

Roll No.

NOV 2017

Total No. of Questions – 7

FINAL
GROUP-II PAPER-8
INDIRECT TAX LAWS

Total No. of Printed Pages – 16

Time Allowed – 3 Hours

Maximum Marks – 100

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Answers to questions are to be given only in English, except in the case of candidates who have opted for Hindi Medium. If a candidate has not opted for Hindi medium, His/her answers in Hindi will not be valued.

Question No. 1 is compulsory.

Candidates are also required to answer any **five** questions from the remaining **six** questions.

In case, any candidate answers extra question(s)/sub-sections over and above the required number, then only the requisite number of questions **first** answered in the answer book shall be valued and subsequent extra question(s) answered shall be ignored.

Working notes should form part of the respective answers.

Wherever necessary, suitable assumptions may be made and disclosed by way of a note.

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1. (a) Mr. Premkumar is planning to start a new unit for manufacture of electrical switches from 01-04-2016. He wants your advice whether it is beneficial or not to avail exemption under Notification No. 8/2003 CE as amended for the year 2016-17. He planned to manufacture and sell one lakh switches under the brand name 'Sketches' registered in his name during 2016-17 and he fixed the selling price of switches at ₹ 150 per switch inclusive of all taxes except VAT being the market price of similar switches. He also expects to receive ₹ 25 lakhs towards

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conversion charges for job work to be undertaken under Notification No. 214/86. The duty/service tax involved on proposed purchases for 2016-17 is as follows :

Excise duty on raw material purchases ₹ 9,37,500

Service tax on input services (including KKC and SBC) ₹ 15,000

Excise Duty on capital goods ₹ 1,25,000

Advise Mr. Premkumar. Assume the rate of excise duty as 12.5%.

- (b) (i) How the tax liability on composite and mixed supplies is determined under GST law ? Answer in single sentence each. 2
- (ii) Define 'intra state supply' and 'inter-state supply' under GST law. 3
Is it correct to say that inter-state supply attracts both CGST and SGST ?
- (c) (i) Explain the concept of 'Dual GST'. 2
- (ii) Bring out the salient features of cross utilization of Input Tax Credit (ITC) under the GST Law ? 3

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- (d) Mehul imported certain goods in April, 2017. An 'into Bond' bill of entry was presented on 15-04-2017 and goods were cleared from the port for warehousing. Assessable value on that date was US \$ 60,000. The order permitting the deposit of goods in warehouse for 4 months was issued on 22-04-2017. Mehul deposited goods in warehouse on the same day but did not clear the imported goods within the warehousing period which got over on 22-08-2017. A notice was issued under section 72 of the Customs Act, 1962 demanding duty, interest and penalty. Mehul cleared the goods on 15-09-2017. Compute the duty and interest payable by Mehul, while removing the goods from the warehouse.

Following information is made available.

Particulars	15-04-2017	22-08-2017	15-09-2017
(i) Rate of Exchange per US \$ as notified by CBEC	₹ 65	₹ 64.50	₹ 64
(ii) Rate of Basic Customs Duty (advalorem)	12%	10%	8%

Additional duties of Customs leviable under section 3(1) and 3(5) of the Customs Tariff Act are exempt.

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2. (a) ABC Ltd., manufactured Product X on job work basis for Suvaidha Ltd. 4
with the condition that only raw material will be supplied by Suvaidha Ltd. and all other expenses are to be borne by ABC Ltd., and the job charges will be payable at ₹ 150 per unit of Product X. The details of transactions for November, 2016 are as follows :

Cost of Raw material (1500 units including Excise Duty at 12.5%)	-	₹	16,87,500
Freight inward for moving raw material to ABC Ltd.	-	₹	15,000
Consumables used by ABC Ltd., for job work	-	₹	1,00,000
Calibration charges paid by ABC Ltd., for the goods manufactured (excluding service tax)	-	₹	12,500
Quantity of Product X manufactured	-		1500 units

Find the assessable value per unit of Product X under Central Excise (Determination of Price of Excisable Goods) Rules, 2000 for the purpose of payment of excise duty (i) if Suvaidha Ltd., uses Product X for further manufacture (ii) if Product X is sold ₹ 1,200 per unit from the premises of ABC Ltd. by Suvaidha Ltd.

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(b) Compute the Service Tax liability wherever applicable.

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Ignore exemption for small service provider under Notification No. 33/2012 dated 20-06-2012 in all cases. Assume the rate of service tax as 15% (including SBC and KKC cess). Service value is exclusive of service tax.

Notes should form part of your answer.

Sl. No.	Nature of Service	Consideration in Lakh (₹)
1.	Vigyan Kendra has agreed to render training on farm practices to trainers of trainers, who in turn train other trainers – Advance received.	8.00
2.	Textora, a registered service provider is liable to Service Tax on one of its services, for the first time on 13-04-2017. Consideration is received on 02-05-2017. However, invoice is raised on 18-05-2017.	9.20
3.	Rakesh is on the Arbitral Tribunal and is requested to provide services to another Arbitral Tribunal for a service consideration.	14.00

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4.	Vigyan Kendra has provided research methodology training to students of a registered education institution. It has agreed to receive service consideration from the institution, against which an invoice has been raised.	10.00
5.	An Employee of Elica sports Limited, provides service as a player to a Franchisee Cricket team to participate in a tournament.	25.00
6.	Anitha receives consideration, from Realtors Inc., while performing classical dance to promote and endorse their marketing efforts in selling flats.	0.80
7.	Pruthvi Developers receives consideration from its client in the course of construction of residential complex. (i) Carpet area – 1800 sq.ft. (ii) Amount charged being	125.00
8.	Nethravathi exchanged \$ 1,28,000 and obtained in Indian Rupees (RBI reference rate was not available for the day)	80.00

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- (c) Pyramid Expo Ltd. has exported some goods by air. The FOB price of goods exported is US \$ 50,000. The shipping bill was presented electronically on 7-3-2017 and Let Export Order is passed by proper officer on 19-4-2017. The rate of exchange notified by CBEC on 7-3-2017 and 19-4-2017 are 1 US \$ = ₹ 65 and 1 US \$ = ₹ 64 respectively. Compute the export duty payable by Pyramid Expo with the help of following details provided. 4

Particulars	Date	Rate of Duty
Presentation of shipping bill	7-3-2017	12%
Let Export order	19-4-2017	10%

3. (a) Assessee Hexawire Ltd. claimed benefit of SSI exemption notification under Central Excise Act on clearances made using brand name of a foreign company assigned to it under an agreement, with an exclusive right to use in India. Revenue rejected the claim. Discuss the validity of Revenue contention with reference to decided case, if any. 4
- (b) Traintree Ltd., filed appeal before Commissioner (Appeals) on 16-06-2016. (15-06-2016 being a public holiday) against the adjudication order demanding service tax which was received by them on 15-03-2016 with request for condonation of delay in filing the appeal under section 85 of Finance Act, 1994. The appeal was dismissed by the Commissioner (Appeals) on the ground that appeal was filed beyond the condonable time limit. Examine whether the stand of the Commissioner (Appeals) is correct in view of the decided case law on the subject. 4

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- (c) Zeus Technologies Ltd. have manufacturing operations in the SEZ. They procured certain scientific and technical consultancy services to undertake manufacturing activity. The services were obtained before commencement of manufacturing activity. Later, they applied for refund of service tax paid on such input services under relevant notification. The department denied the refund since the input services were not part of SEZ operations for which the assessee was given permission for. Examine the tenability of the contention of the Revenue with reference to a decided case, if any. **4**
- (d) Nateshan filed an application for provisional release of seized goods under section 110A of the Customs Act, 1962. The order for provisional release of goods was issued but before provisional release was effected, maximum period for issue of show cause notice elapsed. Nateshan sought unconditional release of goods on the ground of non-issue of show cause notice. The department contended that it was mandatory for the importer to comply with the order of provisional release, and the importer could not seek remedy by praying for return of goods unconditionally as per section 110(2) and section 124 of the Act as order for provisional release had already been made. Discuss the correctness of the stand taken by the department as per the provisions of Customs Act and decided case law, if any. **4**

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4. (a) What is the due date for issue of notice to demand excise duty in normal (non-fraud) cases under Sec. 11A of Central Excise Act, 1944 and in following cases as per the amended provisions :

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(i) A central excise assessee has filed revised return on 29-04-17 in place of return filed for the month of March, 2017.

(ii) Cenvat credit was wrongly availed on 31-03-2016 and return under Rule 9(7) of Cenvat Credit Rules, 2004 showing availment was filed on the due date.

(b) Moksha Bank Ltd., is engaged in providing services, which are both taxable and exempted. You have the following information at your disposal :

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Value of different services of the bank for the year ended 31-03-2017

Particulars	Amount in (₹)
Value of Exempted services	2,00,000
Value of Taxable services	8,00,000
CENVAT Credit on input services for the month of April 2017	60,000
CENVAT Credit of ₹ 60,000 includes input services exclusively used for provision of exempted services	20,000
CENVAT Credit of ₹ 60,000 includes input services exclusively used for provision of taxable services	10,000

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The bank wants to determine the CENVAT Credit for set-off against output tax payable, during April 2017, under Rule 6 (3) (ii) or under Rule 6 (3B) of CENVAT credit Rules, 2004 and avail the option more beneficial to it. Determine which of the two options is more beneficial to the bank.

- (c) Magna Insurance, carrying on life insurance business provides single premium annuity (insurance) policies where the amount allocated for investment / savings is not intimated to the policy-holders. It has opted for composition rate of tax with respect to such annuity policies and the single premium charged from various policy holders was ₹ 18,00,000 during the year 2016-17. Determine the Service tax liability including cess under amended provisions with suitable notes.

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- (d) (i) Sankesh collaborators, has deposited imported goods in a private warehouse. Proper officer intends to supervise and have physical control over such goods and expects the licensee not to allow removal of goods without his permission. To what extent intention of the proper officer is correct ?

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- (ii) Sankesh collaborators, has wholly transferred ownership of warehoused goods to another person and is seeking cancellation of bond executed under section 59 of the Customs Act, 1962. Explain whether this is permissible and mention conditions to be imposed, if any.

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5. (a) Mifil containers paid duty as per its invoice during clearance of manufactured goods to one of its customers, Ropeway Enterprises. Subsequently, the manufacturer had to reduce price on account of quality issues but failed to proportionately reduce duty paid on the invoice. During audit the proper officer has directed Ropeway enterprises, who has availed CENVAT credit based on the invoice, to reverse the proportionate value of credits so taken. You are requested to advise Ropeway Enterprises as to whether it has to comply with the directions or not. 4
- (b) (i) Whether the following transactions can be treated as 'service' under Finance Act, 1994. Explain with reference to relevant provisions. 6
- (1) Sale of newly constructed ready to occupy flats for ₹ 1.5 crore per flat (including undivided share of land) after the issue of completion certificate by the competent authority.
 - (2) Sale of lottery tickets by lottery distributor of State Governments.
 - (3) Manufacture of alcoholic liquor for human consumption on job work basis.
 - (4) Sale of mobile SIM cards in bulk by distributor of mobile telephone operator.
 - (5) Transfer of unsecured loan for consideration.
 - (6) Sale of land.
- (ii) Briefly explain Declared services with reference to the Finance Act, 1994. 2

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- (c) Customs Department has established improper exportation of goods against District Dover Ltd. The goods are liable for confiscation under section 113 of the Customs Act, 1962, and company is also liable to pay penalty under section 114 of the Act. Following further information is available for your consideration: 4

It declares the value of the prohibited goods, meant to be exported as ₹ 2 lakhs.

Value as determined under the Customs Act, 1962, is ₹ 2.50 Lakhs.

It has also exported other goods which are neither prohibited nor dutiable but action of the company amounts to improper exportation. Additional information is as follows:

Value as declared by the exporter is ₹ 1.20 lakhs

Value as determined under the Customs Act, 1962 is ₹ 0.80 lakhs

Determine the maximum penalty that can be imposed under each of the above circumstances. State the statutory provisions also briefly.

6. (a) (i) Stock lying on the shop-floor of Nato Dynamics has been transferred without physical removal to a new owner. Since there is actual transfer of ownership, the department is insisting on payment of duty. Comment on the action taken by the department in the present case. 2

- (ii) There is a change in the constitution of the manufacturer, who is unaware of the consequences of such change on the existing excise registration. Advise the manufacturer suitably on the course of action to be taken by him. 2
- (b) Maruthi OPC failed to pay service tax amounting to ₹ 12 lakhs for March, 2016 before due date but paid the same on 06-06-16. Out of ₹ 12 lakhs, ₹ 10 lakhs was collected from their customers and balance is pending realization. Work out the interest payable by them for delay in payment of service tax. The turnover of the company was ₹ 58 lakhs during 2014-15. 4
- (c) Find the service tax payable in the following independent cases : 4×1
=4
- (i) Licence fee of ₹ One crore payable for mining rights to State Government by a business entity for May 2016 on 01-06-2016 but paid on 01-06-2017 along with interest of ₹ 15 lakhs.
- (ii) Charges amounting to ₹ 25 lakhs received by a private testing agency for testing of LPG cylinders to comply with statutory requirement.
- (iii) Rental income received by a local body for leasing its commercial complex to postal department for ₹ 25000.
- (iv) Spectrum user charges of ₹ 20 crores per month payable to Government for right to use radio frequency spectrum towards monthly instalment of upfront fee for March 2016 and April 2016.

(d) Answer any two out of four questions below.

- (i) Smuggled goods were seized from Mr. Das by Customs authorities in Airport on his arrival from Dubai. During adjudication proceedings, he claimed before the adjudicating authority exemption under a Customs Notification applicable for imported goods. Examine whether benefit of exemption notification available for imported goods can be extended to smuggled goods. Answer in two sentences. 2
- (ii) A star export house wishes to import goods which are exempt under Foreign Trade Policy (FTP) subject to fulfilment of export obligation. However, Customs Notification giving effect to the FTP is yet to be issued. Can the export house import the goods claiming exemption under FTP in the absence of Customs Notification? 2
- (iii) Briefly discuss the conditions to be satisfied for remission of duty in case of volatile goods under the provisions of the Customs Act, 1962. 2
- (iv) Enumerate the goods specified as volatile for the purposes of remission of duty under the provisions of Customs Act, 1962. 2

- 7 (a) Renukamba Enterprises is engaged in the production of certain commodities using molasses. It procures such molasses through the help of an agent from a khandsari sugar factory. The proprietor of Renukamba Enterprises is obtaining molasses for the first time for his production unit. He needs your advice regarding dutiability on the above procurement. 4
- (b) An Indian firm provided testing services to a U.K. based company which involves testing the emission levels of a newly developed car by the company. Testings were done in Karnataka, Tamil Nadu and London and Indian firm charged 10000 USD for testing. It is estimated that service charges payable for testing in Karnataka, Tamil Nadu and London would be 20%, 30% and 50% of the total testing service charges respectively. What is the place of provision for the above services under the Place of Provision of Service Rules, 2012 and the value for which service tax has to be paid assuming that conversion rate for USD is ₹ 65 ? 4
- (c) East West Ltd., availed manpower supply services from Mr. Dayanand and received an invoice from him for ₹ 5.2 lakhs for the services provided for December 2015 on 31-12-2015. The amount was paid to Mr. Dayanand only 01-06-2016 by the company. What is the point of taxation for the above transaction under Point of Taxation Rules, 2011 and what is the due date for payment of service tax ? 4

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- (d) Explain the significance of duty credit scrips under Merchandise Exports from India Scheme (MEIS). Vasant exports a consignment of hand crafted items through courier using e-commerce of FOB value of ₹ 48,000. Determine whether he is eligible for the above benefit. 4

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