

FINAL EXAMINATION

June 2017

P-18(ITP)
Syllabus 2016

Indirect Tax Laws and Practice

Time Allowed: 3 Hours

Full Marks: 100

The figures in the margin on the right side indicate full marks.

All questions are compulsory. In Question No. 1, all sub-questions are compulsory.

In Question Numbers 2 to 8, student may answer any 5 questions.

Wherever necessary, you may make suitable assumptions and state them clearly in your answer.

Working notes should form part of the answer.

SECTION – A

1. Comment on the following questions along with valid reasons: 2×10=20
- (a) JK Engineering Co. manufactured a machinery on 20-01-2017, when excise duty was 8%. These were entered in Daily Stock Account on 20-01-2017. These were sold from factory on 16-02-2017. On that date, rate of excise duty was 12.50%. At what rate excise duty is payable?
 - (b) A provider of service did not pay service tax due to ignorance. During audit, the mistake was pointed out. He paid the service tax along with interest on his own before receiving any notice from department. What is the penalty that can be imposed on him?
 - (c) A manufacturer has head office in Kolkata and factories at Raurkela, Nagpur and Raipur. He is receiving services at his Kolkata office, on which service tax has been charged by the service provider. He is not providing any service from Kolkata. Can he utilize the credit of service tax paid on the various input services received by him at Kolkata? Advise him.
 - (d) Service provided from India with respect to immovable property situated abroad is called export of services.
 - (e) The directors of a private company in liquidation are jointly and severally liable personally for any sales liability of the company in liquidation.
 - (f) A demand of ₹ 8,50,000 of excise duty plus penalty was confirmed by Joint Commissioner, Assesse filed appeal and the demand was set aside by Commissioner (Appeals). Department is of the view that order of Commissioner (Appeals) is not proper. Advise department on action that can be initiated by them.
 - (g) Deepak Finance Company is engaged in sale and purchase of foreign exchange. He received 1,000 US dollars from a foreign tourist on 7-11-2016 and paid him ₹ 67,600 in exchange. The RBI reference rate on that day was 1USD = ₹ 69.40. Calculate value of service on which service tax is payable and service tax payable if service tax rate is 15%. Ignore cesses.
 - (h) Subsidy given by Government to manufacturers to compensate cost of production will form part of sale price.
 - (i) It is necessary to specify the heading under which the service being provided is falling.

Please Turn Over

- (j) An importer imported machinery. At the time of imports, he paid following duties— Basic customs duty, Countervailing duty, Special countervailing duty, Anti dumping duty and Customs education cess. He sells the imported machinery in India. Is he eligible to get any refund of import duties if he resales the goods in India?

SECTION - B

Answer any five questions out of seven questions given.

Each question carries 16 marks.

2. (a) Mahesh Chemicals Ltd. furnished the following information for the month of October, 2016:
- (i) Input chemical Alpha —Invoice dated 12-07-2015— Excise duty paid—₹ 4,50,000
 - (ii) Input chemical Beta —Invoice dated 21-03-2016— Excise duty paid—₹ 3,50,000
 - (iii) Input Gama—Original excise invoice not available but Xerox copy duly certified by excise officer available — Excise duty paid—₹ 2,30,000
 - (iv) Security Services—Invoice dated 12-10-2016— Service tax paid—₹ 53,200
 - (v) Machinery falling under chapter heading 84 —Invoice dated 3-07-2014— Excise duty paid on machinery by supplier—₹ 5,00,000
 - (vi) Invoice of Goods Transport Agency (GTA) for bringing raw materials to the factory was dated 21-07-2016. Service tax was paid by Mahesh Chemicals Ltd. ₹ 24,000 under reverse charge in the return of September, 2016. However, payment of freight was made to the Goods Transport Agency till December, 2016.
 - (vii) Taxi was hired by purchase manager to visit supplier for discussions on price. The service tax charged by taxi operator was ₹ 1,200.
 - (viii) Spare parts for machinery were imported on which duty paid was as follows— Basic customs duty ₹ 1,000; Countervailing duty (CVD) ₹ 1,375; Education cess 47.50; Secondary and Higher Education cess ₹ 23.75; Special CVD under section 3(5)—500; Anti-dumping duty- ₹ 300.
- Determine the Cenvat credit that can be availed by access during the month of October 2016. 8
- (b) Some articles have been specifically excluded from definition of 'input' in Cenvat Credit Rules even if they have relation with manufacture. What are those items? 8
3. (a) Calculate the Assessable Value of raw material Zeeta imported from USA by air and total customs duty payable, on basis of following details:
- (i) FOB Value of Zeeta— 5,000 US dollars
 - (ii) Air freight paid— 1,400 US dollars
 - (iii) Insurance for transit of machine— not ascertainable
 - (iv) Commission paid to Indian Local Agent—₹ 30,000

- (v) Cost of transport of goods from port to godown of importer in India—₹ 17,000.
 (vi) Exchange rate is One US dollar as notified by CBE&C= ₹ 68.80. RBI reference rates = ₹ 68.70. Exchange rate at which actually payment was made to Bank—₹ 69.10.
 (vii) Customs duty rate —10%. Excise duty on similar product if manufactured in India—12.50%.

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(b) What are the various Scope of FTP?

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4. (a) Okeepa Computer Services Ltd. were liable to pay service tax of ₹ 3,00,000 for the month of June, 2016. However, the service tax was deposited on 18-04-2017 on his own, without department taking any action. Okeepa Computer Services Ltd. has shown the amount as payable in their return filed on 22-10-2016. The value taxable service provided by them during the preceding financial year was ₹ 65 lakhs.

(i) Compute the amount of interest payable by Okeepa Computer Services Ltd.

(ii) Calculate penalty payable.

(iii) What action could have been initiated by department against the assessee? 3+2+3=8

- (b) Mahan Construction Ltd. provided following services in December, 2016. All these services were provided with own material.

(i) Installation of machinery—₹ 1,50,000

(ii) Plastering of an existing building (finishing services)—₹ 1,00,000

(iii) Installation of electrical fittings in a building—₹ 60,000

(iv) Construction of office building of customer—₹ 5,00,000. The customer had provided steel and cement of ₹ 1,00,000 to Mahan Constructions Ltd.

Compute the value of services and service tax payable. Assume rate of service tax as 15%. Ignore cesses. 8

5. (a) Explain concept, purpose of provisions of 'pure agent' in service tax valuations. What are the conditions for exclusion of payments received by service provider from service receiver? Define pure agent. Give one illustration explaining the concept. 3+3+2+2=10

- (b) Mr. R has received the following amounts from the activities undertaken by him during the quarter ended on 31st March, 2016:

Sl. No.	Particulars	₹ (In Lakhs)
(i)	Amount received for trading in Government securities*	8.00
(ii)	Amount received for trading in shares*	14.50
(iii)	Commission for acting as clearing and forwarding agent	18.25
(iv)	Commission earned on sale of goods belonging to others	1.75
(v)	Charges for providing auxiliary service relating to commodity futures	7.00

*represents difference between sale price and purchase price.

You are required to compute the value of taxable service and services tax liability of Mr. R for the said quarter.

Note:

- (i) Rate of service tax is 14% and Swachh Bharat Cess 0.5% and KKC @ 0.5% is applicable. All the above amounts are exclusive of service tax.
- (ii) Mr R is not eligible for small service provider's exemption under Notification No.33/ 2012-ST, dated 20-06-2012. 6

6. (a) Nayar Machinery Manufacturers Ltd. sold a special machine to a customer. The details contract are as follows:

- (i) Net price—₹ 10,00,000
- (ii) Packing Charges charged extra—₹ 12,000
- (iii) Erection and commissioning charged extra by separate debit note, for erection at the place of customer's factory—₹ 60,000
- (iv) Charges for designing the special machinery by separate debit note—₹ 50,000
- (v) Insurance Charges for despatch of machinery from factory to the place customer at actuals—₹ 12,000
- (vi) Outward freight of machinery from factory to customer's place charged at actuals—₹ 20,000 extra
- (vii) CST charged extra at applicable rates against C form.
- (viii) Cash discount @2% was allowable on basic price if customer paid total amount before despatch of goods. The customer had made full advance payment.

Excise duty rate is 12.5% which was charged extra.

Calculate:

- (A) Assessable Value of the machine
- (B) Excise duty payable
- (C) CST payable

$$5+1+4=10$$

(b) State goods which are eligible for concessional rate of central sales tax and conditions for the same. 6

7. (a) Jimco is a company which issues meal vouchers. Usually, the employer purchases these coupons and issue them either free or at concessional to employees as employee perquisite. The employee can go to any of the specified restaurants affiliated to Jimco. The employee gets food and pays for food through these vouchers. The sales tax department issued notice to Jimco to pay State Vat on these coupons at the rate applicable to food items. Advise the company with help of case law, if any. 8

(b) Yamuna Assemblers are getting various components from customers. These were assembled by them to make water purification plant. This was done on job work basis only. Yamuna Assemblers received notice from excise department to pay excise duty on the plant. Advise the assessee with the help of case law, if any. 8

8. Answer any four questions from the following:

$$4 \times 4 = 16$$

- (a) Explain Foreign going Vessel or Aircraft
- (b) Input Service Distributor (ISD)
- (c) Dealer as per VAT
- (d) Export Promotion Capital Goods (EPCG) Scheme
- (e) Explain SION