

INTERMEDIATE EXAMINATION

GROUP II

(SYLLABUS 2012)

SUGGESTED ANSWERS TO QUESTIONS

JUNE 2015

Paper- 11: INDIRECT TAXATION

Time Allowed : 3 Hours

Full Marks : 100

The figures in the margin on the right side indicate full marks.

All questions are compulsory. In question No. 1, all sub questions are compulsory.

In question Numbers 2 to 8, student may answer any two of the three sub-questions (a), (b) and (c).

Wherever necessary, you may make suitable assumptions and state them clearly in your answer.

Working notes should form part of the answer.

1. Answer the following questions with suitable reasons: 1×20=20
- (a) A State Government prescribed Vat rate on a product as follows:
 - (i) Goods manufactured within State – 5%
 - (ii) Goods brought from outside State and sold within State – 12.5%State constitutional validity of the provision.
 - (b) State when invoice is required to be issued if goods are manufactured and captively consumed within factory.
 - (c) In Central Excise Tariff, how many digits are used to indicate a Tariff Item?
 - (d) A manufacturer took Cenvat credit of service tax paid by him on consultancy services of ₹ 10,000 on 20.5.2014, on basis of invoice of the consultant dated 15.5.2014. He made payment of the bill to the consultant on 27.12.2014. Advise the manufacturer if any action is required on the part of manufacturer.
 - (e) Assessee was claiming classification of his goods under chapter heading 84. However, CESTAT (Tribunal) had passed order classifying the goods under another chapter heading. Assessee intends to file appeal against decision of Tribunal. Advise where he should file appeal.
 - (f) State distinction between Indian Customs Water and Territorial Waters, so far as coverage of area is concerned.
 - (g) A vessel MV Jayadeep sailing from Australia to USA via India was carrying various goods. Name A, B and C. Goods A and B were unloaded at Kolkata port while goods C were carried further without unloading. Whether goods C are imported goods, export goods, transit goods or transshipped goods?
 - (h) An importer kept imported goods in customs bonded warehouse on 15.07.2014 and cleared the goods from customs on 13.12.2014 on payment of customs duty. Is he liable to pay interest? State reason.
 - (i) An importer imported some inputs free of duty under Advance Authorisation. He exported the final product and fulfilled export obligation. Even after that, he has some excess stock of imported inputs. Can he sell the same?

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- (j) An importer intends to import raw material valued at ₹ one lakh under 'Duty Free Import Authorisation' (DFIA). He wishes to know what is the minimum FOB value of exports he is required to achieve by exporting products made out of the imported raw material. Advise him.
- (k) A tax consultant in India provided consultancy service in India to a foreign diplomat in his personal capacity. The consultancy was in respect of his personal income tax issues. Is the service taxable?
- (l) AB Ltd. is liable to pay service tax of ₹ 50,000 on 6th August, 2014. However, he paid duty on 16th August, 2014 on his own with interest, without any show cause notice. How much penalty is payable?
- (m) A newspaper company charged ₹1,00,000 for an advertisement received by it through Advertisement Agent. The newspaper paid ₹ 15,000 as commission to the Advertisement Agent. Calculate service tax payable by newspaper company.
- (n) A telephone company issued invoice for month of December 2014 for net amount of ₹ 1,500, excluding service tax. Invoice was issued on 15.1.2015. How much service tax the telephone company should charge in the invoice?
- (o) Name two services covered under definition of 'continuous supply of service'.
- (p) Who is required to issue F form under Central Sales Tax Act and to whom?
- (q) At what frequency C form is required to be issued?
- (r) A manufacturer purchased 1,000 kg of inputs @ ₹100 per kg. Vat rate was 5%. During transit 50 kg were stolen and the manufacturer received 950 kg in his factory. Calculate the input tax credit available to the manufacturer.
- (s) In an international transaction with group company, actual transaction value was 10,000 US Dollars. The average of arms length price determined by Income Tax Officer was 10,250 US Dollars. The Income Tax Officer proposes to add the difference to the profit of Indian company. Advise the company.
- (t) In certain circumstances, the Income Tax Officer is required to accept the transaction price without requiring the assessee to submit detailed data for calculating arm's length price. Where these circumstances are specified in law?

Answer:

1. (a) As per Article 303(1) of Constitution of India, no discrimination can be made between one State and another or give preference to one State over another. Hence, such discrimination is not permissible.
- (b) Excise duty is payable on intermediate product, if no excise duty is payable on final product. In that case, invoice is required to be issued. One invoice is required to be issued every day.
- (c) Eight digits are used to indicate a tariff item.
- (d) Since the payment was not made to service provider within three months, the manufacturer is required to reverse the Cenvat credit. When he makes payment to service provider, he can take re-credit.
- (e) He should be appealing before Supreme Court under section 35L(1) of Central Excise Act.
- (f) Territorial waters of India extend upto 12 nautical miles inside sea from baseline on coast of India and 'Indian Customs Waters' extend upto 24 nautical miles from nearest point of base line.
- (g) Goods are transit goods.
- (h) Goods can be kept in customs warehouse upto 90 days without payment of customs duty. Since goods were kept for more than 90 days, customs duty will be payable.
- (i) Imports under Advance Authorisation are subject to actual user condition. These cannot be

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sold even after completion of export obligation.

- (j) Under DFIA, minimum value addition is 20%. Hence, his export value should be minimum ₹1,20,000.
- (k) The service is exempt under Notification No. 27/2012-ST dated 20-06-2012 if necessary certificate as provided in the notification is obtained.
- (l) If assessee pays service tax with interest before show cause notice, he is not liable to pay any penalty, as per section 73(3) of Finance Act, 1994.
- (m) Selling of space for advertisements in print media is in negative list of services. Hence, newspaper is not liable to pay any service tax.
- (n) Service tax @ 12.36% of ₹1,500 is ₹185.40.
- (o) (a) telecommunication service (b) service portion in execution of a works contract.
- (p) If the goods are stock transferred to another State, the branch or depot or consignment agent receiving the goods is required to issue form F to the dealer who has dispatched goods from another State.
- (q) C form is required to be issued on quarterly basis.
- (r) Input tax credit = $(950 \times 100 \times 5) / 100 = ₹4,750$.
- (s) If the difference between the price of actual transaction and average of the arm's length price within the range of three percent (plus or minus), the transaction price is required to be accepted without any adjustment. In this case, the difference is less than 3%. Hence, ITO cannot make any adjustment to profit.
- (t) The provisions are contained in Safe Harbour Rules. 'Safe Harbour' means circumstances in which Income Tax Authorities shall accept transfer price declared by assessee without requiring him to submit all data for determination of transfer price.

2. Answer any two of the three sub- questions (a), (b) and (c) 2×2=4
- (a) Service tax cannot be imposed on a transaction-which is covered entirely within powers-of State Government. Is it correct? State your view giving reasons. 2
 - (b) Why direct taxes are termed as 'progressive' and indirect taxes are termed as 'regressive'? 2
 - (c) State the purpose of constituting 'Large Taxpayer Unit' (LTU)'. 2

Answer:

2. (a) The statement is correct. The reason is that service tax is levied under Entry 97 of List I of Seventh Schedule, which is a residual entry. That entry only covers taxes which are not mentioned in list II (State List) or list III (Concurrent List). Hence, service tax cannot be imposed on transaction which is covered under List II (State List).
- (b) Direct taxes are termed as progressive as these taxes depend on paying capacity of a person. More the income, more the tax. While indirect taxes are at flat rate and do not depend on paying capacity of the customer. Hence, these are termed as 'regressive'.
- (c) Large units have divisions and factories at various places. It is easy and convenient form them and also to tax department to administer tax related issues of such units at one place.

LTU (Large Tax Payers Units) have been established at various places in India so that they can get all facilities of tax payments, filing of returns and documents, assessments, rebates/refunds, audit, recovery and refunds at one place, irrespective of geographical location of their units. This is to ensure uniformity in matters of tax/duty determination and

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quick actions.

3. Answer any two of the three sub-questions (a), (b) and (c): 8×2=16
- (a) (i) State situations where a manufacturer can claim remission of excise duty on manufactured goods. Whether such remission is admissible before goods are removed from the factory or after removal of goods from the factory or in both the cases? 3
- (ii) A manufacturing unit has effected clearances of goods of the value of ₹ 610 lacs during the Financial Year 2014-15. The said clearances include the following:
- (1) Clearance of excisable goods without payment of excise duty to a EOU unit — ₹ 130 lacs
 - (2) Job work in terms of notification no. 214/86- CE - ₹80 lacs
 - (3) Export to Bhutan - ₹ 70 lacs
 - (4) Export to USA - ₹ 30 lacs
 - (5) Goods manufactured in rural area with the brand name of the others - ₹ 90 lac
- Is the unit eligible for excise exemption during 2015-16? 5
- (b) (i) A Ltd. manufactured dutiable goods of ₹ 10 lakhs and exempted goods of ₹ 5 lakhs (excluding taxes and duties). The total Cenvat credit available to him on input goods and input services is ₹ 25,750. A Ltd. is not in position to bifurcate this credit between dutiable goods and exempted goods. Advise A Ltd. on best course of action. 3
- (ii) Compute assessable value of excisable goods for levy of Central Excise and excise duty payable, on basis of following information: 5
- Gross Price excluding Vat of ₹2,500, but including applicable excise duty— ₹ 25,000
 - Packing cost (charged separately in invoice but included in aforesaid gross price)— ₹2,500
 - Cost of durable and returnable packing used for transporting goods upto destination (not charged in invoice)— ₹3,000
 - Outward freight arranged at request of customer and charged separately in invoice (included in aforesaid gross price)— ₹2,250
 - Trade discount (given as deduction from aforesaid gross price)— ₹1,500
 - Rate of excise duty—12.50% (ignore education cess)
- (c) (i) Are goods manufactured in Special Economic Zone (SEZ) excisable goods? Is supply made by DTA unit to SEZ unit 'export' for purpose of Central Excise? 2+1=3
- (ii) Deepika Auto Components (manufacturer) cleared manufactured products, during March, 2014. Duty payable was as follows—Basic excise duty— ₹56,000, National Calamity Contingent Duty (NCCD)— ₹2,000, Education Cess— ₹1,160 and SAH Education cess— ₹ 580. The manufacturer received inputs on which duty paid was as follows—Basic duty— ₹ 50,000, education cess— ₹1,000 and SAHE cess— ₹500. He also received various input services, on which tax paid was as follows—Service tax— ₹10,000, Education cess— ₹200 and SAH Education cess— ₹100. There was no opening balance in his Personal Ledger Account.
- State the duty payable by him for March 2014. What is the due date of payment of duty? What the manufacturer can do with that excess Cenvat credit? 3+1+1=5

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Answer:

3. (a) (i)

As per rule 21 of Central Excise Rules, remission of duty can be granted in following cases -
(a) Goods have been lost or destroyed by natural causes (b) Goods have been lost or destroyed by unavoidable accident (c) Goods are claimed by manufacturer as unfit for consumption or for marketing.

Such remission is permissible only before removal of goods from the factory.

3. (a) (ii) A manufacturing unit is eligible to SSI exemption in 2015-16, if its turnover in 2014-15 does not exceed ₹ 400 lakhs.

Calculation of value of clearances during Financial Year 2014-2015

Particulars	Amount(₹ in Lacs)
Total value of clearances during the FY-2014-15	610
Less:- (a) Clearances of excisable goods without payment of duty to a unit in EOU	130
(b) Job work in terms of Notification No. 214/86 CE	80
(c) Export to USA (excluding exports to Bhutan)	30
	370

Notes:- While computing value of clearance during FY 2014-15 (as shown above)

1. Export turnover has been excluded. However, export to Bhutan can not be excluded as these are treated as "clearances for home consumption".
2. Job work under Notification No. 214/86 CE is not taken into consideration.
3. Clearances of excisable goods without payment of duty to a unit in EOU.
4. Clearances of excisable goods manufactured in rural area with the brand name of others are included.

In order to claim benefit of SSI exemption in a FY, the total turnover of unit should not exceed ₹400 lakhs in the preceding FY. Since the total turnover in preceding FY does not exceed ₹400 lakhs, so this unit is eligible to claim SSI exemption up to ₹150 lakhs.

3. (b) (i)

A Ltd. has two options under rule 6 of Cenvat Credit Rules – (a) Payment 6% is to be made on amount of exempted goods of ₹5,00,000 i. e. ₹30,000 (b) Reverse proportionate Cenvat credit – 33.33% (5/15) of ₹25,750 i.e. ₹8,583.33. The second option of proportionate reversal is obviously advisable to A Ltd.

3. (b) (ii)

Packing cost is not allowable as deduction. Cost of durable and returnable packing is not includible in assessable value. Deduction of outward freight (₹ 2,250) and trade discount (₹ 1,500) is available. Thus, price for purpose of excise duty is ₹21,250 (25,000 - 2,250 -1,500).

This price is inclusive of excise duty. Hence, by making back calculations, assessable value will be as follows

$$\text{Assessable value} = (21,250 \times 100) / 112.5 = ₹ 18,888.89$$

$$\text{Excise duty @ 12.50\%} = ₹ 2,361.11.$$

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3. (c) (i)

The goods are 'excisable goods' as these are specified in central excised tariff. However, these are excluded from levy of excise duty under section 3(1)(a) of Central Excise Act. Thus, the goods manufactured in SEZ are 'excluded excisable goods'. The supply to SEZ is export for purpose of Central Excise Act.

3. (c) (ii)

The eligibility of Cenvat credit is as follows – (a) Basic excise duty – ₹50,000 (b) Service tax ₹10,000 (c) Education cess – ₹1,200 (1,000 + 200) (d) SAHE cess – ₹600(500 +100).

The duty payable and Cenvat credit available is as follows

	Basic duty(₹)	NCCD(₹)	Education Cess(₹)	SAHE cess(₹)
(A) Duty payable	56,000	2,000	1,160	580
Less - (B) Cenvat Credit available of excise duty on inputs	50,000		1,000	500
Less - (C) Cenvat credit of Service tax on input services	10,000		200	100
Net tax payable (A-B-C)	(-4,000)	2,000	(-40)	(-20)

The manufacturer has to pay only NCCD before 31-3-2014. The excess credit of basic duty, education cess and SAHE cess can be carried forward and used in 2014-15.

4. Answer any two of the three sub-questions (a), (b) and (c) 6×2=12

(a) (i) What is 'high seas sale'? State the basis on which on which goods imported are to be valued for customs duty purposes. 2

(ii) Calculate customs duty payable on basis of following information - 4

(1) Assessable value of goods as per section 14 of Customs Act— ₹1,00,000

(2) Basic customs duty—10%

(3) Excise duty rate 12.50%

(4) Education cess and secondary higher education cess on excise duty is exempt by way of notification

(5) The product is covered under MRP valuation provisions. The imported goods contained 1,000 packages. MRP printed on each package is ₹200. The abatement available on MRP is 40%

(b) (i) Name the methods of valuation of export goods. 2

(ii) State purpose of levying additional duty (special additional duty) under section 3(5) of Customs Tariff Act. 2

(iii) State distinction between section 74 and section 75 of Customs Act in relation to duty drawback. 2

(c) (i) Bill of Entry for clearance for home consumption was presented on 3rd May, 2015. The ship was granted entry inwards on 15th May 2015, Customs duty was assessed on 17th May, 2015. Customs duty was paid on 20th May, 2015 and goods were cleared from customs on 22nd May, 2015. Which is date relevant for rate of customs duty and

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valuation?

2

(ii) Mrs. Latika and Mr. Suraj Prakash, Indian residents, after visiting Paris for seven days, returned to India on 05.02.2015. They brought following goods—

(1) personal effects like cloths, etc.— ₹1,39,000

(2) Two laptop computers valued at ₹ 89,000 and 84,000

(3) One personal computer— ₹ 36,000

(4) Two liters of liquor— ₹ 3,200

(5) One specialised new camera with invoice in name of Mrs. Latika Prakash— ₹ 97,400

Compute the customs duty payable

Answer:

4. (a) (i)

If imported goods are sold before clearance from customs, the sale is termed as 'high seas sale'. In such cases, valuation is required to be done on the basis of price at which last sale is made, [earlier, there was practice to add 2% to the original imported price for valuation purposes. However, such practice has no legal sanctity].

4. (a) (ii)

CVD is payable on basis of MRP. Hence, assessable value for purpose of excise duty = ₹ (1,000 × 200 × 60)/100 = ₹1,20,000. Excise duty @ 12.5% of ₹ 1,20,000 = ₹ 15,000.

Hence, calculation of customs duty is as follows –

Seq.	Duty Description	Duty %	Amount (₹)	Total Customs Duty(₹)
(A)	Assessable Value		1,00,000	
(B)	Basic Customs Duty	10	10,000	10,000
(C)	CVD (on basis of MRP printed on package)	12.5	15,000	15,000
(D)	Sub-total for edu cess on customs(B+ C)		25,000	
(E)	Edu Cess of Customs - 2% of 'D'	2	500	500
(F)	SAH Education Cess of Customs - 1% of 'D'	1	250	250
(G)	Special CVD u/s 3(5) Nil as product under MRP		-	
(H)	Total Duty			25,750
(I)	Total duty rounded to			25,750

4. (b) (i)

The methods for valuation of export goods are – Determination of the method of valuation: Transaction value [Rule 3], Export value by comparison [Rule 4], Computed value [Rule 5] and Residual method [Rule 6].

4. (b) (ii)

Purpose of the Additional Duty under section 3(5) of Customs Tariff Act is to counter-balance sales tax, VAT, local tax or other charges leviable on articles on its sale, purchase or transaction in India. The rate is 4%

The purpose is to provide level playing field to manufacturers in India who are manufacturing similar goods.

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4. (b) (iii)

Section 74 is applicable when imported goods are re-exported as it is and article is easily identifiable, while section 75 is applicable when imported materials are used in the manufacture of goods which are then exported.

4. (c) (i)

As per provision to section 15 of the Customs Act, the relevant date is 15th May, 2015.

4. (c) (ii)

Personal effects and two laptops are exempt. General Free Allowance (GFA) is ₹ 45,000 per passenger. However, GFA cannot be pooled. Thus, Mr. Suraj Prakash can import one personal computer (₹ 36,000) and two litres of liquor (₹ 3,200) without payment of customs duty under his GFA. The excess GFA cannot be pooled with Mrs. Latika Prakash.

Mrs Latika Prakash can avail GFA of ₹ 45,000 for import of camera. Since value of camera is ₹ 97,400, she will be liable to pay customs duty on balance ₹ 52,400. Customs duty @ 36.05% (including education cess and SAH cess) will be ₹ 18,890.20.

5. Answer any two of the three sub-questions (a), (b) and (c).

4×2=8

(a) State provisions relating to import and export of gift articles in Foreign Trade Policy. 2×2=4

(b) (i) Which is RCMC?

1

(ii) An exporter has got good export orders. He requires an imported machinery to fulfill those export orders. He seeks your advise in the matter. Advise him about a scheme suitable to him and its conditions relating to exports.

1+2=3

(c) State purpose of SION. Which authority fixes SION (Standard Input Output Norms)? What are the conditions to obtain Advance Authorisation even if SION is not fixed for his product?

2+1+1=4

Answer:

5. (a)

Import of gifts are permitted when goods are freely importable. In other cases, Customs Clearance Permit (CCP) from DGFT will be required.

Gifts upto ₹5,00,000 can be exported without authorisation. These can include edible items, but not items restricted for export.

5. (b) (i)

RCMC is Registration cum membership Certificate, which is granted by Export Promotion Council. This registration is mandatory to obtain export incentives.

5. (b) (ii)

An exporter can import capital goods without payment of customs duty under Export Promotion Capital Goods [EPCG] scheme. He is required to undertake export obligation equivalent to 6 times of duty saved on capital goods imported under EPCG scheme, to be fulfilled in 6 years reckoned from Authorization issue-date.

5. (c)

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A manufacturer can import raw material without payment of customs duty for manufacture and export of final products. For this purpose, he has to obtain Advance Authorisation or Duty Free Import Authorisation (DFIA) from DGFT. Such authorization for import of raw materials is issue on basis of SION (Standard Input Output Norms). Norms Committee at DGFT fixes SION. Advance authorisation can be issued on basis of self declaration, subject to final adjustment as per SION fixed by NC (Norms Committee).

6. Answer any two of the three sub-questions (a), (b) and (c). 10×2=20

(a) (i) A service provider filed his half yearly return for the period April, 2014 to September, 2014 on 20th October, 2014, Later he realised that there was mistake in the return. Upto what date he can file revised return? What would be your answer if he had filed original return on 5th December, 2014? 2+1=3

(ii) A service provider commenced provision of service. The details are—

- (1) Date of commencement of business—01.04.2014
- (2) Achieved turnover of ₹ 5 lakhs— 01.07.2014
- (3) Achieved turnover of ₹ 9 lakhs— 01.09.2014
- (4) Achieved turnover of ₹ 10 lakhs—1.10.2014
- (5) Achieved turnover of ₹ 20 lakhs—31.03.2015

State the last date on which he is required to apply for registration under service tax. What is maximum penalty imposable for late registration? 2+1=3

(iii) Grand Security Services, a proprietorship firm, provided security services to JES Fabricators Ltd. The bill for services provided during 2014-15 was as follows:

- (1) Salary of security guards ₹ 20,00,000
- (2) ESI paid on wages of security guards— ₹ 50,000
- (3) Provident fund paid on wages of security guards— ₹ 1,00,000
- (4) Supervision-charges— ₹ 3,00,000

Calculate the service tax payable by Grand Security Services. 4

(b) (i) An Indian company provided services to a Dubai firm, in relation to organisation of IPL in Dubai. Advice whether the service is subject to service tax. Give reasons for your view. 3

(ii) Value of services provided by M/s Clean and Clean (a proprietary firm) during 2013-14 was ₹ 55 lakhs. For the quarter ending June, 2014, the service tax payable was ₹ 20 lakhs. It was actually paid on 9th October, 2014. Calculate the interest payable by the assessee. 3

(iii) Deepak Construction Ltd. (contractor) obtained contract for construction of a factory building of Jeevan Food Processors [a partnership firm]. The contract was with material for total value of ₹ 20 lakhs. However, the customer was required to supply steel required for construction free of cost. Accordingly, the customer supplied steel valued at ₹ 2 lakhs to the contractor. Calculate service tax payable by the contractor. 4

(c) (i) When can a Central Excise Officer make best judgement assessment of service tax liability of a person? 2

(ii) 'Refrain from act or tolerating an act or situation' is a 'declared service'. Name any four activities which can be subjected to service tax under this 'declared service'. 2

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(iii) A hotel provided following services:

- (1) Hotel room with daily rent— ₹1,500 (availed eligible Cenvat credit)
- (2) Hotel room with daily rent— ₹900 (did not avail Cenvat credit)
- (3) Renting of motor vehicle with driver— ₹1,800 (did not avail any Cenvat credit)
- (4) Renting of hall for marriage with food— ₹10,000 (availed eligible Cenvat credit)

Calculate service tax liability in each case.

1.5×4=6

Answer:

6. (a) (i)

Revised return can be filed within 90 days from filing of original return. Hence, in first case, calculations of 90 days would be as follows - (a) October 2014 - 11 days (b) November 2014 - 30 days (c) December 2014 - 31 days and (d) January 2015 - 18. Thus, he can file revised return latest by 18th January, 2015.

In second case, he did not file return on time. Even then he can file revised return within 90 days, which can be calculated as follows - (a) December 2014 - 26 days (b) January 2015 - 31 days (c) February 2015 - 28 days (d) March 2015 - 5 days. Thus, he can file revised return by 5-3-2015.

6. (a) (ii)

The provider of Taxable Service whose aggregate Value of Taxable Service in Financial Year exceeds ₹9,00,000, shall make an application to the Jurisdictional Superintendent Of Central Excise in prescribed form for registration within a period of 30 days of exceeding the aggregate value of taxable services of ₹ 9,00,000.

Therefore his liability arises immediately after 1/9/2014 and the last date for making the application for registration is 1/10/2014.

6. (a) (iii)

Service tax is payable on total amount i.e. ₹24,50,000. Service tax payable @ 12.36% is ₹3,02,820. The service is covered under reverse charge. Hence, Grand Security Services are liable to charge and pay 25% of service tax i.e. ₹ 75,705. Balance service tax is payable by the service receiver i.e. JES Fabricators Ltd.

6. (b) (i)

As per rule 6 of Place of Provision of Service Rules, in case of services in relation to organisation of any event, the place of provision of service is the place where event is taking place. In this case, since the event is taking place in Dubai, that will be place of provision of service. Since Dubai is outside taxable territory, service tax will not be payable.

6. (b) (ii)

Service tax was payable on 6th July, 2014. Hence, delay is as follows - (a) July 2014 - 25 days (b) August 2014 - 31 days (c) September 2014 - 30 days (d) October 2014 - 9 days. Total - 95 days. Since value of taxable services during previous year did not exceed ₹60 lakhs, interest rate is 15%. Hence, interest payable is $(20,00,000 \times 15 \times 95) / (100 \times 365) = ₹ 78,082.19$.

6. (b) (iii)

Value of service portion in execution of Works contract is 40% of total amount charged for works contract in case of original works contract. In the Question, Contract Price is inclusive of the free materials supplied by service receiver.

Therefore, Value of Taxable Service = ₹ 20,00,000 × 40% = ₹ 8,00,000.

So service tax liability is ₹ 8,00,000 × 12.36% = ₹98,880.

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6. (c) (i)

As per section 72 of Finance Act, 1994, a Central Excise Officer can make best judgment of service tax liability if (a) The person fails to furnish return required under section 70 of Finance Act, 1994 (b) Has filed the return but failed to assess the tax in accordance with provisions of Finance Act, 1994 and the Rules.

6. (c) (ii)

Non-compete fees, booking cancellation charges, penalty for non-fulfillment of contract in time, Late Delivery Charges, Booking Cancellation charges, Demurrage charges etc. can be subjected to service tax under this 'declared service'.

6. (c) (iii)

(a) Service tax @ 12.36% on 60% of ₹ 1,500 i.e. on ₹ 900 - ₹ 111.24 (b) No service tax as room rent below ₹ 1,000 per day (c) Service tax on 40% of ₹ 1,800 i.e. on ₹ 720 = ₹ 88.99, (d) Service tax on 70% of ₹10,000 i.e. on ₹7,000 = ₹865.20.

7. Answer any two of the three sub-questions (a), (b) and (c):

6×2=12

(a) (i) XYZ Ltd. made an inter-state sale of ₹10 lakhs plus CST @ 2% on 16.07.2014. State Vat rate on those goods is 13.5%. The goods were returned by customer on 12.02.2015 as non-saleable. Calculate how much CST would be payable. 3

(ii) Small dealers are eligible for composition scheme under Vat. However, some dealers are not eligible for composition scheme of Vat, even if they are not small dealers. 3

(b) (i) Bims Traders, a registered dealer in Haryana made total interstate sale of ₹16,00,000 (including CST @ 2%) during 2014-15, as per invoices issued. These include installation charges of ₹25,000 charged separately and outward freight and insurance charges incurred at request of buyer and charged separately in invoice ₹60,000. The total sale value also included excise duty of ₹80,000. The dealer had given trade discount of ₹48,000 by way of a credit note. Goods worth ₹40,000 were sold on 06.06.2014 and returned on 01.12.2014. The buyers had issued C form for all invoices. Calculate CST payable. 4

(ii) A borrower had taken loan from Bank on basis of pledge of gold. The borrower failed to repay loan and interest. Hence, gold was sold by bank to recover the loan amount. Vat department is demanding Vat on this sale. Bank states that it is not business of bank to sell gold. Advise Bank. 2

(c) (i) A dealer purchased goods from a manufacturer on payment of ₹11,50,000. It was including Vat. He fixed selling price considering margin of 20% on net purchase price. VAT rate on both purchases and sales is 15%. Calculate his selling price and net Vat payable by him in cash. 4

(ii) What is TIN in VAT? 2

Answer:

7. (a) (i)

Goods returned after 6 months are not allowable as deduction from turnover for purpose of CST. Thus, CST would be payable. Since goods are returned, the buyer cannot issue C form.

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Hence, CST is payable @ 13.5% on ₹ 10 lakhs.

7. (a) (ii)

Following dealers are not eligible for composition scheme -

- (a) Dealers who make inter-state purchases
- (b) Dealers who make inter-state sales
- (c) Dealers who import the goods and then sale in India
- (d) Dealers who stock transfer goods outside the State
- (e) Dealers who export the goods
- (f) Dealers who want to show Vat in their Invoice.
- (g) Dealers whose turnover is beyond prescribe limit (which is ₹ 50 lakhs in many States)

7. (b) (i)

Following amounts are deductible from the total invoice price - (a) Trade discount - ₹ 48,000 (b) Installation charges - ₹ 25,000 (c) Freight and insurance charges - ₹ 60,000 (d) Sales return within 6 months - ₹40,000. Hence, 'aggregate sale price' for purpose of CST is ₹14,27,000 [16,00,000 - 48,000 - 25,000 - 60,000 - 40,000].

This includes 2% CST. Hence, 'turnover' of the dealer = $[14,27,000 \times 100] / 102 = ₹13,99,019.61$

CST payable on the turnover @ 2% = 27,980.39

[Check that turnover + CST = Aggregate Sale Price].

7. (b) (ii)

In Federal Bank Ltd. v. State of Kerala (2007) 6 VST 736 (SC), it has been held that a bank can be 'dealer' and liable for sales tax on sale of pledged goods, if definition of 'dealer' includes bank. Sale of pledged goods takes place in the course of business.

7. (c) (i)

If net purchase price (excluding Vat) is ₹100, gross purchase price (including Vat) will be ₹115.

Since gross purchase price including Vat is ₹11,50,000, Net purchase price is = $(11,50,000 \times 100) / 115 = ₹10,00,000$. Vat paid on purchases is ₹1,50,000 [Check that $10,00,000 + 1,50,000 = ₹11,50,000$].

Margin required is 20% of Net purchase price. Thus, margin required is ₹2,00,000. Hence, 'Turnover' (Net selling price) = ₹ 10,00,000 + ₹2,00,000 = ₹12,00,000

Vat payable on turnover of ₹ 12,00,000 @ 15% = ₹ 1,80,000.

Hence, 'sale price' (including Vat) is ₹ 13,80,000 [12,00,000 + 1,80,000]

Input tax Credit (set off) = Vat paid on purchases = ₹ 1,50,000

Hence, Net Vat payable by cash is ₹ 30,000 [₹1,80,000 - ₹1,50,000]

7. (c) (ii)

Tax Identification Number (TIN) is a registered number allocated to each registered dealer. It is 11 digit numerical code. First two digits indicate State code. The TIN is to exercise control over tax payable by the dealer and input tax credit availed by purchasing dealer.

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8. Answer any two of the three sub-questions (a), (b) and (c): 4×2=8
- (a) State relevance of 'arm's length price' in international transactions between associated companies. 4
- (b) AMF Electronics Ltd. an Indian company, declared income of ₹9 lakhs for the AY 2014-15. While scrutinising the records, it was found by Income Tax Officer that the Indian company had sold 100 electronic gadgets to its foreign parent company PFM Inc. @ 60 dollars per piece. 70 pieces of similar gadgets were sold to another unrelated company in USA @ 100 dollars per piece. Compute the taxable income of AMF Electronics Ltd., explaining the method you will apply. Exchange rate of dollars may be taken as one dollar = ₹60. 4
- (c) (i) In case of royalty paid by an Indian company to a company in USA for technical services, what is the rate of tax to be deducted at source? 2
- (ii) An Indian company is required to pay ₹1,00,000 to a German company for technical knowhow. It deducted ₹10,000 as income tax at source and paid ₹90,000 to the German company. On what amount the Indian company will be liable to pay service tax under reverse charge? 2

Answer:

8. (a) The tax rates vary from country to country. A multinational company may have associate companies in various countries. In such cases, in case of international transactions, the tendency is to show more profit in countries where tax rate is low. This is done by adjusting the price at which goods are sold or services are provided. These are 'controlled transactions'. To avoid such tax avoidance devices, it has been provided that such transactions should be valued on basis of arm's length prices for calculation of profits (or loss) of that assessee.
- Principle of arm's length price requires that a transaction between two related parties should be priced, as if they were not related. The principle is to place uncontrolled and controlled transactions on an equal footing.
8. (b) In this case, the 'Comparable uncontrolled price method' will be applicable. In this method, the price charged or paid for property transferred or services provided in a comparable uncontrolled transaction, (i.e., a transaction between enterprises other than associated enterprises whether resident or non-resident) or a number of such transactions, is identified.
- Here, the uncontrolled price is 100 dollars. Hence, difference of 40 dollars per piece is required to be added i.e. $40 \times 60 \times 100 = ₹2,40,000$. Hence, the taxable income of AMF Electronics Ltd. is ₹ 11,40,000 (9,00,000 + 2,40,000).
8. (c) (i) In case of royalty, as per Double Taxation Avoidance Agreement with USA, the tax is payable at source. Hence, no TDS is applicable in India. (ii) The Indian company is liable to pay service tax on ₹ 1,00,000.