)	225.00
CIF Value	24,225.00
Add: 1% loading and unloading charges (24,225×1%)	242.25
Assessable value	**24,467.25**
	Value in ₹

Assessable Value (USD 24,467.25×44)	10,76,559.00
Add: Basic Customs Duty (10,76,559×10%)	1,07,656.00
Sub-total	11,84,215.00
Add: CVD 16% (11,84,215×16%)	1,89,474.00
Sub-total	13,73,689.00
Add: 2% Education Cess (2,97,130×2%)	5,943.00
Add: 1% SAH Education Cess (2,97,130×1%)	2,971.00
Sub-total	13,82,603.00
Add: Spl. CVD u/s 3(5) of the Customs Tariff Act, 1975 (13,82,603×4%)	55,304.00
Value of imported goods	14,37,907.00
Total Customs Duty	**3,61,348.00**

(b) Winter Ltd., will receive declaration in 'C' Form from X and will issue declaration in E-I Form to X.

Later, X will issue declaration in E-II Form to Y and receive declaration in 'C' Form from Y.

Finally, Y will issue declaration in E-II Form to Z and receive declaration in 'C Form from Z, which will complete the chain. Because Z has taken the possession of goods, thereby movement of goods from one State to another ends.

If the chain is broken, CST will be payable again. Otherwise, all subsequent sales will be exempt from Sales tax.

(c) i) What is sold is land along with standing crops and trees.
ii) The sale does not pertain to the latter alone in which case they are uprooted and removed. Consequently, they become goods.
iii) In the instant case, the standing crops and trees are immovable.
iv) They are not goods and hence do not attract sales tax.

5. (a) Is a sale by VPP liable to Central Sales Tax? 3
(b) Explain in brief the nature and significance of "Anti-dumping Duty". 5
(c) M/s. AB Ltd. Mumbai sell iron rods (which are not declared goods) to M/s. CD Ltd. at Hyderabad for a value of ₹ 10,00,000 inclusive of CST @ 2%. The local sales tax on iron rods in Mumbai is 12.5%. Both the dealers are registered dealers.
(i) What is the Central Sales Tax payable?
(ii) If CD Ltd. is unable to submit Form 'C' being an unregistered dealer, what will be the CST liability if the local sales tax rate if 12.5%? 3
(d) An importer imported goods for sale in India at $ 12,000 on C.I.F. basis. Relevant foreign exchange rate notified by Central Govt. and RBI was ₹ 45.00 and ₹ 45.50 respectively. The item imported attracts basic duty at 10% and education cess. If similar goods were manufactured in India, excise duty payable as per tariff is 14% plus 2% education cess and SAH 1%. Find out the assessable value and total value of the goods and duty payable. 4

Answer:

5. (a) In order to be an inter-state sale, there must be the movement of goods in connection with the sale as stipulated in Sec. 3 of CST Act, 1956.

In a sale by VPP (Value Payable Post), both the requirements of Sec. 3 are satisfied; there is an order by the buyer on the seller. The seller dispatches the goods by post parcel and the goods are to be delivered by postal authorities to the buyer on payment of price. The sale takes place in the state where the parcel is received and its value is paid to the post office. Hence, VPP is liable to CST.

(b) Anti -dumping duty is a measure to rectify the trade distortive effect of dumping and reestablishing fair trade, which is achieved by imposition of duty on dumped imports, not exceeding the margin of dumping. The Central government has the power to levy anti dumping duty on dumped articles but it cannot exceed the margin of dumping which is the difference between its export price and its normal value, i.e. Margin = Normal value of the article - export price of it. It is giving relief to the domestic industry against the injury caused by dumping and this gives it a level playing field. It is imposed as a deterrent effect to discourage dumped imports so that users can buy material from domestic industry from whom they were not buying earlier on account of availability of cheap dumped imports. It thus ensures fair trade. It is charged as an extra cost on dumped imports. The A.D. measures in India are administered by the Director General of Antidumping and Allied duties in the Department of Commerce. This is done after investigation and recommendation to the government for the imposition of the duty.

(c) CST Payable = ₹ 19,608.00 (₹ 10,00,000 x 100/102) x 2/100
CST payable = ₹ 1,22,549.00 (₹ 10,00,000 x 100/102) x 12.5/100

(d)

CIF value	US$12,000.00
Total CIF value in ₹ 45 per USD	₹ 5,40,000.00
Add: Landing charges @ 1% of CIF	₹ 5,400.00
Assessable value	₹ 5,45,400.00
Add: Basic CD @ 10% (₹5,45,400 x 10/100)	₹ 54,540.00
	₹ 5,99,940.00
Add: CVD @ 14% on ₹ 5,99,940.00	₹ 83,992.00
Add: Education cess @ 2% on ₹ 54,540.00 + ₹ 83,992.00	₹ 2,771.00
Add: SAH @ 1% on ₹ 54,540.00 + ₹ 83,992.00	₹ 1,385.00
Total value of imported goods	**₹ 6,88,088.00**

6. (a) Compute the cost of production of manufacture of the under mentioned product for the purpose of captive consumption as per rule 8 of the Central Excise Valuation (DPF) Rules, 2000: 8

	₹
1. Cost of material (Inclusive of Excise duty at 12.36%)	**1,12,360**
2. Direct wages	**47,000**
3. Other direct materials	**13,500**
4. Computer use for office purpose	**41,000**
5. Quality control test incurred for production process	**17,000**
6. Engineer charges paid for installation of machinery	**12,750**
7. Other factory overhead	**27,000**
8. Salary of staff appointed for office duty	**84,000**
9. Sale of scrap realized	**1,800**
10. Actual profit margin	**15%**
11. Administrative overhead (100% related to administrative works)	**1,00,000**
12. Selling and distribution overhead	**39,000**

(b) What is meant by "Boat Notes"? 3

(c) How the point of taxation will be determined if the date of invoice or the date of payment or both are not available? 4

Answer:

6. **(a) Computation of Assessable value under Rule 8 of Valuation Rule**

1	Cost of Material	1,12,360	
	(-) Excise duty	12,360	1,00,000
2	Direct Wages		47,000
3	Other Direct Materials		13,500
4	Quality Control Test		17,000
5	Engineer Charges – (See Note)		Nil
6	Other factory overhead		27,000
			2,04,500
	Less: Sale of scrap		1,800
	Cost of Production		2,02,700
	Add: 10% profit Margin		20,270
	Assessable value as per Rule 8 of Valuation Rule		**2,22,970**

Note- Engineering charges paid for installation of machinery is of capital nature and should be capitalized, hence not considered for valuation purpose.

(b) In case of vessel arriving at the port does not get a berth, then the import cargo is taken from the ship to the shore and the export cargo is taken from the shore to the ship in boats. Section 35 of the Customs Act, 1962, stipulates that no imported goods shall be water borne for being loaded in any vessel, and no export goods which are not accompanied by a shipping bill, shall be water borne for being shipped unless the goods are accompanied by a "Boat Note" in the prescribed form. Boat note regulations provide that boat notes are to be issued in duplicate by a Customs Officer and these must be serially numbered.

(c) According to Rule 8A of Point of Taxation Rules, 2011 with effect from 01.04.2012 if the date of invoice or the date of payment or both are not available, Central Excise Officer, may require the concerned person to produce such accounts, documents or other evidence as he may deem necessary. Central Excise officer may after taking into consideration such material and the effective rate of tax prevalent at different points of time, shall by an order in writing determine the point of taxation to the best of his Judgment. However, before making such order, he is required to give an opportunity of being heard to the concerned person in accordance with Principle of Natural Justice.

7. **(a) Under VAT legislation, "Composition Scheme does not apply to all dealers".—Explain.** **4**

(b) Which industries are not eligible for SSI exemption under the Central Excise irrespective of their turnover? **2**

(c) What do you mean by transaction value under the Customs Act, 1962? **3**

(d) Calculate the Assessable Value under the Central Excise Act, 1944: **6**

Production 800 units on 01.01.2013
Quantity sold 130 units @ 210 on 15.01.2013
70 units @ 200 on 18.01.2013

On 19.01.2013—50 units given as free samples.
Balance 550 units are in stock as on 31.01.2013 (at the end of the factory day)

Answer:

7. **(a)** The following dealers are not eligible for composition scheme
- A dealer who sells the goods in the course of inter-state trade or commerce
- A dealer who makes inter-state purchases
- A dealer transferring goods outside the state otherwise than by way of a sale or for Execution of a works contract
- A dealer who sells goods in the course of import into or export out of the territory of

India
- A dealer who wants to show VAT in their invoice
- Small dealers having gross turnover more than ₹ 50 lakhs.

(b) The following Industries are not eligible to SSI exemption irrespective of their turnover
- Automobiles
- Primary iron and steel

(c) As per section 14(1) of the Customs Act, 1962 Transaction Value is applicable if the following conditions are satisfied:
- Price at which such or like goods are ordinarily sold or offered for sale
- Price for the delivery at the time and place of importation
- Price should be in the course of International Trade
- Seller and buyer should have no interest in the business of each other
- Price should be the sole consideration for sale
- Rate at exchange as on the date of presentation of Bill of Entry under section 46, or a shipping bill or bill of export as the case may be, is presented under section 50.

(d) Calculation of Assessable Value:

Date	Units	Rate	Total (₹)
15/01/2013	130	210	27,300.00
18/01/2013	70	200	14,000.00
19/01/2013 (Notes)	50	200	10,000.00
Assessable Value			**51,300.00**

Notes: Samples are valued as per rule 4 read with rule 2(c) of Valuation Rules 2000. When goods are removed at a time other than time of removal then value sold by the assessee for delivery at any time nearest to the time of removal shall be considered as value.

8. (a) Under the Central Excise Valuation (Determination of Price of Excisable Goods) Rules 2000, in case of Captive Consumption, should valuation be supported by certificate from Cost Accountant? Explain. 3

(b) Explain the concept of "GREEN CHANNEL" and "RED CHANNEL" in the context of Customs Act, 1962. 3

(c) Is transfer of property in goods without consideration be chargeable to CST? 3

(d) What are the records and accounts to be maintained under state VAT legislation? 3

(e) What action can be taken by the Department in case of misuse of service tax credit? 3

Answer:

8. (a) In case of Captive Consumption, valuation will be Cost of Production plus 10% and it would be appropriate for an assessee to obtain a Cost Accountant certificate indicating the cost of production of captively consumed goods. The cost of production will be calculated following the CAS 4 issued by "The Institute of Cost Accountants of India".

(b) Green Channel - It is impractical to ask every traveller to declare contents of his baggage. Hence, customs have provided two channels at airports. If a person does not have any dutiable goods, he can go through green channel.
- An incoming passenger has to submit disembarkation card, containing written declaration about his baggage. This should be collected when passenger goes through green channel.

- Any passenger found walking through green channel with dutiable or prohibited goods (or found mis-declaring quantity, value or description while going through red channel) is liable to strict penal action of seizure and confiscation. He can even be arrest/ prosecuted.

Red Channel - Person carrying dutiable goods should pass through red channel and should submit declaration. The declaration of goods and value as given by passenger in disembarkation card is generally accepted, but baggage can be inspected by customs officer.

(c) As per sec 2(g) of CST Act, 1956 'Sale' means any transfer of property in goods by one person to another for cash or for deferred payment or for any other valuable consideration, but does not include a mortgage or hypothecation of or a charge or pledge on goods. Sales includes deemed sales.

Therefore, it is concluded from the above definition of sale that if the property has been transferred without consideration it does not fulfill the condition of sale. Hence no CST is attracted.

(d) Generally under the state VAT following records are to be maintained:
- Records of purchases of inputs
- Records of debit notes and credit notes
- Quantity records of inputs
- Record of credit notes received from supplier
- Record of Capital goods
- Sale register and tax charged on sales

(e) The Department can impose penalty which is as follows —

(i) 100% of the service tax, where the true and complete details of the transactions are not recorded in the specified records. This penalty cannot be waived.
(ii) 50% of the service tax, where the true and complete details of the transactions are recorded in the specified records. This penalty can be waived.
(iii) 25% of the service tax, where the true and complete details of the transactions are recorded in the specified records and the assessee pays service tax and interest thereupon within 30 days (if taxable turnover ≤ ₹ 60 lakhs then within 90 days) from the date of the communication by the Central Excise Officer. This penalty can be waived.