

# Answer to MTP\_Intermediate\_Syllabus 2008\_Jun2014\_Set 1

## Paper-10 Applied Indirect Taxation

Time Allowed: 3 hours

Full Marks: 100

Working notes should form part of the answers.

Answer **Question No. 1** which is compulsory and **any five** from the rest.

### Question 1.

(a) Fill up the blanks:

[15 × 1]

- (i) Goods are classified under Central Excise Tariff Act based on the "Harmonized System of Nomenclature" having \_\_\_\_\_ digit classification.
- (ii) A service provider whose previous year taxable services are less than or equal to ₹ \_\_\_\_\_, in the current year such service provider is called as small service provider.
- (iii) Sea beyond \_\_\_\_\_ miles from the coastal base line is called High Sea.
- (iv) \_\_\_\_\_ goods means goods declared under Section 14 of CST Act to be of special importance in interstate trade or commerce.
- (v) Chapter V of the Finance Act, 1994 (i.e. the service tax law), extends to the whole of India except the state of \_\_\_\_\_.
- (vi) The return form ER-1 in excise is to be filed by \_\_\_\_\_ [100% Export Oriented Unit (EOU)/ manufacturer/ SSI (Small Scale Industries) unit].
- (vii) Registration under VAT for those dealers is compulsory whose gross annual turnover is above \_\_\_\_\_.
- (viii) \_\_\_\_\_ Scheme is presently applicable only to stainless steel pattas/pattis and aluminium circles.
- (ix) An SSI unit \_\_\_\_\_ (is eligible/ is not eligible) for SSI exemption, if it manufactures goods bearing the brand name of any other person.
- (x) In customs, if cost of transport is not ascertainable, it will be taken as \_\_\_\_\_ of the FOB value of goods.
- (xi) The Central Excise Revenue Audit is conducted by the \_\_\_\_\_.
- (xii) In excise, in case of exports, the place of removal is \_\_\_\_\_ where export documents are presented to customs office.
- (xiii) Upgradation of computer system by increasing its storage or processing capacity \_\_\_\_\_ (is/ is not) manufacture.
- (xiv) \_\_\_\_\_ is the basic document for assessment of custom duty and clearance of imported goods.
- (xv) \_\_\_\_\_ goods in custom means any goods, the import or export of which is subject to any prohibition under the Customs Act or any other law for the time being in force.

(b) State with reasons whether the following statements are 'True' or 'False':

[5 × 2]

- (i) An unsecured debt is transferred to a third person for a consideration will come under the purview of service tax.
- (ii) Similar Goods means imported goods which are same in all respects, including physical characteristics, quality and reputation except for minor differences in appearance that do not affect the value of the goods.
- (iii) Betel Nut to supari powder is not manufacture in order to attract excise duty.
- (iv) Importers can store imported goods without payment of duty in public warehouse or private warehouse.
- (v) Inter-state leasing is taxed under a State VAT Law.

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### **Answer to 1(a):**

- (i) eight
- (ii) 10 lakhs
- (iii) 200 nautical
- (iv) Declared
- (v) Jammu and Kashmir
- (vi) Manufacturer
- (vii) ₹ 5 lakh
- (viii) Compounded Levy
- (ix) is not eligible
- (x) 20%
- (xi) Comptroller and Auditor General of India
- (xii) Port
- (xiii) is not
- (xiv) Bill of entry
- (xv) Prohibited

### **Answer to 1(b):**

- (i) False: The transaction cannot be regarded as service. Since unsecured debt is an actionable claim, a transaction only in such actionable claim is outside the ambit of service. So service tax is not payable. However if a service fee or processing fee or any other charge is collected in the course of transfer or assignment of a debt then the same would be chargeable to service tax.
- (ii) False: If any imported goods which are same in all respects, including physical characteristics, quality and reputation except for minor differences in appearance that do not affect the value of the goods, they are called Identical Goods.
- (iii) True: Crushing betel nuts into smaller pieces and sweetening them does not result in a distinct product, as 'betel nut remains a betel nut'. So it does not amount to manufacture.
- (iv) True: Warehouses are of two types: a) Public warehouses appointed by Assistant Commissioner of Customs under section 57 of Customs Act. b) Private warehouses licensed by Assistant Commissioner of Customs. As the name suggests, goods can be stored in Public Warehouse by any importer, while goods can be stored in private warehouse only by person who has been licensed.
- (v) False: Inter-state leasing cannot be taxed under a State VAT law. It can be taxed under the Central Sales Tax Act, 1956. "Sale" under the Central Sales Tax Act includes "Deemed Sale" including Lease transactions.

### **Question 2.**

**(a) State briefly with reasons whether credit under the CENVAT Rules, 2004 would be available in the following cases:**

- (i) Final product is cleared in durable and returnable packing material.
- (ii) An input becomes a waste and is sold as scrap.
- (iii) Inputs used in trial runs

**(b) An interior decorator charges ₹ 7,00,000 from a client for providing professional services. The breakup of the bill is as follows:-**

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- (i) Value of furniture sold to the client – ₹ 3,50,000
- (ii) Labour and facility charges – ₹ 1,50,000
- (iii) Value of materials consumed in providing the service – ₹ 2,00,000

Compute the amount of service tax to be charged from the client. Provided all the amounts are exclusive of service tax.

(c) Mr. Rabin, a dealer in Kolkata dealing in consumer goods, submits the following information pertaining to the Month of March, 2014:

- (i) Exempt goods 'A' purchased for ₹ 1,50,000 and sold for ₹ 1,70,000.
- (ii) Goods 'B' purchased for ₹ 2,00,000 (including VAT) and sold at a margin of 10% profit on purchases (VAT rate 12.5%);
- (iii) Goods C purchased for ₹ 1,25,000 (excluding VAT) and sold for ₹ 1,70,000 (VAT rate 4%);
- (iv) His unutilized balance in VAT input credit on 01.03.2014 was ₹ 2,000.

Compute the turnover, Input VAT, Output VAT and Net VAT payable by Mr. Rabin.

[6+4+5]

**Answer:**

(a) The admissibility of CENVAT credit is discussed as under –

- (i) **Final product is cleared in durable and returnable packing material:** Yes, The definition of 'input' covers all goods used in the factory of production by the manufacturer and such packing has relationship with the manufacture of the final products therefore, Cenvat credit will be available on durable and returnable packing material. Besides this, since the proportionate cost of durable container is included in assessable value of final product, they are eligible for Cenvat credit.
- (ii) **An input becomes a waste and is sold as scrap:** Yes. If inputs becomes waste and sold as scrap, it cannot be said that input is cleared 'as such' [Rule 3(4) of the Cenvat Credit Rules 2004]. What is cleared is 'waste' and duty will be payable as if waste has been removed. In case the inputs have become waste during the manufacturing process, then the CENVAT credit shall be allowed on such waste, even if such waste is exempted or chargeable with nil rate of duty.
- (iii) **Inputs used in trial runs:** Yes. Inputs used in trial runs during the production or commissioning of plant are eligible for CENVAT credit as they are used in the manufacture of final product. Since trial run/ production is a pre-requisite for manufacture of the final product, hence, they bear relationship with the manufacture of the final product. Hence, they are eligible as 'input'. - Fertiliser Corporation of India v. CCEx.

(b) **Computation of service tax payable:**

	(₹)
Value of furniture sold to the client	Sale, not service
[Sale of furniture is 'sale of goods', which cannot be regarded as a service. Though sale is in course of providing the service, however, it constitutes a separate sale, because the parties intend to have separate rights arising out of sale. Such sale cannot be charged to service tax.]	

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Add: Labour and facility charges [They are for provision of interior decoration service; hence, includible in value]	1,50,000
Add: Value of materials consumed in providing the service [Materials consumed viz. consumables, etc. in providing services are a part of the value of the service, because service cannot be provided without them.]	2,00,000
<b>Value of service</b>	<b>3,50,000</b>
<b>Service Tax @ 12.36%</b>	<b>43,260</b>

### (c) Computation of VAT payable

Finished goods	Tax on Finished Goods			Input Tax on Materials			Net (Output Tax - Input Tax) (₹)
	Value (₹)	Rate	Tax (₹)	Value (₹)	Rate	Tax (₹)	
Opening Balance						2,000	- 2,000
Goods A	1,70,000	NIL	Exempt	1,50,000	NIL	Exempt	0
Goods B (Purchase price excluding VAT = ₹ 2,00,000 × 12.5 ÷ 112.5)	1,95,556	12.50%	24,444	1,77,778	12.50%	22,222	2,222
Goods C	1,70,000	4.00%	6,800	1,25,000	4.00%	5,000	1,800
<b>Total</b>			<b>31,244</b>			<b>29,222</b>	<b>2,022</b>

### Question 3.

(a) After visiting USA, Mrs. & Mr. Dutta brought to India a lap top computer valued at ₹ 60,000, personal effects valued at ₹ 85,000 and a personal computer for ₹55,000. What is the customs duty payable?

(b) ABC Ltd. enters into a contract with TWL Ltd. for construction of a new building primarily for the purpose of commerce or industry for a total consideration of ₹ 370 lakhs on 02-04-2013. The relevant details are given as under –

Stage	Date [Expected]	Date of issuance of invoice	Date of Payment	Amount of Payment (₹)
Initial/Booking	02-04-2013	02-04-2013	02-04-2013	50 lakhs
50% completion of building [after getting certificate from the stipulated Chartered Engineer]	14-10-2013	20-10-2013	26-10-2013	120 lakhs
75% completion of building [after getting certificate from the stipulated Chartered Engineer]	22-02-2014	24-03-2014	26-03-2014	110 lakhs
100% completion of building [after getting certificate from the stipulated Chartered Engineer]	30-07-2014	20-08-2014	10-08-2014	90 lakhs

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Determine the Point of Taxation in respect of each of above stage of completion.

(c) List out the items which will appear on the Concurrent List (list III) given in Schedule Seven of the Constitution.

(d) M/s. Alpana Ltd., sold machinery to Mr. Das at a price of ₹ 7 lakhs on 15th June, 2013 and the same was removed from the factory at Kolkata. The rate of excise duty applicable is 12.36% on the date of removal. Mr. Das refused to take delivery of the machine when it reached his destination. In the meantime, M/x. Alpana Ltd. increased the prices of the similar type of machinery to ₹ 8.5 lakhs with effect from 16th June, 2013. The machinery as refused by Mr. Das has been sold on 20th June 2013 to Mr. Basak at the revised price of ₹ 8.5 lakhs. The excise duty including Education Cess is 12.36% applicable with effect from 10th June, 2013.

Explain the following with reasons:

- (i) What is the value to be taken as assessable value?
- (ii) What is the rate of excise duty applicable and duty payable on above transaction?
- (iii) The Central Excise Officer is demanding duty on the price of ₹ 8.5 lakhs at the time of sale to Mr. Basak. Is he right in his approach?
- (iv) Does cost of production have any bearing on the assessable value?

(e) Is transfer of property in goods without consideration chargeable to CST?

[3+4+2+4+2]

Answer:

(a)

1. **Exemption:** Personal Effects and One Laptop are exempt from duty.
2. **General Free Allowance:** The General Free Allowance for the Passenger's of Age  $\geq$  10 years, and returning after stay abroad of  $>$  3 days is ₹ 35,000. [Rule 3 of Baggage Rules, 1998]
3. **Rate:** Rate of Duty applicable for Baggage = 35% + EC @ 2% + SHEC @ 1% = 36.05%
4. **Duty:** Duty payable on Baggage = ₹ (55,000 - 35,000) x 36.05% = ₹ 7,210.

(b) The above case falls under continuous supply of service and the point of taxation shall be determined as under-

Stage of Completion	Deemed date of completion of provision of service as per Explanation 1 to Rule 6	Point of Taxation	Reason/Remarks
Initial/ Booking	02-04-2013	02-04-2013	Date of issuance of invoice as well as Date of Payment is same i.e. 02-04-2013.
50%	14-10-2013	20-10-2013	Since invoice has been issued on 20-10-2013 i.e. within 30 days from the date of completion of provision of service [which is 14-10-2013], comparison has been made between Date of issuance of invoice [20-10-2013] and Date of Payment [26-10-2013]. Accordingly, Point of Taxation will be 20 – 10- 2013.

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75%	22-02-2014	22-02-2014	Since invoice has been issued on 24-03-2014 i.e. after 30 days from the date of completion of provision of service [which is 22-02-2014], comparison has been made between Date of Completion of Provision of Service [22-02-2014] and Date of Payment [26-03-2014]. Accordingly, Point to Taxation will be 22-02-2014.
100%	30-07-2014	10-08-2014	Since invoice has been issued on 20-08-2014 i.e. within 30 days from the date of completion of provision of service [which is 30-07-2014], comparison has been made between Date of issuance of Invoice [20-08-2014] and Date of Payment [10-08-2014]. Accordingly, Point of Taxation will be 10-08-2014.

(c) Concurrent List (List-III) given in Schedule Seven of constitution:

Both union and State Government can exercise power in respect of —

Entry No.17A – Forest Income

Entry No. 25 – Education Income

(d) (i) The price prevailing at the time of removal from factory (i.e. ₹ 7 lacs on 15th June 2013 is the assessable value.

(ii) The applicable rate of duty is @12.36% and duty amount is ₹ 86,520 (i.e. ₹ 7 lacs x 12.36/100).

(iii) The Central Excise Officer is not right in his approach.

(iv) Cost of production has no bearing with assessable value in present case. Central Excise valuation can be below manufacturing cost. If price is the sole consideration and dealing between seller and buyer are arm's length, assessable value will be decided on the basis of selling price, even if it is below manufacturing cost. So cost of manufacturing will not change the assessable value.

(e) Sale u/s 2(g) of the CST Act, means transfer of property for cash or deferred payment or for any other valuable consideration. Where there is transfer of property in goods without consideration, it does not amount to sale within the meaning of the definition under the act and therefore CST is not attracted.

### Question 4.

(a) Determine the Taxable Turnover, Input Tax Credit and net VAT payable by a Works Contractor from the details given below on the assumption that the Contractor maintains sufficient records to quantify the labour charges. Output VAT at 12.5%:

Particulars	(₹ in Lakhs)
<b>Total Contract Price (excluding VAT)</b>	<b>120</b>
<b>Labour Charges paid for execution of the contract</b>	<b>53</b>

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Cost of Consumables used not involving transfer of property in goods	7
Material purchased and used for the Contract, taxable at 12.5% VAT (VAT included)	48

Contractor also purchased a Plant for use in the contract for ₹ 10.4 lakhs. In the VAT Invoice, VAT was charged at 4% separately, and the said amount of ₹ 10.4 Lakhs is inclusive of VAT.

- (b) Determine the cost of production on manufacture of the under-mentioned product for purpose of captive consumption in terms of Rule 8 of the Central Excise Valuation Rules, 2000 (amount in ₹)

Direct material	13,483
Direct wages & salaries	7,900
Works overheads	5,700
Quality control costs	4,800
Research and development costs	2,700
Administrative overheads	3,900
Selling and distribution costs	3,200
Realizable value of scrap	1,300

The Administrative Overheads are in relation to production activities.  
Material cost includes Excise duty ₹ 1,483.

- (c) Distinguish between Safeguard Duty and Anti-dumping Duty for the purpose of customs.  
(d) Why indirect taxes are called regressive in nature as against direct taxes?

[4+4+5+2]

Answer:

- (a) Computation of Taxable Turnover, Input Tax Credit and net VAT liability

Particulars	₹ Lakhs
Total Contract Value (excluding VAT)	120
<b>Less:</b> Labour Charges paid for execution of the contract	(53)
<b>Less:</b> Cost of Consumables used not involving transfer of property in goods	(7)
<b>Taxable Turnover, i.e.</b>	<b>60</b>
Output VAT Payable [₹ 60 lakhs x 12.5%]	7.5
<b>Less:</b> Input Tax Credit	
• On Materials Purchased Inclusive of VAT $\left[ \frac{12.5}{112.5} \times ₹ 48 \text{ lakhs} \right]$	(5.33)
• On Plant purchased $\left[ \frac{4}{104} \times ₹ 10.4 \text{ lakhs} \right]$	(0.4)
<b>Net VAT Liability</b>	<b>1.77</b>

- (b) Calculation of cost of production in terms of Rule 8 of Valuation Rules, 2000 (amounts in ₹)

Direct material (13,483 – 1,483 = 12,000)	WN 1	12,000
Direct wages & salaries		7,900
Works overheads		5,700
Quality control costs	WN 2	4,800
Research and development costs	WN 2	2,700
Administrative overheads	WN 2	3,900

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Selling and distribution costs	WN 3	-
Total		37,000
Less : Realisable Value of scrap	WN 4	1,300
Cost of production		35,700
Value of excisable goods under Rule 8 @ 110% of cost of production		39,270

Working notes:

1. Raw-material cost shall be taken net of excise duty assuming Cenvat credit is available
2. Quality control cost, Research and Development cost and Administration overheads related to production shall form part of cost of production as per CAS-4.
3. Selling and distribution costs shall not form part of cost of production
4. Realizable value of scrap shall be deducted to arrive at cost of production.

(c) The difference between safeguard duty and anti-dumping duty are listed below –

Basis	Safeguard Duty	Anti-dumping Duty
1. Levy under	Section 8B or 8C of the Customs Tariff Act, 1975.	Section 9A of the Customs Tariff Act, 1975.
2. Objective	To ensure that bulk imports of goods do not cause serious injury / disruption to domestic industry.	To ensure that goods are not imported at lower than normal value (dumping), thereby, causing loss to domestic market.
3. Based on	Increased imports in quantity.	Imports at value less than normal value.
4. Quantum	Levied as determined by the Government.	Cannot exceed margin of dumping.
5. Duration	Remains in force for 4 years, extendable upto 10 years from date of levy.	Remains in force for 5 years, extendable by further 5 years.
6. Exception	Not levied if imports from a developing country doesn't exceed 3% and total imports from all developing countries (each with share upto 3%) doesn't exceed 9% in total.	Exceptions to levy of this duty are listed in section 9B of the Customs Tariff Act, 1975.

(d) Direct taxes depend on paying capacity. Rich person is taxed more compared to poor person. But Indirect taxes do not depend on paying capacity. Since the indirect tax is uniform, the tax payable on commodity is same, whether it is purchased by a poor man or a rich person. Hence, the indirect taxes are termed as 'regressive'.

Although this argument is only partially correct for indirect taxes; as it is possible to levy lower taxes on goods of daily consumption while levying higher taxes on luxury goods and the regressive effect can be reduced in many circumstances.

### Question 5.

(a) White Ltd. sold 100 units manufactured by it for ₹ 15,000 per unit. It had received interest-free advance of ₹ 3,00,000 from the buyer for the whole of the year. Compute the assessable value of 100 units sold in following independent case:

- (i) The price charged from other buyers is ₹ 14,500 per unit.



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- (ii) The price charged from other buyers is ₹ 16,300 per unit.  
 (iii) The normal rate of interest is 12% per annum and the price charged from other buyers is ₹ 16,300 per unit.

(b) Sri Prakash, a Registered Dealer at Mumbai, furnishes the following information:

	(₹)
(i) Inter-state sale of goods This includes the following—	40,00,000
(ii) Excise duty	38,000
(iii) Goods returned on 17/1/2014 [These goods were sold on 12/4/2013]	89,000
(iv) Cash discount shown in invoice and allowed according to prevailing trade practice	50,000
(v) Freight and transportation charges (of this ₹ 1,50,000 is on inclusive basis)	4,50,000
(vi) Insurance premium paid prior to delivery of goods	60,000
(vii) Installation and commissioning charges levied separately in invoices	68,000

Compute the taxable turnover under the CST Act, assuming the rate of tax @ 2%.

(c) State the details which are contained in the service tax return?

(d) The assessable value of imported goods is ₹ 50,00,000. The basic customs duty is 10%. The excise duty on like articles manufactured in India is 12%. Additional customs duty equal to sales tax, VAT etc. is 4%. Education Cess is 2% and Secondary & Higher Education Cess is 1%. Compute total customs duty and imported cost of the goods.

[4+4+3+4]

**Answer:**

(a) **Computation of Assessable Value of White Ltd.:** As per the explanation 2 to Rule 6 of the Central Excise Valuation Rules, 2000, where an assessee receives any advance payment from the buyer against delivery of any excisable goods, no notional interest on such advance shall be added to the value unless the Central Excise Officer has evidence to the effect that the advance received has influenced the fixation of the price of the goods. Hence, the assessable value shall be determined as under:

- (i) Assessable value = ₹ 15,000 × 100 = ₹ 15,00,000.  
 No notional interest shall be added as advance received has not influenced the price.
- (ii) Assessable value = (₹ 15,000 + ₹ 1,300) × 100 = ₹ 16,30,000.  
 ₹ 1,300 shall be added as notional interest (₹16,300 - ₹ 15,000) as the price charged is influenced due to the receipt of advance.
- (iii) Assessable value = (₹ 15,000 + ₹ 1,300) × 100 = ₹ 16,30,000.  
 Rate of interest is irrelevant, however, ₹ 1,300 shall be added as notional interest (₹ 16,300 - ₹ 15,000) as the price charged is influenced due to the receipt of advance.

(b) **Computation of taxable turnover**

	(₹)
Sales turnover	40,00,000
Less: Deductions	
Cash discount according to normal trade practice	50,000
Freight and transportation charges – deductible to the extent	3,00,000

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shown separately in the invoices	
Installation and commissioning charges levied separately in invoices	68,000
Turnover inclusive of CST	35,82,000
Less: Central Sales Tax	70,235
<b>Taxable turnover</b>	<b>35,11,765</b>

**Note:** Goods returned after 6 months from the date of sale attracted CST @2%.

**(c) The service tax return contains the following major details:**

- (i) particulars of assessee viz. name, registration number, address, etc.;
- (ii) particulars of taxable services viz. Nature;
- (iii) particulars of period viz. financial year, half year period (April-September or October-March),
- (iv) particulars of value of taxable services viz. amount received, advance received, details of exempted services, abatement/exemption claimed, etc.;
- (v) particulars of service tax viz. service tax & education cess payable, details of payment, interest or penalty paid, payment of excess collection of service tax, if any, etc.;
- (vi) particulars of Cenvat Credit viz. opening balance, availed, utilized, closing balance, etc.

**(d) Computation of imported cost and customs duty (amounts in ₹):**

Assessable Value		50,00,000
<b>Add:</b> Basic Customs duty @ 10%	<b>[A]</b>	5,00,000
Total value for levy of additional duty of customs u/s 3(1) of Customs Tariff Act, 1975	<b>[B]</b>	55,00,000
<b>Add:</b> Additional Customs Duty =Excise duty i.e. 12%	<b>[C]</b>	6,60,000
<b>Add:</b> Education Cess on total customs duty i.e. 3% of [A + C]	<b>[D]</b>	34,800
Total value for the levy of additional duty of customs u/s 3(5) of Customs Tariff Act, 1975	<b>[E=B+C+D]</b>	61,94,800
<b>Add:</b> Additional duty of customs equal to sales tax etc. @ 4% of [E]	<b>[F]</b>	2,47,792
<b>Total cost of imported goods</b>		<b>64,42,592</b>
<b>Total Customs duty</b>	<b>[A+C+D+F]</b>	<b>14,42,592</b>

**Question 6.**

**(a) A commodity is imported into India from a country covered by a notification issued by the Central Government under section 9A of the Customs Tariff Act, 1975. Following particulars are made available :**

**CIF value of the consignment: US\$ 30,000**

**Quantity imported: 600 kgs.**

**Exchange rate applicable: ₹ 50 = US\$ 1**

**Basic customs duty: 20%.**

**Education and secondary and higher education cess as applicable.**

**As per the notification, the anti-dumping duty will be equal to the difference between the costs of commodity calculated @ US\$70 per kg. and the landed value of the commodity as imported.**

**Appraise the liability on account of normal duties, cess and the anti-dumping duty.**

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Assume that only 'Basic Customs Duty' (BCD) and education and secondary and higher education cess are payable.

(b) Munna Ltd. Carried out following works, all of which are leviable to sales-tax/VAT as transfer of property involved in the execution of works contract (the sum charged given below are exclusive of all taxes) -

- (1) New constructions: ₹ 65 lakh;
- (2) Additions and alterations to damaged structures on land to make them workable: ₹ 30 lakhs;
- (3) Supply along with erection, commissioning and installation of plants: ₹ 87 lakhs;
- (4) Maintenance and repair of goods: ₹ 35 lakhs;
- (5) Maintenance and repair of immovable property: ₹ 42 lakhs;
- (6) Finishing and Glazing Services of an immovable property: ₹ 12 lakh;
- (7) Other works contracts: ₹ 6 lakh.

Compute taxable value and service tax thereon.

(c) "The recovery from buyer is an essential condition for levy of indirect taxes" — Critically examine.

[6+8+1]

**Answer:**

(a) The following points are to be taken note of –

- (1) The question clearly states that only basic customs duty, EC and SHEC thereon and anti-dumping duty are leviable on the goods in question and no other duty viz. additional duty of customs u/s 3(1) of the Customs Tariff Act, 1975 or special additional duty of customs u/s 3(5) of the Customs Tariff Act, 1975 is leviable.
- (2) For the purposes of the notifications imposing anti-dumping duty, "landed value" means the assessable value as determined under the Customs Act, 1962 and includes all duties of customs except duties levied under sections 3, 8B, 9 and 9A of the said Customs Tariff Act, 1975.
- (3) No EC and SHEC is imposable on anti-dumping duty.

Keeping in mind the aforesaid, the relevant computations are as under

	(Amounts in ₹)
CIF Value of the consignment (in Indian ₹) [US \$ 30,000 x ₹ 50]	15,00,000
Add: Landing Charges @ 1%	15,000
Assessable Value	15,15,000
Add: Basic Customs Duty @ 20%	3,03,000
Add: EC and SHEC @ 3% on Basic Customs Duty	9,090
Landed Value/Cost of the goods [A]	18,27,090
Cost of commodity for the purposes of anti-dumping notification [B] [600 Kg. x US\$ 70 per Kg. x ₹ 50 per dollar]	21,00,000
<b>Anti-dumping duty [B - A]</b>	<b>2,72,910</b>

(b) Computation of taxable value & service tax: Since data regarding valuation under Rule 2A(i) is not given, value is computed as per Rule 2A(ii) at specified % of gross amount charged.

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	Amount charged ₹	% of amount charged	Taxable Value ₹
New constructions (It is "original works")	65,00,000	40.00%	26,00,000
Additions and alterations to damaged structures on land to make them workable (It is "original works")	30,00,000	40.00%	12,00,000
Supply along with erection, commissioning and installation of plants (It is "original works")	87,00,000	40.00%	34,80,000
Maintenance and repair of goods	35,00,000	70.00%	24,50,000
Maintenance and repair of immovable property	42,00,000	60.00%	25,20,000
Finishing and Glazing Services of an immovable property	12,00,000	60.00%	7,20,000
Other works contracts (Assumed it is neither original works nor any works contract in relation to maintenance, etc. of goods)	6,00,000	60.00%	3,60,000
Total Taxable Value under Rule 2A(ii)			1,33,30,000
<b>Service Tax @ 12.36%</b>			<b>16,47,588</b>

- (c) In general, indirect taxes are recovered from buyer, but it is not an essential feature of indirect taxes. Tax on goods or services will be valid even if it is not recovered or recoverable from buyer.

### Question 7.

- (a) M/s. Poly Care Ltd. has introduced a new product 'Paradise' toothpaste, notified under Section 4A of the Central Excise Act, 1944, with a notified abatement of 30%. Determine the central excise duty payable if rate of duty is 12%, education cess is 2% and secondary and higher education cess is 1%:

- (i) 1,500 pieces having retail sale price (RSP) ₹ 65 per piece are sold in retail packages to wholesale dealer at ₹ 50 per piece.
- (ii) 2,500 pieces having RSP ₹ 65 per piece are sold in retail packages, but buyer is charged for 2,100 pieces only at ₹ 50 per piece (400 pieces have been given free as quantity discount).
- (iii) 50 pieces were given away as free samples, without any RSP on the pack.
- (iv) 350 multi-packs were cleared at ₹ 80 per pack, each containing two toothpaste tubes and one toothbrush free (without any RSP on it). Each tooth paste tube was having RSP ₹ 70, which was scored out and each multi-pack had RSP of ₹ 130.

Make suitable assumptions wherever required and show the calculations with appropriate notes.

- (b) Compute taxable value and service tax from following sums received by M/s. Twinkle Medical Centre (exclusive of service tax) (Ignore small service provider's exemption) -

- (1) Testing (with Transmission of medical samples between laboratories): ₹ 7.5 lakh ;
- (2) Medicines consumed as a part of health care services : ₹ 4.25 lakh ;
- (3) Preventive health care services : ₹ 3 lakh ;
- (4) Treatment along with Facilities provided such as TV, AC, room rent, meal to patient

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- (as a part of package): ₹ 37 lakh ;
- (5) Genetic affinity examination for determining biological father : ₹ 7 lakh ;
- (6) Hair transplant services due to injury in a fire accident: ₹ 9 lakh ;
- (7) Cosmetic surgery of a film star : ₹ 9 lakh ;
- (8) Conducting medical examinations of individuals: ₹ 1.5 lakh

[6+9]

**Answer:**

(a) The duty is as computed below —

Particulars	₹
(i) 1,500 pieces @ RSP ₹ 65 per piece (The packages sold are 'retail packages' meant for retail sale to consumer. The fact that the same is to a wholesaler is irrelevant because the relevant factor is 'package', which is 'retail package'. Hence, the goods will be assessed under RSP based duty. The actual sale price is irrelevant for the purposes of section 4A.)	97,500
(ii) 2,500 pieces @ RSP ₹ 65 per piece (Even if price is charged for 2,100 pieces and 400 pieces are given free as quantity discount/bonus, such bonus quantity is also manufactured product and is, therefore, liable to duty. Section 4A refers to deemed value, which will be computed for all the 2,500 pieces removed from the factory in 'retail packages')	1,62,500
(iii) Samples : 50 pieces @ RSP ₹ 70 per piece (Samples of notified goods are to be valued under section 4A only and RSP of identical goods is to be taken as the value even if the RSP is not indicated on the pack)	3,500
(iv) Multi-packs : 350 packs RSP ₹ 130 per piece (In case of multi-packs, if RSP of individual items is scored out, then, RSP of multi-pack is to be considered. Here, the multi-pack contains tooth brush as well, which is not a commodity of same kind as the toothpaste; however, a composite RSP of ₹ 130 is affixed, which includes the value of toothpaste as well as toothbrush.)	45,500
Total RSP	3,09,000
Less /Abatement @ 30%	92,700
Assessable Value under section 4A	2,16,300
Duty @ 12.36%	26,735

**(b) Computation of service tax liability:**

- (1) Testing (with Transmission of medical samples between laboratories): ₹ 7.5 lakhs - Exempt;
- (2) Medicines consumed as a part of health care services - Such medicine are never sold - Dominant nature is health care services, which is exempt: ₹ 4.25 lakhs - Fully exempt.
- (3) Preventive health care services : ₹ 3 lakh - Exempt ("care" is also exempt);
- (4) Treatment along with Facilities provided such as TV, AC, room rent, meal to patient

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- (as a part of package): ₹ 37 lakh - Natural bundling in ordinary course of business - Essential character is "health care services", which is exempt - Fully exempt;
- (5) Genetic affinity examination for determining biological father : ₹ 7 lakh - Not related to "diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy" - Not exempt - Taxable ;
- (6) Hair transplant services due to injury in a fire accident : ₹ 9 lakhs – Exempt, as it has been done to restore damage due to fire accident;
- (7) Cosmetic surgery of a film star : ₹ 9 lakhs – Not exempt – Taxable;
- (8) Conducting medical examinations of individuals: ₹ 1.5 lakhs – Exempt;

Taxable value = ₹ (7 + 9) lakhs = ₹ 16 lakhs and service tax thereon @ 12.36% = ₹ 1,97,760.

### Question 8.

**(a) ABC Ltd. is engaged in the manufacture of 'paracetamol' tablets that has an MRP of ₹ 50 per strip. The company cleared 1,00,000 tablets and distributed as physician's samples. The goods are not covered by MRP, but the MRP includes 12.36% Excise Duty and 2% CST. If the cost of production of the tablet is ₹ 2 per tablet, determine the total duty payable.**

**(b) What is Non Injurious Price in Anti Dumping Duty?**

**(c) Explain abatements and composition schemes in the context of service tax. Also state the distinction between them.**

**(d) Bias Energy Ltd. imported a lift from England at an invoice price of ₹ 17,00,000. The assessee had supplied raw material worth ₹ 6,00,000 to the supplier for manufacture of said lift. Due to safety reasons, the lift was not taken to the jetty in the port but was unloaded at outer anchorage. The charges incurred for such unloading amounted to ₹ 29,000 and the cost incurred on transport of the lift from outer anchorage to the jetty were ₹ 37,000. The importer was also required to pay ship demurrage charges ₹ 12,000. The lift was imported at actual cost of transport ₹ 49,000 and insurance charges ₹ 15,000. Compute its assessable value.**

**[3+1+6+5]**

### Answer:

**(a)** If the product is not covered under MRP provisions, valuation provisions under section 4A of the Central Excise Act, do not apply. In that case, valuation is required to be done as per Central Excise Valuation Rules.

As per the CBEC's circular, any physicians samples or other samples distributed free of cost are to be valued under Rule 11 read with Rule 8 of Central Excise Valuation Rules, 2000.

As per Rule 8, such samples are to be valued at 110% of cost of production or manufacture. The given cost of production is ₹ 2, Assessable Value will be ₹ 2.20. Therefore, duty payable @ 12.36% on ₹ 2.20 = ₹ 0.27 per tablet.

**(b)** Non Injurious Price is the sale price which is constructed (i.e. arrived at/ ascertained) for the domestic industry, which will give a reasonable return on investment and if Domestic Industry is able to sale its product at that price it will claim no injury.

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(c) Service tax is payable on value of taxable service. In case of some services, composition schemes are available while in some cases, partial abatement is available.

**Composition schemes** - 'Composition scheme' is a simplified scheme for payment of service tax when calculation of 'value of service' for payment of service tax is very cumbersome or difficult.

In composition scheme, some easy method is prescribed (like deduction of some ad hoc amount) to arrive at the value of taxable service. Composition scheme is at the option of assessee.

**Abatement i.e. partial exemption** - In case of some services, service tax is payable on lower value, i.e. abatement is available from amount charged. Abatement is nothing but partial exemption from service tax. However, in case of some services, abatement is used as a composition scheme.

Abatement is subject to certain conditions like restrictions on availment of Cenvat credit. If assessee does not want to avail the abatement, he simply should not comply with the conditions. In that case, he is required to pay service tax.

**Distinction between abatement and composition scheme:** Practically, result of both abatement and composition scheme appears to be same. However, abatement is nothing but partial exemption from service tax payable, subject to prescribed conditions, while composition scheme is an easy mode of calculating value of service, where finding of value of taxable service is difficult. However, this distinction has not been fully followed. In case of some services, abatement is actually used as a composition scheme.

### (d) Computation of Assessable Value:

	₹
FoB price in Indian ₹	17,00,000.00
Add: Material supplied by assessee (free of charge) [Includible under Rule 10(1)(b)]	6,00,000.00
Add: Cost of transport under Rule 10(2)(a) comprising of -	
1. Barging and lighterage charges i.e. unloading at outer anchorage and transport to jetty viz. ₹ 29,000 + ₹ 37,000 = ₹ 66,000	66,000.00
2. Ship Demurrage Charges	12,000.00
3. Other costs on actual basis	49,000.00
Add: Insurance under Rule 10(2)(c)	15,000.00
<b>CIF</b>	26,42,000.00
Add: Loading, unloading and handling charges under Rule 10(2)(b) @ 1% of CIF	26,420.00
<b>Assessable Value</b>	26,68,420.00