

Roll No.

FINAL

MAY 2015

Total No. of Questions – 7

GROUP-II PAPER-3
INDIRECT TAX LAWS

Total No. of Printed Pages – 16

Time Allowed – 3 Hours

Maximum Marks – 100

BSL

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.

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

Working notes should form part of the respective answers.

Question No. 1 is compulsory.

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

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1. (a) Arvin Ltd., (not availing small scale exemption benefits) sold a machine to Isha Ltd., for ₹ 4,00,000 (excluding taxes and duties). A cash discount of 3% was allowed since Isha Ltd., had made full payment in advance. The following additional details are given below :

Sr. No.	Particulars	Amount (₹)
1.	Expenses pertaining to installation and erection of the machine at Isha Ltd.'s premises (Machine was permanently fixed to earth)	20,000
2.	Cost of durable and returnable packing (such cost has been amortised and included in the cost of the machine)	5,000
3.	Actual freight and insurance from factory to buyer's premises	25,000

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(2)

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Determine the total amount of excise duty payable on the machine.

Assume transaction is on principal to principal basis.

Assume excise duty at 12.36% and show working notes.

- (b) From the following information compute the value of taxable service provided by Ganga Limited assuming that it is not eligible for small service providers' exemption under Notification No. 33/2012-ST dated 20-06-2012. **5**

Particulars	Amount (₹)
Construction services provided to International Labour Organization	7,00,000
Construction of Private Clinic for Dr. Ramesh Garg	15,00,000
Renovation service provided to Government relating to plant for sewerage treatment	30,00,000
Construction of roads in a factory	25,00,000
Construction of residential complex meant for use of Members of Parliament	1,20,00,000
Renting of residential dwelling for use as residence	22,00,000
Repair and maintenance of Railway Station	13,00,000

Provide brief notes and explanations for your answer.

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- (c) Compute independently in each of the following cases the taxable value of services provided by an authorized dealer in foreign exchange to its customers. Show working notes as may be required. 5
- (i) 2500 US \$ are sold by Mr. Adani to the 'Sewak Cook', an authorized dealer @ ₹ 62.50 per US \$. The RBI reference rate is ₹ 63.00 for that day.
- (ii) ₹ 80,00,000 is changed into Canadian \$ and the exchange rate offered is ₹ 50 per Canadian \$. RBI reference rate for conversion of INR into Canadian \$ is not available.
- (iii) On 01-05-2015 Mr. Exchange gets 1,00,000 Euro converted into 5,00,000 Dirham. As on 01-05-2015 RBI reference rate is 1 Euro = ₹ 70, 1 Dirham = ₹ 16.
- (d) (1) Vishal Industries imported goods from U.S.A., C.I.F. value bearing US \$ 2600. Air freight 500 US \$, insurance cost 100 US \$, landing charges are not ascertainable. 5
- (2) Date of bill of entry is 25-09-2014 and basic custom duty on this date is 10% and exchange rate notified by Central Board of Excise and Customs in US \$ 1 = ₹ 62.
- (3) Date of entry inward is 21-10-2014. Basic customs duty on this date is 20% and exchange rate notified by Central Board of Excise and Customs is US \$ 1 = ₹ 60.
- (4) Additional duty payable u/s 3(1) of the Customs Tariff Act is 12%, education cess is 3% on duty. Additional duty payable u/s 3(5) of the Customs Tariff Act is exempt. Compute the assessable value and amount of total customs duty payable under the Customs Act, 1962. Make suitable assumptions, where required. Working notes should form part of your answer.

(4)

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2. (a) Dev Ltd., a manufacturer, has furnished the following information regarding inputs received in the factory and input service used for manufacture :-

Sr. No.	Particulars		Excise duty/ Service Tax (₹) *
(1)	Raw material	Invoice dated 14-09-2014	31,500
(2)	Grease and Oil	Invoice dated 10-04-2015	5,000
(3)	Input Service	Invoice dated 22-10-2014	19,500
(4)	Office Equipment	Invoice dated 25-11-2014	7,250
(5)	Light Diesel Oil	Invoice dated 02-04-2015	22,000
(6)	Paints	Invoice is missing	3,000

* Including education cess and secondary higher education cess.

Determine the total CENVAT Credit that can be availed during the month of April, 2015. Show working notes with suitable assumptions as may be required.

The company is not entitled to SSI exemption under Notification No. 8/2003 CE dated 01-03-2003.

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(5)

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- (b) (i) Bombay Media Agency provided the following services during the quarter ended 31-03-2015 : 4

Services Rendered	Amount (₹)
Advertising through mobile SMS and e-mails	10,00,000
Sale of space for advertisement in newspaper	6,50,000
Sale of space for advertisement in Doon Yellow Pages (including ₹ 40,000 for advertisement in business directories)	90,000
Advertisement by means of banner at public places	75,000
Advertisement on cover and back pages of 'Books'	1,20,000

Compute the service tax liability for the quarter ended on 31-03-2015 assuming that the agency is not eligible for small services providers' exemption and service tax at 12.36%.

Assume :

- (1) Point of taxation for all the aforesaid cases falls during the quarter ended on 31-03-2015.
- (2) All the charges stated above are exclusive of service tax.

Provide suitable notes to your answer.

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(6)

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- (ii) Mark Agro Products Ltd. furnishes the following details of various services provided by it in the month of August, 2014 : 4

Sr. No.	Particulars	Amount (₹)
1.	Rearing of silkworm and horticulture	2,50,000
2.	Plantation of tea and coffee	2,00,000
3.	Renting of vacant land for performing marriage ceremony	4,50,000
4.	Sale of wheat on commission basis	50,000
5.	Sale of rice on commission basis	2,00,000

Compute the value of taxable services and the service tax liability of Mark Agro Products Ltd. for the month of August, 2014. Assume that point of taxation in respect of all activities mentioned above falls in the month of August 2014 itself. Company has paid ₹ 4,00,000 as service tax during the financial year 2013-14. Service tax has been charged separately where applicable. Rate of service tax 12.36%. Give reasons by way of short notes to your answer.

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- (c) Answer the following with reference to the provisions of the Customs Act, 1962 and rules made thereunder :
- (1) Mr. A filed a claim for payment of duty drawback amounting to ₹ 50,000 on 30-07-2014. But the amount was received on 28-10-2014. You are required to calculate the amount of interest payable to Mr. A on the amount of duty drawback claimed. 2
- (2) Mr. X was erroneously refunded a sum of ₹ 20,000 in excess of actual drawback on 20-06-2014. The same was returned to the department on 20-10-2014. You are required to calculate the amount of interest chargeable from Mr. X. 2
- Provide brief reasons for your answer.
3. (a) Skincare Ltd., manufactured a cream which was prescribed by doctors for treating dry skin conditions. The said product was also available in pharmacies without prescription of a medical doctor. The composition of the cream included urea (10%), lactic acid (10%) and propylene glycol (10%). The assessee Skincare Ltd. claimed classification as a medicament under Central Excise Tariff Heading (CETH) 30.03 while the excise department was of the view that the same should fall under CETH 33.04 as cosmetic or toilet preparations (preparations for care of skin other than medicaments). Briefly explain four key tests laid down by the Apex Court in this regard to decide whether a given product should be classified as a medicament or a cosmetic or toilet preparation (preparations for care of skin other than medicaments). 4

- (b) (i) Fifty persons, each contributing ₹ 2,000 per month, have come together to organize a chit for a period of 50 months. At the end of each month, an amount of ₹ 1,00,000 (2,000 × 50) is available in the kitty of the Chit Fund. ₹ 1,00,000 is put to auction and subscribers who are interested in drawing the money early because of their needs may participate in the auction. The auction is organized by a 'Key Member' who manages and conducts the proceedings. The successful bidder who is normally the person who offers the highest discount is given the chit amount. From this discount amount, after deducting a fixed amount representing the commission payable to the 'Key Member', balance becomes the dividend which is distributed among all the subscribers. The auction is repeated in the subsequent months and the same procedure is followed. The subscriber who delays the bidding or does not bid at all stands to gain the maximum discount. The department vide Notification No. 26/2012-ST dated 20-06-2012, grants an abatement of 30% to such services. Explain briefly based on decided case law if service tax could be levied on the services rendered in connection with the Chit Fund Business. 4
- (ii) Whether expenditure like travel, hotel stay, transportation and the like incurred by the service provider in the course of providing taxable service may be treated as consideration for taxable service and included in value for charging Service Tax ? Explain briefly with reference to decided case law. 4

- (c) The assessee was dealing in smuggled goods though no smuggled goods were seized from the assessee. Duty was demanded from the assessee u/s 28 and 125(2) of the Customs Act. 4

The tribunal in this case held that duty can be demanded u/s 28 only from the person who is the importer u/s 2(26) of the Act. Further duty u/s 125(2) of the Act can be demanded only if the smuggled goods are seized, confiscated and an option to pay fine is given to the person from whose possession the goods were seized or to the owner of the goods. Based on case law, if any, explain whether department's contention to demand duty u/s 28 and 125(2) of the Customs Act is justifiable.

4. (a) AK & Co. deposits the required amount of ₹ 1,00,000 as pre-deposit on 30-09-2014 and files an appeal before the CESTAT. The said appeal is decided in favour of AK & Co. on 30-11-2014. AK & Co. forwards a letter seeking refund of pre-deposit on 7-12-2014 and the same was refunded on 15-12-2014. Based on the amendments made by the Finance (No. 2) Act, 2014 explain whether AK & Co. is entitled to payment of interest and compute the amount of interest payable on refund of such pre deposit. 4
- (b) With reference to recent amendments made by the Finance (No. 2) Act, 2014 and budget notifications briefly explain the following :
- (i) "Intermediary Services" under the Place of Provision of Service Rules, 2012. 2
- (ii) Manner of determination of rate of exchange for purpose of payment of service tax. 2

- (c) With reference to the changes made in the Finance (No. 2) Act, 2014 and budget notifications briefly explain :
- (i) Point of taxation under reverse charge with respect to payment date. 2
- (ii) Place of provision of service of hiring of all means of transport. 2
- (d) (i) Briefly explain with reference to the provisions of the Customs Act the relevant date for determination of rate of duty and tariff valuation for imports through a vehicle where bill of entry is filed prior to the arrival of the vehicle. 2
- (ii) Write a short note on the applicability of safeguard duty under the Customs Tariff Act, 1975 on articles imported by EOU/SEZ unit and cleared as such into domestic tariff area (DTA). 2
5. (a) KPG Ltd., are manufacturers of machinery for paper plant and parts thereof which are liable to excise duty under Central Excise Act, 1944. KPG Ltd., entered into a contract for setting-up of a paper mill in Cambodia. KPG Ltd. manufactured certain machines in its own factory and also purchased certain other machinery from other dealers. Both the machineries (manufactured and bought-out) were then put into a container and transported to Cambodia for setting-up the paper plant. The assessee availed CENVAT credit on bought-out machinery describing them as eligible capital goods. The Department, however, contends that the bought-out machinery is not eligible Capital Goods as the same had not been used by the assessee in its factory premises. Write a brief note on whether the stand taken by the department is correct in law. 4

(b) (i) Discuss, in brief, whether the following payments constitute a consideration for provision of service. 4

- (1) Imposition of fine or penalty for breaking of law.
- (2) Advance forfeited for cancellation of an agreement to provide a service.
- (3) Security deposits forfeited for damages caused by service receiver in the course of receiving a service.
- (4) Demurrages payable for use of service beyond the period initially agreed upon : e.g. retention of containers beyond the normal period.

(ii) Surbhi Limited entered into a contract with Meena Limited for construction of a new building to be used primarily for the purpose of commerce or industry for a total consideration of ₹ 500 lakh on October 01, 2014. The said services fall within the purview of 'works contract services'. The initial booking amount of ₹ 100 lakh was billed and received on the date of contract itself. It was further agreed that ₹ 170 lakh, ₹ 140 lakh, ₹ 90 lakh respectively would be received on completion of 50%, 75% and 100% of the construction work of the building. Determine the point of taxation in respect of each of following stages of completion with the help of relevant details furnished as under : 4

Stage	% of completion of the building	Date of completion	Date of issuance of invoice	Date of payment of stipulated amount
I	50%	November 20, 2014	November 30, 2014	January 25, 2015
II	75%	December 30, 2014	February 25, 2015	January 30, 2015
III	100%	February 25, 2015	March 03, 2015	March 01, 2015

A certificate from Chartered Engineer registered with Institution of Engineers has been obtained for each stage of completion of the building.

Give brief reasons for your answer.

- (c) Explain briefly with respect to the provisions of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 the chief reasons for which the proper officer could raise doubts on the truth or accuracy of the declared value. 4

6. (a) State briefly the amounts that are credited to the Consumer Welfare Fund set up under Section 12 C of the Central Excise Act, 1944. 4

OR

- (i) Who is required to submit quarterly return under Rule 9(8) of CENVAT Credit Rules, 2004 ? Explain briefly. 2
- (ii) M/s. Enterprises Pvt. Ltd. paid excise duty of ₹ 90,000 in the financial year 2013-14. Its excise duty liability for the month of October 2014 is ₹ 25,000. M/s. Enterprises has availed SSI exemption under Notification No. 8/2003-CE dated 1-3-2003 in the financial year 2013-14 and 2014-15. What is the due date for payment of Excise Duty ? Briefly state with reasons. 2
- (b) (i) Harman Enterprises fails to pay service tax of ₹ 5,000 payable on 6th October, 2013. It actually deposited the same on 6th October, 2014. Compute the amount of penalty under section 76 of the Finance Act, 1994 that can be imposed on Harman Enterprises in this case. 2
- (ii) What is the maximum penalty leviable under the Finance Act, 1994 and Rules in the following cases ? 2
- (a) Failure to make e-payment.
- (b) Issue of invoice with incorrect or incomplete details.
- (c) Failure to account for an invoice in the books of accounts.
- (d) Failure to keep, maintain or retain books of accounts and other documents as required as per the provisions of law.

Briefly explain with reference to the provisions of law.

- (c) An assessee collected ₹ 1 crore as service tax during the period between financial year 2011-12 to 2013-14 but deposited only ₹ 20 lakhs with the government till 10-05-2013. He was arrested on 22-02-2014 on the ground that he had not deposited service tax exceeding ₹ 50 lakhs within a period of 6 months from the date on which payment became due. 4

The assessee did not dispute the liability to pay the service tax to the Govt. but he submitted that only the amount collected between 10-05-2013 and 21-08-2013 i.e. (6 months prior to his arrest) should be considered while calculating the amount of ₹ 50 lakhs for applying the penal provisions u/s 89(1)(ii). But revenue contended that since failure to deposit service tax with Central Govt. 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 a decided case law (if any) whether the contention of assessee is maintainable.

- (d) Briefly explain the salient features of the duty free import authorization scheme under Foreign Trade Policy. 4
7. (a) State briefly with reasons whether registration under the Central Excise Act, 1944 and Rules made thereunder is required in the following cases : 4
- (i) Importer who issues an invoice.
 - (ii) Godown or Duty free outlet of Duty free shop.
 - (iii) Mine engaged in production of specified goods.
 - (iv) Premises used for affixing prices on pharmaceutical products.

- (b) (i) Determine the place of provision of services as well as their taxability in each of the following cases with brief reasons :
- (a) XY Ltd. agrees to provide 'technical inspection and certification service' in respect of a newly developed product of an overseas firm (for a newly launched motorbike which has to meet emission standards in different states or countries). The overseas firm has provided its newly developed product to XY Ltd. for the purpose of testing. The testing is carried out in Delhi (15%), Assam (35%) and Sweden (50%). 2
- (b) A movie on demand is provided as on-board entertainment during the Kolkata-Delhi leg of a Bangkok-Kolkata-Delhi Flight. 2
- (ii) With reference to the Finance Act, 1994 and the Rules made thereunder state whether registration is required in the following cases and if so the date by which registration ought to be obtained under the Rules : 4
- (a) Mr. Sureshot was carrying on the business in providing services under an unregistered brand name of another person from 1-7-2014. The services during the period 1-7-2014 to 30-9-2014 were not taxable. However from 1-10-2014 the said services were brought within the tax net. For the year ended 31-03-2015 the taxable value of services has exceeded ₹ 9,00,000.
- (b) An input service distributor with branches located on pan-India basis having commenced business from 01-10-2014.

(c) State briefly :-

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Which reward scheme provided under foreign trade policy aims at compensating high transport cost and offset other disadvantages in the export of specified agriculture products ?

Who are eligible exporters under the scheme and what is the rate of entitlement under this scheme ?

How can the duty scrip's issued under this scheme be utilized ?

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