

FINAL EXAMINATION

December 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 the questions are compulsory in Question No. 1 and 8,
all the sub questions are compulsory.*

In Question Nos. 2 to 7, students may answer any four questions.

In Question Nos. 9 and 10, students may answer one question.

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

Working Notes should form part of the answer.

Section-A

[All sub-divisions in this Section to be answered.]

1. Give brief reason or justification for the following:

2×8=16

- (a) Is recovery of tax from the buyer is an essential condition for levy of indirect taxes?
- (b) In case of certain jewellery, are certain persons required to pay excise duty, say in the month of March, 2016, regarded as "Manufacturer" or producer for the purpose of central excise levy?
- (c) Can a gold jewellery manufacturer with turnover of ₹ 11.2 crores during the year ended 31.03.2016, claim Cenvat credit at 100% on capital goods during the FY 2016-17?
- (d) Is a manufacturer desirous of claiming Cenvat credit in November, 2016, required to attach photocopies of the railway receipts with STTG for getting such credit?
- (e) A product manufactured is sold to outsiders at ₹ 70,000 per unit; few units are also captively used by the manufacturer himself, in the next process for manufacturing final product. The cost of production is ₹ 60,000 per unit. What is the assessable value, the value adopted for the captively used product?
- (f) Are manufacturers required to submit Form ER-1 under Central Excise Law on quarterly basis?
- (g) Can the SSI units make the central excise duty payment on quarterly basis?
- (h) Anil, who started new business in August, 2016, wants to import certain articles and as first stage dealer, wants to pass on Cenvat credit also. Is he required to take two registrations?

Please Turn Over

Section-B

[Answer any four questions out of six questions given.
Each question carries 16 Marks.]

2. (a) Vaibhav Cookwares, a partnership firm, is a leading manufacturer of mixes. Legal Metrology Act, 2009 requires declaration of Retail Sale Price (RSP) on the package of pressure cookers and pressure cookers areal so notified under section 4A of Central Excise Act, 1944 Retail Sale Price (RSP) based valuation with notified date of abatement of 20%.

From the following information furnished by the assessee, compute the excise duty payable on 70 pieces cleared during April, 2016 using assuming the rate of excise duty as 12.5%:

No. of pieces	Particulars
20	RSP printed on the package of mixes are ₹5,000 and ₹ 4,500.
40	RSP printed on the package of 30 pieces sold in Chennai is ₹4,000 per piece.
	RSP printed on the package of 10 pieces sold in Pondicherry is ₹ 3,800 per piece.
10	RSP printed on the date of removal of package from factory is ₹ 3,900 per unit. However, after removal from factory RSP is increased to ₹ 4,200.

Would the provisions of section 4A of Central Excise Act, 1944 apply had the goods not been notified by Central Government and manufacturer voluntarily affixed RSP on the products? 8

- (b) Examine whether central excise duty is leviable in the following situations: 4
- (i) Poorni Builder constructed an office building for M/s Shankar & Co.
 - (ii) Anantha Computer Services Ltd. provided maintenance services for computers and laptops.
- (c) Examine the validity of following statements, with brief reasons: 4
- (i) Central Government is empowered to make laws in respect of excise duty leviable on liquors (meant for human consumption) containing alcohol.
 - (ii) Taxes on intra-state sale or purchase of goods are covered under Entry 92A of Union List of the Constitution.

3. (a) Shine Limited imports certain goods from France, at Cochin Port at a cost \$150,000 FOB. The following are the other details,
- (i) Packing Charges — \$ 10,000
 - (ii) Transit Insurance — \$ 5,000
 - (iii) Air Freight — \$ 35,000
 - (iv) Royalty and License Fee — \$ 3,000
 - (v) Exchange Rate notified by CBEC – US \$1 = ₹ 65

Compute the assessable value for purpose of determination of customs duty.

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- (b) A manufacturer has purchased new machinery costing ₹ 10 lakhs plus 10% excise duty and installed the same in the premises of a job worker working for him, on 11.02.2017. Can he take Cenvat credit relating to this machinery? Mention the other aspects, if any, relating to Cenvat credit on such machinery.
- (c) Two exporters namely, Sunlight Exports Pvt. Ltd. and Moonlight Exports Pvt. Ltd. have achieved the status of Status Holders (One Star Export House) in the financial year 2016-17. Every year, both the companies have been regularly exporting goods to approved nations. To achieve such status, what would have been the minimum export performance of the two exporters?

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Both the companies are desirous of establishing export warehouses in accordance with the applicable guidelines. What should be their minimum export turnover to enable to establish export warehouses?

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4. (a) Mr. Ranjit, providing taxable services furnishes the following information and asks you to find out the service tax liability for the quarter ended 31.03.2017:

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Particulars		₹
(i)	Advances received from Clients for which no service has been rendered so far	2,00,000
(ii)	Reimbursement of Travelling Expenses received from Clients (as per bill)	52,000
(iii)	Reimbursement of taxes paid on behalf of the Client (as per Challan)	70,000
(iv)	Free Services rendered to Old Age Home [Value of similar services — ₹ 20,000]	Nil
(v)	Rent received from Commercial Complex	3,00,000
(vi)	Rent received from Residential Complex	1,00,000

It may be noted that all figures are exclusive of Service tax@15% and Mr. Ranjit is not eligible for Small Service Provider's exemption.

- (b) Ms. Poorva is a registered dealer in Patna. She provides the following information to compute the Taxable Turnover and Central Sales Tax payable by her:

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Particulars		₹
(i)	Total inter-state sales including CST	88,00,000
(ii)	Deposits for returnable containers	1,00,000
(iii)	Excise Duty	4,50,000
(iv)	Dharmada	70,000
(v)	Goods rejected by the customers after six months	2,50,000
(vi)	Goods returned by the customers after six months	3,50,000

Items given in point (ii) to (vi) are not included in the inter-state sales of ₹ 88,00,000.

Buyers have issued C Form for all purchases.

Sales tax rate within the state is 1%.

5. (a) Harivallabh & Co., a Partnership firm, who had provided taxable services of ₹ 23 lakhs during the FY 2015-16, furnishes the following particulars for the quarter ended 31.12.2016:

Sl. No.	Particulars	Amount ₹
1	Services rendered to charitable trusts registered u/s 12AA of the Income-tax Act, 1961	3,40,000
2	Advance received on 28.12.2016 No services were rendered till 31.03.2017; the amount was refunded on 12.04.2017	60,000
3	Reimbursement of expenses: Travelling and out of pocket expenses Received as pure agent for payment on behalf of Clients	42,000 1,20,000
4	Free services rendered to friends had been billed to a third party, the amount billed would have been	18,000
5	Other receipts towards taxable services rendered	6,78,000

All amounts are exclusive of service tax. Ascertain the value of taxable services and the amount of service tax payable.

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- (b) Vasudevan Consultants Ltd. was liable to make e-payment of service tax of ₹ 8,00,000, which it had collected from its customers, for the month of July, 2016. However, it electronically paid the tax on 06.11.2016.

Calculate the amount of interest payable by the assessee under section 75 of the Finance Act, 1994. The value of taxable services provided by Vasudevan Consultants Ltd. during the financial year 2015-16 was ₹ 98.30 lakhs and during the FY 2014-15 was ₹ 75 lakhs.

Will your answer be the same, if the value of services provided by it during the financial year 2015-16 was ₹ 54.80 lakhs? 4

- (c) Discuss the prosecution implications under section 89 of the Finance Act, 1994, if any, in respect of the following cases:

- (i) Mr. Keshavji, a service tax assessee, willfully evades payment of service tax of ₹ 7 crores.
- (ii) Mr. Chandanmala taxable service provider, collects ₹ 5.2 crores as service tax from its Clients in May, 2016, but deposits only ₹ 1.2 crores with the Central Government by January, 2017.

In the above question, what will be the prosecution implications, if Mr. Keshavji and Mr. Chandanmala reconvicted for subsequent offences? 5

6. (a) (i) An assessee claimed depreciation on CENVAT portion as well as claimed CENVAT credit in Excise returns. Preventive unit of the Excise Department detected double claim and issued show cause notice. The assessee filed an application for rectification u/s 154 of the Income-tax Act, 1961 and filed revised return forgoing depreciation on CENVAT portion.

However, Excise department passed an Order-in Original, directing the recovery of the CENVAT credit together with interest and penalty for an equivalent amount.

Discuss in light of the decided case law if any, whether the action of the department is correct. 6

- (ii) Mr. Gopal improperly imported gold bars of foreign origin. Commissioner of Customs (Preventive) had imposed penalty under section 112 of the Customs Act, 1962 on the basis of a clause in the relevant provision that permits a penalty not exceeding the value of the goods or five thousand rupees, whichever is greater to be imposed for improperly bringing into the country goods in respect of which any prohibition is in force under this Act or any other law for the time being in force.

Mr. Gopal argued that penalty imposed on the basis of the value of the smuggled gold could not have been made as gold is not a prohibited item nor is the import thereof prohibited by virtue of any notification or order under the Customs Act, 1962.

Discuss in light of the decided case law if any, whether the action of the department is correct. 6

- (b) An order was passed against an assessee, who is a service provider, with penalty under section 74 and 78 of the Finance Act, 1994. The assessee did not file any appeal. However, the assistant commissioner issued a notice proposing rectification of the earlier order for enhancement of the penalty imposed.

The assessee appealed against such rectification enhancing the penalty. Discuss in light of the decided case law if any, whether the action of the department is correct. 4

7. Write short notes on **any four** of the following:

4×4=16

- (a) Advance ruling , when treated as void under the Central Excise Act, 1944.
- (b) Payment of interest by the importer in case of provisional assessment under the Customs Act, 1962.
- (c) M/s. XYZ Co. Ltd., a taxable service provider, provides the following information:

Financial Year	Aggregate value of Taxable Services rendered in ₹
2014-15	12,00,000
2015-16	9,50,000
2016-17	15,00,000

From the information given above, you are required to

- (i) Determine the eligibility to Small Service Provider's Exemption if any for the financial year 2015-16 and 2016-17.
- (ii) Value of Taxable Services for the financial year 2015-16 and 2016-17. Your answers should be supported by reason.
- (d) Payment of service tax on quarterly basis by One Person Company
- (e) Service tax on bundled services

Section-C

*[Answer Question No. 8 which is compulsory
and any one question from the rest in this Part.]*

8. Choose the correct alternative and give brief justification for your answer:

(a) Following is not a tax which has been substituted by GST: 2

- (i) Central Excise Duty
- (ii) Service tax
- (iii) State VAT
- (iv) Profession tax

(b) In an intra-state supply, following are levied under GST: 2

- (i) SGST and GGST
- (ii) Only IGST
- (iii) Only CGST
- (iv) CGST and IGST

9. (a) Give a brief introduction to GST in India. 5

(b) What is the impact of GST on Centre-State relations and how are they streamlined? 4

(c) How is the concept of "Consideration" understood for levy of GST? 4

(d) State the benefits of GST to the customers. 3

10. (a) Write a brief note on the liability under GST. 5

(b) What is the taxable event under GST? What are the four broad parts under which the same may be considered? 5

(c) Briefly explain the concepts of composite supply and mixed supply under GST, with an illustration for each. 6