

INTERMEDIATE EXAMINATION

June 2016

P-11(ITX)
Syllabus 2012**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).*

1. Answer the following questions with suitable reasons: 1×20=20
- (a) State the constitutional provision which empowers Central Government to levy service tax.
 - (b) State basic distinction between composition scheme of payment of excise duty and payment of duty on basis of production capacity under section 3A of Central Excise Act.
 - (c) A manufacturer purchased oil in drums. He used the oil in his manufacture and sold the empty drums as scrap. Is excise duty payable on drums? State with reasons.
 - (d) State the periodicity for filing of excise return by a small scale manufacturing unit. What is the due date for filing of return?
 - (e) An assessee was providing a bus for transport of employees from nearest railway station to the factory and back. The bus operator charged service tax on his services. Is the assessee eligible to avail Cenvat credit of the service tax?
 - (f) Is customs duty payable on imported goods, which were pilfered before clearance from customs?
 - (g) What is the ceiling (upper limit) on quantum of duty drawback in relation to the market price of goods?
 - (h) What is 'Entry' in respect of goods imported by post?
 - (i) What is IEC code?
 - (j) Which authority administers Foreign Trade Policy?
 - (k) Which of the following services is in negative list:
 - (i) Health care service by clinical establishment
 - (ii) Service provided by arbitral tribunal
 - (iii) Supply of labour on farm
 - (iv) Construction of public road

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- (l) A builder sold a residential flat of 1,600 sq. ft. at ₹ 90 lakhs in October, 2015. He obtained building completion certificate in November, 2015. Calculate service tax payable. Ignore Swachh Bharat Cess.
- (m) A service provider filed his return on 24-10-2015 for half year ending on October, 2015. Later he found that there was calculation mistake. Advise him with time limit within which he can take action.
- (n) A contractor was undertaking works contract for construction of public road. This activity is exempt from service tax. The contractor awarded some work to a sub-contractor. The sub-contractor can avail exemption from service tax only if he fulfils certain conditions. What are those conditions?
- (o) An assessee did not pay service tax on certain services as he was not aware of the liability. During EA-2000 audit in November, 2015, the mistake was pointed out. The assessee immediately, on his own, paid service tax of ₹ 1,00,000 with interest of ₹ 36,000 in December, 2015. Calculate the penalty payable by assessee.
- (p) A manufacturer purchased 20,000 litres of raw material @ ₹.50 per litre. Vat rate was 15%. During transit from place of supplier to the factory of manufacturer, 100 litres were lost due to spillage and only balance quantity was received in factory. However, payment was made by manufacturer for the full quantity. Calculate the input tax credit of Vat that is available to manufacturer.
- (q) State with reasons whether export of goods is 'zero rated transaction' or 'exempt transaction' in Vat.
- (r) In Central Sales Tax, subsequent sale during movement of goods is exempt from sales tax if prescribed forms are issued. Which are those forms? Name the form which the first seller of goods is required to issue to intermediate buyer, so that the intermediate buyer can claim the subsequent sale as exempt from Central Sales Tax.
- (s) ABC Inc. USA, has given guarantees in respect of borrowings by JKF Ltd., India. Such guarantees account for 8.5% of total borrowings of JKF Ltd. Are ABC Inc. and JKF Ltd. 'associated enterprises'?
- (t) Name two intangibles where determination of Arm's Length Price (ALP) is often required.

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

2×2=4

- (a) State reason why indirect taxes are termed as 'regressive' and direct taxes as 'progressive'. 2
- (b) Explain the Constitutional provisions which restrict the powers of State Government in respect of rate of state sales tax (Vat). 2
- (c) What is meant by 'charging section'? What is charging section for levy of service tax? 2

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

8×2=16

- (a) (i) A job worker manufactured goods for a trader. The raw materials were supplied by the trader. The value of raw material was ₹ 10 per piece. Transport charges for bringing the raw material in factory was ₹ 0.30 per piece. The job worker charged ₹ 3 per piece as job charges. Transport charges for returning the final product to the place of trader was ₹ 0.20 per piece. The trader sold the goods in market at ₹ 21 per piece excluding State Vat @ 13.5%. Excise Duty rate is 12.5%. Ignore education cess. Calculate (A) Excise duty payable (B) who is the person liable to pay excise duty? 3+1=4
- (ii) Final products manufactured in a factory were lost in fire. Advise the manufacturer steps he should take in respect of his liability of excise duty on final product. Also advised him about his eligibility in respect of Cenvat credit taken by him on inputs which were used in manufacture of final product which were lost in fire. What will be your answer if the manufacturer had obtained full compensation from insurance company for the loss, including excise duty and Vat which was paid on inputs? 2+1+1=4
- (b) (i) A manufacturer procured certain parts and components and manufactured machinery within his factory for his own use using those parts and components. State provisions relating to liability of excise duty on the capital goods. Further, explain provision relating to eligibility of Cenvat credit of excise duty charged by supplier-manufacturers of the components in their invoices. 2+2=4
- (ii) CKL Pharma Ltd. is engaged in manufacture tablets. The tablets are sold in market marking MRP of ₹ 18 per tablet. The MRP includes 12.50% Excise duty. The company sales the goods in market to wholesalers at ₹ 9.00 (excluding excise duty and CST). The product is covered under section 4A of Central Excise Act. Abatement of 30% is available on MRP on drugs. The Company manufactured and cleared 2,000 tablets and distributed as physician's samples free of cost. The package was marked 'Free samples'. No MRP was marked as samples were free. Cost of production of the tablet as per CAS-4 is ₹ 7.50 per tablet. Determine the total duty payable. 4
- (c) (i) A manufacturer had supplied his manufactured goods to a customer. His price was FOR destination, inclusive of outward freight. Department contended that place of customer is 'place of removal' and hence, it is includible in assessable value for purpose of excise duty. Discuss with reference to recent case law, if any. Also explain the impact of this judgment on eligibility of Cenvat credit of service tax paid on outward freight i.e. from place of manufacturer to the place of the customer. 2+2+2=6
- (ii) A manufacturer procured certain inputs for ₹ 10,000. On 01-02-2015. Excise duty charged by supplier of inputs was 1,236 @ 12.36% (including education cess @ 3%). The manufacturer took Cenvat credit of ₹ 1,200. Later, the inputs were found to be in excess of his requirements. Hence he sold those inputs in market on 11-11-2015 for ₹ 11,000 when excise duty rate was 12.5% (education cess was exempted). Advise manufacturer action he should take. 2

4. Answer any two of the three sub-questions (a), (b) and (c): 6×2=12
- (a) (i) Tista Limited imported a machine for an invoice value of USD 8,000. It includes USD 500 which are charges for erecting and commissioning the machinery in India. Tista Ltd. had supplied some raw materials outside India, which were supplied to the foreign supplier. The value of material was USD 300. The machinery was imported through vessel and cost of transport was USD 800. Tista Ltd. paid demurrage charges of ₹ 15,000 to port authorities as imported goods were not cleared from port within specified time.
- Transportation charges of ₹ 20,000 were incurred for transportation of goods from port to ICD (Inland Container Depot). Calculate assessable value. The foreign exchange rate was one USD = ₹ 65. 4
- (ii) When can 'export of goods' be treated as complete under customs law. i.e. what is taxable event for export of goods? 2
- (b) (i) State distinctions and similarities between 'identical goods' and 'similar goods' under Customs Valuation provisions. 4
- (ii) What is 'injury margin' with reference to anti-dumping duty? 2
- (c) (i) Explain provisions relating to On Site Post Clearance Audit (OSPCA) under customs. 4
- (ii) Define 'smuggling' under customs law. 2
5. Answer any two of the three sub-questions (a), (b) and (c): 4×2=8
- (a) Explain provisions relating to post export EPCG scheme. 4
- (b) What is meant by SION in Foreign Trade Policy? What is its purpose? Who fixes SION? 2+1+1=4
- (c) Write a brief note on Special Economic Zones (SEZ). 4
6. Answer any two of the three sub-questions (a), (b) and (c): 10×2=20
- (a) (i) Explain the method of calculation by which the Input Service Distributor should distribute its Cenvat credit of input services to its various manufacturing units or units providing taxable service. 6
- (ii) Explain provisions relating to liability of service tax in respect of services provided by a director to a company or body corporate. 4
- (b) (i) JKB Ltd., manufacturer from Kolkata exported a consignment of its excisable final products to Nairobi, Kenya. It had deployed Benguela Ltd. from Nairobi, a clearing Agent, to clear the consignment from Nairobi port for onward dispatch of the same to the concerned buyer in Nairobi. Benguela Ltd. provided the service and raised invoice on JKB Ltd. Discuss the service tax liability in respect of service provided by Benguela with reference to applicable provisions of Place of Provision of Service Rules. 3

(ii) Mr. A. Sansayi Rao, a senior executive in a company, was transferred from Bengaluru to Chennai. He packed his personal belongings and booked them with a Goods Transport Agency (GTA) for transport of goods to Chennai in December, 2015. The freight charged by GTA was ₹ 40,000. How much service tax is payable if service tax rate is 14% plus Swachh Bharat Cess (SBC) as applicable? Who is liable to pay service tax? 2+1=3

(iii) Calculate liability of service tax in following cases (all cases are independent of each other). Service tax rate is 14%. All services were provided in September, 2015 —

(A) Commission received on sale of rice — ₹ 75,000.

(B) Hotel room charges for two days — ₹ 1,800.

(C) Ambulance services provided by a private company on chargeable basis — ₹ 20,000.

(D) Sale of packaged software with MRP of ₹ 20,000 (which includes value of the DVD ₹ 100). 4

(c) (i) Amita Enterprise, a proprietary firm, provided works contract service to Marvin Pvt. Ltd. Amita Enterprise raised invoice on 01-10-2015 charging service tax of ₹ 10,000 towards their portion of service tax liability, as per law. The invoice was received by Marvin Pvt. Ltd. on 07-10-2015. M/s Marvin Pvt. Ltd. deposited their portion of liability of service tax on 06-11-2015. Marvin Pvt. Ltd. paid the invoice amount to Amita Enterprise (including service tax charged by Amita Enterprise) on 10-02-2016. State the following:

(A) Date on which Marvin Pvt. Ltd. can avail Cenvat credit of service tax charged by Amita Enterprise in their invoice.

(B) Quantum of service tax payable by Marvin Pvt. Ltd., if any, directly to Government.

(C) Date on which Marvin Pvt. Ltd. can avail Cenvat credit of service tax paid by themselves to Government.

(D) Is any action needed by Marvin Pvt. Ltd. in respect of amount paid by them to Amita Enterprise on 10-02-2016? 4

(ii) With reference to Swachh Bharat Cess (SBC), answer the following:

(A) Date from which SBC became payable.

(B) Value for calculation of SBC.

(C) Effective Rate of SBC.

(D) Can Cenvat credit be utilised for payment of SBC?

(E) Can input tax credit of SBC be utilised for payment of SBC on output service?

(F) Are provisions relating to reverse charge applicable to payment of SBC? 3

(iii) An air conditioned restaurant made a bill dated 16-11-2015 as follows:

Charges for food — ₹ 4,000.

Service charges @ 10% of food charges — ₹ 400.

State Vat was charged separately in invoice.

Calculate service tax payable.

3

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

6×2=12

(a) (i) Deepa Enterprise, a trader from Kolkata furnishes following information:

(1) Gross interstate sales for quarter ending December, 2015 — ₹ 92,50,000 (including CST).

(2) The above sale includes the following:

(A) Central Excise Duty — ₹ 9,00,000.

(B) Outward freight on goods sold charged separately in invoice — ₹ 1,50,000.

(C) Installation and Commissioning charges charged separately in invoice — ₹ 50,000.

Valid C forms were received in respect of all sales.

Calculate:

Central Sales Tax (CST) payable.

(ii) State in brief why Vat is termed as 'consumption based tax'.

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(b) (i) Alpha Traders furnishes you the following information for January, 2016:

(A) Opening stock of finished goods and raw materials — Nil.

(B) Purchase of raw material within State (including Vat @ 13.5%) — ₹ 4,54,000.

(C) Inter-state Purchase of raw materials (including CST @ 2%) — ₹ 2,04,000.

(D) Manufacturing expenses — ₹ 1,30,000.

(E) Sales (excluding Vat 13.5%) — ₹ 11,00,000.

(F) Closing stock of finished goods and raw materials which was purchased within State (including Vat @ 13.5%) — ₹ 1,70,250.

Compute the net VAT liability for January, 2016.

4

(ii) A dealer claims a particular transaction as stock transfer as per section 6A of CST Act. The assessing officer did not accept the contention and passed order treating the transaction as sale of goods. Advise provisions relating to appeal against his assessment order.

2

(c) State the purpose of composition scheme under Vat and salient provisions of composition scheme. State which types of dealers are not eligible for composition scheme.

6

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

4×2=8

- (a) "Concept of 'arm's length price' has been incorporated in Customs Valuation provisions."
— Comment on this statement and explain relevant provisions. 4
- (b) Explain which enterprise can be termed as 'associated enterprises'. Your answer need not contain provisions relating to 'deemed associated enterprise'. 4
- (c) Gama Pharmaceuticals Ltd. is an Indian subsidiary of a UK Company Gama Pharma Ltd. The UK parent company sales its products to unrelated buyers at 300 UK pounds per unit. What would be the Arms Length Price (ALP) in following two independent situations —
- (i) The UK Parent company sales its product to Indian subsidiary at 250 UK pounds per piece.
- (ii) The product is sold to Indian subsidiary at 320 UK pounds per unit. 4
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