

Roll No. ....

FINAL  
GROUP-II PAPER-8  
INDIRECT TAX LAWS

1111 2010

Total No. of Questions – 7

Total No. of Printed Pages – 23

Time Allowed – 3 Hours

Maximum Marks – 100

## HCF

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 sub-sequent extra questions answered shall be ignored.

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

Working notes should form part of the respective answers.

**Marks**

1. (a) Divine Ltd. manufactures product K which is a notified product under Section 4A of the Central Excise Act, 1944. The output for the month of October, 2015 was 8,000 units out of which 6,000 units were consumed captively. Abatement permissible under Section 4A of Central Excise Act is 20% 5

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P.T.O.

From the following information provided by Divine Ltd. for the month of October 2015, calculate the excise duty payable.

Cost of direct materials (includes Central Excise duty ₹ 1,800*)	18,800
Direct wages and salaries	11,000
Administrative Cost	
Production related	5,000
Corporate office expenses	1,500
Sale of By-products	1,000
Research and development cost	8,000
Abnormal and non-recurring cost	10,000
Retail sale price printed on the package of the product per unit	₹ 10

\*Note : CENVAT credit of the excise duty so paid is available.

Divine Ltd. is not eligible for SSI exemption under Notification No. 8/2003 CE dated 01-03-2003. There were no opening or closing inventory for the month.

Central Excise duty payable is 12.5%, Advalorem. Education cess need not be calculated.

(3)

HCF

Marks

- (b) Mr. Navab, a performing artist, provides the following information 5  
relating to August, 2015 Receipts from :

	₹
Performing classical dance	98,000
Performing in television serial	2,80,000
Services as brand ambassador	12,00,000
Coaching in recreational activities relating to arts	2,10,000
Activities in sculpture making	3,10,000
Performing western dance	90,000

Determine the value of taxable services and service tax payable by Mr. Navab for August, 2015. Service Tax @ 14% has been charged separately, wherever applicable. Mr. Navab has paid service tax of ₹ 4,00,000 during the preceding financial year.

HCF

P.T.O.

(4)

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Marks

- (c) Monogram Ltd. is engaged in providing several services to the customers/clients. It has started its business (except construction of mall completed earlier but consideration received on August, 2015) for the first time, in a taxable territory, on 1<sup>st</sup> August, 2015 and transactions undertaken until 31<sup>st</sup> August, 2015 are as follows :

Particulars	Amount
	₹
Services provided in its own brand name of 'Monogram'	2,85,000
Services provided in the brand name of 'Tonogram' belonging to one of its suppliers	6,40,000
Consideration on transfer of Mall for which completion certificate has been obtained in June 2015	63,00,000
Full advance received towards construction of residential unit of carpet area of 1200 sq.ft. in a complex.	30,00,000
Gross amount charged for transportation of goods in a single goods carriage	1,280
Freight charges paid to goods transport agency	46,000

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Monogram Ltd. intends to make use of all exemptions and abatements.

Compute its service tax liability @ 14% with appropriate notes where required.

- (d) Mr. Backpack imported goods from a UK supplier by air, which was 5  
contracted on CIF basis. However, there were changes in prices in the international market between the date of contract and actual importation. As a result of several negotiations, the parties agreed for a negotiated price payable as follows :

Particulars	Contract Price (£)	Changed Price (£)	Negotiated Price (£)
CIF Value	5000	5800	5500
Air Freight	300	600	500
Insurance	500	650	600

Other details for computing assessable value and duty payable are as tabled below :

Particulars	Amount
Vendor inspection charges (not required for making the goods ready for shipment)	£ 600
Commission payable to local agent 1% of FOB in local currency	

Date of Bill of Entry	Basic Customs Duty	Exchange rate in ₹ (notified by CBEC)
18-02-2016	10%	102
Date of arrival of aircraft	Basic Customs Duty	Exchange rate in ₹ (notified by CBEC)
15-02-2016	15%	98

Inter-bank rate 1 UK Pound = ₹ 106

Compute the assessable value and calculate basic customs duty payable by Mr. Backpack.

HCF

2. (a) Urs & Co. a small-scale industry, furnishes the following details of clearances for the previous financial year :

Particulars	Amount (₹ in lakhs)
Value of clearances in the preceding financial year	665
Included in the above is clearances of non-excisable goods	25
Exports to Nepal & Bhutan	120
Clearances to a unit in the STP without payment of duty and VAT	60
Job work not fulfilling conditions under Notification No. 84/94 CE dated 11-04-1994 and 214/86 CE dated 25-03-1986	25
Clearances of goods subject to valuation under section 4A of the Central Excise Act, 1944 (eligible for abatement of 30%)	200
Clearances of excisable goods manufactured in rural area bearing brand name of another company	75

Determine whether it is eligible for SSI exemption during the current year with suitable explanations.

- (b) Mega Star Hotels Pvt. Ltd. provides the following information relating to their services for the month of September, 2015 : 4

The hotel has 45 rooms in all, out of which 30 rooms were Delux Rooms with a declared tariff of ₹ 1,200 per day. The other 15 rooms were Semi Delux Rooms with a declared tariff of ₹ 800 per day. The hotel has the practice of offering 25% discount on Delux Rooms. The occupancy ratio of the rooms on an average was 80%.

Receipts for serving food from Air-conditioned restaurant ₹ 6,00,000.

The above amount includes ₹ 2,00,000 for goods sold on MRP basis across the counter as a part of the bill.

Gross receipts for serving food from non-Air-conditioned restaurant clearly demarcated and separately named ₹ 4,00,000.

Compute the value of taxable services and tax liability for the month of September 2015 and provide explanations wherever required. Service tax has been charged separately wherever applicable. Mega Star Hotels Pvt. Ltd. is not eligible for small service provider's exemption.

HCF



- (c) Fortune Ltd. provides the following information relating to their services for the month of August, 2015 : 4

Gross receipts from

Running a Boarding School (including receipts for providing residential dwelling services ₹ 12,00,000) 28,00,000

Conducting private tuitions 16,00,000

Education services for obtaining a qualification recognised by law of a foreign country 8,00,000

Conducting modular employable skill course, approved by National Council of vocational training 10,00,000

Fees from prospective employers for campus interview 6,00,000

Renting of furnished flats for temporary stay to different persons 6,80,000

Compute the value of taxable service and the amount of service tax payable @ 14%

**Note :** Fortune Ltd. has not taken CENVAT credit on inputs, capital goods and input services used for providing any of the above services.

It is sufficient if the taxability is determined and computation made. No need for explanations.

HCF

P.T.O.

(d) Determine the customs duty payable under Customs Tariff Act, 1975 4

including the safeguard duty of 30% under section 8B of the said Act with the following details available on hand :

Import of Sodium Nitrite from a developing country from 26 <sup>th</sup> February, 2014 to 25 <sup>th</sup> February, 2015 (both days inclusive)	₹ 30,00,000
Share of imports of Sodium Nitrite from the developing country against total imports of Sodium Nitrite to India	4%
Basic Customs Duty	10%
Additional Customs Duty u/s 3(1) of Customs Tariff Act, 1975	15%
Additional Customs Duty u/s 3(5) of Customs Tariff Act, 1975	Nil
Education cess	2%
Secondary & Higher Education cess	1%

HCF

3. (a) Ganga Ltd. was engaged in manufacture of aerated water. Revenue 4  
alleged that Ganga Ltd. was draining out manufactured aerated water  
on account of contaminated, under-filled, over-filled, badly crowned  
bottles, without entering them in R.G.1 register [daily stock account]  
and without payment of excise duty on the same. Proper officer issued a  
demand-cum show cause notice on Ganga Ltd. for the recovery of said  
duty. Revenue was of the view that contaminated, under-filled, over-  
filled, badly crowned bottles were excisable goods. Further, if such  
goods were defective/non-marketable, Ganga Ltd. should have sought  
remission of duty paid on such goods.

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

- (b) 'P' has entered into an agreement with NT Ltd. for running a canteen in 4  
the premises of NT Ltd. for its employees. NT Ltd. has provided the  
place on rent and reimburses certain expenses for maintenance and  
running the canteen.

'P' charges cash from individual customers for food, eatables and beverages supplied according to rates stipulated in the menu card. 'P' is of the view that since it is not providing any service to NT Ltd. but only selling goods in its canteen to individual customers, it is not liable to pay any service tax. Furthermore, since it is paying VAT on the sale of food and beverages, there should not be any service tax liability on the activity undertaken by him.

The Department demanded service tax from 'P' by treating the activity as outdoor catering services since he was engaged in providing service in connection with catering at a place other than his own.

Discuss whether the department is justified in charging service tax. You may refer decided case law, if any, in support of your answer.

- (c) Mr. Rohit has to organize the marriage ceremony of his daughter. For this purpose he entered into a contract with M/s. Anila Caterers to provide him with erection/laying of Pandal and Shamiana for organizing marriage function along with the facilities like supply of crockery, furniture, sound system, lighting arrangements etc. 4

Discuss in the light of case law, if any, the following questions that arise :

- (1) Whether the transaction is liable to service tax ?
- (2) If yes, under what category of service ?

(d) Kaveri Enterprises imported some goods from Italy. On the basis of certain information obtained through computer printouts from the Customs House, Department alleged that during the period in question, large number of consignments of such goods were imported at a much higher price than the price declared by Kaveri Enterprises. Therefore, Department valued such goods on the basis of transaction value of identical goods as per rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and demanded the differential duty along with penalty and interest from the Kaveri Enterprises. However, Department did not provide these printouts to Kaveri Enterprises.

Kaveri Enterprises contended that Department's demand was without any basis in law, without any legally admissible evidence and opposed to the principles of natural justice as the computer printouts which formed the basis of such demand had not been supplied to them. Resultantly, they had no means of knowing as to whether any imports of comparable nature were made at the relevant point of time.

You are required to examine the contention of Kaveri Enterprises, with the help of a decided case law, if any.

HCF

P.T.O.

4. (a) (i) Write a brief note on Physical Verification of Premises with regard to registration process under Central Excise Law. 4
- (ii) Martin Dorairaj wants to know whether he is eligible to claim rebate of duty under rule 18 of the Central Excise Rules, 2002 and provides the following information :

Particulars	Amount (₹)
Duty payable on excisable goods used in the manufacture of other goods for being supplied to SEZ	18,000
Duty payable on raw materials used in processing and supplying them as provision of stores to an aircraft flying to Australia. Processed goods are to be supplied at Mumbai Airport.	16,000
Duty payable on excisable goods and raw materials used in manufacturing of such goods to be supplied to 100% EOU	6,000

(b) Ragini has self-assessed service tax on services rendered by her and has declared it in the return. She has paid 50% of the self-assessed tax and for want of liquidity the balance 50% has remained unpaid for more than a year. The Central Excise Officer has proceeded to recover the unpaid portion of the self-assessed tax by invoking the provisions of Section 87 of the Finance Act, 1994. Ragini argues that she should have been issued a SCN under section 73(1) of the said Act. Invoking Section 87 to recover the unpaid portion of the service tax is an action beyond his jurisdiction, as the fundamental requirement of providing the opportunity of being heard has not been provided. Also, she argues that in the absence of fraud, collusion, wilful mis-statement, suppression of facts and contravention of any of the provisions of the service tax law, normal period of limitation of one year should apply. Even if service tax is to be paid, she has argued that interest is not payable by her. Discuss whether her arguments are valid under the amended provisions of the Finance Act, 1994.

HCF

P.T.O.

- (c) With reference to recent changes in the Mega Exemption Notification No. 25/2012-ST dated 20-06-2012 briefly state whether the following will be taxable or not. 4
- (i) Transportation of a patient in an ambulance by an entity which is not a clinical establishment or an authorized medical practitioner or paramedics.
  - (ii) Goods Transport Agency (GTA) service provided for transport of exports goods by road from place of removal / CFS (Container Freight Station), Inland Container Depot (ICD) to land customs station.
- (d) Mr. X, an importer imported certain goods on 20-04-15 and paid custom duty by understating the value of goods imported. A show cause notice was issued to Mr. X by the proper officer on 19/8/2015 demanding duty along with interest and penalty on the value of the goods understated. The said notice was received by Mr. X on 24-8-2015. Mr. X deposited the amount of duty and interest along with penalty that should be payable as per provisions of law on 20/9/2015. 4

With reference to recent amendments made in section 28 of the Customs Act, 1962 of the Finance Act, 2015. Compute the penalty imposable, if any.

Provide reasons for your answer.

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5. (a) All disputed cases relating to Excise duty liability can be settled as per section 32E of the Central Excise Act, 1944. 4

Is this statement true ? If not, what are the circumstances in which assessee is barred from making an application for settlement of cases under section 32E of the Central Excise Act, 1944 ?

- (b) (i) M/s. Zeena Packers are engaged in providing the services of retail packing and labelling of fruits and vegetables. 4

Discuss in brief whether they are liable to pay any service tax.

- (ii) What is the time limit for filing appeal to the Commissioner of Central Excise (Appeals) by a person aggrieved by any decision or order passed by an adjudicating authority lower than the rank of Commissioner/Commissioner of Central Excise ?

Explain with reference to service tax provisions.

Whether this time limit can be extended ?

- (c) Airways Ltd. started business of providing services as an air travel agent in September, 2015. He approached you for seeking advice on applicability of service tax rates for services to be provided by him. 4
- What alternative option will you suggest other than to pay service tax on basic applicable rate of 14% ?

- (d) Define Export Obligation under Export Promotion Capital Goods Scheme (EPCGS) of Foreign Trade Policy 2015-2020. What will be the specific export obligation if the Capital Goods are indigenously sourced under EPCG Scheme ? 4

6. (a) (i) (1) What is the amount of penalty which can be levied for failure to furnish information return ? 4

(2) What is the time period allowed to rectify the defect in information return filed under section 15A of the Central Excise Act, 1944 ?

(ii) An assessee sold certain goods to AB Ltd. for ₹ 50,000 (excluding excise duty and other taxes) on 02-10-2014. AB Ltd. is a related person as defined under section 4(3)(b) of the Central Excise Act, 1944. It did not sell the goods but used for consumption in manufacture of other articles. The cost of goods as per CAS-4 was ₹ 60,000/-. Determine the assessable value in the given case.

What will be the assessable value if in the aforesaid case AB Ltd. is not related to the assessee ?

- (b) Calculate the amount of refund of service tax paid on input services in 4  
the following case :

Particulars	Amount in (₹)
Turnover of output services exported	15,000
Total turnover of output services	45,000
Service tax paid on input services	12,000

Note : Rate of Service Tax is 14%.

- (c) An association has been temporarily constituted, by several members, 4  
without being registered. The object of the unregistered association was  
to render taxable services to its members for a consideration. The  
association, through its members, argued that the association was not  
registered and any service rendered to its members constituted service  
rendered to oneself and therefore the activity of rendering service by  
the association to its members was not a service at all and hence not  
liable to service tax. Comment on the stand taken by the unregistered  
association with suitable explanations, if any.

On the same analogy, the Central Excise Officer intends to tax capital  
contributions made by members to the Association. Whether the action  
of the officer is tenable in law ?

- (d) Mr. Mukul, a Chartered Accountant received US \$ 12,000 (net) during the financial year 2014-15 from M/s. Carter & Company of USA for providing auditing services. Out of this, ₹ 1,20,000 equivalent to US \$ 2,000 was received in Indian Rupees and US \$ 2,000 was received through the credit card of Mr. Romeo, who is the partner of M/s. Carter & Company. 4

Explain with reference to provisions of new Service Export from India Scheme (SEIS) as provided in new Foreign Trade Policy 2015-2020 whether Mr. Mukul is entitled to avail benefit under SEIS Scheme ?

If yes, what will be the rate of entitlement of reward ?

7. (a) Mr. Ganeriwala has raised an invoice as per a contract with his client. Accordingly he has paid service tax on accrual basis as services rendered by him exceeded ₹ 50 lakhs in the previous year. At the time of payment, the client renegotiates the billed amount and pays 75% of invoice alongwith service tax of 14% on the renegotiated amount. The proper officer refuses to allow credit taken by the assessee (with respect to service tax on 25% of the billed amount) on the ground that he has not intimated the fact of availment of credit in writing. Comment on the action of proper officer and state the circumstances in which the action of Mr. Ganeriwala is permissible. 4

OR

HCF

- (a) Texto Print (P) Ltd. is the brand owner of Texto Garments, and is supplying fabrics and accessories to job-workers and getting it manufactured from them. He refuses to pay excise duty on the ground that the entire manufacturing facility is with the job worker and that he is merely a trader. Explain the provisions applicable to merchant manufacturer in the ready-made garment sector. 4

- (b) Moon Ltd., a service provider, has furnished the following information : 4

S. No.	Particulars		Excise duty / Service tax (₹)
1.	Input service 'P'	Invoice dated 14-12-2014	88,000
2.	Input service 'R'	Invoice dated 14-07-2014	57,000
3.	Input service 'K'	Invoice missing	46,000
4.	Security services for guarding the Office (Payment has not been made to the Security agency but service tax has been paid under reverse charge)	Invoice dated 14-08-2015 value of service 1,60,000	22,400

You are required to determine the total CENVAT credit that can be availed by Moon Ltd. during the month of August, 2015.

Note : Moon Ltd. is not entitled to SSI exemption under Notification No. 8/2003 CE dated 01-03-2003.

(c) Determine the applicability of service tax in each of the following independent cases : 4

- (i) Construction, erection, commissioning or installation of original works pertaining to an airport.
- (ii) Services provided by way of admission to a national park.
- (iii) The ambulance services provided by a Manpower recruitment agency.
- (iv) Services by Mutual fund Agent to Mutual Fund or Asset Management Company.

(d) Compute the quantum of pre-deposit required to be made under section 129E of the Customs Act, 1962 in each of the following independent cases : 4

- (i) In an order dated 18-10-2015 issued to M/s. RR Ltd., the Joint Commissioner of customs has confirmed a duty demand of ₹ 16,00,000 and imposed a penalty of ₹ 5,00,000. M/s. RR Ltd. intends to file an appeal with the Commissioner (Appeals) against the duty and penalty imposed.
- (ii) M/s. KK Ltd. intends to file an appeal with CESTAT against the order of Commissioner (Appeals) which confirmed a duty demand of ₹ 24,00,000 and imposed a penalty of ₹ 6,00,000.

(iii) LKS Ltd. intends to file an appeal with CESTAT against the order of Principal Commissioner which confirmed a duty demand of ₹ 36,00,000 and imposed a penalty of ₹ 8,00,000.

(iv) MNM Ltd. intends to prefer an appeal before the Joint Secretary (Revision Application) relating to drawback case under section 129DD against the order of Commissioner (Appeals) which confirmed a duty demand of ₹ 10,00,000.