

Roll No. ....

Total No. of Questions – 7

Time Allowed – 3 Hours

**FINAL**  
**GROUP-II PAPER-8**  
**INDIRECT TAX LAWS**

Total No. of Printed Pages – 20

Maximum Marks – 100

**MAY 2017**

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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-question(s) 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) CNC India Ltd. is engaged in the manufacture of machines. It has supplied one machine to M/s. Advaith India Ltd. at a price of ₹ 11,25,000 (excluding excise duty & VAT). Cash discount @ 3% on price of the machinery is allowed to M/s. Advaith India Ltd. Further, following additional amounts as indicated below have been charged from M/s. Advaith India Ltd. 5

Sl. No.	Particulars	₹
(i)	Expenses pertaining to installation and erection of the machine at Advaith India factory. (Machine was permanently affixed to earth)	40,000
(ii)	Pre-delivery inspection charges (charged separately by CNC India Ltd.)	11,250
(iii)	Cost of durable and returnable packing (such cost has been amortised and included in the cost of the machine)	5,000
(iv)	Warranty Charges charged separately by CNC India.	1,00,000
(v)	Advertisement and publicity charges borne by Advaith India Ltd.	60,000
(vi)	After sales service charges (charged separately by CNC India Ltd.)	20,000

Advaith India has supplied material worth ₹ 50,000 free of charge to CNC India Ltd. for being used in production of machine.

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Determine the Assessable value for calculation of Central Excise Duty payable thereon from the aforesaid information. There was no opening or closing inventory. CNC India is not eligible for exemption in terms of notification 8/2003 dt 01-03-2003 during the current financial year 2016-17 when the clearance of the machine was effected.

Make required assumption and show the working notes separately.

(Need not calculate Central Excise Duty payable)

- (b) Compute service tax liability (to be paid in cash) from the following particulars of services of M/s. Utkarsh & Co. for the month of October, 2016.

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S.No.	Particulars	Amount (₹)
1.	Construction of road for general public.	16,75,000
2.	Renovation service provided to Government relating to plant for sewerage treatment.	12,00,000
3.	Gross amount (excluding all taxes) charged for providing works contract service.	2,00,000
4.	Actual value of material transferred in the above works contract (i.e. S.No. 3) (VAT under the relevant State VAT Law has been paid on this value)	1,40,000
5.	Service tax paid on input services (excluding SBC and KKC)	2,800
6.	SBC paid on input services.	100
7.	KKC paid on input services.	100
8.	Excise duty paid on the capital goods, purchased during the year, used in the provision of works contract service.	2,000
9.	Excise duty paid on inputs used in the provision of works contract service.	10,750

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M/s. Utkarsh & Co. has paid service tax of ₹ 2,50,000 during the preceding financial year.

Rate of service tax is 15.00 %. (14% + 0.50% Swachh Bharat Cess + 0.50 % Krishi Kalyan Cess)

Working notes should form part of your answer.

- (c) Compute the Service Tax payable on independent services provided by "All in one Service Company Ltd." for the month of September 2016. Service tax @ 15% (including SBC & KKC) has been charged separately wherever applicable and not included in the service value. Ignore exemption for Small Service Provider under Notification No. 33/2012 dated 20-06-2012. Notes should form part of the answer.

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Details of services provided are give below.

Sl. No.	Particulars of Service Provided	Amount in ₹
(i)	Service provided by way of repair or maintenance of an aircraft owned by Rajasthan State Government.	5,00,000
(ii)	Exhibiting Movies on television channels.	3,00,000
(iii)	Transportation of goods by vessel from a place outside India up to the customs station of clearance in India.	4,00,000
(iv)	Construction and installation of original works pertaining to Bengaluru Metro – Contract entered on 05-06-2016.	9,00,000
(v)	Transportation of passengers with accompanied belongings by an Air conditioned stage carriage other than motor cab.	6,00,000
	<b>Total</b>	<b>₹ 27,00,000</b>

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- (d) M/s. AMTL Ltd., Kolkata imported CNC Grinding machine from Catalyst Inc. USA, complete with accessories and spares in October 2015 for use in the manufacture of high precision micro tools. 5

Basic cost of machine with accessories US \$ F.O.B. 50,000. Catalyst Inc. supplied one extra set of accessories valued at US \$ 2000 free of cost to cover for transit damage.

Other details available were as follows :

Sl. No.	Particulars	Amount
1.	Warranty Cost Payable to Catalyst Inc. (Not included in the cost of the Machine i.e. US \$ 50000)	US \$ 4,500
2.	Design & Development charges paid in USA (not included in the cost of the Machine i.e. US \$ 50000)	US \$ 6,000
3.	Licence Fee, AMTL is required to pay in USA	US \$ 1,000
4.	Value of Drawings supplied by AMTL Ltd. Kolkata free of cost and is necessary for customising machine to the needs of AMTL Ltd. Kolkata	US \$ 1,000
5.	Freight by AIR	US \$ 15,000
6.	Buying Commission paid to Indian Agent in India	₹ 30,000

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Bill of Entry presented on 10-11-2015 and the rate of exchange notified by CBEC on this date was ₹ 66.25 per US \$ and rate of BCD was 7.5%.

Date of arrival of aircraft was 06-11-2015 and rate of exchange notified by CBEC on this date was ₹ 66.50 per US \$ and rate of BCD was 7.5%.

Machine was insured but Insurance premium was not shown/available in / from the invoice.

From the above particulars, compute the assessable value for purpose of customs duty payable. Make suitable assumptions wherever required.

Working notes should form part of your answer.

Note : Custom duty calculations need not be shown.

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2. (a) M/s. RGH Ltd., manufacturer of excisable goods, have cleared their manufactured final products during October 2016 and the excise duty payable for the month is ₹ 7,30,000, without considering the following details of excise duty/service tax paid by them during the month at the time of purchase of goods/procurement of input services respectively :

Sl. No.	Particulars	Amount ₹	Remarks
(i)	On inputs "VK"	2,50,000	(Inputs pertaining to all purchases have been received by M/s RGH Ltd., in October 2016 in the factory except invoice dated 1 <sup>st</sup> November, 2016 for excise duty of ₹ 35,000 paid on Inputs "A" was received on 3 <sup>rd</sup> November, 2016.)
(ii)	On input service used in (excluding KKC and SBC) the manufacture of the final product	50,000	(Includes one invoice issued by clearing agent for clearance of inputs or capital goods for ₹ 10,000)
(iii)	On welding electrodes for repairs and maintenance of capital goods.	25,000	Received in the factory in Oct. 2016
(iv)	Inputs used for pumping of water for captive use	32,000	- Do -
(v)	Tubes and Pipes (used in factory) {Price per tube - ₹ 2,000 Price per pipe - ₹ 4,000}	42,000	- Do -
(vi)	Special purpose motor vehicle (falling under tariff heading 8705) for use in the factory of manufacturer	2,00,000	- Do -
(vii)	Tools of Chapter 82 of the Central Excise Tariff directly sent to another manufacturer (job worker) for production of goods	50,000	

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**Note :** M/s RGH Ltd. is not eligible to avail exemption under the notification based on value of clearance in a financial year. Calculate the duty payable in cash by M/s RGH Ltd. for the month of October 2016 after taking into account the CENVAT credit available.

You are also required to provide working notes and explanations and which will form part of the answer.

(b) From the following information determine (with brief reasons to be provided as part of the answer) the person liable to pay service tax and extent of service tax payable if all sums are exclusive of service tax and both service provider and service recipient are located in India. 4

(1) Infrastructural support services provided by Government to a business entity : ₹ 16 lakh; Previous year turnover of the business entity was ₹ 9,50,000.

(2) Renting of immovable property services provided by Government to business entity : ₹ 25 lakh.

(3) Service provided by a Director of a company (not in the course of employment) to the company : ₹ 21 lakh;

(4) Mr. Rahul is Director of a ACH Ltd., also appointed as a Nominee Director of ING Ltd. Services provided by Mr. Rahul to ING Ltd. is ₹ 5 lakh.

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- (c) Compute the service tax liability in each of the following independent cases :-

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<b>Particulars</b>	<b>₹</b>
Services provided by Government to various individuals for issuing passport	85,000
Transportation of passengers by Cable car	5,00,000
Speed post services provided by Mumbai Post office to various individuals (Amount charged does not exceed ₹ 5,000 in any of the transaction.)	10,00,000
Services provided by bio-incubators recognised by Biotechnology Industry Research Assistance Council (BIRAC)	8,00,000

**Notes :**

- (1) Ignore the small service provider exemption under Notification No. 33/2012 ST dated 20-06-2012.
- (2) Service Tax and cesses have been charged separately, wherever applicable.
- (3) All transactions have been undertaken in month of August 2016.
- (4) Make suitable assumption whenever required.
- (5) Brief reasons and working notes should form part of the answer.

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(d) Ganga Ltd., an Indian company located at Jaipur, imported into India certain commodities in July, 2016 from a country which is covered by a Notification issued under Section 9A of the Customs Tariff Act, 1975. The relevant particulars relating to import are as follows :

- (1) CIF value of the consignment – US \$ 35,000
- (2) Quantity imported – 700 kgs.
- (3) Exchange rate applicable – US \$ 1 = ₹ 62
- (4) Basic Customs Duty (BCD) – 20%
- (5) As per the Notification, the anti-dumping duty leviable will be 75% of the difference between the cost of the commodity calculated @ US \$ 80 per kg. and the landed value of the commodity as imported.

You are required to calculate the amount of total Customs duty (including anti-dumping duty) payable by Ganga Ltd.

**Note :** Assume Additional duty payable under Section 3(1) and 3(5) of the Customs Tariff Act, 1975 are exempt but Education Cess and Secondary & Higher Education Cess may be adopted, wherever applicable. Working notes with brief reasons should form part of the answer.

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3. (a) M/s. Vishwas Packers purchased duty paid GI paper from the market and carried out printing on it according to the design and specifications of the customer. The printing was done on jumbo rolls of GIP twist wrappers. Logo and name of the product was printed on the paper in colourful form and the same was delivered to the customers in jumbo rolls without slitting. 4

The customer intended to use this paper as a wrapping/packing paper for packing of their goods.

Department issued a demand-cum show cause notice claiming that "printing on jumbo rolls of GI paper as per design and specification of customers with logo and name of product in colourful form, amounts to manufacture" and Vishwas Packers is liable to pay excise duty thereon.

Examine with the help of decided case law, if any, whether the Department is justified in issuing show cause notice for the recovery of duty.

- (b) A city municipal corporation rented various properties owned by it and received rental income. When the Department demanded service tax on the rental income, it was contended by the corporation that as per the rental agreement the tenant is liable to pay any tax/levy directly to the concerned authority and requested the department to recover the tax dues from the tenants. 4

Write a brief note whether the stand of the corporation is correct? You can take the help of the case law in support of your answer.

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- (c) The adjudication order was passed and was forwarded to the assessee. **4**

However, assessee did not receive the same. It learnt about the order only after receipt of a letter from the Superintendent, nearly after two years, directing it to pay the dues as per said order. Thereafter, a copy of that order was made available to the assessee.

The appeal filed by the assessee against the said order was rejected by the Commissioner (Appeals) as well as by the Tribunal, as being barred by limitation.

The assessee contended that the appeal could not be held to be barred by limitation as no order was received by it.

Write a brief note with the help of decided case law, if any, whether under the provisions of Service Tax Law (i.e. Finance Act, 1994) the period of limitation can be computed from the date of forwarding of the order where such order has not been received by the assessee ?

- (d) Whether a notice issued to an Importer under Sec. 110 of Customs Act, **4**  
1962 is legally valid if the same is issued to the Customs Broker of the importer instead of the importer himself ?

Write a brief note with reference to the relevant provisions and case law if any.

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4. (a) A manufacturer of excisable goods paid duty of ₹ 2 lakhs provisionally under Rule 7 of Central Excise Rules, 2002 on 6<sup>th</sup> February, 2016 for the month of January 2016 electronically, after following prescribed procedure. They further paid ₹ 50,000 on 15<sup>th</sup> April, 2016 and submitted documents for final assessment on the same day. After finalization of provisional assessment by the department on 30-06-2016, they were required to pay a further sum of ₹ 5,000 which was paid on 30<sup>th</sup> July, 2016. 4

Calculate the interest payable, if any, by the manufacturer on the finalization of provisional assessment under Sec. 11AA of Central Excise Act, 1944.

- (b) With reference to the amendments made by the Finance Act, 2016 and position of law as existing on 31<sup>st</sup> October, 2016, briefly write a note on the following : 4

- (i) Implication on passengers' transportation service by metered cab.
- (ii) One person company can pay service tax on quarterly basis.

- (c) With reference to the provision of law as on 6-6-2016, briefly explain as to who is the person responsible to pay service tax in the following cases : 4

- (i) Legal services are provided by Senior Advocates to business entities.

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(ii) Representational services are provided by Senior Advocates to any business entity.

(iii) Where contract for representational services provided by the Senior Advocates to any business entity has been entered into through another advocate or firm of advocates.

(d) (i) Mr. Devendra, an Indian Entrepreneur, went to China to explore new business opportunities on 05-04-2016. The following details regarding imports are submitted by him with the Customs authorities on return to India on 20-02-2017. 2+2  
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(a) 2 Music systems each worth ₹ 23,000.

(b) Jewellery brought by Mr. Devendra worth ₹ 49,000.  
(18 Grams)

Write a brief note on his eligibility with regard to duty free baggage allowances as per the Baggage Rules, 2016.

(ii) Write a brief note on the changes made by Finance Act, 2016 with reference to amount of Warehousing Bond and Security Under Section 59 of Customs Act, 1962.

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5. (a) M/s. Sudarshan and Sons is a small scale unit manufacturing plastic name plates for motor vehicles as per specifications provided to them by their customers, who are vehicle manufacturers. For purposes of classification under the first schedule to the Central Excise Tariff Act, 1985 the assessee has claimed that the plastic name plates are “parts and accessories of motor vehicles”. 4

The Central Excise Department did not agree with the assessee and has proposed classification as “other plastic products”. The Department’s view is that the motor vehicle is complete without the affixation of name plates and cannot be treated as a part of the motor vehicle.

Briefly explain, whether the stand taken by the department is correct in law ?

- (b) MXN Laboratories are in the business of testing of drug samples in India for the customers located in India and abroad. They receive testing charges in foreign currency for testing done for both categories of customers and have not paid service tax treating it as export of service. 4

Write a brief note whether the stand of the MXN Laboratories is correct ?

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- (c) The services provided by Mr. X was brought into service tax net for the first time from 01-04-2016. Explain with a brief note the taxability of the following transactions : 4
- (i) Service rendered on 23-03-2016 but invoice was issued and payment was received on 02-04-2016.
  - (ii) Service rendered on 02-04-2016 but invoice was issued and payment was received on 23-03-2016.
  - (iii) Payment received on 28-03-16 but invoice was issued on 10-04-16 and service is yet to be provided.
- (d) With reference to Customs Act, 1962, explain briefly the “relevant date” for determination of rate of duty leviable on the imported material content in the waste or refuse. 4
6. (a) Discuss briefly whether following cases can be settled in the Settlement Commission under Central Excise Act, 1944. 4
- (i) Case where appeal is pending in CESTAT against the order issued by the Commissioner of Central Excise as adjudicating authority.
  - (ii) Case where a notice has been issued involving evasion of ₹ 2.5 crore pending adjudication and the applicant fully accepts the duty liability.
  - (iii) Case where the applicant accepts additional duty liability of ₹ 50 lakhs but not filed any return during the relevant period.

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XY Ltd., were issued with a demand notice of ₹ 50 lakhs which was confirmed by the adjudicating authority with penalty equal to duty demanded. Their appeal to Commissioner (Appeals) after payment of required pre deposit was dismissed. Now, they wish to file an appeal before CESTAT.

Write a brief note on the amount they are required to pay towards pre deposit for filing the appeal under Sec. 35F of Central Excise Act, 1944 before CESTAT : (i) if they dispute the order of the adjudicating authority demanding duty and penalty, and (ii) if they accept the duty liability but dispute the imposition of equal penalty.

- (b) What is the time limit for issue of show cause notice to a person by the department for recovery of service tax not levied or short levied or not paid or short paid or erroneously refunded under 73 of Finance Act, 1994 ? Under what circumstances the department is not required to issue show cause notice to demand service tax under Sec. 73 for the pending dues ?

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Write a brief note with reference to the relevant provisions.

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(c) Write a brief note on the following :

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(i) What is the late fee payable for delay of 45 days in furnishing of returns under Sec. 70 of Finance Act, 1994 ?

(ii) Whether Goods Transport Agency is eligible for Small Service Provider Exemption ? In what circumstances is the GTA liable to pay service tax ?

(d) The objective of MEIS scheme is to neutralize the customs duties paid on inputs used in the export goods. Whether the statement is correct ? What are the ineligible categories for MEIS scheme ? Write a brief note with reference to the Foreign Trade Policy.

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7. (a) Explain briefly the provisions relating to Special Audit under Sec. 14A of the Central Excise Act, 1944.

4

(b) (i) The registration certificate may be revoked by the Deputy/Assistant Commissioner if no documents are received within 14 days of the date of filling the registration application.

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Write a brief note on the validity of the above statement with reference to provisions of the Finance Act, 1994.

(ii) Write short note on the provisions relating to filing of service tax return by input service distributor.

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(c) An Assessee collected 1.5 crores as Service Tax in the financial Year 2014-15 and ₹ 2.00 crores in the financial Year 2015-2016 but deposited only ₹ 1.00 crore during financial year 2014-15 and ₹ 1.00 crore during financial 2015-16 with the Government till 30-09-2016. He was arrested on 25-10-2016. The assessee did not dispute the liability to pay the service tax to the Government but he submitted that only the amount collected between 01-10-2015 to 31-03-2016 should be considered while calculating the amount for applying the penal provision u/s 89(1) (ii) of Finance Act 1994. Revenue contended that since failure to deposit Service Tax with Central Government after collecting it from the customers was a continuing offence, entire amount of arrears of Service Tax was required to be taken as liable to be deposited.

Discuss with the help of decided case law (if any) whether the contention of Assessee is maintainable or Revenue will succeed in its contention.

If Revenue succeeds in its contention, what could be the term of imprisonment as per amended Section 89 of Finance Act 1994.

Write a brief note with reference to the relevant provisions.

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- (d) CBZ Ltd. has exported following goods to Germany. Write a brief note with reasons whether any duty drawback is admissible under Section 75 of the Customs Act, 1962 in each of the following cases : 4

Product	FOB value of Exported Goods Amount in ₹	Market Price of Goods Amount in ₹	Duty drawback rate
A	4,30,000	3,50,000	30% of FOB
B	6,00,000	7,00,000	3.50% of FOB
C	1,20,000	60,000	0.75% of FOB
D	3,00,000	3,50,000	1.50% of FOB

- Note :** (1) Imported value of Product B is ₹ 8,00,000  
 (2) Product D is manufactured out of duty free inputs.  
 (3) Working notes should form part of the answer.