

Paper-11 Indirect Taxation

Time Allowed: 3 hours

Full Marks: 100

Group-A

(Answer Question 1 which is compulsory)

Question 1.

Answer the following questions:

- (a) While producing the final product some waste and scrap are also emerged as a result of manufacturing process. State the excisability of waste and scrap.
- (b) Why Anti Dumping Duty is imposed and how the margin of dumping is calculated?
- (c) What is 'into bond Bill of Entry'? What is purpose?
- (d) Which of the services provided by Govt. or local authority is excluded from negative list?
- (e) How 'Cascading Effect of Tax' increase the tax burden?
- (f) Mr. X, a dealer in Delhi, transfers property in goods to Ram of Bangalore without any consideration. Is the transfer chargeable to CST?
- (g) Describe Transshipment of Goods as per Sec. 54 of the Customs Act, 1962.
- (h) A computer manufacturer purchases mouse and sells them to buyers of personal computers along with the computer. The manufacturer included the value of the mouse in the assessable value of the computer for excise duty purpose. Is the above inclusion correct?
- (i) Which audit focuses on ascertaining revenue leakage? Write the right of the auditor regarding such audit.
- (j) Describe 'bundled services'. Give an example also.

[10×2]

Answer:

- (a) As waste and scrap are not manufactured, but arise as a result of manufacture of the final product there should not be any tax on the waste and scrap. Thus, waste and scrap can be 'goods' but dutiable only if 'manufactured' and are mentioned in Tariff.

But as per amendment made by the Finance Act, 2008 in the definition of excisable goods include waste, residue or refuse which arise during the course of manufacture and are capable of being sold for consideration would be excisable goods and chargeable to payment of excise duty.

- (b) The large manufacturer from abroad may export goods at very low prices compared to prices normally prevalent in export market with intention to cripple domestic industry or to dispose of their excess stock, Central Government can impose anti-dumping duty to protect domestic industry which producing 'like articles'.

Margin of dumping is calculated on the basis of the difference between normal value and export price (the price at which these goods are exported).

- (c) Yellow Bill of Entry is used for warehousing. It is also termed as 'into bond Bill of Entry' as bond is executed.

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The main purpose of 'into bond bill of entry' is when duty is not paid imported goods are transferred to warehouse where these goods are stored.

(d) The following services provided by Govt. or local authority are excluded from negative list:

- 1) Speed post, Express Parcel post, Life insurance and agency services carried out on payment of commission
- 2) Services in relation to vessel or an aircraft
- 3) Transport of goods and passengers
- 4) Support services.

(e) Output of the first manufacturer becomes input for second manufacturer, who carries out further processing and supply it to third manufacturer. This process continues till a final product emerges. This product then goes to distributor/wholesaler, who sells it to retailer and then it reaches the ultimate consumer.

As stages of production and/ or sales continue, each subsequent purchaser has to pay tax again and again on the material which has already suffered tax. Tax is also paid on tax. This is called 'cascading effect'. In this way, cascading effect increase the tax burden.

(f) Sale u/s 2(g) 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 Central Sales Tax Act and therefore CST is not attracted in this case.

(g) Transshipment means transfer from one conveyance to another with or without payment of duty. It means to say that goods originally imported from outside India into India, then transhipped to another vessel to a place within India or outside India.

Transshipment of goods without payment of import duty is permissible only if the following conditions satisfy:

- i. Transshipment of goods with foreign destination.
- ii. The goods find place as Transshipment Goods in the Import of General Manifest (IGM) or Import Report in case of goods imported in a vehicle.
- iii. Bill of Transshipment or Declaration of Transshipment filed.
- iv. Goods must be transhipped to another vessel to place outside India.

(h) Value of brought out accessories supplied along with main articles should not be includible for the excise purpose. As the supply of mouse along with the computer is in 'relation to' sale but not 'in accordance' with sale it would not attract any excise duty. One can buy a computer without the mouse.

(i) Central Excise Revenue Audit focuses on ascertaining the revenue leakage and assessment is based on the periodical returns filed by the assessee, the execution of

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various bonds, and other relevant information such as cost audit reports, and income-tax audit reports of the assessee.

The audit is conducted by the Comptroller and Auditor General of India (C & A G). The CERA auditor has the right to visit the office of the assessee though the audit is not of the assessee.

- (j) 'Bundled service' means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services.

Example: air transport services provided by airlines wherein an element of transportation of passengers by air is combined with an element of provision of catering service on board. Each service involves different treatment for determination of value of two services for the purpose of charging service tax.

Group-B

(Answer any eight questions out of the ten questions given)

Question 2.

- (a) State the Power of Taxation under Constitution of India.
- (b) T dispatches goods from West Bengal to Delhi and raises invoice on Y in Andhra Pradesh; T charges 2% CST and pays the same in West Bengal. During movement of goods, Y sells goods to L in Uttar Pradesh and L ultimately sells goods to S in Delhi. S takes delivery of goods and the movement of goods comes to end. Sale from Y to L and L to S is by transfer of documents. Explain the form to be issued so that the subsequent sales are exempt from central sales tax.
- (c) Mr. Kapil an Indian resident, aged 45 years, returned to India after visiting England on 10/05/2013. He had gone to England on 01/05/2013. On his way back to India he brought following goods with him –
His personal effects like clothes etc. valued at ₹85,000;
A video camera worth ₹19,000;
2 litre of Wine worth ₹2,000;
A watch worth ₹24,000.
Find the customs duty payable by Mr. Kapil.

[3+4+3]

Answer:

- (a) Power of Taxation under Constitution of India is as follows:
- i. The Central Government gets tax revenue from Income Tax (except on Agricultural Income), Excise (except on alcoholic drinks) and Customs.
 - i. The State Governments get tax revenue from sales tax, excise from liquor and alcoholic drinks, tax on agricultural income.
 - ii. The Local Self Governments e.g. municipalities, etc. get tax revenue from entry tax and house property tax.

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Article 265 provides that no tax shall be levied or collected except by authority of Law. The authority for levy of various taxes, as discussed above, has been provided for under Article 246 and the subject matters enumerated under the three lists set out in the Schedule-VII to the Constitution.

- (b) T will receive declaration in 'C' form from Y and will issue declaration in 'E-1' form to Y. Later, Y will issue declaration in 'E-II' form to L and receive declaration in C form from L. Finally, L will issue declaration in E-II form to S and will receive declaration in 'C' form from S, which will complete the chain. If the chain is broken, CST will be payable again. Otherwise, all subsequent sales will be exempt from sales tax.

(c) Computation of Customs Duty payable by Mr. Kapil:

	₹
Video camera	19,000
2 litres of wine	2,000
Watch	24,000
Total	45,000
Less: GFA (General Free Allowance)	35,000
Net value	10,000
Customs duty @ 36.05% on ₹10,000	3,605

Note: Personal effects like clothes etc. valued at ₹85,000.

Question 3.

- (a) "The input service distributor may distribute the CENVAT CREDIT in respect of the service tax paid on the input service to its manufacturing units or units providing output service, subject to the following conditions" — List out those conditions.

- (b) Determine the assessable value in the following case:

Dates	10.06.13	14.06.13	18.06.13	22.06.13	26.06.13
Zen Computers (T3 Components)	₹39,460	₹35,220	?	₹37,530	₹38,820
Roop Computers (T2 Components)	₹28,200	₹27,360	₹29,720	₹27,970	₹26,800

- (c) What is Artistic-related Intangible Assets?**

[4+5+1]

Answer:

- (a) The following conditions are to be satisfied for an input service distributor who can distribute the CENVAT CREDIT in respect of the service tax paid on the input service to its manufacturing units or units providing output service:
- The Input service distributor must ensure that such a distribution should not exceed the service tax paid.
 - In case an input service is attributable to service use in a unit exclusively engaged in manufacture of exempted goods or exempted services, then such credit of service tax shall not be distributed.

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- (iii) Credit of service tax attributable to service used wholly in a unit shall be distributed only to that unit; and
 - (iv) Credit of service tax attributable to service used in more than one unit shall be distributed prorata on the basis of the turnover of the concerned unit to the sum total of the turnover of all the units to which the service relates.
- (b) The price of the excisable goods removed is not available at the time of removal. Value of excisable goods shall be based on the value of such goods sold by the assessee for delivery at any other time nearest to the time of removal of goods under assessment. Price prevailing at the nearest time may be adjusted for differences in dates of delivery and nearest dates.

Such goods: In the above case, for valuing Zen Computers cleared on 18.06.2013, value of such goods, i.e. Zen Computers, sold during the nearest time only should be considered. Roop Computers are not such goods, as the composition of the computers are different, referred as T3 composition (for Zen Computers) and T2 composition (for Roop Computers). Such goods refer to same goods or identical goods.

Value on nearest date: Nearest date in the instant case, i.e. 14th June, 2013 and 22nd June, 2013. Interpolating the value between these two dates, value as on 18th June, 2013 is ₹36,375. (adjustment for difference in dates).

- (c) Artistic-related intangible assets are rights granted by Government or other authorized bodies to the owners or creators to reproduce or sell artistic or published work. These are on a contractual basis. Some examples are plays, opera and ballets; books, magazines, newspapers and other literary works etc.

Question 4.

(a) What is Global System of Trade Preference (GSTP)?

(b) Write a short note on De-minimis margin of dumping.

(c) Mr. X, a manufacturer sells goods to Mr. B, a distributor for ₹2,000 (Excluding of VAT). Mr. B sells goods to Mr. K, a wholesale dealer for ₹2,400. The wholesale dealer sells the goods to a retailer for ₹3,000, who ultimately sells to the consumers for ₹4,000. Compute the tax liability, input credit availed and tax payable by the manufacturer, distributor, wholesale dealer and retailer under invoice method assuming VAT rate @ 12.5%.

[2+3+5]

Answer:

- (a) Global System of Trade Preference (GSTP) is a scheme where tariff concessions are exchanged among developing countries who have signed agreement. 46 countries are members of GSTP. India has exchanged tariff concessions with few countries in respect of some products. Certificate of Origin (CoO) is required to be obtained from Export Inspection Council [EIC].
- (b) Any exporter whose margin of dumping is less than 2% of the export price shall be excluded from the purview of anti-dumping duties, is called De-minimis margin of dumping. Example: Landed Value of Imports ₹ 200. Sale Price of like products in domestic market ₹ 203.50. Now, there is a margin of dumping to the extent of ₹ 3.50 (₹ 203.50 – ₹ 200). Since the margin of dumping ₹ 3.50 and a percentage on landed value of imports

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(₹ 200) is measured to be 1.75%, hence the rule of de-minimis margin of dumping is applicable, as the tolerance/deviation is less than 2%. Hence, this is not a case to be reviewed under Anti-dumping laws in India.

(c) Computation of VAT liability:

	X (Manufacturer)	B (Distributor)	K (Wholesale Dealer)	Retailer
Net Price	2,000	2,400	3,000	4,000
Add: Vat @ 12.5%	250	300	375	500
Total Selling Price (Net plus vat)	2,250	2,700	3,375	4,500
Vat Credit available	Nil	250	300	375
Net Vat payable	250	50	75	125

Question 5.

- (a) Nayantara Ltd. filed its service tax returns for the half years ending on September 2012 and March 2013 on 25-11-2012 and 31-7-2013. The two half yearly returns show a service tax liability of ₹2,50,000 and ₹1,20,000 respectively. Is any late fee/fine payable by Nayantara Ltd.? If yes, what is the quantum of such fee in both the cases? Will your answer be different if Nayantara Ltd. files a nil return for the half year ending on September 2012?
- (b) "EPC are non-profit autonomous organizations." — State about EPC and its organisations.
- (c) How intangibles are treated in international transfer pricing?

[4+3+3]

Answer:

- (a) The half-yearly due dates are as follows:

25th October for the first half of the year ending on 30th September

25th April for the second half of the year ending on 31st March

Fee for Late filing of ST-3 (As per Rule 7C of Service Tax Rules, 1994)

If a person fails to furnish the ST-3 return within the due date [25th October and 25th April every year] he shall be liable to pay late fee (penalty) is as follows:

Delay upto 15 days ₹500

Delay upto 30 days ₹1,000

Delay beyond 30 days ₹1,000 + ₹100 per day subject to a maximum of ₹20,000 (w.e.f. 8-4-2011 ₹2,000 enhanced to ₹20,000)

Actual No. of days delay for the first half year return = 31 days

(Oct 6 days + Nov 25 days)

Therefore, penalty is ₹1,100

Delay upto 30 days ₹1,000 plus ₹100 for last one day.

Actual No. of days delay for the 2nd half year return = 97 days

(April 5 days + May 31 days + June 30 days + July 31 days)

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Upto 30 days of delay ₹1,000 plus ₹100 per day of delay subject to maximum of ₹20,000 (w.e.f. 8-4-2011).

Therefore, penalty is ₹7,700.

Penalty can be reduced or waived if the ST-3 return belongs to nil return.

- (b) EPC or Export Promotion Councils are non-profit autonomous organizations. 19 Export Promotion Councils have been set up to promote and develop export of the country. These EPCs are expected to monitor and encourage exports and to assist and guide the exporters. Their main aim is to project India's image abroad as a reliable supplier of high quality goods and services.

Each Council is responsible for promotion of a particular group or products like Engineering Export Promotion Council, Apparel Export Promotion Council, Gem and Jewellery Export Promotion Council etc. These Councils are non-profit organisations registered as Companies or registered Societies.

Export Promotion Council for EOU and SEZ units has also been constituted. Some Agencies like Coffee Board, Tea Board, Tobacco Board etc. are also considered as Export Promotion Councils. These are autonomous professional bodies. Government may provide financial support to these EPCs.

Exporter has to obtain Registration Cum Membership Certificate (RCMC) from Export Promotion Council or Commodity Board. Membership of EPC is compulsory, if an exporter intends to get export incentives. In other cases, membership is optional.

- (c) Transfer pricing of intangibles is difficult area of taxation practice. However, the pace of growth of the intangible economy has opened new challenges to the arm's length principle. Seventy five percent of all private Research & Development expenditure worldwide is accounted for by MNEs.

The transactions involving intangible assets which are difficult to evaluate because of the following reasons:

Intangibles are seldom traded in the external market and it is very difficult to find comparables in the public domain.

Intangibles are often transferred bundled along with tangible assets.

They are difficult to be detected.

A number of difficulties arise while dealing with intangibles. Some of the key issues revolve around determination of arm's length price of rate of royalties, allocation of cost of development of market and brand in a new country, remuneration for development of marketing, Research and Development intangibles and their use, transfer pricing of co-branding etc.

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Question 6.

- (a) What are the specified services where the place of provision is the location of the service provider?
- (b) Based on the following information, determine the CENVAT Credit available for use in the current year under the Cenvat Credit Rules, 2004:

Goods	Excise Duty paid at the time of purchase of goods (₹)
i. Packing material	7,000
ii. High speed diesel oil	4,500
iii. Equipments used in office	13,000
iv. Storage tank	7,500
v. Paints used for painting machinery used	6,000
vi. Pollution Control Equipments	29,000
vii. Lubricating oils	13,000
viii. Spares for pollution control equipments	5,000

[3+7]

Answer:

- (a) The following are the specified services where the place of provision is the location of the service provider:
- Services provided by a banking company, or a financial company, or a non-banking financial company to account holders.
 - Online information and database access or retrieval services.
 - Intermediary services.
 - Service consisting of hiring of means of transport, up to a period of one month.
- (b) The availability of Cenvat credit will be determined as follows:
- Packing material used in or in relation to the manufacture of the final product is included in the definition of 'inputs' as given in Cenvat Credit Rules, 2004 and therefore is eligible for Cenvat Credit of 100% of the excise duty paid i.e. ₹ 7,000/- at the time of receipt of goods.
 - High speed diesel oil is specifically excluded from the definition of 'inputs' as given in Cenvat Credit Rules, 2004 and is therefore not eligible for Cenvat credit.
 - Duty paid on 'Equipment used in the office' will not be eligible for Cenvat Credit. This is so because the definition of capital goods as given in the Cenvat Credit Rules, 2004 specifically excludes 'Equipments used in office' from the ambit of capital goods.
 - Storage Tank is specifically included in the definition of 'Capital Goods' as given in Cenvat Credit Rules, 2004 and therefore 50% of the duty paid on storage tank i.e. ₹3,750/- will be allowed in the year of acquisition and balance in subsequent years.
 - Paints used for painting machinery used will be eligible for Cenvat Credit as they are inputs used in or in relation to the manufacture of final products.
 - Pollution control equipments fall within the ambit of 'Capital Goods'. In case of capital goods credit not exceeding 50% of the duty paid is allowed in the year of

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acquisition and balance in subsequent years. Hence credit of ₹ 14,500 (50% of excise duty paid) will be allowed in the year of acquisition.

- (vii) Lubricating oils used in or in relation to the manufacture of the final product is included in the definition of 'inputs' as given in Cenvat Credit Rules, 2004 and therefore is eligible for Cenvat Credit of 100% of the excise duty paid i.e. Rs. 13,000/- at the time of receipt of goods.
- (viii) Spares for pollution control equipments also come within the purview of 'Capital Goods'. Consequently credit not exceeding 50% of the Excise Duty paid will be allowed in the year of acquisition and balance in subsequent years. Hence credit of ₹ 2,500/- (i.e. 50% of the excise duty paid) will be allowed in the year of acquisition.

Question 7.

- (a) Why indirect taxes are regarded as inflationary?
- (b) Distinguish between Pilfered Goods (u/s 13 of Customs Act, 1962) and Lost or Destroyed Goods (u/s 23 of Customs Act, 1962).
- (c) Alpha Ltd. provided services valuing ₹8.5 lakhs during the financial year 2011-12. During 2012-2013, it has provided taxable services valuing ₹11 lakhs and has received payments towards payable services ₹9.5 lakhs. It has also received services in the nature of transport of goods by road on 1-4-2012, valuing ₹65,000 (exclusive of service tax), in respect of which it is the person liable to pay service tax. Freight has been paid on 16-8-2012. Compute the service tax, if any, payable by Alpha Ltd. for the financial year 2012-2013. It is given that goods transport service is exempt to the extent of 80% of value thereof.

[1+5+4]

Answer:

- (a) In general, indirect taxes are recovered from buyers. Tax on goods and services increases its price. Higher customs duty and excise duty increases the cost of modern machinery and technology. Hence indirect taxes are often called as inflationary.
- (b) Distinctions between Pilfered Goods (u/s 13 of Customs Act, 1962) and Lost or Destroyed Goods (u/s 23 of Customs Act, 1962):

Pilfered goods u/s 13	Lost or destroyed goods u/s 23
Pilferage refers to that in small quantities.	Lost or destroyed postulates loss or destroyed by whatever reason whether theft, fire, accident etc.
In this case, the importer is not liable to pay duty leviable on such goods.	The duty payable on lost goods is remitted by Assistant/Deputy Commissioner.
In this case, if the pilfered goods are retrieved duty becomes payable.	In this case, restoration is impossible if the goods are destroyed.
The pilferage must have occurred after the unloading of the goods but before the proper officer has made an order for clearance for home consumption under section 47 or deposit on a warehouse under section 60.	In this case, the goods must have been lost or destroyed at any time before their clearance for home consumption. Thus, it also covers the cases where the goods are lost after the duty has been paid and order for clearance has been given but before the goods are actually cleared.

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These provisions do not apply to warehoused goods.	Section 23(i) is applicable to warehoused goods also.
The importer does not have to prove pilferage, as it is obvious at the time of examination by the proper officer.	In this case, the burden is cast on the importer to satisfy the Assistant/Deputy Commissioner that the imported goods have been lost or destroyed at any time before the physical clearance of the goods for home consumption.

(c)

	₹
Value of transport services received	65,000
Less: abatement 75% on ₹65,000	48,750
Taxable services	16,250
Service tax liability in the hands of Alpha Ltd (2012-13)	2,009 (₹48,750 × 12.36/100)

Notes:

- (i) The abatement rate of 75% as per statute is followed ignoring the information provided in the question as 80%.
- (ii) The company is eligible for small service provider exemption during the financial year 2012-13, as the value of taxable services provided during financial year 2011-12 does not exceed ₹10 lakhs.
- (iii) For the value of taxable services provided during the financial year 2012-13, the tax liability on last ₹1 lakh (₹11 lakhs - ₹10 lakhs) will arise, as an assumption is made that the invoice is issued within 30 days from date of completion of services. However, for goods transport agency services received, in respect of which M/s. Alpha Ltd. is the person liable to pay service tax, the company cannot claim for small service provider exemption.

Question 8.

- (a) "There may be various forms of rendition of services....." — Give some examples of those forms of services.
- (b) What is Project import? (answer should not be in more than two sentences)
- (c) "Duty drawback rates are of following types – (i) All Industry Rate (ii) Brand Rate and (iii) Special Brand Rate." — Describe any of the above duty drawback rates.
- (d) To what extent the educational services are included in the negative list?

[4+1+3+2]

Answer:

- (a) There are various forms of rendition of services, some of which are as follows:
 - (i) Services could be rendered by actually deploying people on a project, say repairing a machine, installing a machine at the location of the person availing services (onsite services).
 - (ii) Services can be rendered at the location of the services provider by actually deploying people for say repairing a machine, etc
 - (iii) Services can be rendered by preparing at the location of service provider a written report or an advice
 - (iv) Services can be rendered by giving advice in a physical meeting

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- (v) Services can be rendered by giving advice through video-conferencing
- (vi) Services can be rendered by giving advice on a telephone.

(b) Project imports status is being granted to the green houses set up for protected cultivation of horticulture and floriculture products. These projects would attract concessional rate of basic customs duty of 5%.

(c) Duty drawback rates are of following types – (a) All Industry Rate (b) Brand Rate and (c) Special Brand Rate. Here All Industry Drawback Rates can be described as follows:

All Industry Drawback rates are fixed by Directorate of Drawback, Dept. of Revenue, Ministry of Finance, Govt. of India. The rates are periodically revised – normally on 1st June every year. Data from industry is collected for this purpose.

Whenever specific rates are provided, drawback shall be payable only if amount is more than 1% of FOB value, except when the drawback claim per shipment exceeds Rs 500. Revised rates have been announced vide Notification No. 68/2007-Cus(NT) dated 16-7-2007 [earlier Notification No. 81/2006-Cus(NT) dated 13-7-2006].

The all industry drawback rates are given in two ways – (a) when Cenvat facility has been availed and (b) when Cenvat facility not availed. The difference between the two is central excise portion of duty drawback. If rate indicated in both is same, it means that it pertains to only customs portion and is available irrespective of whether exporter has availed Cenvat or not – Condition No 5 to Notification No. 68/2007-Cus(NT) dated 16-7-2007 [earlier No. 81/2006-Cus(NT) dated 13-7-2006].

Duty drawback rate shall not exceed 33% of market price of export goods (Rule 8A w.e.f. 15-2-2006).

In some cases, value cap has been fixed. In such cases, maximum drawback allowable per unit of quantity has been specified (This is to avoid misuse by over-valuation of export goods).

- (d) The educational services are included in the negative list by way of:
- (i) Pre-school education and education upto higher secondary school (i.e. XII standard).
 - (ii) Education as a part of a curriculum for obtaining a qualification recognised by any an Indian law.
 - (iii) Vocational education course approved by National Council for Vocational Training (NCVT) or National Skill Development Corporation (NSDC).

Question 9.

(a) Ravi Co Ltd., a small scale industry provides the following details. Determine the eligibility for exemption based on value of clearances for the financial year 2013-14 in terms of Notification No. 8/2003-CE dated 1.3.2003 as: (I) Total value of clearances during the financial year 2012-13 (including VAT ₹50 lakhs) ₹845 lakhs, (II) Total exports (including for Nepal and Bhutan ₹320 lakhs) ₹560 lakhs, (III) Clearances of excisable goods without payment of duty to a Unit in Software Technology Park ₹35 lakhs, (IV) Job work under Notification No.84/94-CE dated 11.4.1994 ₹25 lakhs. Job work under Notification No.214/86-CE dated 25.3.1986 ₹27 lakhs (v) Clearances of excisable goods bearing brand

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name of Khadi and Village Industries board ₹234 lakhs. Make suitable assumptions and provide brief reasons for your answers where necessary.

- (b) Name some of the goods which are declared as 'goods of special importance' in the context of interstate trade or commerce? What types of restrictions and conditions are imposed on such declared goods?
- (c) Ascertain whether the refund of Service Tax paid on input services can be claimed in the following cases :

	₹
Output service exported	35,000
Turnover of output service	42,000
credit of Service Tax on input services	7,500

[4+3+3]

Answer:

- (a) Computation the value of turnover:

	₹ in lakhs
Total turnover	845
Less: Value of clearances including VAT	50
Total Exports excluding Nepal & Bhutan ₹(560-320)lakhs	240
Clearance for STP jobs	35
Clearance for job work ₹(25 + 27) lakhs	52
Turnover (for calculating limit of crores)	468

Goods bearing brand name of Khadi and Village Board are eligible for SSI exemption. But it is assumed in this problem that the total turnover does not include this item.

Thus, the turnover for purpose of SSI exemption limit exceeds ₹400 lakhs. So the company will not get the benefit of any SSI exemption in the 2013-14.

- (b) Examples of goods which are declared as goods of special importance in the context of interstate trade or commerce are as follows:
- Cereals (paddy, rice, wheat, maize, barley etc.)
 - Coal (including coke in all its forms but excluding charcoal)
 - Cotton of all kinds, cotton fabrics, cotton yarn
 - Crude oil (including crude petroleum oils and mineral oils)

Restrictions and Conditions with reference to Declared Goods:

Section 15 provides that every sales tax law of a State shall imposes or authorises the imposition of a tax on the sale or purchase of declared goods, be subject to the following restrictions and conditions:

- Where local sales tax has been levied in respect of the sale or purchase inside the State of any declared goods and such goods are sold in the course of interstate trade or commerce, and CST having been paid thereupon, the local sales tax paid shall be reimbursed to the seller making the interstate sale.

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- (ii) Where a tax has been levied under the State law in respect of the sale or purchase inside the State of any paddy, the tax leviable on rice procured out of such paddy shall be reduced by the amount of tax levied on such paddy.
- (c) CENVAT Credit in respect of the input services used in providing output services which are exported shall be allowed to be utilized towards payment of Service Tax on taxable output services. However, where such adjustment is not possible, the refund of credit shall be allowed.

In this case the Service Tax Liability on Taxable Services of ₹ 7,000 (₹ 42,000 – ₹ 35,000) is ₹865 @ 12.36%. Therefore, there is an excess credit of ₹ 6,635 (₹ 7,500 – ₹ 865) which cannot be utilized. Thus, the refund of such credit can be claimed. However the refund will be restricted to the extent of ratio of export turnover to the total turnover for the given period i.e. ₹ 6,250 $[(7,500 \times (35,000/42,000))]$.

Question 10.

- (a) PNP Electronics Ltd. is engaged in the manufacture of wooden furniture having its factories at Kolkata and Delhi. At Kolkata the company manufactures picture tubes which are stock transferred to Delhi factory where it is consumed to produce television sets. Determine the Excise duty liability of captively consumed picture tubes from the following information: - Direct material cost (per unit) ₹800; Direct Labour ₹100; Indirect Labour ₹50; Direct Expenses ₹100; Indirect Expenses ₹50; Administrative Overheads ₹50; Selling and Distribution Overheads ₹100. Additional Information: - (1) Profit Margin as per the Annual Report of the company for 2012-13 was 12% before Income Tax. (2) Material Cost includes Excise Duty paid ₹73 (3) Excise Duty Rate applicable is 12%, plus education cess of 2% and SHEC @ 1%.
- (b) "A 'Risk Management System' for customs clearance of import and export cargo has been introduced." — How self-assessment can be done on the basis of Risk Management System?
- (c) What is GATT 94? Write down the impact of tax on GATT 94.

[4+3+3]

Answer:

- (a) Cost of production is required to be computed as per CAS-4. Material cost is required to be exclusive of Cenvat credit available.

Particulars	₹
Material Consumed (Net of Excise duty) (800 – 73)	727
Direct Labour	100
Direct Expenses	100
Works Overheads	100
Administrative Overheads (assumed relating to production capacity)	50
Total	1,077
Add: 10% of total as per rule 8	108
Assessable Value	1,185
Excise duty @12.36% on ₹1,185	146.47

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Note - (1) Indirect labour and indirect expenses have been included in Works Overhead
(2) In absence of any information, it is presumed that administrative overheads pertain to production activity. (3) Actual profit margin earned is not relevant for excise valuation.

- (b) One major step is being taken to move in the direction of implementing international best practices in customs clearance. The details of scheme are contained in MF (DR) circular No. 43/2005-Cus dated 24-11-2005. Under Risk Management System (RMS), only high risk cargo is selected for examination. The system provides for special customs clearance for Accredited Clients having good track record and meet specified criteria.

The scheme proposes to do away with existing system of routine assessments and concurrent audit. Goods will be normally cleared on basis of self assessment of importer. Bill of Entry submitted electronically will be transmitted to RMS. The RMS will process the data and produce an electronic output. This output will determine whether the Bill of Entry will be taken up for appraisal/examination or be cleared after payment of duty without any assessment and examination. Any change in system will require prior approval of Commissioner of Customs and after recording reasons. Focus will be on quality assessment, examination and post clearance audit of Bills of Entry selected by the Risk Concurrent audit will be replaced by Post Clearance Audit on Bill of Entry selected by the Risk Management System. Subsequently, demand can be raised even if goods have been cleared from customs.

- (c) The term "GATT" stands for the "General Agreement on Tariffs and Trade". It is an agreement between States aiming at eliminating discrimination and reducing tariffs and other trade barriers with respect to trade in goods. The GATT 1994 is one of the multilateral agreements annexed to the WTO Agreement. It is an international treaty binding upon all WTO Members.

The Most Favoured Nation (MFN) principle, as has been noted, requires Members not to discriminate among countries. The national treatment principle, which complements the MFN principle, requires that an imported product which has crossed the border after payment of customs duties and other charges should not receive treatment that is less favourable than that extended to the like product produced domestically. In other words, the principle requires member countries to treat imported products on the same footing as similar domestically produced goods.

Thus it is not open to a country to levy on an imported product, after it has entered the country on payment of customs duties at the border, internal taxes (such as a sales tax) at rates that are higher than those applied to comparable domestic products. Likewise, regulations affecting the sale and purchase of products in the domestic market cannot be applied more rigorously to imported products.

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Question 11.

- (a) Briefly describe 'Tax Identification Number'.
- (b) "The settlement Commission is constituted under section 32 of the Central Excise Act, 1944 in order to speedy disposal and easy settlement of tax disputes of Customs and Central Excise....." — Mention the powers which the settlement commission has on the ground of high revenue stake and saving of time and energy of the both the applicant and the department.
- (c) Explain 'Document of Title of goods'. What is its relevance in the course of interstate trade or commerce?

[3+4+3]

Answer:

(a) Salient features of Tax Identification Number are as follows:

- i. TIN consist of 11 digits
- ii. First two characters represent the state code which is allotted by the Central Government which is common for all the dealer of a state and balance nine characters will be, however, different in different States.
- iii. TIN is useful to the department of commercial tax in case of computer applications, for detecting stop filers and delinquent accounts

TIN also help full to the department for cross checking of sales and purchases across the state VAT dealers.

(b) Power of the Settlement Commission

- (i) Power to order Provisional Attachment to Protect Revenue [Section 32G (Customs section 127D)]:** The Settlement Commission has the power to order provisional attachment of any property belonging to the applicant in the prescribed manner. Such order can be made by the Settlement Commission during the pendency of any proceedings before it where it is of the opinion that such attachment is necessary for the purpose of protecting the interests of the revenue.
- (ii) Power to Grant Immunity from Prosecution or Imposition of Penalty or Fine (Section 32K (Customs section 127H)) :** If the Settlement Commission is satisfied that applicant has cooperated with it in the proceedings before it and has made a full and true disclosure of his duty liability, then the Commission may grant to an applicant immunity from -
- prosecution for any offence under this Act, and
 - also wholly or partly from imposition of any penalty and fine under this Act.
- (iii) Power to send case back to Central Excise/Customs Officer [Section 32L (Customs section 127I)]:** If the applicant does not cooperate with the Settlement Commission in the proceeding before it, the Settlement Commission may send the case back to the Central Excise/Customs officer for further action as per law. If the application is sent back, then, all submissions made and all the information given by the applicant before the Settlement Commission can be used by the Excise/ Customs officer while deciding the case.

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In that case, the period commences from the date of the application to the Settlement Commission and ending with the date of receipt by the Central Excise/Customs officer of the order sending case back to him, shall be excluded for the purposes of time limit u/s 11A and interest u/s 11BB.

(iv) Other Powers: The Settlement Commission shall have the following other powers -

- all the powers which are vested in a Central Excise/Customs Officer under this Act or the rules made there under;
- power to regulate its own procedure;
- exclusive jurisdiction over the case where application is allowed to be proceeded with and until the settlement order has been passed.

(c) Documents of title to goods means a document which evidences that the person holding the document has title to the goods represented by the document. Handing over the document is as handing over the goods which the document represents. Such handing over can be by simple delivery. However, normally, it is transferred by endorsement as evidence that person in possession of the document has obtained it by legal means. Such document is usually a transport document or godown receipt. "Title" need not be by ownership. It is sufficient if the person has right of possession to those goods or has control over goods.

Section 3(b) provides for Inter-State sale by transfer of documents of title to goods during the movement from one State to another. As per section 3(b), a sale or purchase of goods shall be deemed to take place in the course of Inter-State trade commerce if the sale or purchase is effected by a transfer of documents of title to the goods during their movement from one State to another.

This definition is important as all subsequent Inter-State sales to registered dealers by transfer of documents during movement of goods are exempt from sales tax, if the necessary Forms are submitted.